



Police Federation of Australia

Western Australia Police Branch
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My Ref: C 0386

23 June 2014

Ms Bernadette O'Neill
The General Manager
Fair Work Commission
PO Box 1994
MELBOURNE VIC 3001

Dear Ms O'Neill

POLICE FEDERATION OF AUSTRALIA – CONSTITUTION (Ref 200v) – AMENDMENT PART CA – WESTERN AUSTRALIA POLICE BRANCH

As provided for in Rule 52AZ – Making or Alteration of Branch Rules – of the above mentioned Constitution, I seek your certification of amendments to the rules as explained below. Changes sought are in bold text.

The current Rule 52AA – Branch Office Bearers: at sub rule (2) provides:

- (2) (a) The management of the Branch shall be vested in the Branch Executive.
- (b) The Executive shall be elected by and from the financial membership of the Branch. **Subject to rule 52AZA the Executive** shall comprise 15 members, of which 11 who hold office shall be from the Metropolitan Region and one each respectively who hold office shall be from the North (Kimberley/Pilbara), Central (Midwest/Gascoyne), East (Goldfields/Esperance), South (Peel/Southwest/Wheatbelt/Great Southern) Regions. The Branch Executive - Elect shall meet within 10 working days of election to office and shall elect from within itself the Branch Office Bearers.

The amendment to the Rule sought is -

- (2) (a) The management of the Branch shall be vested in the Branch Executive.
- (b) The Executive shall be elected by and from the financial membership of the Branch. **The Executive** shall comprise 15 members, of which 11 who hold office shall be from the Metropolitan Region and one each respectively who hold office shall be from the North (Kimberley/Pilbara), Central (Midwest/Gascoyne), East (Goldfields/Esperance), South (Peel/Southwest/Wheatbelt/Great Southern) Regions. The Branch Executive - Elect shall meet within 10 working days of election to office and shall elect from within itself the Branch Office Bearers.

The reason for the amendment sought is -

Transitional Rule (52AZA) is now redundant due to Executive elections conducted in April 2012 and taking office on dissolution of the 2012 Annual Conference. Reference is removed from this clause as it is no longer necessary.

The current Rule 52AA – Branch Office Bearers: at sub rule (3) provides:

- (3) The general election of Executive Members shall be held every three years and the elections when they become due shall be arranged and conducted so as to allow the Returning Officer to declare the result of the election for members of the Executive not later than the 15th of **April** immediately following the date for close of lodging of nominations.

The amendment to the Rule sought is -

- (3) The general election of Executive Members shall be held every three years and the elections when they become due shall be arranged and conducted so as to allow the Returning Officer to declare the result of the election for members of the Executive not later than the 15th of **October** immediately following the date for close of lodging of nominations.

The reason for the amendment sought is -

This change (re)aligns the State and Federal Rules.

WA Police Union elections changed to October as part of a number of consequential rule changes on 19 December 2013, precipitated by changing the Financial Year from 1 April to 1 July. Changing the Financial Year requires a change to Annual Conference dates to enable sufficient time to audit accounts. Changing Annual Conference dates necessitates a change to election dates to minimise the caretaker/joint sitting period of Directors and Directors Elect (Executive Members and Executive Members Elect).

The current Rule 52AA – Branch Office Bearers: at sub rule (7) provides:

- (7) To be eligible as a candidate for a position on the Executive a member must meet the following requirements:
 - (a) be a financial member of the Branch;
 - (b) be free of any debts or arrears to the Branch;
 - (c) **for election to one of the 11 Metropolitan region offices, be stationed in the Metropolitan area at the time of their election; and**

- (d) for election to either North (Kimberley/Pilbara), Central (Midwest/Gascoyne), East (Goldfields/Esperance), South (Peel/Southwest/Wheatbelt/Great Southern) regional offices, be stationed in the Region for which they nominate at the time of their election.

The amendment to the Rule sought is -

- (7) To be eligible as a candidate for a position on the Executive a member must meet the following requirements:
 - (a) be a financial member of the Branch;
 - (b) be free of any debts or arrears to the Branch;
 - (c) have attended at least four branch meetings in the preceding 12 months;
 - (d) be stationed in the Region for which they nominate at the time of their nomination.
 - (e) Members who have themselves resigned from the Board within the previous term for reasons other than transfer as per Rule 52AA (8), illness, injury, incapacity or other such reason for which the Executive deemed, at the time of resignation to be reasonable, shall not be eligible for re-election at any byelection within that term or for the next full election for the Executive.

The reason for the amendment sought is -

This change (re)aligns the State and Federal Rules. As part of a number of rule changes on 19 December 2013, the State rules were amended under direction of Annual Conference to enhance the operation, democratic processes and representation capacity of the Board of Directors. The changes outlined are intended to deliver those objectives by ensuring elected Directors (Executive Members), subject to extenuating circumstances as prescribed, maintain regular Board Meeting attendance and nominate for positions based in the Region which they are based. An additional intent of the changes is to simplify provisions by removing replicated Region titles, which also appear in 52AA(2)(b).

The current Rule 52AA – Branch Office Bearers: at sub rule (8) provides:

- (8) An Executive Member shall be deemed to have vacated his or her office if such Member:
 - (a) resigns; or
 - (b) ceases to be a financial member of the Branch.

The amendment to the Rule sought is -

- (8) An Executive Member shall be deemed to have vacated his or her office if such Member:
- (a) resigns; or
 - (b) ceases to be a financial member of the Branch.
 - (c) **being absent or partially absent, from three scheduled monthly board meetings within a twelve month period (July 1 to June 30) unless that Executive Member;**
 - **Is on Annual or Long Service Leave and is travelling outside of their normal residential area,**
 - **Is on Sick Leave,**
 - **Has urgent family or personal matters,**
 - **Has been officially summonsed to a Court or other place or**
 - **Is absent, because he/she is officially representing the Western Australia Police Branch at an event and such absence is approved by the Branch;**
 - (d) **being absent or partially absent from three special meetings unless that Executive Member forwards an apology to the Western Australia Police Branch; or**
 - (e) **being transferred from the Region in which the Executive Member is based.**

The reason for the amendment sought is -

This change (re)aligns the State and Federal Rules. As part of a number of rule changes on 19 December 2013, the State rules were amended under direction of Annual Conference to enhance the operation, democratic processes and representation capacity of the Board of Directors. The changes outlined are intended to deliver those objectives by ensuring elected Directors (Executive Members), subject to extenuating circumstances as prescribed, maintain regular Board Meeting attendance and remain based in the Region to which they were elected.

The current Rule 52AB – Casual Vacancies: at sub rule (1) provides:

- (1) Any casual vacancy in the positions of President, Vice President, Deputy Vice President, Treasurer, Executive Member, and Delegate to Federal Council, **shall** be filled as soon as practicable by an ordinary election for so much of the unexpired part of the term as exceeds:
- (a) 12 months; or
 - (b) three-quarters of the term of the office;

whichever is the greater. Otherwise, any such casual vacancy **shall** be filled as soon as practicable by way of an appointment of an eligible person to the position by the Executive.

The amendment to the Rule sought is -

- (1) Any casual vacancy in the positions of President, ~~Vice~~ Vice President, Deputy Vice President, Treasurer, Executive Member, and Delegate to Federal Council, **may** be filled as soon as practicable by an ordinary election for so much of the unexpired part of the term as exceeds:
 - (a) 12 months; or
 - (b) three-quarters of the term of the office;

whichever is the greater. Otherwise, any such casual vacancy **may** be filled as soon as practicable by way of an appointment of an eligible person to the position by the Executive.

The reason for the amendment sought is -

Replacing the word 'shall' with 'may' in this sub rule overcomes the need to make appointments where casual vacancies arise outside of the timeframes stipulated in this clause. This issue came to prominence as a result of five (5) Casual Vacancies arising in December 2013 and January 2014, which under current rules necessitated appointments. Those vacancies arose half way through a current term and it is unacceptable that a democratic election to install suitable replacements is not at the Executives' disposal. This change, confirmed by legal opinion, will enable the Executive to undertake an election in line with Branch rules for all casual vacancies.

The current Rule 52AQ – Annual Conference: at sub rule (2) provides:

- (2) The Annual Conference shall be held each year in the **months of May or June**, with the date and other arrangements being determined by the Executive.

The amendment to the Rule sought is -

- (2) The Annual Conference shall be held each year in **November**, with the date and other arrangements being determined by the Executive.

The reason for the amendment sought is -

This change (re)aligns the State and Federal Rules.

WA Police Union changed the Financial Year from 1 April to 1 July as part of a number of rule changes on 19 December 2013. Changing the Financial Year requires a consequential change to Annual Conference dates to enable sufficient time to audit accounts.

The current Rule 52AW – Auditor: at sub rule (2) provides:

- (2) For the purposes of conducting the Annual Audit the financial year shall commence on the 1st of **April** every year.

The amendment to the Rule sought is -

- (2) For the purposes of conducting the Annual Audit the financial year shall commence on the 1st of **July** every year.

The reason for the amendment sought is -

This change (re)aligns the State and Federal Rules.

WA Police Union changed the Financial Year from 1 April to 1 July as part of a number of rule changes on 19 December 2013.

The current Rule 52AZA – Transitional Rule provides:

- (1) **Upon the certification of the alteration to rule 52AA (2) -**
 - (a) **The Executive elected to office in the ordinary election held in 2006 will continue to hold office as provided in rule 52AA (4) until the dissolution of the Annual Conference in 2009. Any casual vacancy during this period shall be filled from the regions in existence prior to the alteration to rule 52AA (2) in accordance with Rule 52AB (2).**
 - (b) **The persons elected to office, as provided in rule 52AA as amended, from the elections due to be held in 2009 in accordance with rule 52AA (3) will take office upon dissolution of the Annual Conference in 2009 in accordance with rule 52AA (4).**

The amendment to the Rule sought is -

DELETE

The reason for the amendment sought is -

This existing Transitional Rule is now redundant due to Executive elections conducted in April 2012 and taking office on dissolution of the 2012 Annual Conference.

Consequential to the forgoing alterations to Rule 52AA sub rule (3) and Rule 52AQ sub rule (2) a new Rule 52AZB – Transitional Rule is proposed as follows:

The new Rule sought is -

Rule 52AZB sub-rule (1)

(1) Upon the certification of the alteration to rule 52AA(3) and 52AQ(2)–

- (a) The Executive elected to office in the ordinary election held in 2012 and casual vacancies filled in accordance with rule 52AB since that time will continue to hold office as provided in rule 52AA(4) until the dissolution of the Annual Conference in 2015.**

The reason for the amendment sought is -

This change (re)aligns the State and Federal Rules.

WA Police Union elections changed to October as part of a number of consequential rule changes on 19 December 2013, precipitated by changing the Financial Year from 1 April to 1 July. Changing the Financial Year requires a change to Annual Conference dates to enable sufficient time to audit accounts. Changing Annual Conference dates necessitates a change to election dates to minimise the caretaker/joint sitting period of Directors and Directors Elect (Executive Members and Executive Members Elect). As a consequence, the Term of the current Executive will extend by five (5) months due to the movement of Annual Conference to November 2015. This Transitional Rule will enable that extension to occur.

Further amendment is sought consequential to the alteration of Rule 52AW sub rule(2) and Rule 52AQ sub rule (2) a new Rule 52AZB – Transitional Rule is proposed as follows:

The new Rule sought is -

Rule 52AZB – Transitional Rule sub-rule (2)

(2) Upon the certification of the alteration to rule 52AW(2) and 52AQ(2)

- (a) To facilitate a changed Financial Year commencement date to 1 July each year under rule 52AW(2), the financial year for the period 1 April 2013 to 31 March 2014 will be extended to cover the period 1 April 2013 to 30 June 2014. This transitional provision will cease to have effect beyond 1 July 2014 following the commencement of the new Financial Year.**

The reason for the amendment sought is -

This change (re)aligns the State and Federal Rules.

WA Police Union changed the Financial Year from 1 April to 1 July as part of a number of rule changes on 19 December 2013. ***As a consequence, the current Financial Year will extend by three (3) months delivering a fifteen (15) month 2013/2014 Financial Year.*** This Transitional Rule will enable that extension to occur in the first year only and provide for one set of audited accounts to be prepared for both organisations pursuant to s269 of the *Fair Work (Registered Organisations) Act 2009* (the Act).

It is respectfully submitted that the preparation of Financial Reports for the State entity the Western Australia Police Union of Workers, pursuant to its Rules, for the amended financial year of 1 April 2013 to 30 June 2014 should reasonably satisfy the requisite reporting requirements to the Fair Work Commission for the same period, notwithstanding s240 the Act.


Rule 52AZ – Making or Alteration of Rules provides at sub rule (1) the capacity to amend the rules. The Branch Executive in the exercise of its powers wishes to give effect to the forgoing amendments subject of course to the approval of the Registrar as prescribed.

These alterations have been made in accordance with the Rules of the Organisation as outlined in the Declaration dated 20 June 2014 (ATTACHMENT 1).

I would also inform you that the proposed amendments have been incorporated in like form in the WA Police Union Constitution, registered by the Western Australian Industrial Relations Commission on 19 December 2013 and attached for your reference (ATTACHMENT 2).

Submitted for your consideration please.

Yours sincerely



George Tilbury
PRESIDENT

Police Federation of Australia – WA Police Branch