

Form F68A—Application for consent of the General Manager to alter an organisation's eligibility rules

Fair Work (Registered Organisations) Act 2009, s. 158A

Fair Work (Registered Organisations) Regulations 2009, reg. 125B

This is an application for consent to alter the eligibility rules of an organisation lodged with the Fair Work Commission in accordance with s.158A of the *Fair Work (Registered Organisations) Act 2009* and reg. 125B of the *Fair Work (Registered Organisations) Regulations 2009*.

The Applicant



These are the details of the organisation making an application for consent to alter its eligibility rules.

Legal name of organisation	The Australian Workers' Union (Org. Code 002N)		
Contact person	Stephen Crawford, Senior National Legal Officer		
Postal address	Level 1, 16 – 20 Good Street		
Suburb	Granville		
State or territory	NSW	Postcode	2142
Phone number	02 9897 3644	Fax number	N/A
Email address	stephen.crawford@nat.awu.net.au		

Note: If you provide a mobile number the Commission may send reminders to you via SMS.



If an application is not made in accordance with the requirements of reg. 125B, the General Manager of the Commission must tell an applicant how the application fails to comply with this regulation (see reg125B(3)).

How would you prefer us to communicate with you?

Email (you will need to make sure you check your email account regularly)

Post

Does the Applicant need an interpreter?



If you require an interpreter (other than a friend or family member) in order to participate in conciliation, conference or hearing, the Commission will provide an interpreter at no cost.

Yes—Specify language

No

Does the Applicant require any special assistance at the hearing or conference (e.g. a hearing loop)?

Yes—Please specify the assistance required

No

Does the Applicant have a representative?



A representative is a person or business who is representing the Applicant. This might be a lawyer, a representative from your employer organisation or union who will speak on behalf of you. There is no requirement to have a representative.

Yes—Provide representative's details below

No

1. Proposed alteration to the organisation's eligibility rules

1.1 This application is to extend your eligibility rules to persons within the eligibility rules of an association of employers or employees that is registered under a State or Territory industrial law. State:

- the name of the association of employers or employees,
- whether it is an association of employers or employees, and
- whether it is registered under a State or Territory industrial law, and if so which law.

1. The name of the association is the Australian Workers' Union, New South Wales (the **AWUNSW**).
2. The AWUNSW is an association of employees registered under the *Industrial Relations Act 1996* of New South Wales.

1.2 Set out:

- the proposed alteration to the organisation's eligibility rules,
- the reason for the proposed alteration, and
- the effect of that alteration.



You must provide sufficient detail so that the General Manager can be satisfied of the matters in paragraph 158A(1)(a) to (d) of the RO Act and reg. 125A of the RO Regulations.

In setting out the alteration you may include the complete text of the eligibility rules of the association or as much of the text of the eligibility rules as deals with the extended coverage.

Proposed Alteration

1. The proposed alteration to the eligibility rules of The Australian Workers' Union (the **AWU** or the **Applicant**) is the insertion, immediately before Rule 7, and immediately after Rule 6C, of a new rule 6D '*Additional Eligibility for Admission to Membership in the State of New South Wales*' (**proposed Rule 6D**).
2. A copy of the full text of proposed Rule 6D is annexed to this application and marked **AWU-1**.
3. Proposed Rule 6D consists of:
 - a. introductory wording to satisfy the requirements under the RO Act and the RO Regulations; and
 - b. the text of of rule 6 ('*Constitution*') of the rules of the AWUNSW.
4. Rule 6 of the rules of the AWUNSW is the AWUNSW's eligibility rule.

Reason for the Proposed Alteration

5. The alteration is sought to amend the eligibility rules of the AWU to extend them to apply to persons within the eligibility rules of its state counterpart in New South Wales, the AWUNSW.

Effect of the Proposed Alteration

6. The effect of the proposed alteration would be to extend the eligibility rules of the AWU to cover persons within the eligibility rules of the AWUNSW.

1.3 Have you attached a copy of the rules of the organisation and a copy of the rules of the association?

You must also lodge with the application a copy of the rules of the organisation and the rules of the association to which the organisation is the Federal counterpart (RO Regulations, reg. 125B(1)(b)).

Yes—Attach the rules of the organisation and the association

No

1. The rules of the organisation (the AWU) and the rules of the association (the AWUNSW) are both included with this application.
2. The rules of the AWU are annexed to this application and marked **AWU-2**.
3. The rules of the AWUNSW are annexed to this application and marked **AWU-3**.

1.4 Was the proposed alteration made in accordance with the rules of the organisation?

You must attach a declaration that (RO Regulations, reg. 125B (1)(d)):

- specifies if the alteration was made in accordance with the organisation's rules;
- states what action was taken under those rules to make the alteration; and
- verifies the facts stated in the application.

Yes—Attach the declaration

No

1. The proposed alteration was made in accordance with the rules of the Applicant.
2. See annexed statutory declaration of Daniel Walton marked **AWU-4**.

1.5 Is the organisation a federal counterpart of the association? If so, please provide evidence.

1. Section 9A of the RO Act states that a federal counterpart of an association is prescribed by the RO Regulations.
2. Regulation 8A of the RO Regulations provides that the federal counterparts of certain associations are set out in Sch 1A to the RO Regulations.
3. Item 133 in Part 1 of Sch 1A to the RO Regulations, read with reg 8A, provides that '*The Australian Workers' Union*' (in column 3) is the federal counterpart of the '*The Australian Workers' Union, New South Wales*' (in column 2).
4. These entities are the organisation (the Applicant) and the association (the AWUNSW), respectively, the subject of this application.

1.6 Confirm that the proposed alteration will *not* extend the eligibility rules beyond those of the association.

Using numbered paragraphs, set out your response.

1. Proposed Rule 6D replicates the AWUNSW's eligibility rules, subject to the requirements under the RO Act and the RO Regulations.

1.7 Confirm that the proposed alteration to the eligibility rules will not apply outside the limits of the State or Territory in which the association is registered.



You must attach a statement that specifies this is the case (RO Regulations, reg. 125B(2)(b)).

Yes—Attach the statement

No

1. The introductory wording in proposed Rule 6D expressly states that the new eligibility rules only apply within the State of New South Wales.
2. The annexed statutory declaration of Daniel Waton (marked **AWU-4**) specifies this is the case.

1.8 Does the state registered association actively represent the class or classes of employees or employers to which the extension of the eligibility rules will apply? If so, please provide evidence.



An employee association is taken not to actively represent a class of employees if the association is subject to a representation order, a State demarcation order or a demarcation undertaking or agreement in relation to that class of employees, in favour of another organisation.

See reg. 125A of the RO Regulations for the meaning of actively represent.

1. The Applicant relies upon the table annexed to this application and marked **AWU-5** to demonstrate the AWUNSW '*actively represents*' the classes of employees to which the extension of the eligibility rules will apply.
2. Should the General Manager consider that further evidence is needed to substantiate the AWUNSW's active representation of any such class of employee, the Applicant requests the opportunity to provide further material prior to a decision being issued.

1.9 Have arrangements been made to publish a notice of this application on the organisation's website?



A notice that the application has been lodged with the Commission must be published on the organisation's website if it has one (RO Regulations, reg. 125B(4)).

Yes

No

1. Notice that the application has been lodged with the Commission will be published on the Applicant's website upon confirmation of lodgment.

Signature



If you are completing this form electronically and you do not have an electronic signature that you can attach, it is sufficient to type your name in the signature field. You must still complete all the fields below.

Signature

Name

Daniel Walton

Date

20/7/20.

Capacity/Position

National Secretary



The application lodged with the Commission must be under the common seal of the organisation or signed by a person authorised to sign it (see RO Regulations, reg. 13). Where

this form is being completed and signed by a representative of the Applicant, include the name of the person who is completing the form on their behalf in the **Capacity/Position** section.

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS