

**Notice setting out Particulars of Alteration of Rules (other than eligibility rules) of an Organisation – s.159**

**FWC Matter No.:**

[Insert FWA matter number]

APPLICATION (No Specific Form Provided)

**NOTICE FOR CERTIFICATION OF ALTERATION OF RULES (OTHER THAN ELIGIBILITY RULES)**

*Fair Work (Registered Organisations) Act 2009—s.159*

*Fair Work (Registered Organisations) Regulations 2009—regulation 126*

**Applicant Association**

<b>Name:</b>	The Australian Workers' Union		
		<b>ABN:</b>	28 853 022 982
<b>Address:</b>	Level 10, 377 – 383 Sussex Street		
<b>Suburb:</b>	Sydney	<b>State:</b>	NSW
		<b>Postcode:</b>	2000
<b>Contact person:</b>	Daniel Walton		
<b>Title:</b>	Mr		
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The Applicant applies to the Fair Work Commission for certification of an alteration to the Rules of the Organisation (“Rules”). This document will be referred to as “this Notice” herein.

Attached to this Notice, and marked “Attachment 1”, is a Declaration by an Authorised Officer of the Applicant that provides the particulars of the making of changes to the Rules of the Applicant.

The Declaration states:

1. that the alterations were made in accordance with the Rules of the Organisation,
2. the action taken under those Rules to make the alterations, and
3. that the particulars of the Rules alterations set out in this Notice and the Declaration are true and correct to the best of the knowledge and belief of the Authorised Officer.

This Notice is given to certify alterations to the Rules of The Australian Workers' Union (AWU) in the following terms:

1. Insert the following new Rule 32A immediately after the current Rule 32:


**RULE 32A - DUAL OFFICE HOLDING**

- (1) Notwithstanding anything contained in these Rules to the contrary, a member may nominate for and/or hold the offices of National Secretary and Branch Secretary at any one time.
  - (2) Upon a member commencing to simultaneously hold the two offices referred to in (1) above ('the dual office holder'), the dual office holder shall be paid the full time salary and entitlements attaching to the office of National Secretary and shall not receive the full time salary and entitlements attaching to the office of Branch Secretary, while both offices remain full time offices under the Rules.
  - (3) For the purposes of Branch voting rights at National Conference under Rule 20(6), at National Executive under Rule 24 (3) and at any other conference, executive, committee, or meeting where the Rules require or permit both the National Secretary and a Branch Secretary(s) to attend, the Branch of which the dual office holder is Branch Secretary shall exercise its voting rights through its remaining representatives on the relevant body. The dual office holder shall exercise voting rights in the capacity of National Secretary.
  - (4) Upon the dual office holder ceasing to hold one of the two offices referred to in (1) above, he or she shall continue to hold the other office in accordance with the Rules and the provisions of (2) and (3) above shall cease to have effect.
  - (5) In the event of the need to reconcile the duties ascribed to each of the two officers in Rule 32(3) and Rule 39(1) the National Executive is authorised to resolve the administrative arrangements within the organisation.
2. Renumber the existing Rule 62 (18) as Rule 62 (19).
  3. Renumber the existing Rule 62 (19) as Rule 62 (20).
  4. Insert the following new Rule 62 (18):

(18) For the avoidance of any doubt, subrules (19) and (20) below operate subject to and without in any way derogating from Rule 32A.

At the time of drafting this Notice, the Applicant is in the process of publishing on its web site ([www.awu.net.au](http://www.awu.net.au)) a notification to members that this Notice for Certification has been lodged.

**Date:** 1/12/16

**Signature:** 

**Name:** Daniel Watton

**Position:** National Secretary

**DECLARATION BY AUTHORISED OFFICER**

I, Daniel Walton, National Secretary, of Level 10, 377-383 Sussex Street, Sydney NSW 2000, do solemnly and sincerely declare:

1. I am the National Secretary of The Australian Workers' Union ("the AWU"). I am authorised to make this Declaration on behalf of the AWU.
2. The Notice for Certification to which this Declaration is attached is for an alteration to the AWU Rules ("the Rules").
3. This Declaration supports the insertion of a new Rule 32A and alterations to Rule 62. Particulars of the changes are included in the Notice for Certification of Alteration of Rules ("the Notice"), to which this Declaration is attached.
4. The alterations are made consistent with the requirements of section 159 of the *Fair Work (Registered Organisations) Act 2009* ("FW (RO) Act") in that they:
  - a. comply with and are not contrary to the FW (RO) Act; the *Fair Work Act 2009*, modern awards and enterprise agreements;
  - b. are not otherwise contrary to law; and
  - c. are made under the Rules.

**Actions taken under the AWU Rules to make the alterations to the Rules**

5. Pursuant to Rule 25, specifically paragraph 25 (1) (o) of the Rules, the National Executive may make, vary and rescind the Rules when National Conference is not sitting.
6. On 11 August 2016 National Executive members were notified that a meeting would be held in Sydney on 30 November 2016. A copy of the notice is attached and marked "A".
7. During the National Executive meeting on 30 November 2016 the National Executive approved the rule changes set out in the Notice. The changes are the insertion of a new Rule 32A and alterations to Rule 62. A copy of an extract from the Minutes of the meeting is attached and marked "B".
8. There are currently twenty-seven (27) members of the National Executive. Twenty-three (23) were present when the resolutions were carried unanimously on 30 November 2016 with one position vacant and three apologies.

ATTACHMENT 1

9. This means the resolutions were carried in accordance with:
- a. sub-Rule 25 (1) (o) as the resolutions were affirmed by no less than two-thirds of the total number of votes allowed to members of the National Executive; and
  - b. Rule 28 as a quorum existed for the National Executive because a majority of the delegates eligible to vote did vote and this majority included delegates representing a majority of the Branches.
10. On this basis, the insertion of Rule 32A and the alterations to Rule 62 have been made and properly authorised in accordance with the Rules.

**Particulars**

11. The particulars set out in this Declaration and the particulars set out in the Notice to which this Declaration is attached are true and correct to the best of my knowledge and belief.

AND I MAKE this solemn declaration by virtue of the Statutory Declarations Act 1959 and subject to the penalties provided by that Act for the making of false statements in Statutory Declarations, conscientiously believing the statements contained in this declaration to be true in every particular.

DATED at Sydney on: 1 December 2016



DEPONENT

BEFORE ME:



Debra Bushell  
Justice of the Peace  
JP147535