



DECISION

Fair Work (Registered Organisations) Act 2009
s.159—Alteration of other rules of organisation

Police Federation of Australia (R2025/57)

CHRIS ENRIGHT

MELBOURNE, 16 MAY 2025

Alteration of other rules of organisation.

[1] On 16 April 2025 the Queensland Police Branch (the Branch) of the Police Federation of Australia (the PFA) lodged with the Fair Work Commission (the Commission) a notice and supplementary declaration setting out particulars of alterations to its Branch rules (Part CF1 of the PFA rules). Further materials in support of the alterations were lodged on 1 May 2025, 2 May 2025, 12 May 2025, 13 May 2025 and 14 May 2025.

[2] The Branch seeks certification of the alterations under section 159 of the *Fair Work (Registered Organisations) Act 2009* (the Act).

[3] The particulars of the alterations seek to insert a new Rule 102 in Part CF1 of the PFA rules.

Background

[4] It is necessary briefly to address the circumstances surrounding this lodgement.

[5] On 5 November 2024 the Branch lodged with the Commission a notice and declaration setting out particulars to alterations to its Branch rules relating to amendments transacted at a Branch Executive meeting on 23 October 2024. That matter was designated reference R2024/169. I determined that matter based on the particulars lodged by the Branch and certified the amendments on 20 February 2025.¹

[6] On 16 April 2025, the Branch lodged a supplementary declaration, advising the Commission that they had inadvertently omitted the insertion of Rule 102 in Part CF1 in the particulars lodged in R2024/169 and requested the Commission to “correct” the past matter.

[7] In my view, I have properly exercised my discretion in respect of the past matter based on the materials that were lodged with the Commission and before me at that time. This is not a circumstance where the decision made contains a typographical or other mistake that may be corrected under the ‘slip rule’. Having certified the alterations lodged on 5 November 2024, I consider that I am functus officio² in respect of that matter and that it is now outside of my power to amend my earlier decision.

[8] Nevertheless, I am satisfied that the documentation lodged on 16 April 2025, taken together with information previously lodged in matter R2024/69, contain all of necessary information to enable me to treat the Branch's request as a new notification of alterations to its rules.³

[9] Given that I have concluded in my previous decision that the alterations have been made under the rules of the organisation,⁴ I am satisfied that the insertion of Rule 102 in Part CF1 has been made under the rules of the organisation.

Late lodgement

[10] Regulation 126(1) of the *Fair Work (Registered Organisations) Regulations 2009* requires particulars of rule alterations to be lodged within 35 days after the alteration is made, or within any additional period allowed by the General Manager (or the Delegate). This regulation also requires the organisation to publish on its website a notice that the alterations have been lodged with the Commission within 35 days or any additional period allowed by the General Manager (or the Delegate).

[11] The insertion of Rule 102 in Part CF1 was transacted on 23 October 2024 and lodged on 16 April 2025, being approximately 5 months after the prescribed 35 days.

[12] The Branch has requested that I allow an additional period for the lodgement of the alterations on the basis that the insertion of proposed Rule 102 in Part CF1 was inadvertently omitted from the particulars of alterations that were lodged in matter R2024/169.

[13] I note the proposed Rule 102 was indeed part of the notice sent to Branch Executive members for voting at its October 2024 meeting.⁵ I also note the Branch contacted the Commission as soon as it realised that proposed Rule 102 had been incorrectly omitted from the particulars lodged in November last year.

[14] Based on the materials before me, I accept that the Branch has made an inadvertent mistake and therefore I allow for an additional period, until 16 April 2025, for lodgement of the alteration which inserts proposed Rule 102 in Part CF1.

[15] Upon being notified by Commission staff, the Branch published the notice on its website on 24 April 2025. For similar reasons stated above, I allow for an additional period, until 24 April 2025, for publication of the notice on its website.

Rule alterations

[16] Proposed Rule 102 in Part CF1 will affect the terms of the following Branch Executive offices:

- Far Northern Regional Representative;
- Central Regional Representative;
- Southern Regional Representative;
- Metropolitan North Regional Representative; and
- Headquarters and Support Regional Representative.

[17] The Branch elects these offices quadrennially. On 12 March 2021, the Branch lodged a prescribed information with the Registered Organisation Commission for the election of these

offices with an expectation that the new office holders will commence their terms on 1 July 2021.⁶ A decision was issued on 13 April 2021 requesting the Australian Electoral Commission (the AEC) to conduct the election.⁷

[18] However, the AEC delayed the conduct of the election because of the effect of the coronavirus pandemic. The election result was not declared until May 2022. The Branch rules provide for a four-year term of office⁸, and therefore the current term for the offices listed in paragraph [16] will expire in 2026.

[19] The insertion of Rule 102 aims to truncate the current terms for these offices by one year for the purpose of synchronising election cycles.⁹

[20] There is a rebuttable presumption that a rule alteration cannot retrospectively change a term of office once an election has taken place.¹⁰ However, this presumption can be rebutted where:

- there is an express or implied intention to apply the alteration to current terms of office;¹¹ and
- the rule does not have harsh effects or interfere with vested interests or accrued rights.¹²

[21] The language in proposed Rule 102 clearly indicates that the truncation applies to the current terms of office. Therefore, the first limb is satisfied. I now turn to the second limb.

[22] I note that the current office holders have provided written consent to the truncation of their terms. This suggests that the truncation does not have harsh effects or interfere with vested interests or accrued rights. Further, the explanation provided by the Branch for the alteration (to realign election cycles) verifies the bona fides of the decision by the Branch Executive to truncate the current term of these offices and goes toward the good governance of the Branch.

[23] Therefore, I am satisfied that the truncation of the current term of these offices is bona fide and that the presumption against retrospective operation is rebutted.

[24] For the sake of completeness, I note that the Branch has lodged a prescribed information with the Commission seeking to fill these offices in the upcoming elections.

[25] On 13 May 2025, the Branch President Shane Allan Prior, gave consent under subsection 159(2) of the Act for me to make one amendment to the alterations for the purpose of correcting a typographical, clerical or formal error. Accordingly, the following correction has been made:

- In proposed Subrule 102(b), the redundant word “conduct” after the word “conducted” was removed.

[26] In my opinion, the alterations comply with and are not contrary to the Act, the *Fair Work Act 2009*, modern awards and enterprise agreements, are not otherwise contrary to law and were made under the rules of the organisation. I certify accordingly under subsection 159(1) of the Act.



DELEGATE OF THE GENERAL MANAGER

Printed by authority of the Commonwealth Government Printer

<PR786409>

¹ See [2025] FWCD 1011

² *Minister for Immigration and Multicultural Affairs v Bhardwaj* (2002) 209 CLR 597

³ See the decisions of the Deputy Industrial Registrar of the Australian Industrial Registry in *Re Police Federation of Australia* [2007] AIR 828 and in *Re Australian Nursing Federation* [2007] AIR 553.

⁴ See [2025] FWCD 1011, para [3]

⁵ Materials lodged in matter R2024/169

⁶ See [2021] ROCD 43

⁷ *Ibid*

⁸ See Rule 40(g) of Part CF1 of PFA's rulebook.

⁹ The notice to the Branch Executive which sets out the proposed alteration explains that this is the reason for the alterations.

¹⁰ *Beeson v Blayney and Others* (1966) 8 FLR 292; per Joske J at 294.

¹¹ *Re Mellor; Re Federated Liquor and Allied Industries Employees Union of Australia* (1987) 17 FLR 120; 18 IR 350 per Gray J at 353.

¹² *Ibid*.