

[105N-MIN: Incorporates alterations of 03/02/2020] [R2019/165]  
Replaces rulebook dated 4 November 2019 [R2019/113 & R2019/125]

I CERTIFY under section 161 of the *Fair Work (Registered Organisations) Act 2009* that the pages numbered 1 to 188 both inclusive contain a true and correct copy of the registered rules of the Construction, Forestry, Maritime, Mining and Energy Union, Mining and Energy Division and its Northern Mining and NSW Energy District Branch, South Western District Branch, Queensland District Branch, Tasmanian District Branch, Western Australian District Branch, and Victorian District Branch

DELEGATE OF THE GENERAL MANAGER

# Rules of the CFMMEU, Mining and Energy Division and its District Branches

## Contents

1 – NAME	1
2 – DEFINITIONS	1
3 – MEMBERSHIP OF THE DIVISION	1
4 – OBJECTS	2
5 – MEANS	3
6 – MEMBERSHIP	3
7 – ENTITLED TO VOTE	6
8 – CENTRAL COUNCIL	6
9 – ATTENDANCE AT MEMBERSHIP MEETINGS	14
10 – THE CENTRAL EXECUTIVE	14
11 – FINANCE AND PROPERTY	18
12 – DISTRICT BRANCHES	22
13 – AMALGAMATION	26
14 – VALIDATION OF ACTS	26
15 – NEW RULES AND ALTERATION OF RULES	27
16 – DISSOLUTION OF THE DIVISION	27
17 – BALLOT	27
18 – ELIGIBILITY FOR DIVISIONAL OFFICE	35
19 – VICE-PRESIDENTS OF THE DIVISION	35
20 – RETIRED MEMBERS	35
NORTHERN MINING & NSW ENERGY DISTRICT BRANCH	37
1 – NAME	37
2 – CONSTITUTION	37
3 – OBJECTS	38
4 – REGISTERED OFFICE	39
5 – MEMBERSHIP	39
6 – ENTITLED TO VOTE	45
7 – BOARD OF MANAGEMENT	45
8 – DISTRICT EXECUTIVE	49
9 – ADDITIONAL OFFICERS	55
10 – FINANCE AND PROPERTY	55
11 – LODGES	60
12 – ALTERATION OF RULES	64
SOUTH WESTERN DISTRICT BRANCH	64
1 – NAME	64
2 – CONSTITUTION	65
3 – OBJECTS	65
4 – MEANS	67
5 – MEMBERSHIP	67
6 – ENTITLED TO VOTE	71
7 – BOARD OF MANAGEMENT	71
8 – DISTRICT BRANCH EXECUTIVE	75
9 – ADDITIONAL OFFICERS	79
10 – FINANCE AND PROPERTY	80
11 – LODGES	85
12 – ALTERATION OF RULES	88
13 – DISSOLUTION OF THE DISTRICT BRANCH	89
QUEENSLAND DISTRICT BRANCH	89
1 – NAME	89
2 – MEMBERSHIP OF THE DISTRICT BRANCH	89
3 – OBJECTS	90
4 – MEANS	91
5 – MEMBERSHIP	92

## Contents

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6 – ENTITLED TO VOTE	95
7 – DISTRICT BRANCH CONVENTION	95
8 – BOARD OF MANAGEMENT	96
9 – DISTRICT BRANCH EXECUTIVE	101
10 – ADDITIONAL OFFICERS	105
11 – FINANCE AND PROPERTY	106
12 – LODGES	110
13 – ALTERATIONS TO RULES	114
14 – DISSOLUTION OF THE DISTRICT BRANCH	114
15 – MORTUARY BENEFIT FUND	114
16 – LEGAL AND ASSISTANCE FUND	114
17 – STANDING ORDERS AND CODE OF CONDUCT	115
18 – CANDIDATE’S STATEMENTS IN BRANCH ELECTIONS	115
19 – RETIRED MEMBERS	116
TASMANIAN DISTRICT BRANCH	116
1 – NAME	116
2 – CONSTITUTION	116
3 – OBJECTS	117
4 – REGISTERED OFFICE	118
5 – MEMBERSHIP	118
6 – ENTITLED TO VOTE	121
7 – BOARD OF MANAGEMENT	122
8 – STATE EXECUTIVE OFFICER	124
9 – HONORARY DISTRICT PRESIDENT	127
9A – DISTRICT BRANCH CENTRAL COUNCILLOR	128
10 – FINANCE AND PROPERTY	128
11 – LODGES	131
12 – ALTERATION OF RULES	134
13 – DISMISSAL OF OFFICERS	134
WESTERN AUSTRALIAN DISTRICT BRANCH	135
1 – NAME	135
2 – MEMBERSHIP OF THE DISTRICT BRANCH	135
3 – OBJECTS	135
4 – REGISTERED OFFICE	136
5 – MEMBERSHIP	137
6 – ENTITLED TO VOTE	140
7 – BOARD OF MANAGEMENT	140
8 – DISTRICT BRANCH EXECUTIVE	143
9 – ADDITIONAL OFFICERS	147
10 – FINANCE AND PROPERTY	147
11 – GROUP COMMITTEES	152
12 – LODGES	152
13 – ALTERATION OF RULES	155
VICTORIAN DISTRICT BRANCH	156
1 – NAME	156
2 – CONSTITUTION	156
3 – OBJECTS	156
4 – MEANS	157
5 – MEMBERSHIP	158
6 – ENTITLED TO VOTE	162
7 – BOARD OF MANAGEMENT	162
8 – DISTRICT EXECUTIVE	166
9 – DISTRICT CENTRAL COUNCILLORS	170
10 – FINANCE AND PROPERTY	171
11 – LODGES	175
12 – ALTERATION OF RULES	181
13 – DISSOLUTION OF THE DISTRICT	181
14 – BALLOTS	182

### 3 – MEMBERSHIP OF THE DIVISION

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#### CONSTRUCTION, FORESTRY, MARITIME, MINING AND ENERGY UNION, MINING AND ENERGY DIVISION

### 1 – NAME

The name of the Division shall be Construction, Forestry, Mining and Energy Union, Mining and Energy Division.

### 2 – DEFINITIONS

"District Branch" means a branch of this Division and is synonymous with Divisional Branch in the National Rules and District Branch Executive shall have a corresponding meaning.

"Financial member" means any member who has paid all subscriptions, fines, levies and dues in accordance with the rules of the Union and in relation to the Mining and Energy Division is a member of this division.

"Member" means a member of the Mining and Energy Division and membership shall have a corresponding meaning.

"Central Council" is synonymous with the Divisional Executive in the National Rules and means in relation to the Division the controlling and administrative body of the Division.

"Union" means the Construction, Forestry, Maritime, Mining and Energy Union.

### 3 – MEMBERSHIP OF THE DIVISION

The Division shall consist of an unlimited number of employees, otherwise eligible for membership of the Union who;

- (A) are engaged in or in connection with the Coal and Shale Industry,
- (B) are engaged in or in connection with the Mining or Exploration Industries,
- (C) are engaged as employees or as employees of contractors, in or in connection with the following industries:
  - (a) power generation, co-generation, transmission and distribution;
  - (b) oil;
  - (c) gas;
  - (d) nuclear; and
  - (e) chemical production.
- (D) have been elected or appointed as paid officers of the Division or whilst financial members of the Division are elected as representatives of any working class organisation to which the Division is affiliated, or as a working class member of Parliament.

The objects of the Division are:

- (a) to improve the conditions and to protect the interest of the members of the Division by increasing the proportionate share of the wealth to the workers and endeavouring to educate and work for the complete abolition of the present wage system and the substitution of the common ownership of the means of production, distribution and exchange;
- (b) to discuss, consider and put into force when approved, any scheme for the better guidance and extension of Australian industrial organisation;
- (c) to uphold the rules of the Division and to regulate the conditions under which members may be employed;
- (d) to prevent by conference or otherwise needless cessation of work;
- (e) to provide support for members involved in extended cessation of work;
- (f) to secure the return of working-class representatives in parliament to promote such legislative enactment as will ensure industrial justice to Australian workers;
- (g) in order to further or ensure the better advocacy of the principles and rights of labour or for any other purpose which the Central Council may deem proper, to support, own in whole or in part, and/or subsidise any newspaper or any other publication advocating the cause of labour;
- (h) to provide legal assistance to the Union and its members to protect the interests of the Division and District Branches, and to assist other trade unions by any legal method;
- (i) to raise funds by levies, subscriptions, contributions, donations, loans or otherwise for all or any of the objects of the Division;
- (j) from time to time to raise funds for the purpose of applying and/or investing the same;
- (k) to federate or to amalgamate with any trade or industrial union or organisation, or to join or to cooperate with them in any way deemed desirable or necessary for carrying out all or any of the objects set out herein;
- (l) to support the formation of associations of retired members and to otherwise assist and promote the welfare of retired members;
- (m) to support bona fide charitable and other worthy causes consistent with the interests of members of the Union; such support may include, but is not limited to, donations to community groups, relief funds, individuals and other humanitarian, environmental, social or similar causes;
- (n) to organise the education or training of members;
- (o) to assist members by loan or otherwise;
- (p) to provide for more efficient inspection of the coal and shale mines and in other workplaces where members may work and to take any legal steps which may be necessary to ensure the maximum safety and health for members;

- (q) to carry on, or participate directly or indirectly and alone or with others in the carrying on of, any mining or prospecting operation and related activities;
- (r) to pursue collective agreements with employers containing terms and conditions that benefit members and to promote and maintain a strong and relevant award system for the benefit of members;
- (s) generally to do all acts, matters and things that may appear to be in the best interests of members; and
- (t) to do any other act provided for in the Rules of the Division

### **5 – MEANS**

For the purpose of carrying out all or any of the objects of the Division and subject to any specific rules relating to the raising of funds, financial decisions or governance more generally:

- (a) funds may be raised by entrance fees, subscriptions, donations, levies, contributions, dues and loans; and
- (b) any other financial decisions may be taken as are necessary and/or desirable, including but not limited to with respect to acquiring and disposing of property and other investments.

### **6 – MEMBERSHIP**

- (i) Applications
  - (a) A candidate for membership of the Division shall apply for membership in the manner specified in the rules of the relevant District Branch of the Division.
  - (b) A District Branch may refer any application for membership to be considered and approved or not approved by the Central Executive. In such a case a candidate shall not become a member of the Division until the Central Executive has approved the application and the General Secretary has notified the candidate to that effect in writing. The candidate in such case shall be a member of the Division from the date of the day of the General Secretary's letter of notification to the candidate. Where the Central Executive, the District Branch Committee of Management or the District Branch Secretary decides against the admission to membership of a candidate, the candidate shall have a right of appeal to Central Council. Where the Central Council decides to admit the candidate to membership the candidate shall be a member of the Division from the date of the day of the Central Council's decision.
  - (c) When a candidate is admitted to membership of the Division, the new member's name, address and date of admission shall be entered:
    - (A) if the member is in a Lodge, in the Lodge Register of Members, which shall be kept by the Lodge Secretary, or other person authorised to keep the Lodge Register of Members by the District Branch rules;
    - (B) entered in the District Register of Members, which shall be kept by the Secretary of the District Branch in which the Lodge and/or workplace is situated; and

- (C) entered in the Register of Members, which shall be kept by the Division.
  - (d) Membership of the Division shall be subject to sub-rules 6 (ii) and 6 (iii) of these Rules.
  - (e) The Division shall inform each candidate for membership, in writing, of:
    - (A) the financial obligations arising from membership;
    - and
    - (B) the circumstances, and the manner, in which a member may resign from the Division.
- (ii) Subscriptions and Fees
- (a) Every member shall pay such fines, fees, levies and subscriptions as may be prescribed or imposed from time to time according to the rules of the Division.
  - (b) There may be an entrance fee payable by a candidate for membership of the Division on admission to membership. The entrance fee shall be determined by the District Branch Committee of Management. Entrance fees shall be retained by the District Branches.
  - (c) Subscriptions, fines, fees and levies owing by a member of the Division may be paid to the District Branch Secretary of a member's District Branch, or a person authorised by the rules of the District Branch to which the member belongs.
  - (d) Subject to sub-rule 6 (iii) any member owing subscriptions, fines, fees or levies or any of them for more than fourteen (14) days shall be deemed to be unfinancial and shall not be entitled to any of the privileges of membership, including the right to vote, and shall be liable to be sued for the recovery of amounts owed to the Division.
  - (e) Any member deemed unfinancial under sub-rule 6(ii)(d) shall be deemed to have become a financial member of the Division again from the date of the completion of payment by the member of all amounts owing to the Division. Continuity of membership and Lodge seniority shall be restored from the date of completion of payment of all sums owing to the Division.
  - (f) Membership subscriptions shall be set by Annual Central Council and shall be payable for fifty two (52) weeks per year.
  - (g) Any member being sick or out of employment in any pay period and not in receipt for that pay of award wages or other award payments equivalent to eighty dollars (\$80) per fortnight (where the member is paid fortnightly) or forty dollars (\$40) per week (where the member is paid weekly), or other amounts which may be determined from time to time by Annual Central Council, shall be exempt from the payment of subscriptions, fees or levies for that pay period.
  - (h) Members on compensation shall pay subscriptions as if at work, however, members receiving compensation for permanent and total incapacity shall be exempt from paying subscriptions, fees and levies.

- (iii) Sick and Unemployed Members
  - (a) Any member registered in accordance with these Rules as an unemployed member and/or member on sick leave of absence, shall be entitled to the privileges of membership and shall be entitled to vote on all matters affecting the Division excepting upon any matter upon which any decision might be made which would or might involve the Division in the declaration of a strike or in a stoppage of work or in the making of a levy or levies upon the members of the Division.
  - (b) Any member unable to pay subscriptions, fines, fees or levies by reason being unemployed and/or on sick leave of absence and wishing to retain the rights and privileges conferred by these rules, shall be registered at least once in every quarter in the District Quarterly Register of Unemployed and Sick Members.
  - (c) The rules of the District Branches of the Division shall provide for the manner in which a member of that District Branch may be registered as an unemployed member and/or a member on sick leave of absence.
- (iv) For the purposes of this rule and Rule 7, the District Branch rules may allow members who are on unpaid parental leave to be treated in the same manner as members who are unemployed and/or on sick leave of absence.
- (v)
  - (a) A member may resign from membership by written notice addressed and delivered to the Lodge Secretary or District Branch Secretary of the District Branch to which the member belongs, or other officer authorised by the District Branch Rules to receive such correspondence.
  - (b) A notice of resignation from membership takes effect:
    - (i) where the member ceases to be eligible to become a member of the Division;
      - (A) on the day on which the notice is received by the Division; or
      - (B) on the day specified in the notice, which is a day not earlier than the day when the member ceases to be eligible to become a member;whichever is the later; or
    - (ii) in any other case:
      - (A) at the end of two (2) weeks after the notice is received by the Division; or
      - (B) on the day specified in the notice;whichever is the later.
  - (c) Any dues payable but not paid by a former member in relation to a period before the member's resignation took effect, may be sued for and recovered in the name of the Division, in a Court of competent jurisdiction as a debt due to the Division.



- (d) A notice delivered to the Lodge Secretary or District Branch Secretary or other officer authorised by the District Branch Rules to receive such correspondence shall be taken to have been received by the Division when it was delivered.
  - (e) A notice of resignation that has been received by the Division is not invalid because it was not addressed and delivered in accordance with sub-rule (a) above.
  - (f) A resignation from membership is valid even if it is not effected in accordance with this rule if the member is informed in writing by or on behalf of the Division that the resignation has been accepted.
- (vi) A member who has ceased to be a financial member shall be removed from the relevant membership register/s in accordance with any statutory obligation for them to be removed.

### **7 – ENTITLED TO VOTE**

Subject to Rule 6, the members entitled to vote on any question shall be: all Financial members as shown in Rule 3 and members registered according to rule in the District Quarterly register of Unemployed and Sick Members.

### **8 – CENTRAL COUNCIL**

- (i) Composition of Central Council and Extraordinary Vacancies:
  - (a) The Committee of Management of the Division shall be the Central Council.
  - (b) The Central Council shall be composed of the General President, the General Vice President/s, the Vice Presidents, the General Secretary, the Affirmative Action Councillor and representatives of the District Branches.
  - (c) (1) Each District Branch shall be entitled to one (1) representative for any number of members up to two thousand (2000) and that representative shall be the District Branch President or, where the District Branch President is not a full-time District Branch official, the next most senior officer who is a full-time District Branch official. If the District Branch has no full-time official, the most senior officer. Where the membership of a District Branch exceeds two thousand (2000), it shall be entitled to a further representative for each additional two thousand (2000) members or part thereof. Except as provided for in sub-rule 8(i)(e), the number of representatives required shall be calculated by the General Secretary by reference to the membership records maintained by the Division pursuant to the *Fair Work (Registered Organisations) Act 2009* as at the end of the financial year immediately preceding the relevant election.

- (2) There shall be one (1) position of Affirmative Action Councillor. The position of Affirmative Action Councillor is open only to female members of the Division, irrespective of the District Branch in which they are employed. Elections for the position of Affirmative Action Councillor shall be conducted by the National Returning Officer in accordance with Rule 17. Where there is more than one (1) nomination for the Affirmative Action Councillor position, a ballot of all members of all District Branches will be conducted. The first term of office for the position of Affirmative Action Councillor shall expire on 30 June 2020. Thereafter the term of office for the Affirmative Action Councillor shall be four (4) years.
- (d) Except as provided for in sub-rule 8(i)(c)(2) and sub-rule 8(i)(e) each District Branch shall cause an election of its own representatives to be held every four (4) years according to Rule 17 hereof. Members of the Committee of Management shall take in accordance with Ballot Rule 17.
- (e) This sub rule shall apply at the conclusion of the second financial year after the calculation of representatives under sub-rule 8(i)(c):
  - (i) The General Secretary shall recalculate the number of District Branch members of each District Branch based on the records maintained by the Division pursuant to the *Fair Work (Registered Organisations) Act 2009* as at the end of the financial year.
  - (ii) Each District Branch shall be entitled to a further representative for an increase of membership of between two thousand and one (2001) and four thousand members (4000) in excess of the calculation previously made for that District Branch under sub-rule 8(i)(c).
  - (iii) Each District Branch shall be entitled to a further representative for each two thousand (2000) members or part thereof above four thousand (4000) members in excess of the calculation previously made for that District Branch under sub-rule 8(i)(c).
  - (iv) Any additional position created by this sub-rule shall be filled by the holding of an election in accordance with Rule 17.
  - (v) Any member elected under this sub-rule shall hold office for the remainder of the term for which Branch Councillors were elected under sub-rule 8(i)(c).
- (f) Any extraordinary vacancy which occurs in an elected position within the Division shall be filled by the holding of an election in accordance with Rule 17, and the member so elected shall hold office for the remainder of the term for which the previous holder of the office was elected provided that where the remainder of the term does not exceed:
  - (a) twelve (12) months or;
  - (b) three quarters (3/4) of the office, whichever is greater the Central Council or any District Branch Committee of Management, depending on the nature of the office, may appoint by resolution any eligible member of the Division or the District Branch to act in that office for the remainder of the term.

(ii) Meetings

- (a) The Central Council shall meet at least two (2) times a year. The first meeting held each year shall be the Annual Meeting of Central Council.
- (b) At least one (1) Councillor from each of three (3) District Branches in addition to at least two (2) Central Executive Officers must be present at each meeting of the Central Council.
- (c) The General President, the General Vice President/s, the Vice Presidents, the General Secretary and each of the Councillors shall have a deliberative vote at any meeting of Central Council. The General President shall in the event of the Central Council being equally divided on any question, be entitled to a casting vote.
- (d) Any officer or representative absent from any meeting of which due notification has been given, by the General Secretary, in writing, at least seven (7) days before the date of the meeting, without giving an explanation which is accepted by a majority of the Councillors attending and voting at the next subsequent meeting of Central Council, may be fined a sum not exceeding two hundred dollars (\$200) as the Chair may direct.
- (e) A special meeting of the Central Council may be convened by a majority of the Central Executive, or upon a written request to the General Secretary or General President to call such special meeting signed by at least one (1) Councillor from each of at least three (3) District Branches. Upon receipt of such a request the General Secretary or the General President shall convene a meeting of the Central Council.
- (f) Notice of every meeting of the Central Council together with a copy of the agenda paper shall be sent by the General Secretary to each Councillor prior to the date of such meeting but no failure to notify will of itself vitiate a meeting.

(iii) Expenses

Travelling fares, wages and other expenses as prescribed from time to time shall be allowed to representatives to the Central Council or representatives to any other conferences convened by the Division and shall be defrayed by the Central Council.

(iv) Endorsement of Decisions

- (a) All business transacted by Central Council shall be confirmed before the meeting concludes and copies of the confirmed minutes shall be sent to the District Branches and Lodges of the Division. A copy of the confirmed minutes shall also be kept at the Registered Office of the Division.

- (b) The executive committee of each Lodge shall submit the confirmed resolutions of Central Council described in paragraph (f) below to a meeting or meetings of the Lodge membership. The Secretary of each Lodge shall record the number of votes for and against each Central Council resolution. The Secretary shall provide a return of the votes to the General Secretary, or as otherwise agreed by Central Council within six (6) weeks of the date on which the General Secretary sent the Central Council Minutes to the Lodges, or as otherwise notified by the General Secretary.

The General Secretary may extend the period in which Lodge returns may be provided if:

- (A) the request for an extension is made before the date upon which the report is due;
  - (B) there is a practical reason why a meeting has not been able to be called in time to allow the report to be sent to the General Secretary;
  - (C) the meeting has not yet occurred; and
  - (D) the extension is no longer than thirteen (13) weeks after the date the confirmed resolution/s was sent to the District Branch and/or Lodge.
- (c) A resolution of the Central Council shall become the binding policy of the Division if an aggregate national majority of the members of the Division attending and voting, at Lodge meetings which consider the Central Council resolutions, vote in favour of the resolution. For the avoidance of doubt, an aggregate national majority may be established without all members of the Division, or all Lodges, voting and/or providing their return of votes to the General Secretary by the due date in accordance with this sub-rule.
  - (d) Central Council may from time to time decide a penalty for Lodges which do not send their minute returns to the General Secretary in the weeks allowed. Where there are extenuating circumstances the Central Council may, on consideration of a written explanation from the Secretary of the Lodge concerned, decide by a majority vote of Councillors attending and voting at the meeting at which the explanation is considered, delete, waive, reduce or remove the penalty.
  - (e) This sub-rule is to be read subject to the provisions of Rule 14.

- (f) The following types of resolutions of Central Council must be endorsed by the members of the Division in the process described in this sub-rule or, for the imposition of levies referred to in paragraph 8(vi)(c), in accordance with relevant processes of that paragraph:
  - (A) a resolution to change the Divisional rules (unless endorsement is not required in accordance with Rule 15);
  - (B) a resolution that Central Council determines should be sent to Lodges for endorsement; or
  - (C) a resolution that Central Council determines should be sent to Lodges for endorsement as binding policy of the Division;
  - (D) a resolution to make, impose, order and enforce any levy on all members of the Division or of a District Branch.
  
- (v) National Convention
  - (a) Central Council shall be empowered to call from time to time a special and extraordinary meeting of District Branch representatives, which shall be known as a National Convention. The National Convention shall only exercise an advisory function to Central Council and its decisions and resolutions shall have the status of non-binding recommendations.
  - (b) Central Council shall list those questions which it proposes to submit to the National Convention and have those questions sent to the District Branches and Lodges of the Division. Central Council shall also invite District Branch Committees of Management to submit items for consideration by National Convention.
  - (c) Central Council may appoint such officers as may be considered proper and necessary to work in conjunction with the Central Executive for the purpose of preparing National Convention and materials for the National Convention and may otherwise do all acts necessary for the calling and conduct of the National Convention. Notice of a National Convention together with the agenda paper, shall be sent by the General Secretary to each District Branch Secretary at least six (6) weeks before the date of such National Convention. No failure to notify pursuant to this provision will of itself vitiate a meeting of National Convention.
  - (d) Central Council shall determine the basis on which District Branches shall elect representatives for National Convention provided that representation to National Convention shall as nearly as is practically possible be decided according to the principles of proportionate representation. The Central Executive of the Division, the Executive Officers of the District Branches and the Central Councillors shall attend National Convention ex officio. National Convention delegates shall hold office for the duration of each National Convention.

- (e) The General President of the Division shall be Chair of the National Convention and conduct the National Convention according to the standing orders established by Central Council, a copy of which shall be made available to each representative attending Convention.
  - (f) All resolutions agreed to by a majority of the representatives voting at the National Convention shall be submitted as recommendations to the next following meeting of Central Council. Central Council shall approve, reject or amend the recommendations of National Convention and shall include all those National Convention recommendations which it has approved with all other decisions of that meeting of Central Council for submission to meetings of members at each Lodge.
- (vi) Powers and Duties of Central Council

The powers and duties of Central Council shall include the following:

- (a) The election of the Vice Presidents by and from the Councillors and, from time to time, determine the number of General Vice Presidents required for the ongoing effective operation of the Union. Any additional position created by this sub-rule shall be filled by the holding of an election in accordance with Rule 17.
- (b) To hear any appeal (excepting appeals on seniority) from any District Branch, Lodge or member.
- (c) To make, impose, order and enforce any levy on all members of the Division or of a District Branch at the time of imposing the levy for any one (1) or more of the objects described in Rule 4.

No levy shall be collected prior to endorsement by an aggregate majority of the membership attending and voting at special Lodge meetings which shall have been convened as follows:

- (1) Notification of the making or imposing of a levy requiring endorsement by a majority of the membership of the Lodges shall be given in writing by the General Secretary to the District Branch Secretaries and Lodge Secretaries.
- (2) Each Lodge Secretary shall thereupon convene a special meeting of the Lodge as early as possible for the purpose of endorsing or rejecting the levy.
- (3) As soon as possible after the holding of such special Lodge meetings the Secretary of each Lodge shall forward to the Secretary of the District Branch in which the Lodge is situated or to which the Lodge is attached, a Certificate showing the number of members of the Lodge present at the special meeting and the number of members at the meeting voting for and against the levy.
- (4) On receiving the Certificates from the Lodge Secretaries each District Branch Secretary shall immediately prepare and forward to the General Secretary a certificate showing the total number of votes cast by the members of the District Branch at the special meetings and the number of votes recorded for and against the levy.

- (5) The decision of the overall majority of the membership attending and voting at the special meetings of Lodges in a District Branch shall be the decision of the District Branch. The Certificate of the District Branch Secretary shall be conclusive evidence of the decision of the membership of the District Branch and of the due and proper holding of special Lodge meetings required by this sub-rule. The decision of the overall majority of the membership attending and voting in the District Branches, shall be the decision of the Division.
- (6) Notice of the making or imposing of any levy, fine, fee or subscription shall be given by the General Secretary of the Division in writing to the Secretary of each District Branch as follows: in the case of a fine, fee or subscription, forthwith on the making or imposing thereof, in the case of a levy, forthwith on the receipt by the General Secretary of all the Certificates of the District Branch Secretaries required by sub-rule 8(vi)(c) where the overall majority vote endorses the levy.

On receiving notice of a fine, fee, subscription or levy according to rule, the Secretary of the District Branch shall give notice of the levy, fine, fee or subscription in writing to the Secretary of each Lodge in the District Branch and/or to members of the District Branch directly.

The Secretary of each Lodge shall then post or cause to be posted in a prominent part of the mine or works at which any member of the Lodge works a notice in writing stating the making or imposition of the levy, fine, fee or subscription. No other notice need be given to the Lodge members.

- (d) To determine any matter or report referred to Central Council by the Central Executive or by any District Branch and to settle all disputes within and between District Branches.
- (e) To consider and reverse any decision of any District Branch except decisions about the purchase or disposal of property, the investment and use of the District Branch Fund or any other matter on which the District Branch has autonomy of decision and rule making. Where a District Branch decision has been considered and altered by the Central Council the General Secretary shall, on behalf of Central Council, send an explanation, in writing, of Central Council's reason for the decision to the Secretary of the District Branch. The District Branch Executive Officers may then submit the matter to any subsequent meeting of the Central Council and may attend the meeting to explain why they wish the original District Branch decision to stand.
- (f) To from time to time make, alter, amend and rescind standing orders for the regulation and conduct of the business and proceedings of the Division.
- (g) To fix, reduce, increase or alter the salaries and allowances of, and of all and every one of, the officers of the Division attached to the Central Office.
- (h) To receive and adopt or otherwise deal with the Annual Report and Balance Sheet of the Division.

- (i) To impose any fine on any District Branch, Lodge or member of the Division for violation of Central Council decisions which have been endorsed by the membership or for breach of these rules. Fines so imposed shall not exceed, in the case of District Branches or Lodges, five hundred dollars (\$500), or, in the case of members, fifty dollars (\$50). Where such a fine is imposed the General Secretary shall send an explanation of the Central Council's decision to the District Branch Committee of Management, the Lodge Executive or member. The District Branch Executive Officers, the Lodge Executive and/or the member, upon payment of the fine, then shall have the opportunity to appear at or address Central Council verbally or in writing in appeal against the decision. If the appeal is successful the amount of the fine shall be refunded.
- (j) To appoint a Financial Inspector to examine all books of the Division and District Branches when necessary.
- (k) The Central Council may decide that a Special Referendum be taken at any time on important matters. The Special Referendum shall be conducted and decided by the same procedures used in a vote of the membership on a levy as stipulated in subsection (c) of this Rule.
- (l) The Central Council or the Central Executive may by resolution authorise the Secretary of any Lodge or District Branch or any other person whether an officer or member of the Division or not, on behalf of or in the name of the Division to institute, commence, prosecute, continue and pursue to finality any legal proceedings in or before any Court or Tribunal to enforce payment or recovery of any or all levies, subscriptions, contributions, fines, fees and dues owing or payable by members of the Division or any of them or any District Branch at any time and from time to time.
- (m) The Central Council may determine that industrial assistants be appointed from time to time to assist the Central Executive. The decision to appoint such persons shall be made on the recommendation of such an appointment to the Central Council by at least two (2) of the Central Executive Officers, the adoption of the recommendation by a resolution of a majority of Councillors attending and voting at the meeting and the endorsement of the resolution by an aggregate national majority of the members of Lodges attending and voting at Lodge meetings at which the minutes of Central Council are considered.
- (n) To do any or all other acts, business or things which Central Council decides are proper for the achievement of the objects established in Rule 4 of these rules.
- (vii) Voting other than at Meetings Assembled
  - (a) If the General President or General Secretary consider it advisable to submit any matter, including the imposition of a levy or the alteration or rescission of a Rule, to a vote of Central Council at any time when it is inconvenient to call the Central Council together, the General Secretary may submit a resolution dealing with the matter to the members, by letter, facsimile, telegram, telephone, email, in writing, by computer link and/or by any other means of communication.
  - (b) The votes on such resolution shall be returnable to the General Secretary at such time as the General Secretary shall fix and shall be subject to the quorum requirements set out in sub-rule 8(ii)(b). The result of such vote shall be binding and enforceable in the same manner as a decision arrived at in meetings assembled.



- (c) The matter shall be recorded in the minutes on the next Central Council meeting held following the vote.

### **9 – ATTENDANCE AT MEMBERSHIP MEETINGS**

- (i) Any elected officer of the Division shall be entitled to attend and participate at any meeting of members of the Division convened or constituted pursuant to the rules of the Division or of any District Branch.
- (ii) An elected officer of the Division shall not be entitled to vote at such meeting unless entitled to vote otherwise than pursuant to this rule.

### **10 – THE CENTRAL EXECUTIVE**

- (i) Executive Officers
  - (a) The Central Executive shall consist of the General President, the General Vice President/s, the Vice Presidents and the General Secretary. The General President, the General Vice President/s and the General Secretary shall be full time officers attached to the Central Office of the Division.
  - (b) The General President, the General Vice President/s and the General Secretary shall be elected by the membership of the Division each four (4) years in accordance with Rule 17 hereof. Each such officer shall take office for a term of four (4) years as and from the day provided for in Rule 17.
  - (c) The Vice Presidents shall be the District President from each of the three (3) largest District Branches in accordance with, and subject to, Rule 19.
  - (d) Each officer shall remain in office unless the officer resigns the position by writing delivered to the General Secretary or General President or unless removed from office.
  - (e) A person elected to office in the Division shall not be dismissed from office unless found guilty by the Central Council of misappropriation of the funds of the Division, a substantial breach of the rules of the Division, gross misbehaviour, gross neglect of duty or has ceased according to the rules to be eligible to hold office. Where dismissal of an officer under this sub-rule is contemplated Central Council shall appoint a Committee of three (3) Councillors to investigate and report on the case. The decision of the Central Council shall not take effect until endorsed by an aggregate national majority of members attending and voting at Lodge meetings at which the business of that Central Council meeting is considered. Where dismissal of an officer under this sub-rule is contemplated the officer concerned shall be presented with a written statement of the charges alleged against the officer, by Central Council's investigating committee. The officer shall have full freedom to make a verbal and/or written response to the charges, and bring such material or witnesses as may be relevant to the charges, to both the investigating committee and the meeting of Central Council which hears the report of the investigating committee.

There shall elapse a period of not less than one (1) month, or any greater period Central Council shall determine, between the delivery to the officer concerned of the written statement of charges and the hearing by the investigating committee of the officer's response to the charges. The officer may waive all or part of the minimum one (1) month period of notification.

- (f) The Executive Officers shall remain financial members of the Division.
- (ii) Duties of Executive Officers
  - (a) General President

The General President who shall be the principal officer shall preside at all Central Council Meetings and at the National Convention and, in conjunction with the General Secretary and other officers, shall attend to all correspondence, watch the interests of the Division and shall as far as possible, advance the members' interests generally. The General President shall, with the cooperation of the other Executive Officers carry out the objects of the Division and shall as far as possible ensure that the Rules are carried out. The General President shall prepare annually a review of the position of the Division and report to the Annual Meeting of the Central Council and in the case of equal voting at Central Council or National Convention shall have the casting vote. The General President shall receive such remuneration as the Central Council may determine from time to time.

- (b) General Vice President/s and Vice Presidents

The General Vice President/s and the Vice Presidents shall act as members of the Central Executive in the exercise of the powers and duties of the Central Executive and shall attend all meetings of Central Council. In the absence of the General President the Chair of the meeting shall be a General Vice President or, if absent, a Vice President. When acting as Chair in the place of the General President at any meeting, the relevant officer shall have a casting vote. The General Vice President/s and the Vice Presidents shall, with the cooperation of the other Executive Officers, carry out the objects of the Division and shall as far as possible ensure that the Rules are carried out. The General Vice-President/s shall receive such remuneration as the Central Council may determine from time to time.

- (c) General Secretary

The General Secretary shall have prepared all necessary documents for the Central Council, Central Executive, Auditor, and Trustees and shall prepare and forward the annual and other returns to the Industrial Registrar in due time. The General Secretary shall attend all meetings of the Central Council and Central Executive, shall file all correspondence, make minutes of the resolutions passed and other business transacted at any meeting, summon members of the Central Council and Central Executive Committee to meetings, draw up a report and have the Balance Sheet submitted to the Central Council annually and submit the Division's books as soon as practicable following the end of the year to the Auditor. The General Secretary shall submit to the General President any urgent information officially received and, together with the General President, shall decide on the best course to be pursued. The General Secretary shall keep a register of the names and addresses of the officers of the Division and shall, in conjunction with a senior member of the staff and the General President, sign cheques and/or authorise other payments. The General Secretary shall be paid such remuneration as the Central Council may determine from time to time. The General Secretary is hereby empowered to sue in any Court on behalf of the Division.

(iii) Meeting of the Central Executive

- (a) The General President or General Secretary may convene a meeting of the Central Executive at any time by oral or written communication to the other members of the Central Executive.
- (b) A quorum of any meeting of the Central Executive shall be the majority of the Central Executive.
- (c) The Chair of any meeting of the Central Executive shall have a deliberative but not a casting vote.
- (d) Where matters are due to be decided by the Central Executive and an officer cannot be present the officer may record a vote by telephone, email, or by any other means of communications. In such an event the decision of the majority shall be valid as had they assembled.
- (e) Voting otherwise than at meetings assembled.
  - (1) If the General President or General Secretary considers it advisable to submit any matter to a vote of the Central Executive at any time when it is inconvenient to call the Central Executive together, the General Secretary may submit a resolution dealing with the matter to the members, by any telephone, email, or by any other means of communication.
  - (2) The votes on such resolution shall be returnable to the General Secretary at such time as the General Secretary shall fix and shall be subject to the quorum requirements set out in sub-rule 10(iii)(b). The result of such vote shall be binding and enforceable in the same manner as a decision arrived at in meetings assembled.
  - (3) The matter shall be recorded in the minutes of the next Central Executive Meeting held following the vote.

(iv) Powers of the Central Executive

The Central Executive shall, subject to the review of its actions by the next ensuing meeting of the Central Council, have the care, control, custody, superintendence, management and administration in all respects of the affairs, funds and property of the Division. The powers of the Central Executive shall include the following:

- (a) To suspend any member of the Central Executive or of the Central Council or representatives of the Division on any Board or body for any breach or infringement of the Rules of the Division or for any misconduct or dereliction of duty or any misapplication respecting the whole or any part of the funds, moneys or other property of the Division or non-compliance with or disobedience of any request or order contained in any resolution of the Central Council and to inflict any fine not exceeding fifty dollars (\$50). Where action is taken by the Central Executive under this sub-rule there shall be a general right of appeal by the member, representative, Councillor or body affected to the Central Council. This sub-rule shall be read subject to sub-rule 10(i)(e).
- (b) To consider and decide upon any application for admission to membership referred to it by the General Secretary or other officer.
- (c) To initiate, manage and control all actions, proceedings, industrial disputes and other matters, and to appoint agents, solicitors or counsel to appear for and represent the Division or any of its members in any Court or proceedings, legal or otherwise.

- (d) To demand and collect all levies, subscriptions, fines and dues payable by the members. A certificate signed by the General President, General Secretary, a General Vice President or a Vice-President that a person joined the Division on a certain date and of the amount of levies, contributions, fines and dues shown on the books of the Division as owing by the person shall be in all Courts and Tribunals prime facie evidence of the facts stated therein. A copy of a resolution certified by the General President, General Secretary, a General Vice President or a Vice-President shall be prime facie evidence that such resolution was carried by the body and on the day specified in the certificate.
- (e) To demand, receive and keep possession of all books and accounts of the Division.
- (f) To demand, or cause to be made, an audit of the books and accounts of the Division, and of all or any of the District Branches of the Division.
- (g) To engage such employees or other assistance that in its opinion are necessary for the proper carrying out of the business of the Division, and to pay such wages, salaries and allowances as to it shall seem proper.
- (h) To incur all necessary accounts, and expenditure for the proper upkeep of the Division, and to pay all sums so incurred.
- (i) To exercise such other powers as may be conferred upon them by the Central Council, or by any Rule of the Division.
- (j) To appoint Committees or Sub-committees amongst the members of the Division for specific purposes of enquiry and report in respect of any matter that may involve the interests of the Division or any member thereof.
- (k) To submit such matters as may appear to it to be of sufficient importance to the Central Council for decision or directly to the members of the Division for decision by ballot. Ballots conducted under this sub-rule shall be taken according to the procedures for voting on levies referred to in sub-rule 8(vi)(c).
- (l) Industrial agreements may be made, entered into and executed and may from time to time be altered, varied, modified or cancelled by or on behalf of the Division by the Central Executive. Any industrial agreement made, entered into or executed, shall be signed by the President, a General Vice-President or a Vice-President or General Secretary. No industrial agreement shall be entered into unless its terms have first been approved by an aggregate majority of the members attending and voting at meetings of the Lodges of the District Branch or District Branches affected. Where the Division makes a greenfields agreement under the *Fair Work Act 2009*, or any successor legislation, the agreement will not be made without the consent of the District Branches affected.

Similar approval shall be obtained in respect of any alteration, variation or cancellation thereof. All other documents shall be executed on behalf of the Division by the General Secretary, General President, a General Vice-President or a Vice-President.

- (m) All acts of the Central Executive done in pursuance of the powers granted it by these Rules shall have full force and effect and be of full validity, notwithstanding anything in these Rules, until such acts shall be reversed or altered or otherwise dealt with by the next ensuing meeting of the Central Council.
- (n) The Central Executive shall, prior to the sitting of any meeting of the Central Council, prepare an agenda paper. The paper shall set out in such form as the Central Executive may decide the matters to be brought before the Central Council for consideration, and a copy of such shall be sent to all Councillors seven (7) days before the meeting. For the avoidance of doubt, a failure to meet the requirements of this paragraph will not constrain the powers of the Central Council to meet and/or pass valid resolutions.
- (o) The Central Executive shall elect all delegates to represent the Division on any national body or conference outside the Union and beyond the confines of any one (1) District Branch, unless otherwise decided by the Central Council. All such delegates shall be required to support and vote in favour of Division policy.

### 11 – FINANCE AND PROPERTY

- (i) The Federal Fund shall consist of:
  - (a) any real or personal property of which the Central Council or the Central Executive of the Mining and Energy Division by these Rules or by any established practice not inconsistent with these Rules, has, or in the absence of any limited term lease, bailment or arrangement, would have, the right of custody, control or management;
  - (b) any capitation fees, entrance fees, subscriptions, fines, fees, levies and other monies paid by the rule or otherwise from the District Branches, Lodges or members, to the Mining and Energy Division;
  - (c) any interest, rents, dividends or other income derived from the investment of the funds of the Mining and Energy Division;
  - (d) any property acquired wholly or mainly by expenditure of the funds of, or derived from other assets of, the Mining and Energy Division;
  - (e) the proceeds of any disposal of parts of the Fund;
  - (f) the Central Long Service Leave Fund.
- (ii) Central Executive Control

Subject to the control of the Central Council, the property and funds of the Division shall be under the control of the Central Executive.

(iii) Use of Funds

- (a) The funds of the Division shall be applied and/or invested as follows: in such lawful manner as the Central Council may decide, including, without limiting the generality of this sub-clause, deposit on current account or fixed deposit with any financial institution carrying on business in the Commonwealth of Australia, the mortgage of real or personal estate situated in the Commonwealth, the subscription for or purchase of shares in any company registered and carrying on business in any State of the Commonwealth. Funds so applied shall only be realised on the authority of the Central Executive or on the authority of the Central Council.
- (b) Monies shall be drawn from the funds of the Division by cheques signed by, or electronic means authorised by, both the General President and the General Secretary or either of those officers with such other officers or senior members of staff as may be designated from time to time by Central Council.
- (c) Loans, grants and donations of any amount exceeding \$1,000 shall not be made by the Division unless the Central Council, or between meetings of the Central Council, the Central Executive, has satisfied itself that the making of the loan, grant or donation is in accordance with the rules of the Division and that, in relation to a loan, that in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory. Loans, grants and donations of an amount exceeding \$1,000 shall not be made unless approved by Central Council, or between meetings of the Central Council, the Central Executive.
- (d) Notwithstanding paragraph (c) above, the Division may make a loan, grant or donation of an amount not exceeding three thousand dollars \$3,000 to a member of the Division if the loan, grant or donation:
  - (A) is for the purpose of relieving the member or any of the member's dependents from severe financial hardship; and
  - (B) is subject to a condition to the effect that, if the Central Council, at the next meeting of the Central Council, does not approve the loan, grant or donation, it must be repaid as determined by the Central Council.
- (e) In considering whether to approve a loan, grant or donation made in accordance with this paragraph (d), the Central Council must have regard to:
  - (A) whether the loan, grant or donation was made under the Rules of the organisation; and
  - (B) in the case of a loan:
    - (i) whether the security (if any) given for the repayment of the loan is adequate; and
    - (ii) whether the arrangements for the repayment of the loan are satisfactory.

(iv) Books and Records

The General Secretary shall keep or cause to be kept all books, records and papers which may be required by law, necessary to the preparation of any return or statement required by law, necessary for the information of the auditor or which may otherwise be required by these rules or any Central Council.

(v) Financial Year

The financial year for the accounting purposes of the Division shall be 31 December in each year.

(vi) Trustees

(a) There shall be two (2) trustees. The trustees shall be the General President and the General Secretary. Trustees shall hold office for four (4) years concurrently with the Central Council Officers. The Trustees' office shall be subject to sub-rules 10 (i) (d), (e) and (f).

(b) The Trustees shall, under the direction of the Central Council, prosecute or, if more convenient, direct any District Branch or officer to prosecute any member or other person suspected by them of any offence, legally punishable with reference to the affairs of the Division and they may themselves institute, or if more convenient, may direct any District Branch or officer or officers to institute civil proceedings against any member or other person refusing to give up possession of any of the Division's or any District Branch property; or doing or neglecting to do any act so as to render any member or other person liable to legal proceedings in reference to the Division's affairs, or the affairs of any District Branch thereof.

(c) All funds, investments and other property of the Division may be held directly by the Division in accordance with the legal capacity of the Union as an incorporated body under the *Fair Work (Registered Organisations) Act 2009*, or any successor legislation, and/or vested in the Trustees as joint tenants and be held by them in trust for the members of the Division.

(d) The Trustees and/or the Central Council shall without prejudice to any further power and duties conferred by these rules and by statute be vested with all and every of the powers and duties with which Trustees may lawfully be vested. The Central Council shall have all necessary powers with regard to the bringing or defending of any action, suit, prosecution or complaint in the Division, or authorise the Trustee to institute such proceedings.

(e) The Trustees shall have power:

(1) To receive money or other property paid, delivered or conveyed to them as Trustees of the Division and to expend moneys without distinction between capital and income.

(2) To invest, sell exchange or otherwise dispose of investments or other property of the Division and to deal with the funds of the Division including purchase or otherwise acquiring of property out of the funds of the Division.

- (3) To lend and advance money or give credit to any person or corporation, to guarantee, and give guarantees or indemnities for the payment of money or the performance of contracts or obligations by any person or corporation, to secure or undertake in any way the repayment of moneys lent or advanced to or the liabilities incurred by any person or corporation, and otherwise to assist any person or corporation. This sub-rule shall be subject to sub-rule 10(iii)(c).
- (4) To borrow or raise or secure the payment of money and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Division in any way, and to purchase, redeem or pay off any such securities.
- (5) To lease, licence, hire or otherwise give and acquire rights to use or occupy property of the Division and for the purposes of the Division and to carry on any business of the Division.

For the purpose of exercising a power listed above the Trustees shall have all such powers ancillary or incidental to or conducive to the exercise of that power as they would have if they were exercising the listed power by employment of funds or in relation to property beneficially owned by them and were acting in a personal as against a fiduciary capacity. The powers conferred by this sub-rule shall be in addition to such powers as are conferred upon Trustees by any law for the time being in force in Australia or any of its States or Territories (every one of which statutory powers the Trustees shall be deemed to have notwithstanding that the power is exercised outside Australia or the State or Territory under the law of which same is conferred) and shall not be constructed to be limited or restricted to or by the statutory powers or so as to impose upon the Trustees any duties imposed by law upon Trustees exercising the statutory powers.

The Trustees shall be fully and effectually indemnified out of the funds of the Division in respect of any personal liability incurred in a proper exercise of the powers given by this rule or by law and shall not be liable to the Division or any of its members for any loss incurred in a proper exercise of such powers.

(vii) Auditor and Audited Accounts

- (a) An auditor appointed by the Central Council shall audit the accounts in January of each year, and see that the same are correctly kept in accordance with these Rules and the requirements of the law. The auditor shall have power at any time to call for all books, records, papers, vouchers and documents belonging to the Division or any delegate, officer or committee thereof, so far as is necessary to the task of carrying out the audit. The auditor shall make an annual report of the audit to the Central Council and shall sign the necessary papers certifying to the audit and to the financial position of the Division.
- (b) The selection of an auditor, the presentation of the accounts and certificates by the auditor and all other matters to do with the audit, the keeping and presentation of accounts, to Central Council and to the membership, shall be according to the requirements forms and procedures of the law affecting the accounting auditing practices of organisations registered under the provisions of the *Fair Work (Registered Organisations) Act 2009*.



- (c) For the purpose of presenting financial reports, a general meeting of members can include a series of meetings at different locations.
- (d) On receipt of a petition signed by not less than five percent (5%) of the members of the Division the General Secretary shall convene a general meeting of members to present the auditor's report, the general purpose financial report and the operating report.
- (e) The petition shall have set out the member's full name, address, signature and the date the said petition was signed by the member. In determining the five percent (5%) requirement of members for a general meeting to be held, the petition shall be presented to the General Secretary within thirty (30) days of the first member signing the aforementioned petition. Members who signed the petition in excess of the thirty (30) days required by this sub-rule shall not be included in determining the calculation of five percent (5%) of the members.

(viii) Seal

The seal of the Division shall be held by the General Secretary and shall be used for all purposes of the Division for which it may be required. The affixture of the seal to any instrument shall be attested under the name of the General Secretary and such other members of the Central Executive as the Central Executive may decide.

(ix) Registered Office

The registered office of the Division shall be 215-217 Clarence Street, Sydney or such other place as may be decided upon by the Central Council from time to time.

## 12 – DISTRICT BRANCHES

(i) Formation of District Branches

District Branches may be formed from time to time as the Central Council may decide, provided that the following bodies, all of which are at present in existence, shall be deemed to be and to have been comprised of members of the Division since the commencement of the year 1918:

Northern Mining and NSW Energy District Branch;

South Western District Branch;

Queensland District Branch;

Tasmanian District Branch;

Western Australian District Branch;

Victorian District Branch.

(ii) District Branch Autonomy

- (a) Each District Branch shall have autonomy in matters affecting members of the District Branch only and matters concerning the participation of the District Branch in industrial conciliation and arbitration conducted under the law of a State of the Commonwealth.
- (b) District Branches shall make rules for their internal administration not inconsistent with these Rules. Nothing in these Rules shall prevent any District Branch from acquiring or owning any property without recourse to the Central Council and the Central Council shall have no right to direct or determine any matter in connection with such property.

(iii) General Rules for District Branches

Each District Branch shall have complete control of its own affairs subject to the general rules and the following conditions:

- (a) Each District Branch shall be governed by a Committee of Management consisting of the officers and such number of other members as the District Branch may decide. Full time officers and members of the Committee of Management shall be elected each four (4) years. The election for such positions shall be held each four (4) years according to the Rule 17 hereof of the Division. Each District Branch shall appoint a Returning Officer to conduct elections according to the Rule 17 hereof.
- (b) Each District Branch shall carry out and shall assist the Central Executive to implement the decisions of Central Council.
- (c) All District Branches shall collect all Union monies in the manner specified in these Rules unless otherwise specifically agreed between Central Council and the District Branch.
- (d) All District Branches shall make rules for the establishment and government of Lodges of members of the Division including provision for the election of Lodge Officers and representatives and provision for the keeping of Lodge records.
- (e) Subscriptions shall be collected fortnightly by all District Branches unless provision is otherwise specifically made by agreement between the Central Council and the District Branch.
- (f) Subject to the right of appeal to Central Council, any District Branch of the Division failing to pay its subscriptions to the Central Office within four (4) weeks after the collection of such monies may be fined a sum not exceeding one thousand dollars (\$1000) and, in such a case, shall not be entitled to any benefits of the Division until such subscriptions and fines are fully paid up.
- (g) Clearances shall be recognised between the various District Branches of the Division and from financial members of any bona fide union.
- (h) Each District Branch with members in the Coal or Shale industries shall work out, in respect of those members a clear scheme of Lodge seniority and shall endeavour to ensure that a uniform scheme is applied throughout all Lodges in the District Branch.

- (i) District Branches Rules shall provide that: members of the Division may not take other employment whilst on long service leave; that any member taking other employment whilst on long service leave shall forfeit all Lodge seniority rights and be deemed to be a new starter on starting work after the completion of the long service leave; that any member taking other employment whilst on long service leave shall, in addition to any formal award entitlement to days of leave, take leave equivalent to the total number of days worked in other employment.
- (j) Provision may be made in District Branch Rules for the payment of strike pay at a rate to be determined from time to time by Central Council.
- (k) If more than one third (1/3) of the membership of any District Branch is on strike and the strike has been endorsed by a majority vote of the District Branch Committee of Management and by a majority vote of Central Council, then the financing of the strike shall be taken over by Central Office.
- (l) Any District Branch of the Division violating any of the Rules of the Division or neglecting to act on the instructions of the Central Council may be suspended from all the benefits of the Division by the Central Executive. An explanation of any such decision by the Central Executive shall be sent by the General Secretary in writing to the Secretary of the District Branch concerned. The District Branch Executive shall have power to appeal against suspension to the next following meeting of the Central Council and to address Central Council verbally and/or in writing in support of the appeal. Central Council's decision then shall be final.
- (m) The Rules of the District Branches shall provide that the Central Executive or the District Branch Committee of Management may and, upon requisition from Lodges whose combined financial membership is not less than twenty per cent of the membership of the District Branch, shall, call special meetings of the District Branch membership. The business to be done at such meetings shall be limited to that stated in the decision or requisition covering the meeting.
- (n) The Committee of Management of a District Branch may, if satisfied that an officer or member of the Committee is not carrying out the duties required of the officer or member or is acting contrary to the rules of the District Branch or the policy of the District Branch, established by resolution of the District Branch Committee of Management according to the rules of the District Branch of the Division suspend such officer or member. On such action being taken the Committee of Management shall forthwith submit to the members of the District Branch the question of the dismissal or reinstatement of the officer or member concerned. This sub-rule shall be subject to sub-rule 10(i)(e).
- (o) The rules of the District Branch shall provide for a District Branch Fund which shall consist of:
  - 1. any real or personal property of which the District Branch by the rules or by any established practice not inconsistent with the rules, has, or in the absence of any limited term lease, bailment or arrangement, would have, the right of custody, control or management;
  - 2. the amounts of entrance fees, subscriptions, fines, fees or levies received by a District Branch, less so much of those amounts as is payable by the District Branch to the organisation;

3. any interest, rents or dividend derived from the investment of the Fund;
  4. any superannuation or long service leave fund operated or controlled by the District Branch for the benefit of its officers or employees;
  5. any sick pay fund, accident pay fund, funeral fund, benefit fund or like fund operated or controlled by the District Branch for the benefit of its members;
  6. any property acquired wholly or mainly by expenditure of the moneys of the Fund or derived from other assets of the Fund; and
  7. the proceeds of any disposal of parts of the Fund.
- (p) Rules relating to a District Branch Fund shall not be altered except with the consent of the District Branch concerned.
- (q) Any elected officer of the District Branch shall be entitled to attend and participate at any meeting of members of the District Branch convened or constituted pursuant to the rules of the District Branch. An elected officer of the District Branch shall not be entitled to vote at such meeting unless entitled to vote otherwise than pursuant to this rule.
- (iv) Amalgamation of District Branches
- (a) Central Council may approve the amalgamation of two (2) or more existing District Branches (referred to in this rule as “constituent District Branches”) to form one (1) amalgamated District Branch.
  - (b) The amalgamation of the constituent District Branches shall be subject to a scheme of amalgamation that shall be presented to Central Council for approval.
  - (c) The scheme of amalgamation shall contain:
    - (i) (A) if one (1) of the constituent District Branches is to be the proposed amalgamated District Branch - that fact and any change in the name of the District Branch; and
    - (B) if a new District Branch is to be formed as the proposed amalgamated District Branch - that fact and the name of the proposed amalgamated District Branch; and
    - (C) the constituent District Branches proposed to be abolished; and
  - (ii) the proposed rules of the amalgamated District Branch; and
  - (iii) any consequential rule changes to the Divisional rules required to give effect to the proposed amalgamation; and
  - (iv) a deed of agreement entered into and approved by the committees of management of the constituent District Branches dealing with matters relevant to the proposed amalgamation.

- (d) The scheme of amalgamation of the amalgamated District Branch shall be approved by the committees of management of the constituent District Branches (and where the rules of the District Branch so require, endorsement by the membership) prior to being submitted to Central Council for approval.
- (e) The deed of agreement entered into by the constituent District Branches must deal with the following matters:
  - (i) the continuity, voting rights and privileges of members of the constituent District Branches in the amalgamated District Branch;
  - (ii) arrangements for the representation of former members of the constituent District Branches on the supreme governing body of the amalgamated District Branch;
  - (iii) the treatment of existing office holders of the constituent District Branches in the amalgamated District Branch; and
  - (iv) the disposition of all funds, property, assets and liabilities of the constituent District Branches in the amalgamated District Branch.

Notwithstanding Rule 15, following approval of the proposed scheme of amalgamation by Central Council, the General Secretary shall be authorised to submit the proposed rules of the amalgamated District Branch (and any consequential alterations to the Divisional Rules) to the Fair Work Commission for approval.

### **13 – AMALGAMATION**

- (a) The Central Council may, on behalf of the Division, enter into an agreement, between the Division and any other Trade Union or organisation of employees for the purpose of providing for the merger or amalgamation of the parties thereto. Any such agreement shall be in conformity with the amalgamation provisions of the *Fair Work (Registered Organisations) Act 2009*.
- (b) Upon amalgamation with any Trade Union or organisation of employees the Division shall accept responsibility for and become the administrator of any relief, eye or funeral fund of that Trade Union or organisation of employees and a member of any such funds entitled to contribute to or participate in the benefits of the Fund at the date of the amalgamation shall continue to be entitled to contribute to and benefit from the Fund, provided that where Central Council determines that adequate and reasonable provision has been made for members so entitled, Central Council may terminate such fund.

### **14 – VALIDATION OF ACTS**

The proceedings of and acts done by any officer or by the Central Council or the Central Executive or any District Branch Committee of Management or any other body of the Division shall be valid notwithstanding any defect subsequently discovered in the method of election or appointment of such officer or such a member or members of any such body.

### **15 – NEW RULES AND ALTERATION OF RULES**

- (i) New rules may be made and any of the Rules of the Division may be altered, amended, added to or rescinded by Central Council.
- (ii) Proposed new rules shall be examined and reported on by a rules committee of Central Councillors appointed from time to time by Central Council.
- (iii) Subject to sub-rule 8(vii), the report of the rules committee shall be discussed by the Central Council and the proposed rules changes submitted for approval by a majority of members present and voting at that meeting of Central Council and then submitted for the approval of the membership in the same manner as other Central Council resolutions.
- (iv) Notwithstanding any other rule, or sub-rule, proposed changes to the Rules of the Division that have been approved by a majority of members of Central Council do not have to be submitted for the approval or endorsement of the membership as described in sub-rule 15(iii) in circumstances where either:
  - (a) all members of Central Council who voted on the resolution to approve the rule change voted in favour of the rule change; or
  - (b) the rule change is required to be made by legislation governing the operations of the Division.

### **16 – DISSOLUTION OF THE DIVISION**

Subject to Union Rule 34, the Division can only be dissolved by a four-fifths (4/5) majority vote of the Central Council specially convened for that purpose. Funds in hand at the time of dissolution of the Division, subject to the settlement of any debts of or claims upon the Division, shall be distributed pro rata to the District Branches.

### **17 – BALLOT**

- (i) The Central Council shall appoint a National Returning Officer to conduct elections for office within the Division and within each District Branch (called in this Rule the National Returning Officer).
  - (a) The Central Council shall only appoint a National Returning Officer if satisfied that the person has had sufficient training and/or experience to understand his or her duties and obligations under this Rule.

- (b) The National Returning Officer shall for the purpose of each election appoint Local Returning Officers who may be nominated by a Lodge or District Branch. The Local Returning Officer shall be responsible for the conduct of elections at each Lodge or locality in such a way as to ensure, as far as practicable that no irregularities can occur in relation to an election. Where it may assist in the conduct of an election, the National Returning Officer may also appoint one (1) or more Assistant Local Returning Officers for the conduct of elections at each Lodge or locality. The duties of an Assistant Local Returning Officer shall be to assist the Local Returning Officer and act at all times at the directions of the Local Returning Officer and/or National Returning Officer. The National Returning Officer shall only appoint a Local Returning Officer, or an Assistant Local Returning Officer, if satisfied that the person has had sufficient training and/or experience to understand his or her duties and obligations under this Rule.
- (c) The National Returning Officer, Local Returning Officer and, if any, an Assistant Local Returning Officer shall not be the holder of any office in or be an employee of the Union, a Division or a District Branch or Lodge of the Division. However the Local Returning Officer, and any Assistant Local Returning Officer, is required to be a Financial member(s) of the Division.
- (1) Subject to the requirement that there must be no employment relationship between the Union and a Local Returning Officer or Assistant Local Returning Officer, a District or Lodge may compensate a Local Returning Officer or Assistant Local Returning Officer for costs incurred by them in performing their role. Any such compensation will be entirely at the discretion of the District or Lodge and may only be made if the Local Returning Officer or Assistant Local Returning Officer makes a written request which itemises, and is supported with evidence, for the claimed compensation. The National Returning Officer will be advised of any compensation made and the reasons for such compensation.
- (d) The National Returning Officer shall conduct elections in accordance with this Rule and shall carry out those duties free from the direction or influence of any officer or employee of the Division. The National Returning Officer may obtain independent, expert advice as to his or her duties and obligations under these Rules and the *Fair Work (Registered Organisations) Act 2009*. Any legal advice provided to the Returning Officer related to the conduct of an election under this Rule shall be paid for by the Division but the client-lawyer relationship shall subsist between the National Returning Officer and the lawyer.
- (e) The National Returning Officer may, if he or she considers it beneficial, issue an instruction manual for the use of Local Returning Officers and/or any Assistant Local Returning Officers concerning the conduct of elections under this Rule. The National Returning Officer may utilise external legal advice in the preparation of the instruction manual, but the cost of the production and distribution of the manual shall be borne by the Division.
- (f) The National Returning Officer shall be provided with all necessary administrative support by the Division so as to efficiently acquit his or her duties under this Rule.

- (g) In respect of any matters pertaining to the conduct of the elections, and in spite of anything else contained in these Rules, the National Returning Officer shall take such action and give such directions as the National Returning Officer considers necessary to ensure the secrecy of the ballot and to prevent or remedy an irregularity.
- (h) If a National Returning Officer resigns after the commencement of the ballot process, but before the declaration of the ballot, or otherwise is unable to conclude the ballot and issue a declaration, the Central Council shall appoint a new National Returning Officer to carry out the duties still required to conclude the ballot. The appointment of a new National Returning Officer shall not affect the validity of any step already taken by the previous National Returning Officer.
- (i) If a Local Returning Officer or an Assistant Local Returning Officer resigns after the commencement of the ballot process, but before the declaration of the ballot, or otherwise is unable to conclude the ballot and issue a declaration, the National Returning Officer may appoint a new Local Returning Officer or an Assistant Local Returning Officer to carry out the duties still required to conclude the ballot. The appointment of a new Local Returning Officer or an Assistant Local Returning Officer shall not affect the validity of any step already taken by the previous Local Returning Officer.
- (ii) The National Returning Officer shall determine the times and dates of the commencement and close of the period for lodging nominations of candidates for election to an office having regard to:-
  - (a) the date of the expiration of the term of office of the holder of the office;
  - (b) the time required to lodge the nominations;
  - (c) the time required to complete the election.
- (iii) (a) The National Returning Officer shall, within the period of twenty-one (21) days before the date of the commencement of the period for lodging nominations of candidates for an election for an office within the Division or a District Branch, cause to be published by the Division in a newspaper or such other publications (including electronic media) as the Returning Officer considers appropriate a notice setting out:-
  - (1) the title of the office;
  - (2) if a District Branch office, the name of the District Branch;
  - (3) the form in which nominations are to be made;
  - (4) the place for lodging nominations;
  - (5) the times and dates of the commencement and close of the period for lodging nominations;
  - (6) that for up to seven (7) days after the close of nominations, candidates are entitled to lodge a Candidate's Statement in accordance with Rule 17 of the Divisional Rules;



- (7) the times and dates of the commencement and close of the period of the ballot and inviting nominations of persons, eligible for election for the office under these Rules to stand as candidates for election to the office;
  - (8) provided that, the minimum period during which nominations shall open and close and the ballot shall open and close, shall in both cases, be twenty-one (21) days.
- (b) The National Returning Officer shall forward a notice containing the information referred to in Rule 17(iii)(a) to each Lodge and District involved in the election and the notice should be displayed at each Lodge and locality.
- (iv)
  - (a) A person is not eligible for election for an office unless the nomination is in writing and is signed by the person and two (2) other Financial members.
  - (b) Where the National Returning Officer finds that a document lodged at the place and within the period determined by the National Returning Officer under Rule 17(ii) and purporting to be the nomination of a person as a candidate for an election to an office is not a nomination in accordance with the provisions of this sub-rule the National Returning Officer shall, before rejecting the nomination, notify the person concerned of the defect and, where it is practicable to do so, give the person the opportunity of remedying the defect within not less than seven (7) days after the National Returning Officer being so notified.
  - (c) A person is not eligible for election unless the nomination of the person as a candidate for election is lodged at the place determined by the National Returning Officer under Rule 17(iii)(a)(4) and within the period for lodging nominations under Rule 17(ii)(b), or under Rule 17(iv)(b).
- (v) Where on the expiry of the period for lodging the nomination of a candidate for election to an office, only one (1) candidate is nominated for election for the office, the National Returning Officer shall declare under Rule (17)(xii) that the candidate has been elected to that office.
- (vi)
  - (a) The National Returning Officer shall prepare a roll of voters who are entitled to vote in the election.
  - (b) The names of members of the Division or the District Branch who are entitled under the Rules to vote in an election shall form the roll of voters for the election. The roll of voters shall be closed on the date which is seven (7) days before the day on which nominations for the election open.
  - (c) The National Returning Officer shall, at the place where the National Returning Officer carries out the functions as National Returning Officer, make the roll of voters in an election for an office available for inspection by members or by any person authorised by the National Returning Officer, during the ordinary hours of business in the period that commences fourteen (14) days before the date of commencement of the issuing of ballot papers and ends on the day on which the result of the election is declared.

- (vii) (a) Subject to Rule 17(xiii), where more than one (1) candidate is nominated for election for an office the National Returning Officer shall determine the time and date of the open and close of the ballot having regard to:
  - (1) the date of expiration of the term of office of the holder of the office;
  - (2) the time required for the National Returning Officer to send the Local Returning Officers return ballot papers by post;
  - (3) the time required for postal ballots to be sent to members and returned to the Returning Officer; and
  - (4) the time required to complete the election.
- (b) The names of candidates for election for an office shall appear on the ballot paper for that election in the order determined as a result of a draw conducted by the National Officer. Each candidate may either attend the draw in person or nominate a person to attend on the candidates behalf.
- (c) The National Returning Officer shall arrange for the printing of ballot papers, the National Returning Officer shall send by registered post to each Local Returning Officer appointed under Rule 17(i), sufficient ballot papers for each person whose name appears on the roll of voters for the relevant Lodge or locality.
- (viii) (a) Where, on application before the time of the close of the ballot in an election, the National Returning Officer or a Local Returning Officer is satisfied that a ballot paper issued to a person whose name is on the roll of voters, has not been received or has been lost, destroyed or spoilt, the Returning Officer shall issue to that person, a duplicate ballot paper.
- (b) A member who will be absent from the Lodge or locality during a ballot, may apply to the National Returning Officer, for a ballot paper. Any such absentee ballot paper shall be sent to an address nominated by National Returning Officer and shall be subject to the requirements of Rule 17(xiii).
- (ix) (a) The Local Returning Officer shall as soon as practicable after the receipt of the ballot papers from the National Returning Officer as provided for in sub-rule 17(vii)(c), but in any event before the close of ballot as determined by the National Returning Officer pursuant to sub-rule 17(vii)(a):
  - (1) provide to each member whose name appears on the roll of voters in the Lodge or locality, a ballot paper either by attending the mine or work site at the beginning of each shift or such other means as may be required;
  - (2) initial each ballot paper so provided;
  - (3) ensure that each ballot paper so provided contains written instructions to the voter as to the proper method of completion of the ballot paper in order to record a formal vote;
  - (4) provide a sealed container into which each member voting shall place the completed ballot paper;

- (5) at the close of the ballot, open the sealed container and send the contents thereof in sealed envelopes by registered post to the National Returning Officer.
- (b) For the avoidance of doubt, the Local Returning Officer may direct the Assistant Local Returning Officer to perform functions described in sub-rule 17(ix)(a), except Rule 17(ix)(a)(5).
- (x) (a) The National Returning Officer shall open the sealed envelopes in which the ballot papers have been placed, withdraw each ballot paper and after rejecting informal ballot papers:-
  - (1) count the number of votes to ascertain which candidate is successful in the election to the relevant office;
  - (2) place into a container or containers the ballot papers admitted as formal, seal each of the containers and endorse on each of the containers:-
    - (i) if relevant, the name of the District Branch and the title of the office;
    - (ii) the words "Ballot Papers admitted as formal";
    - (iii) the Returning Officer's signature; and
    - (iv) the date of signing.
  - (3) place into a container or containers the ballot papers rejected as informal, seal each of the containers and endorse on each of the containers:-
    - (i) if relevant the name of the District Branch and the title of the office;
    - (ii) the words "Ballot Papers rejected as informal";
    - (iii) the Returning Officer's signature; and
    - (iv) the date of signing; and
  - (4) subject to the requirements of the *Fair Work (Registered Organisations) Act 2009*, keep each of the containers in safe custody.
- (b) The National Returning Officer shall reject as informal a ballot paper that:-
  - (1) does not bear the initials of the Local Returning Officer or the Assistant Local Returning Officer;
  - (2) has upon it a mark or writing by which the voter can be identified.
- (c) Where, during the scrutiny, the National Returning Officer is informed by a scrutineer appointed under Rule 17(xi) that the scrutineer objects to a ballot paper being admitted as formal, or rejected as informal, as the case may be, the National Returning Officer shall decide the matter and endorse the decision on the ballot paper.

- (xi) (a) Each Lodge or locality shall in respect of each election appoint a scrutineer. Each candidate may appoint a scrutineer in respect of each election for which the candidate has nominated. Any appointment of a scrutineer by a candidate shall be made by notice in writing addressed to the National Returning Officer or the Local Returning Officer. Not more than one (1) scrutineer shall be allowed to each candidate in an election at each Lodge or locality.
- (b) Subject to Rule 17(xi)(c), a scrutineer appointed under this sub-rule may:-
  - (1) be present while the National Returning Officer carries out the functions under Rule 17(x) or while a Local Returning Officer carries out the functions under Rule 17(ix)(a); and
  - (2) direct the attention of the National Returning Officer or a Local Returning Officer to any irregularity concerning the issue of ballot papers, the admission of any envelope to scrutiny, the admission of a ballot paper as formal, the rejection of a ballot paper as informal or the counting of the votes.
- (c) Where a scrutineer appointed under this sub-rule:
  - (1) interrupts the scrutiny otherwise than in accordance with rule 17(b)(2) ; or
  - (2) fails to carry out a lawful request by the Returning Officer;the Returning Officer may direct the scrutineer to leave the place where the scrutiny is being conducted.
- (d) A scrutineer appointed under this sub-rule shall comply with a direction by the Returning Officer under sub-rule 17(xi)(c).
- (e) Notwithstanding anything else contained in this Rule, the National Returning Officer shall have the power to extend the period during which ballots may be cast (including postal ballots) at either Lodge, District Branch or Divisional level, if the National Returning Officer believes such a step is necessary to avoid the improper disenfranchisement of eligible voters, or to remedy an irregularity.
- (xii) (a) As soon as is practicable the National Returning Officer shall declare the result of an election by giving notice in writing to the Division at its registered office (and to any District Branch in relation to which such election applies) of the result.
- (b) When declaring the result in respect of the election the National Returning Officer shall also declare in respect of the election:-
  - (1) the number of ballot papers issued (other than duplicate ballot papers);
  - (2) the number of duplicate ballot papers issued;
  - (3) the number of ballot papers admitted as formal;
  - (4) the number of ballot papers rejected as informal.

- (c) As soon as practicable after the declaration of the results of an election, the National Returning Officer shall prepare a report for the General Secretary summarising the results of each election conducted. In preparing this report, the National Returning Officer may also make recommendations for the consideration of Central Council as to how to improve the participation of members in the election process and other relevant matters. The General Secretary shall, within twenty-one (21) days of receiving the report of the National Returning Officer, file a copy of the report with the government body or agency to whom the report would be sent if the Australian Electoral Commission was conducting the election.
- (xiii) Notwithstanding anything else contained in this Rule, the Returning Officer shall have the discretion to issue postal ballots as an alternative to an attendance ballot where it appears to the National Returning Officer that an attendance ballot is not practical and that the issuing of a postal ballot will facilitate the participation of members in an election conducted under this Rule. In conducting a postal ballot under this Rule, the National Returning Officer shall ensure that there is compliance with any legislation applicable to postal ballots for registered organisations, including the requirements of section 188 of the *Fair Work (Registered Organisations) Act 2009* and Regulations 5 and 6 of the *Fair Work (Registered Organisations) Regulations 2009* relating to the use of envelopes in conjunction with ballot papers.
- (xiv) Notwithstanding anything else contained in the Rules of the Division, or the Rules of a District Branch, a person elected to office under this Rule shall assume office:-
- (a) In the case of a general election – on 1 July in the year in which the general election is held;
- (b) In the case of a casual vacancy – on the first (1<sup>st</sup>) day of the month following the declaration of his or her election to office.
- (xv) Candidates Statements for Elections Conducted Pursuant to this Rule
- (a) Up to seven (7) days after the close of nominations, a candidate may submit to the National Returning Officer a biography and/or a statement (“a Candidate’s Statement”) in support of their candidature only for distribution by the National Returning Officer. The Candidate’s Statement shall not exceed one (1) A4 single sided page. The Candidate’s Statement may include one (1) photo of the candidate.
- (b) A candidate can only submit one (1) Candidate’s Statement regardless of the number of offices that they are contesting, should the candidate be otherwise allowed by the Rules of the District Branch or Division to contest more than one (1) office.
- (c) The National Returning Officer shall reject any Candidate’s Statement:
- (1) which in the opinion of the National Returning Officer:
- (A) uses offensive language;
- (B) is defamatory;
- (C) is false or misleading; or
- (D) may lead to an irregularity; or
- (2) which does not comply with this Rule.

- (d) A candidate whose Candidate's Statement is rejected shall be notified and shall be given not more than two (2) working days from being notified to supply a replacement Candidate's Statement that complies with this Rule.
- (e) The National Returning Officer shall as soon as practicable forward all relevant Candidate's Statements to each Lodge or locality involved in the election in which the candidate has nominated for an office and the Statements shall be displayed at each Lodge on the Union notice board or other prominent place.
- (f) In addition to forwarding the relevant Candidate's Statements in accordance with sub-rule 17(xv)(e), the National Returning Officer shall, at no cost to the candidate, supply each member who is subject to a postal ballot with all relevant Candidate's Statements at a time no later than when the member receives a ballot paper.

### **18 – ELIGIBILITY FOR DIVISIONAL OFFICE**

No member shall be eligible for any office unless the member has been a financial member continuously for at least twelve (12) months prior to the closing date of nominations but a member who has been cavilled out for any period, and had not forfeited seniority rights prior to resumption shall have the period during which the member has been cavilled out counted as continuous financial membership. For the purposes of this Rule, -cavilled out- shall mean retrenched involuntarily.

### **19 – VICE-PRESIDENTS OF THE DIVISION**

- (a) Any person holding office as a Vice President as at the commencement of this Rule shall continue to hold that office until the end of their term unless that office holder resigns or is removed in accordance with Rule 10(e).
- (b) For the purpose of determining which Branch Vice Presidents will be Vice Presidents of the Division, the three (3) largest District Branches will be determined by the number of district Branch members of each District Branch based in the records maintained by the Division pursuant to the *Fair Work (Registered Organisations) Act 2009* as at 31 December each year.

### **20 – RETIRED MEMBERS**

1. The Division supports the formation of an Association of retired members of the Division in each District Branch. In those District Branches, where an Association of retired members is formed and whose constitution is approved by Central Council, a payment may be made by the Division to the Association according to the number of financial members of the Association on a per capita or such other basis as may be determined from time to time by Central Council.

2. The objects of each such Association shall include:
  - (I) to promote goodwill and friendship amongst its members;
  - (ii) to assist the Division and the District Branch wherever possible;
  - (iii) to co-operate with the Division and the District Branch in their activities and to encourage members of the Association to actively campaign for the achievement of the objects and the policies of the Division and the District Branch;
  - (iv) to co-operate in achieving the objects of the Division and the District Branch and in particular the achievement of improved living, social, environmental and economic standards.
  
3. The rules of each Association shall provide for:
  - (I) eligibility for membership of the Association to be restricted to persons who are former members of the Division and who have permanently retired from the mining & energy industries because of age, injury or ill-health;
  - (ii) the Association to be governed by an elected executive consisting of such number of members as the Association may decide from time to time;
  - (iii) members of the executive to be elected each two (2) years by secret ballot at the annual general meeting of the Association;
  - (iv) such membership fees or contributions as may be determined from time to time by the executive payable to the Association;
  - (v) the establishment of an Association fund which shall consist of:
    - (a) all real or personal property under the custody, control or management of the Association;
    - (b) the amounts of any entrance fees, subscriptions or levies received by the Association;
    - (c) any funds of whatever nature derived by the Association, or controlled by it for the benefit of its members;
    - (d) the proceeds of any disposal of parts of the fund.
  - (vi) the establishment of Branches of the Association based on regions as determined from time to time by Central Council.
  
4. The principal officer of each such Association shall have the right to attend meetings of the Central Council as an observer, but shall not be entitled to vote.

## **NORTHERN MINING & NSW ENERGY DISTRICT BRANCH**

### **1 – NAME**

- (I) The name of the District Branch shall be the Construction, Forestry, Mining and Energy Union, Mining and Energy Division Northern Mining and NSW Energy District Branch, (hereinafter referred to as "the District Branch").
- (ii) A reference to "The Division" shall be a reference to the Construction, Forestry, Mining and Energy Union, Mining and Energy Division.
- (iii) A reference to "the Union" shall be a reference to the Construction, Forestry, Mining and Energy Union.
- (iv) A reference to the "Open Cut Section" shall be a reference to those members of the District Branch employed or engaged in or about open cut mines in or in connection with the industries in Rule 2(A).
- (v) A reference to the "Underground Section" shall be a reference to those members of the District Branch employed or engaged in or about underground mines in or in connection with the industries in Rule 2(A).
- (vi) A reference to "Mining" in respect to the membership shall be a reference to those members of the District Branch in the Open Cut and Underground Sections.
- (vii) A reference to "Energy" in respect to the membership shall be a reference to those members of the District Branch employed or engaged in or in connection with the industries in Rule 2(B).

### **2 – CONSTITUTION**

The District Branch shall be composed of an unlimited number of persons otherwise eligible for membership of the Union who are:-

- (A) Engaged in or in connection with the Coal and Shale Industries in the Northern and Gunnedah Coalfield Districts of New South Wales and any person who is a duly registered sick and unemployed member or a retired member.
- (B) Engaged as employees or as employees of contractors, in or in connection with the following industries:
  - (a) power generation, co-generation, transmission and distribution;
  - (b) oil;
  - (c) gas;
  - (d) nuclear; and
  - (e) chemical production.



- (C) Have been elected or appointed as paid officers of the District Branch or Division or whilst financial members of the District Branch or Division are elected as representatives of any working class organisation to which the District Branch or Division is affiliated, or as a working class member of Parliament and shall for the purposes of membership shall continue to be designated to their previous membership category.

### 3 – OBJECTS

The Objects of the Union shall be to endeavour by all lawful means as follows:

- (a) To improve the conditions and protect the interests of the members by increasing the proportionate share of the value created by the workers which is paid back to them as wages and endeavouring to educate and organise for the complete abolition of the present wage system and the substitution therefore of the common ownership of the means of production.
- (b) To discuss, consider, and put into force when approved, any scheme for the guidance and advancement of industrial unionism in the industries of Australia.
- (c) To prevent, if possible, by conference or otherwise, any threatened cessation of work, and to endeavour by conciliatory measure to uphold the rules of the District Branch, failing which, to provide ways and means for the support of members involved.
- (d) To provide for more efficient inspection of the coal and shale mines of the State and in other workplaces where workers eligible to be members may work and to take any legal steps which the District Branch may consider necessary to ensure the maximum safety and health for its members.
- (e) From time to time raise funds for the purpose of applying and/or investing the same in any manner authorised by the Rules of the District Branch.
- (f) To obtain legislative enactments whereby the lives and health of workers may be preserved and, if necessary, to take steps to obtain compensation for accidents where the employer is liable.
- (g) To obtain legislative enactments for the more efficient management and inspection of Mines.
- (h) To secure the prices and/or wages for which members may at all times contract and to prevent illegal and improper stoppages of wages.
- (I) To provide an allowance for the support of members who may be deemed unjustly dealt with and to provide benefits for dependents of members who die from any cause.
- (j) To carry on, or participate directly or indirectly and alone or with others in the carrying on of, any mining or prospecting operation and related activities thereto.
- (k) To take, subscribe for or otherwise acquire and hold any interest or shares, debentures, stock or other security of any company or trust or acquire any interest in any company or trust, to achieve the furtherance of any of the Objects of the District Branch.
- (l) To raise funds, whether by loan or otherwise, for all or any of the Objects of the District Branch and to invest such funds in such manner as the District Branch shall see fit.

## 5 – MEMBERSHIP

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- (m) To purchase, take on lease or in exchange, hire and otherwise acquire and sell any real and personal property and any rights or privileges which may be necessary or convenient for the furtherance of any of the Objects of the District Branch.
- (n) To secure the return of working class representatives in Parliament, to promote such legislative enactments as will ensure industrial justice to Australian workers.
- (o) To support the formation of associations of retired members and to otherwise assist and promote the welfare of retired members.
- (p) To watch over, improve, foster and protect the industrial and social interests of the membership.
- (q) To provide for the health and safety of the membership.
- (r) To support bona fide charitable and other worthy causes consistent with the interests of members of the Union. Such support may include, but is not limited to, donations to community groups, relief funds, individual and other humanitarian, environmental, social or similar causes.
- (s) Generally to do all acts, matters and things that may appear to be in the best interests of members.
- (t) To do any other act or thing to achieve or further the Objects of the District Branch.

## 4 – REGISTERED OFFICE

The place of meeting and the registered office of the District Branch shall be 67a Aberdare Road, Cessnock 2325 or such other place as may from time to time be determined by the Board of Management.

## 5 – MEMBERSHIP

- (I) Applications
  - (a) All persons working in any capacity or doing any work falling within the scope of Clause 2 shall be eligible for membership of the District Branch.
  - (b) Any candidate for membership of the District Branch shall apply for membership to the District Secretary, in writing on the form prescribed and supplied by the District Branch for that purpose. The signature of the candidate on the application form shall be witnessed by a member of the District Branch.
  - (c) The District Secretary shall sign and date membership application forms on the day the application is received. Subject to Rule 5(I)(d), a candidate for membership shall be deemed to be a member of the District Branch from the date of the day of receipt of the membership application form by the District Secretary or the date of effect of the member's first fee payment to the District Branch, whichever is the later, or as determined by the District Executive.

- (d) Notwithstanding anything hereinbefore contained, the District Secretary may refer any membership application to the Board of Management. In such a case a candidate shall not become a member until the Board of Management has approved the application and the District Secretary has notified the candidate to that effect in writing. The candidate in such a case shall be a member of the District Branch from the date of the day of the District Secretary's letter of notification to the candidate. Where the Central Executive, the Board of Management or the District Secretary decides against the admission to membership of a candidate, the candidate shall have a right of appeal to Central Council. Where the Central Council decides to admit the candidate to membership, the candidate shall be a member of the District Branch from the date of the day of the Central Council's decision.
  - (e) When a candidate is admitted to membership of the District Branch, the new member will, where applicable, be allocated to the appropriate Lodge. As appropriate the new member's name, address and date of admission shall be entered in:
    - (1) The Lodge Register of Members, which shall be kept by the Lodge Secretary or by the District Secretary on the Lodge's behalf;
    - (2) The District Register of Members, which shall be kept by the District Secretary in which the Lodge is situated; and
    - (3) The Register of Members, which shall be kept by the District Branch.
  - (f) Membership of the District Branch shall be subject to Sub-Rules 5(ii) and 5(iii).
  - (g) The District Secretary shall inform each candidate for membership, in writing, of:
    - (1) The financial obligations arising from membership; and
    - (2) The circumstances and the manner in which a member may resign from the District Branch.
  - (h) Membership of the District Branch means membership of the Division and the Union.
- (ii) Subscriptions and Fees
- (a) Every member shall pay such fines, fees, levies and subscriptions as may be prescribed or imposed from time to time according to the Rules.
  - (b) There may be an entrance fee payable by a candidate for membership of the District Branch on the members' admission to membership. Any entrance fee shall be determined by the Board of Management. Entrance fees shall be retained by the District Branch.
  - (c) Subscriptions, fines, fees and levies owing by a member of the District Branch shall be paid to the District Secretary, or to a person authorised by the District Secretary, but to no other person or member. It is the responsibility of each member, and no other person, to ensure that they remain financial in accordance with the Rules.
  - (d) Subject to Sub-Rule 5(iii) any member owing subscriptions, fines, fees or levies or any of them for more than fourteen (14) days shall not be entitled to any of the privileges of membership, including the right to vote, and seniority rights, and shall be liable to be sued for the recovery of amounts owed to the District Branch.

- (e) No member who has left the industry without paying all fines, fees, levies and subscriptions due by them to the District Branch shall become a financial member of the District Branch again until their case has been considered by the Board of Management and permission has been given by the Board of Management for the member to regain financial status.
  - (f) Any member deemed unfinancial under Sub-Rule 5(ii)(d) shall be deemed to have become a financial member of the District Branch again from the date of the completion of payment by the member of all amounts owing to the District Branch. Continuity of membership and Lodge seniority may be restored by a decision of the Board of Management from the date of completion of payment of all sums owing to the District Branch.
  - (g) Membership subscriptions shall be set by the Annual General Meeting of the Board of Management and shall be payable for fifty two (52) weeks per year.
  - (h) Employees otherwise eligible to join the District Branch and not in receipt of adult wages shall pay subscriptions, fees and levies as determined by the Board of Management from time to time.
  - (i) Any member being sick or out of employment in any pay period and not in receipt for that pay period of award wages or other award payments equivalent to or greater than, eighty dollars (\$80.00) per fortnight (where the member is paid fortnightly) or forty dollars (\$40.00) per week (where the member is paid weekly), or other amounts which may be determined from time to time by the Annual General Meeting of the Board of Management, shall be exempt from the payment of subscriptions, fees or levies for the pay period, but shall be liable to pay Funeral Fund subscriptions for that period.
  - (j) Members on compensation shall pay subscriptions as if at work, however, members receiving statutory workers compensation for permanent and total incapacity shall be exempt from paying subscriptions, fees and levies, but shall be liable to pay Funeral Fund subscription for that period.
- (iii) Funeral Fund
- (a) There shall be a Funeral Fund which shall be sustained by weekly subscription, and a Funeral Fund joining fee, to be made by each member, the amount of which shall be determined from time to time by the Board of Management.
  - (b) Provided the deceased member has complied with the Rules of the District Branch and the District Executive are satisfied with the bona fides of the claim, a disbursement may be made in respect of a claim for a benefit on a scale to be determined from time to time by the Board of Management. The District Executive shall have the power to withhold the whole or part payment of any claim, but in such case the claimant shall have a right of appeal to the Board of Management.

(iv) Sick and Unemployed Members

- (a) Any member registered in accordance with this Rule as an unemployed member and/or member on sick leave of absence, shall be entitled to the privileges of membership and shall be entitled to vote on all matters affecting the District Branch, excepting upon any matter upon which any decision might be made which would or might involve the District Branch in the declaration of a strike or in a stoppage of work, or in the making of a levy or levies upon the members of the District Branch. An unemployed and/or sick member includes members who are absent from work because they are:
- (1) Unemployed;
  - (2) Personally sick or caring for a family member who is sick;
  - (3) On parental leave, including maternity leave; or
  - (4) On unpaid leave of absence, for such reason as may be approved by the Board of Management, from time to time, and subsequently confirmed with inclusion in the District Quarterly Register of Sick and Unemployed Members.
- (b) Any member by reason of the member being unemployed and/or on sick leave of absence and wishing to retain the rights and privileges conferred on the member by the Rules, shall be registered at least once in every quarter in the District Quarterly Register of Unemployed and Sick Members.
- (c) An unemployed or sick member may apply, in writing or other approved means, to the Lodge Secretary of which the member is a Lodge member or the District Secretary for registration in the District Quarterly Register of Unemployed and Sick Members. A member of a District Branch who is not also a member of a Lodge may apply for registration, in writing, to the District Secretary. The unemployed or sick member must continue to pay Funeral Fund fees. The Lodge Secretary or District Secretary shall sign and date the applications as they are received. Lodge Secretaries shall send all such applications to the District Secretary immediately.
- (d) The District Secretary shall submit all applications to the Board of Management to be considered and approved or not approved. Where an application is approved the District Secretary shall enter the applicant's name and address and the date of approval of the application by the Board of Management in the District Quarterly Register of Unemployed and Sick Members. The applicant shall then be duly registered for a period of three (3) months from the approval of the members' application. The Board of Management shall have the power to remove the name of any member from the Register for any reason it thinks fit, or may at the same time, or at any other time, prescribe a period for which the member shall be ineligible for registration in the register.
- (e) The District Secretary shall submit a list of the names of members registered as unemployed or sick to the Board of Management for consideration. Continuation of the registration of a member as an unemployed or sick member shall be at the discretion of the Board of Management.

- (v) Associate Membership
    - (a) A person who is employed by, or provides services to the District Branch, or is employed by the Division, or who is otherwise associated with the District Branch, may apply to the Board of Management for the provision of benefits by the District Branch as determined from time to time by the Board of Management. Upon approval of such application the person shall be known as an Associate Member.
    - (b) A person approved as an Associate Member shall pay such subscriptions and fees as are from time to time determined by the Board of Management.
    - (c) Associate Members shall not be entitled to vote in any election or ballot conducted within the District Branch or to nominate any persons to hold office within the District Branch or to hold any elected office within the District Branch.
    - (d) No person can become or remain an Associate Member if they commence employment, or intend to commence employment, with any employer or within any industry which would otherwise render them eligible to become a member under the eligibility Rules.
    - (e) Associate Members shall be entitled to receive Official Organ of the District Branch and services as determined by the Board of Management from time to time.
    - (f) All applications for Associate Membership are subject to the approval of the Board of Management.
    - (g) Associate members shall have no other rights unless specifically covered by this Rule. For the avoidance of doubt, Associate Members shall not be entitled to the benefits of Industrial representation or advocacy in pursuance of the Objects of the District Branch under Rule 3 or in respect of their own conditions of employment.
  
  - (vi) Resignations
    - (a) A member may resign from membership by written notice addressed and delivered to the Lodge Secretary or District Secretary:
    - (b) A notice of resignation from membership takes effect:
      - (1) Where the member ceases to be eligible to become a member of the Union;
        - (A) On the day on which the notice is received by the District Branch;  
or
        - (B) On the day specified in the notice, which is a day not earlier than the day when the member ceases to be eligible to become a member;
- Whichever is the later; or

- (2) in any other case:
  - (A) At the end of two (2) weeks after the notice is received by the District Branch; or
  - (B) On the day specified in the notice; or
  - (C) In the case of a member who pays by weekly instalment, on the last day of effect of the member's last fee payment to the District Branch;

Whichever is the later.

- (c) Any dues payable but not paid by a former member in relation to a period before the member's resignation took effect, may be sued for and recovered in the name of the District Branch, in a Court of competent jurisdiction as a debt due to the District Branch.
  - (d) A notice delivered to the Lodge Secretary shall be taken to have been received by the District Branch when it was delivered.
  - (e) A notice of resignation that has been received by the District Branch is not invalid because it was not addressed and delivered in accordance with Sub-Rule 5(vi)(a).
  - (f) A resignation from membership is valid even if it is not effected in accordance with this Rule if the member is informed in writing by or on behalf of the District Branch that the resignation has been accepted.
  - (g) A member shall also cease to be a member of the District Branch when the member ceases to be employed in or in connection with the industries covered by Rule 2, unless the member is a member according to Sub-Rule 5(iv) or the member elects to be an associate member in accordance with Sub-Rule 5(v).
- (vii) Clearance
- (a) Any member moving from one Lodge to another shall obtain from the Lodge Secretary at the workplace the member is leaving, a certificate declaring that the member has met all financial obligations owed by the member to the Union up to their last pay day. The member shall take the clearance certificate to the workplace to which the member is moving on the first day of work and hand the clearance certificate to the Lodge Secretary, or to a person authorised by the Lodge Secretary at the workplace.
  - (b) No member shall cease to be a member of this District Branch while the member remains in the calling covered by this District Branch and no Lodge Secretary shall have the power to grant clearance to any member unless such member has paid all monies due to the District Branch up to the time of ceasing to be a member. Members moving from this District Branch to another District Branch shall obtain a District Branch clearance from the District Secretary or the Delegate of the District Secretary, who shall be the only persons entitled to issue a District Branch clearance. The District Branch clearance shall be stamped with the seal of the District Branch. The District Secretary or the Delegate of the District Secretary shall not issue a District Branch clearance to any member unless the member presents a clearance from the members Lodge.

- (c) The District Secretary shall at all times be empowered to refer any application for a District Branch clearance to the District Executive.
  - (d) No member shall commence work at the mine to which they are transferring without presenting to the Lodge Secretary or another authorised representative, a clearance from the former Lodge.
- (viii) Copy of Rules

All new members shall be made aware of the existence of this Union. If a request in writing is made to the District Secretary, that member shall be informed how to access an electronic copy of the Rules or be provided with a hard copy if requested, subject to any fees which may be prescribed by the regulations. No fee shall apply unless that member has already been provided with a free copy of the same rules within the previous 3 years.

## 6 – ENTITLED TO VOTE

Subject to Rule 5, the members entitled to vote on any question shall be, all financial members working in the industry, all financial members unemployed or on sick leave of absence, and registered according to Rule 5(iv) in the District Quarterly Register of Unemployed and Sick Members.

## 7 – BOARD OF MANAGEMENT

- (i) Elections
  - (a) The Committee of Management of the District Branch shall be the Board of Management.
  - (b) The Board of Management shall be composed of the District Executive Officers, the District Central Councillors, such number of Mining Lodge representatives and Energy member representatives as shall be determined from time to time by the Board of Management, and one (1) female affirmative action representative.
  - (c)
    - (1) The District Central Councillors shall be elected every four (4) years.
    - (2) In accordance with the Divisional Rules, the first Central Councillor elected shall be the District President; and
    - (3) Where the Rules of the Division require more than one (1) Councillor on the Central Council from the District Branch the Board of Management shall determine from which of the membership (Open Cut Section, Underground Section and Energy) of the District Branch the respective Councillor or Councillors shall be nominated from prior to each election.
    - (4) The District Central Councillors elected shall take office in accordance with the Divisional Rules.



- (d) The Mining Lodge representatives shall be elected in equal numbers from the Open Cut and Underground Sections of Mining but from areas other than the Gunnedah Coalfields and one (1) shall be elected as a Mining Lodge representative who is a member at a Lodge in the Gunnedah Coalfields. The representatives shall be elected every four (4) years and shall take office in accordance with the Divisional Rules.
- (e) The Energy member representatives shall be elected in numbers equal to the Open Cut and Underground Sections of Mining, from Energy. The representatives shall be elected every four (4) years and shall take office in accordance with the Divisional Rules.
- (f) Where a position is required by the Rules to be elected from Mining or Energy, the persons nominating a candidate for election must also come from same membership category, but the position is to be elected by the whole of the membership of the District Branch.
- (g) Nominations for the female affirmative action representative will be called from female members only, although this does not preclude female members from holding any other Board of Management, District Executive or Central Councillor Positions. Any member can nominate a candidate for the female affirmative action representative position and the election will be of the whole of the membership of the District Branch. The female affirmative action representative shall be elected every four (4) years and shall take office in accordance with the Divisional Rules.
- (h) A member eligible for election may only nominate for one (1) elected position at any time.
- (i) Where the Board of Management determines to fill any extraordinary vacancy which occurs in an elected position within the District Branch it shall be filled by the holding of an election in accordance with the Ballot Rules of the Division and the member so elected shall hold office for the remainder of the term for which the previous holder of the office was elected, provided that where the remainder of the term does not exceed:
  - (1) Twelve (12) months; or
  - (2) Three-quarters of the office;Whichever is the greater;  
  
The Board of Management, may appoint by resolution any eligible member of the District Branch to act in that office for the remainder of the term.
- (j) The failure to fill the designated female affirmative action position shall not prevent the Board of Management from carrying out or conducting the business of a District Branch.

(ii) Meetings

- (a) The Board of Management shall meet at least three (3) times a year. One (1) meeting shall be the Annual General Meeting and will be held between March and May each year and two (2) more spread evenly throughout each year. The Board of Management shall meet at such other times as the District Executive may deem necessary. The location of meetings will be the Registered Office of the District Branch, unless otherwise determined by the Board of Management.
- (b) More than half of the members of the Board of Management shall form a quorum, with a majority of those present being made up from Mining Lodge representatives, Energy member representatives, the female affirmative action representative and the Central Councillors (excluding the District President).
- (c) The District President, District Vice-President (A), District Vice-President (B), District Vice-President (C), District Vice-President (D), District Vice President (E), District Secretary, District Central Councillors, District Check Inspector (A), District Check Inspector (B), each of the Mining Lodge representatives, each of the Energy member representatives and the female affirmative action representative shall have a deliberative vote at any meeting of the Board of Management. The District President shall, in the event of the Board of Management being equally divided on any question, be entitled to a casting vote. Every member of the Board of Management shall vote either for or against any proposition put to the meeting.
- (d) A special meeting of the Board of Management may be convened by a majority of the District Executive, or upon written request to the District Secretary or District President to call such special meeting signed by at least one (1) representative from a majority of Lodges. Upon receipt of such a request the District Secretary or the District President shall convene a meeting of the Board of Management.
- (e) The District Secretary shall issue or cause to be issued to the Board of Management members a notice of the date of the Board of Management meeting and an agenda paper at least fourteen (14) days prior to the date of the meeting, but no failure to notify will of itself vitiate a meeting.
- (f) Voting otherwise than at meetings assembled
  - (1) If the District President or District Secretary shall consider it advisable to submit any matter, including the imposition of a levy or the alteration or rescission of a Rule subject to a Rules Committee report being provided, to a vote of the Board of Management at any time when it is inconvenient to call the Board of Management together, the District Secretary may submit a resolution dealing with the matter to the members, by letter, facsimile, telegram, telephone, email, in writing, by computer link and/or by any other means of communication.
  - (2) The votes on such resolution shall be returnable to the District Secretary at such time as the District Secretary shall fix and shall be subject to the quorum requirements set out in Sub-rule 7(ii)(b). The result of such vote shall be binding and enforceable in the same manner as a decision arrived at in meetings assembled.

- (3) The matter shall be recorded in the minutes on the next Board of Management Meeting held following the vote.

(iii) Lodge Business

- (a) Any Lodge having business for the consideration of the District Branch, after having dealt with same locally, shall forward it to the District Secretary to be submitted to the next following meeting of the District Executive or of the Board of Management.
- (b) Each Lodge Secretary shall forward to the District Secretary within twenty eight (28) days, or such other period as may be determined by the Board of Management, from receiving same, the decision of the Lodge on any business that may be sent to it for its consideration by the District Executive or the Board of Management. The decision of any Lodge failing to comply with the Rule shall be null and void.

(iv) Endorsement of Decisions

- (a) All business transacted by the Board of Management including any matters which the Board of Management considers need to be specifically considered for endorsement by Lodges and copies of the confirmed minutes shall be sent to the Lodges of the District Branch.
- (b) The Lodge Executive Committee shall table the minutes of the Board of Management and shall submit those resolutions of the Board of Management confirmed to be specifically considered for endorsement to meetings of the Lodge membership for voting. The Lodge Secretary shall record the number of votes for and against each Board of Management resolution so submitted.
- (c) The Lodge Secretary shall provide a return of the votes, to the District Secretary within twenty eight (28) days, or such other period as may be determined by the Board of Management, of the date on which the District Secretary sent the Board of Management minutes to the Lodge.
- (d) A resolution of the Board of Management that has been submitted to the Lodges for voting shall become the binding policy of the District Branch if an aggregate majority of the members of the District Branch attending and voting at Lodge meetings which consider the Board of Management resolutions, vote in favour of the resolution.

(v) Powers and Duties of the Board of Management

The powers and duties of the Board of Management shall extend to any action taken that is consistent with the Objects of the District Branch, and shall include the following:

- (a) To hear any appeal from any Lodge or members.
- (b) To consider the financial position of the District Branch and transact any business that may be placed before them by the District Executive.

- (c) To make, impose, order and enforce any levies, fines, fees or subscriptions on all members of the District Branch not in conflict with the Rules of this District Branch or the Rules of the Union, for any one or more of the Objects set out in Rule 3.
- (d) To determine any matter or report referred to it by the District Executive, or by any Lodge or to settle any disputes internally and between Lodges.
- (e) From time to time to alter, amend, rescind or make Standing Orders for the regulation of the conduct of the business and proceedings of this District Branch and of the Lodges of the District Branch.
- (f) To fix, reduce, increase or alter the salaries and allowances of the Officers and employees of the District Branch.
- (g) To receive and adopt or otherwise deal with the Annual Report of the District Branch.
- (h) To inflict any fine on any Lodge or member, such fine not to exceed one thousand dollars (\$1,000) on any Lodge, or five hundred dollars (\$500) on any member, or to suspend or expel any Lodge or member.
- (i) To have control of the management and publication of the Official Organ of the District Branch.
- (j) To make changes to the Rules of the District Branch in accordance with Rule 12.
- (k) If any Lodge Officer or member fails to comply with the Rules the Lodge Officer or member may be expelled by the Board of Management, except for Officials of the District Branch which is as provided by Rule 8(i)(d).
- (l) And generally to do all acts, matters and things that may appear to be in the best interests of the District Branch.

## **8 – DISTRICT EXECUTIVE**

- (i) District Executive Officers
  - (a) The District Executive shall consist of the District President, District Vice-President (A), District Vice-President (B), District Vice-President (C), District Vice-President (D), District Vice President (E), District Secretary, District Check Inspector (A) and District Check Inspector (B), who shall be full-time Officers attached to the District Branch.
  - (b) The District Executive Officers shall be elected by the membership of the District Branch each four (4) years according to the Ballot Rules of the Division. The Officers shall take office for a term of four years (4) in accordance with the Divisional Rules.
  - (c) Each Officer shall remain in office unless the Officer resigns their position by writing delivered at least one (1) month in advance of the intended date of resignation, or unless removed from office.

- (d) A person elected to office in the District Branch shall not be dismissed from office unless found guilty by the Board of Management of misappropriation of the funds of the District Branch, a substantive breach of the Rules of the Division or District Branch, gross misbehaviour, gross neglect of duty or has ceased according to the Rules to be eligible to hold office. Where dismissal of an Officer under this Sub-Rule is contemplated the Board of Management shall appoint a Committee of three (3) Board members to investigate and report on the case. Where dismissal of an Officer under this Sub-Rule is contemplated the Officer concerned shall have presented to the Officer by the Board's investigating committee, a written statement of the charges alleged against the Officer. The Officer shall have full freedom to make a verbal and/or written response to the charges, to both the investigating committee and the meeting of the Board of Management which hears the report of the investigating committee. There shall elapse a period of not less than one (1) month, or any greater period the Board of Management shall determine, between the delivery to the Officer concerned of the written statement of charges against the Officer, and the hearing by the investigating committee of the Officer's response to the charges. The Officer may, if they wish, waive all or part of the minimum one (1) month period of notification. The decision of the Board of Management shall not take effect until endorsed by an aggregate District majority of members attending and voting at Lodge meetings, at which the business of that Board of Management meeting is considered.
- (e) The District Executive Officers and other full time Officers shall remain financial members of the District Branch and shall retain full membership rights of the Lodges of which they were members at the time of their election to District Branch Office. In the event of an Officer's Lodge closing the Officer shall become a financial member of another Lodge as directed by the Board of Management.
- (f) No member shall be eligible for any District Branch Office unless the member has been a member continuously for at least twelve (12) months prior to the closing date of nominations, but a member who has been cavilled out for any period, and had not forfeited seniority rights prior to resumption, shall be eligible to nominate and contest any District Branch ballot immediately upon resumption.
- (g) No member may contest for more than one (1) District Branch Office in the same election. If a member is nominated for more than one (1) position, the member must indicate to the Returning Officer which position they wish to contest prior to the closing of nominations.
- (h) Any member of the District Branch shall be eligible for the office of District Check Inspector (A) or District Check Inspector (B) provided the member has fulfilled the requirements of the specific and relevant NSW Black Coal Mining Industry Safety legislation, as determined from time to time by the Board of Management, have appropriate qualifications in mine rescue or indicate a preparedness to obtain such qualifications and has other appropriate qualifications as determined by the Board of Management.

(ii) Duties of District Executive Officers

(a) The District President

- (1) The District President shall preside at all meetings of the Board of Management or meetings called by the District Branch. In the case of equal voting at a Board of Management meeting the District President shall have the casting vote.
- (2) The District President shall co-operate with the other District Executive Officers in carrying out the Objects of the District Branch and, if necessary, in the absence of the District Secretary, act in the District Secretary's stead.
- (3) The District President shall as far as possible, observe that the Rules are carried out by the District Branch Lodges.
- (4) The District President shall receive such remuneration as shall be agreed upon from time to time between the District President and the Board of Management.

(b) The District Vice-Presidents

- (1) Each of District Vice-President (A), District Vice-President (B), District Vice-President (C) District Vice-President (D) and District Vice President (E) shall co-operate with the other District Executive Officers in carrying out the Objects of the District Branch; and
- (2) In the absence of the District President the Board of Management shall designate one (1) of the District Vice Presidents who shall exercise all functions of the District President's position; and
- (3) In the absence of the District Secretary the Board of Management may designate one of the District Executive Officers as a trustee who shall exercise all functions of the Trustee position.
- (4) Each District Vice-President shall, as far as possible, observe that the Rules are carried out by the District Branch Lodges.
- (5) Each District Vice-President shall receive such remuneration as shall be agreed upon from time to time between the District Vice President and the Board of Management.

(c) The District Secretary

- (1) The District Secretary shall co-operate with the other District Executive Officers in carrying out the Objects of the District Branch.
- (2) The District Secretary's duties shall be to keep a correct account of all monies received and expended, prepare a yearly Balance Sheet of same, copies of which shall be submitted to the members of the District Branch through the Annual General Meeting of the Board of Management and to Lodge members through the Lodge Secretaries. The District Secretary shall prepare budgets for the ensuing year for presentation at the Annual General Meeting in conjunction with the annual accounts.

- (3) The District Secretary shall also cause to be kept a register of members of the District Branch under the headings of the respective Lodges to which members belong. The District Secretary shall attend all Board of Management meetings and take minutes of same. The District Secretary shall zealously attend to all correspondence, watch the interests of the members and do all in the District Secretary's power to advance the members' position generally. The District Secretary shall strictly observe the Rules of the District Branch.
  - (4) The District Secretary shall be empowered with the concurrence of the other District Executive Officers to call special meetings of the Board of Management in cases of emergency and shall vote at all meetings of the Board of Management.
  - (5) The District Secretary shall receive such remuneration as shall be agreed upon from time to time between the District Secretary and the Board of Management.
  - (6) As far as possible the District Secretary shall observe that the Rules are carried out by the District Branch Lodges and from time to time examine the books and accounts of the District Branch and generally keep acquainted with the financial transactions of the District Branch.
  - (7) The District Secretary shall prepare and forward to the Registrar all returns which may be required by law. The District Secretary shall, in receiving and expending all monies, comply with the requirements of relevant taxation legislation and shall ensure that all Lodges comply with such requirements.
  - (8) The District Secretary shall represent the District Branch in all matters relating to mineworkers superannuation and report to each Board of Management meeting on matters of significance arising in this regard.
  - (9) The District Secretary shall arrange for the instigation of legal action on behalf of any member who has a legitimate workers' compensation claim and shall refer to the Board of Management for consideration of any other litigation involving the District Branch.
- (d) District Check Inspectors
- (1) Each of District Check Inspector (A) and District Check Inspector (B) shall co-operate with the other District Executive Officers in carrying out the Objects of the District Branch and in the absence of the District Secretary the Board of Management may designate one of the District Executive Officers as a Trustee who shall exercise all functions of the Trustee position.
  - (2) Each District Check Inspector shall as far as possible observe that the Rules are carried out by the District Branch Lodges.
  - (3) Each District Check Inspector shall receive such remuneration as shall be agreed upon from time to time between the District Check Inspectors and the Board of Management.
  - (4) The making of inspections of every colliery in the District Branch as often as practicable and to keep a record of all such inspections.

- (5) To comply with the general rules of the relevant safety legislation applicable to NSW Coal Mines and any rule amending same.
  - (6) When requested to do so by the District Executive, to attend all inquests and inquiries held in connection with the death of any member and to maintain in the District Branch Office all reports of such inquest and inquiry.
  - (7) To durably record at the District Branch Office all such reports on matter connected with the role of District Check Inspector and in accordance with District Policies.
- (iii) Meetings of the District Executive
- (a) The District President or District Secretary or a majority of the District Executive may convene a meeting of the District Executive at any time by oral or written communication to the other members of the District Executive.
  - (b) A quorum of any meeting of the District Executive shall be five (5).
  - (c) The Chairman of any meeting of the District Executive shall have a deliberative, but not a casting vote.
  - (d) Voting otherwise than at meetings assembled.
    - (1) If the District President or District Secretary shall consider it advisable to submit any matter, including the imposition of a levy or the alteration or rescission of a Rule subject to a Rules Committee report being provided, to a vote of the District Executive at any time when it is inconvenient to call the District Executive together, the District Secretary may submit a resolution dealing with the matter to the members, by letter, facsimile, telegram, telephone, email, in writing, by computer link and/or by any other means of communication.
    - (2) The votes on such resolution shall be returnable to the District Secretary at such time as the District Secretary shall fix and shall be subject to the quorum requirements set out in Sub-rule 8(iii)(b). The result of such vote shall be binding and enforceable in the same manner as a decision arrived at in meetings assembled.
    - (3) The matter shall be recorded in the minutes on the next District Executive Meeting held following the vote.

(iv) Powers of the District Executive

The District Executive shall, subject to the review of their actions by the next ensuing meeting of the Board of Management, have the care, control, custody and superintendence, management and administration in all respects of the District Branch. The powers of the District Executive shall include the following:



- (a) To suspend any member or member of the District Executive or of the Board of Management or representative of the District Branch on any Board or body, for any breach or infringement of the Rules of the Division or District Branch, or for any misconduct or dereliction of duty or any misapplication respecting the whole or any part of the funds, monies or other property of the Division, or non-compliance with or disobedience of any request or order contained in any resolution of the Central Council or the Board of Management and to inflict any fine not exceeding five hundred dollars (\$500). Where action is taken by the District Executive under this Sub-Rule, there shall be a general right of appeal by the member, representative, District Central Councillor or body affected, to the Board of Management. This Sub-Rule shall be read subject to Sub-Rule 8(i)(d).
- (b) To consider and decide upon any application for membership referred to it by the District Secretary or by any Lodge of the District Branch.
- (c) To initiate, manage and control all actions, proceedings, industrial disputes and other matters and to appoint agents, solicitors or counsel to appear for and represent the District Branch or any of its members in any Court or proceedings, legal or otherwise.
- (d) To demand and collect, or cause to be collected, all levies, subscriptions, fines, fees and dues payable by all members.
- (e) To demand, receive and keep possession of all books and accounts of the District Branch.
- (f) To demand, or cause to be made, an audit of the books and accounts of the District Branch.
- (g) To engage any persons, agents or other assistance that, in its opinion, is necessary for the proper carrying on of the District Branch business and to pay such wages, salaries and allowances as it shall deem proper.
- (h) To enter into, and make any industrial agreements on behalf of the District Branch and its members, subject to the instruction of the Board of Management and members in accordance with the Rules.
- (i) To call the Board of Management together at any time necessary and to call aggregate meetings of the members of the District Branch when necessary.
- (j) To have the powers of the Board of Management as set down in the Rules.
- (k) To submit such matters, as may appear to it to be of sufficient importance, to the Board of Management for decision, or directly to the members of the District Branch for decision by Ballot.
- (l) All acts of the District Executive done in pursuance of the powers granted it by the Rules shall have full force and effect and be of full validity, notwithstanding anything in the Rules, until such acts shall be reversed or altered, or otherwise dealt with by the next ensuing meeting of the Board of Management.

**9 – ADDITIONAL OFFICERS**

- (a) There shall be such numbers of District Occupational Health and Safety Officers as may be determined from time to time by the Board of Management and such number of District Central Councillors as is required by the Rules of the Division.
- (b) The District Occupational Health and Safety Officers shall be elected every four (4) years according to the Ballot Rules of the Division and shall take office in accordance with the Divisional Rules.
- (c) The District Occupational Health and Safety Officers shall be full or part-time Officers attached to the District Branch Office and shall receive for their services such remuneration as shall be decided upon from time to time by the Board of Management.
- (d) The District Occupational Health and Safety Officers shall be under the control of the Board of Management and the District Executive who shall have power, subject to Rule 8(i)(d) to dismiss or suspend the District Occupational Health and Safety Officers for neglect of duty or for any breach of the Rules.
- (e) The District Central Councillors shall be elected every four (4) years according to the Ballot Rules of the Division and shall take office in accordance with the Divisional Rules. In accordance with Sub Rule 7(i)(c) the District Central Councillors shall be elected from each of the designated sections of the membership as determined by the Board of Management from time to time.
- (f) The duties of the District Central Councillors shall be to attend meetings of the Central Council of the Division as the representative of the District Branch, to attend and address Lodges and other meetings of members at the direction of the Board of Management and to attend meetings of the Board of Management. District Central Councillors shall be responsible to the Board of Management and the District Executive.
- (g) The District Occupational Health and Safety Officers and the District Central Councillors elected under the Rules shall be subject to Rules 8(i)(d) and 8(i)(e).
- (h) The District Occupational Health and Safety Officer must as a minimum be a holder of a current Occupational First Aid Certificate and/or other qualifications as determined by the Board of Management.

**10 – FINANCE AND PROPERTY**

- (i) The District Branch Fund shall consist of:
  - (a) Any real or personal property of which the District Branch, by the Rules or by any established practice not inconsistent with the Rules, has, or in the absence of any limited term lease, bailment or arrangement, would have, the right of custody, control or management;
  - (b) The amounts of entrance fees, subscriptions, fines, fees or levies received by the District Branch, less so much of those amounts as is payable by the District Branch to the Central Office of the Division;
  - (c) Any interest, rents or dividend derived from the investment of the Fund;

- (d) Any superannuation or long service leave fund operated or controlled by the District Branch for the benefit of its Officers or employees;
  - (e) Any sick pay fund, accident pay fund, funeral fund, benefit fund or like fund operated or controlled by the District Branch for the benefit of its members;
  - (f) Any property acquired wholly or mainly by expenditure of the monies of the Fund or derived from other assets of the Fund;
  - (g) The proceeds of any disposal of parts of the Fund;
  - (h) All Lodge property and funds.
- (ii) District Executive Control

Subject to the control of the Board of Management, the property and funds of the District Branch shall be under the control of the District Executive.

(iii) Use of Funds

- (a) The funds of the District Branch shall be applied and/or invested as follows: in such lawful manner as the Board of Management may decide including, without limiting the generality of this Sub-Clause, deposit on current account or fixed deposit with any bank carrying on business in the Commonwealth of Australia, the mortgage of real or personal estate situated in the Commonwealth, the subscription for or purchase of shares in any company registered and carrying on business in any State of the Commonwealth. Funds so applied shall only be realised on the authority of the District Executive or on the authority of the Board of Management.
- (b) All monies shall be banked in the names of two (2) Trustees to the credit of the District Branch, or in the name of the District Branch.
- (c) Monies shall be drawn from the funds of the District Branch by cheques signed by, or by electronic funds transfer authorised by, both the District President and the District Secretary, or either of these Officers with such other officers or senior members of staff as may be designated from time to time by the Board of Management.
- (d) All fees, fines, contributions, levies and dues received by the District Secretary shall pass through the District Branch Office and all monies so received from the above sources shall be immediately recorded in the books and banked to the credit of the District Branch by the District Secretary without deduction.
- (e) All monies withdrawn from the funds shall be applied only to carrying out the Objects mentioned in Rule 3 of the Rules and to payments to the Division.
- (f) When levies are ordered to be collected in accordance with the Rules, such levies shall be collected from members as ordered by the District Executive or by the Board of Management.

- (g) Loans, grants and donations of any amount exceeding one thousand dollars (\$1,000) shall not be made by the District Branch unless the Board of Management has satisfied itself that the making of the loan, grant or donation is in accordance with the Rules of the District Branch and that, in relation to a loan, that in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory. Loans, grants and donations of an amount exceeding one thousand dollars (\$1,000) shall not be made unless approved by the Board of Management.

(iv) Books and Records

The District Secretary shall keep, or cause to be kept, all books, records and papers which may be required by law, necessary to the preparation of any return or statement required by law, necessary for the information of the auditor or which may otherwise be required by the Rules or by the Board of Management.

(v) Financial Year

The financial year for the accounting purposes of the District Branch shall end at 31 December in each year.

(vi) Trustees

- (a) There shall be Trustees of the District Branch Fund.
- (b) The Trustees shall be the District President and District Secretary, other than when the District President assumes the duties of District Secretary pursuant to Rule 8(ii)(a)(ii), in which case the Board of Management shall appoint a District Executive Officer to act as a Trustee.
- (c) The Trustees shall, under the direction of the Board of Management, prosecute, or, if more convenient, direct any Officer to prosecute any member or other person suspected by them of any offence, legally punishable with reference to the affairs of the District Branch and they may themselves institute, or if more convenient, may direct any Officer or Officers to institute civil proceedings against any member or other person refusing to give up possession of any of the Division's or District Branch's property; or doing or neglecting to do any act so as to render themselves liable to proceedings in reference to the Division's affairs, or the affairs of the District Branch.
- (d) Such funds, investments and other property of the District Branch which are vested in the Trustees as joint tenants to be held by them in trust for the members of the District Branch.
- (e) The Trustees and/or the Board of Management shall, without prejudice to any further power and duties conferred by the Rules and by statute, be vested with all and every power and duty with which Trustees may lawfully be vested. The Board of Management shall have all necessary powers with regard to the bringing or defending of any action, suit, prosecution or complaint in the name of the District Branch or authorise the Trustees to institute such proceedings.

- (f) The Trustees shall have power:
  - (1) To receive money or other property paid, delivered or conveyed to them as Trustees of the District Branch and to expend monies without distinction between capital and income.
  - (2) To invest, sell, exchange or otherwise dispose of investments or other property of the District Branch and to deal with the funds of the District Branch, including purchase or otherwise acquiring of property out of the funds of the District Branch.
  - (3) To lend and advance money or give credit to any person or corporation; to guarantee, and give guarantees or indemnities for the payment of money or the performance of contracts or obligations by any person or corporation; to secure or undertake in any way the repayment of monies lent or advanced to or the liabilities incurred by any person or corporation; and otherwise to assist any person or corporation. This Sub-Rule shall be subject to Sub-Rule 10(iii)(g).
  - (4) To borrow or raise or secure the payment of money and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the District Branch in any way, and to purchase, redeem or pay off any such securities.
  - (5) To lease, licence, hire or otherwise give and acquire rights to use or occupy property of the District Branch and for the purposes of the District Branch and to carry on any business of the District Branch.
- (g) For the purposes of exercising a power listed above, the Trustees shall have all such powers ancillary or incidental to or conducive to the exercise of that power as they would have if they were exercising the listed power by employment of funds, or in relation to property beneficially owned by them and were acting in a personal capacity as against a fiduciary capacity.
- (h) The powers conferred by this Sub-Rule shall be in addition to such powers as are conferred upon Trustees by any law for the time being in force in Australia or any of its States or Territories (every one of which statutory powers the Trustees shall be deemed to have notwithstanding that the power is exercised outside Australia or the State or Territory under the law of which same is conferred) and shall not be construed to be limited or restricted to or by the statutory powers or so as to impose upon the Trustees any duties imposed by law upon Trustees exercising the statutory powers.
- (i) The Trustees shall be fully and effectually indemnified out of the funds of the District Branch in respect of any personal liability incurred in a proper exercise of the powers given by this Rule or by the law and shall not be liable to the District Branch or any of its members for loss incurred in a proper exercise of such powers.

(vii) Auditor

- (a) There shall be one (1) Auditor who shall be a duly qualified Chartered Accountant.
- (b) The Auditor shall be elected annually by the Board of Management and shall be eligible for re-election.
- (c) The Auditor's duties shall be to audit the accounts at the end of the financial year or when required by the Board of Management.
- (d) On all occasion, the Auditor shall furnish a report as to the state of the books and such report will be submitted to the members together with the Balance Sheet.
- (e) Should at any time the position of Auditor become vacant, it shall be filled in accordance with the provisions contained within the Rules.
- (f) The selection of an Auditor, the presentation of the accounts and certificates by the Auditor and all other matters to do with the audit, the keeping of and presentation of accounts to the Board of Management and to the membership, shall be according to the requirements, forms and procedures of the law affecting the accounting and auditing practices of organisations registered under the provisions of the relevant industrial legislation.
- (g) The position of the District Branch Auditor shall become vacant:
  - (1) At the expiry of twelve (12) months from the date of appointment; or
  - (2) At any time the person appointed ceases to be an approved auditor or the firm appointed ceases to have any member that is an approved auditor; or
  - (3) If the Auditor is removed in accordance with the provisions of the relevant Industrial Relations Law; or
  - (4) If, in the opinion of the Board of Management, the work of the Auditor falls below an acceptable professional standard or, in the opinion of the Board of Management, the fees charged by the Auditor are excessive.

(viii) Seal

The Seal of the District Branch shall be held by the District Secretary and shall be used by the District Secretary for all purposes of the District Branch for which it may be required. The affixture of the seal to any instrument shall be attested under the name of the District Secretary and such other members of District Executive as the District Executive may decide.

(ix) Access to Books

Each member of the District Branch shall have access at all reasonable times, to the books of the District Branch on applying to the District Secretary.

(x) Person to Sue

The District Secretary shall be the person to sue or be sued for and on behalf of the District Branch.

(xi) Political Funds

- (a) The Board of Management shall be empowered to recommend to the members of the District Branch a voluntary payment per annum for a political fund. Monies derived from this source shall be paid into the District Branch Office by each Lodge and such monies so received shall be paid into a fund which shall be used only for political purposes.
- (b) Contributions to the Political Fund shall not be a condition of admission to or membership of the District Branch. A member who does not contribute to this fund shall not be excluded from the benefits of the District Branch by reason of their failure to so contribute to the Political Fund.
- (c) Only those members who contribute to the Political Fund shall be allowed to enjoy the privileges for which the fund is created.

(xii) Payment of Officers and Delegates

All Officers and Delegates when performing work for the District Branch shall be paid out of the funds of the District Branch such remuneration as may be determined from time to time by the Board of Management.

(xiii) Fines

All fines for violation of the District Branch Rules shall be paid into the General Fund unless otherwise provided for.

## 11 – LODGES

(i) Formation of Lodges

- (a) The District Branch Executive shall take whatever steps are necessary to establish viable Lodges of the District Branch.
- (b) A Lodge is a local grouping of members, established to enable members to participate more effectively in the affairs of the District Branch and to give collective expression to the interests, concerns and views of the members who work in the Lodge.
- (c) Where there is no Lodge at a particular colliery, site, organisation, or in a particular region, as designated by the Board of Management from time to time and the District Executive is of the opinion that a Lodge should be formed, the District Executive shall announce, in whatever way is best suited to the circumstances of the colliery, site, organisation, or region, that a meeting will be held of the eligible members for the purpose of forming a Lodge of the District Branch. The announcement shall state that officers of the Lodge will be elected at the foundation meeting.
- (d) The foundation meeting shall be chaired by a member of the District Executive.
- (e) The foundation meeting shall be conducted according to the Standing Orders for the District Branch Lodge meetings.

- (f) The foundation meeting shall elect a committee, officers and representatives as required by the Rules.
- (ii) Management of Lodges
  - (a) Each Lodge shall be managed by a Lodge Committee of Delegates consisting of the Lodge Executive who shall be the Lodge President, Lodge Vice President(s), as determined by the Lodge, Lodge Secretary, Lodge Assistant Secretary, where determined by the Lodge and such number of Lodge Committee members as determined in accordance with this Sub-Rule.
    - (1) The number of Lodge Committee members shall be determined from time to time by a meeting of the Lodge, which is held prior to the calling of nominations of the Lodge Committee and/or Lodge Executive elections. Such determination shall endeavour to provide each distinct work group within the Lodge with proportionate representation on the Lodge Committee and shall not become policy until submitted to and approved by the Board of Management.
  - (b) The Lodge Committee shall be elected by the Lodge, in accordance with District Policy, but shall not exceed four (4) year terms.
  - (c) No member under eighteen (18) years of age shall be eligible to hold office or serve on the Lodge Committee.
  - (d) Half the members of the Lodge Committee shall form a quorum.
  - (e) All Lodge meetings shall be conducted according to the Standing Orders of the District Branch.
  - (f) All members of the Lodge shall have equal voting power on all questions put to a meeting of the Lodge, except that in the event of equal voting on any question the Lodge President shall have a casting vote.
  - (g) Lodges shall meet as appropriate to conduct business, and at least three (3) times per year.
  - (h) All meetings of Lodges shall be convened by Notice posted on the Lodge Notice Board or by such other means as may be convenient.
  - (i) Any member of a Lodge failing to attend a meeting of the Lodge without reasonable cause may be fined ten (\$10) dollars for each offence, but a member shall have the right to make an appeal for the remission of the member's fine at the next meeting of the Lodge.
  - (j) Any fine imposed on members for non-attendance at a meeting shall be paid before any appeal is entertained by the Lodge.
  - (k) Fines for non-attendance shall be paid into the management accounts of the Lodge held by the District Branch.
  - (l) Lodges shall be empowered to exempt any member from attendance at a Lodge meeting owing to infirmity or other reasonable cause.



- (m) Each Lodge shall have power to make By-laws for its own guidance and control of its members. Such By-laws shall not be in contravention of the Rules of the Division or the District Branch and shall not become operative until submitted to and approved by the Board of Management.
  
- (iii) Powers and Duties of Lodge President
  - (a) The Lodge President shall preside at all meetings and, in conjunction with the Lodge Secretary, ensure that the Rules of the Division, the District Branch and the Lodge are carried out. The Lodge President shall act as advocate and spokesman for the Lodge and generally act in the interests of the membership.
  - (b) In the event of a tied vote at any meeting the Lodge President shall have a casting vote.
  
- (iv) Powers and Duties of Lodge Vice President
  - (a) The Lodge Vice President shall work with other members of the Lodge Committee to ensure that the Rules of the Division, the District Branch and the Lodge are carried out. The Lodge Vice President shall act as advocate for the Lodge and generally act in the interests of the membership.
  - (b) To preside at meetings in the event that the Lodge President is unable.
  
- (v) Powers and Duties of Lodge Secretary
  - (a) The Lodge Secretary shall, in conjunction with the Lodge President, ensure that the Rules of the Division, the District Branch and Lodge are carried out.
  - (b) The Lodge Secretary shall be responsible for keeping the books and records of the Lodge, including a minute book, for recording resolutions of Lodge meetings.  

The District Branch shall provide each Lodge Secretary with the necessary assistance to maintain a roll of the names of all members of the Lodge and with an account of all monies received and expended.
  - (c) Each Lodge Secretary shall produce the Lodge Books to the District Executive Officers and Board of Management when called upon to do so.
  - (d) All books, tickets and documents held by any Lodge Officers or members relating to the District Branch shall be the property of the District Branch and shall be surrendered to the District Executive upon demand. Where a Lodge has closed the Lodge Secretary of such Lodge shall forward to the District Secretary all District Branch and Lodge Books in the Lodge Secretary's possession.
  - (e) The Lodge Secretary shall also produce the Lodge Books for inspection when called upon by the majority of members of the Lodge.
  - (f) The Lodge Secretary shall keep the Lodge Books in accordance with the system approved by the Board of Management.

(vi) Powers and Duties of Lodge Assistant Secretary

- (a) The Lodge Assistant Secretary, where appointed by the Lodge, shall work with other members of the Lodge Committee to ensure the Rules of the Division, the District Branch and the Lodge are carried out.
- (b) The Lodge Assistant Secretary shall assist the Lodge Secretary in the fulfilment of their duties and generally act in the interests of the membership.

(vii) Duties of Lodge Committee

- (a) The Committee of each Lodge shall seek to ensure that the health and lives of their fellow workers are protected to the utmost and shall deal with all matters as affecting the interest of the Lodge.
- (b) The members of the Lodge Committee shall work with other members of the Lodge Committee to ensure that the Rules of the Division, the District Branch and the Lodge are carried out and to generally act in the interests of the membership.
- (c) Each member of the Lodge Committee shall, amongst his or her duties with respect to the Lodge, be a Delegate for members of the Lodge.

(viii) Financial

- (a) The District Branch shall hold and administer money on behalf of each Lodge in management accounts.

(ix) Private Agreements

No member of any Lodge in the District Branch shall be permitted to enter into any private agreement with the member's employer without the sanction of the Lodge they are a member of and the Lodge shall not be permitted to enter into any agreement with the employer without the sanction of the District Executive and/or Board of Management.

(x) Members not to Work when Workplace is Idle

When a workplace is idle members of this District Branch shall not enter the workplace to work unless with the permission of the District Executive.

(xi) Youths

No member of this District Branch under the age of eighteen (18) years shall be allowed to work as a miner on a coalface or brushing tops, or any work where the member would be obliged to use explosives or on any work usually performed by adults.

(xii) Expulsion or Suspension of Lodges or Members

- (a) Any Lodge or member of the District Branch refusing to comply with the decision of the District Branch shall be suspended for a period of time or expelled from the District Branch and shall not be entitled to any benefits or privileges of the District Branch.

- (b) In cases of suspension or expulsion the Lodge and/or members shall pay up all arrears before being readmitted to the District Branch.
  - (c) Any member or Lodge expelled or suspended under this Rule shall have the right to appeal against the decision to the Central Council of the Division.
- (xiii) Demand by Lodges for Dismissal of Officer

No Lodge shall send to the Board of Management a notice of motion asking for the resignation of a District Officer unless some specific charge is laid against such District Officer in writing and the District Officer has been given the opportunity to attend the Lodge to vindicate themselves and no such motion shall be allowable unless at least fifty (50%) per cent of the Lodge are present or a Ballot of the whole of the members of the Lodge has been taken. The cost of such a Ballot shall be defrayed by the Lodge.

## **12 – ALTERATION OF RULES**

- (a) New District Branch Rules may be made and any of the Rules of the District Branch may be altered, amended added to or rescinded by the Board of Management.
- (b) Proposed new Rules shall be examined and reported on by the Rules Committee of members of the Board of Management appointed from time to time by the Board of Management.
- (c) The report of the Rules Committee shall be discussed by or reported to the Board of Management and the proposed Rules changes submitted for approval by a majority of the members voting at that meeting of the Board of Management, or provided, if voting is conducted at otherwise than at a meeting assembled, that at least a quorum of the Board of Management returns their vote.
- (d) The provisions of Rule 7(iv) and Rule 8(iv) shall not apply in the application of this Rule.

## **SOUTH WESTERN DISTRICT BRANCH**

### **1 – NAME**

The name of the District Branch shall be the South Western District Branch of the Construction, Forestry, Mining and Energy Union, Mining and Energy Division (hereinafter referred to as the District Branch). A reference to the "Union" shall be a reference to the Construction, Forestry, Mining and Energy Union and a reference to the "Division" shall be a reference to the Construction, Forestry, Mining and Energy Union, Mining and Energy Division.

## 2 – CONSTITUTION

The District Branch shall consist of an unlimited number of employees, otherwise eligible for membership of the Union, who, in the South Western District of New South Wales;

- (A) are engaged in or in connection with the Coal and Shale industry;
- (B) are engaged in or in connection with the Mining or Exploration industries;
- (C) are engaged as employees or as employees of contractors, in or in connection with the following industries;
  - (a) power generation, co-generation, transmission and distribution;
  - (b) oil;
  - (c) gas;
  - (d) nuclear; and
  - (e) chemical production
- (D) are engaged as employees or as employees of contractors in the county of Yancowinna;
- (E) have been elected as paid officers of the District Branch or whilst financial members of the District Branch are elected as representatives of any working class organisation to which the Division is affiliated or as a working class Member of Parliament.

## 3 – OBJECTS

- (i) The objects of the District Branch shall be, by all lawful means:
  - (a) To improve the conditions and to protect the interest of the members of the District by increasing the proportionate share of the wealth to the workers and endeavouring to educate for the complete abolition of the present wage system and the substitution of the common ownership of the means of production, distribution and exchange.
  - (b) To discuss, consider and put into force when approved, any scheme for the better guidance and extension of Australian industrial organisation.
  - (c) To prevent, if possible, by conference or otherwise any threatened cessation of work and to endeavour by conciliatory measures to uphold the Rules of the District, failing which to provide ways and means of the support of members.
  - (d) To secure the return of working class representatives in Parliament, to promote such legislative enactments as will ensure industrial justice to Australian workers.
  - (e) In order to further or ensure the better advocacy of Labour or for any other purpose which the Board of Management may deem proper, to support, own in whole or part and/or subsidise any newspaper or any other publication advocating the cause of Labour.

- (f) To do any other act provided for in the Rules of the South Western District Branch of the Construction, Forestry, Mining and Energy Union, Mining and Energy Division.
- (g) To raise funds for all or any of the objects of the Branch.
- (h) From time to time to raise funds for the purpose of applying and/or investing the same in any manner authorised by the Rules of the Branch.
- (i) To obtain legislative enactments whereby the lives and health of the members may be preserved and if necessary to take steps to obtain compensation for accidents where the employer is liable.
- (j) To obtain legislative enactments for the more efficient management and inspection of Mines or worksites.
- (k) To secure the prices and/or wages for which members may at all times contract and to prevent illegal stoppages of wages at pay offices.
- (l) To provide an allowance for the support of members who may be deemed unjustly dealt with and to provide benefits for dependents of members who died from any cause.
- (m) Generally to do all acts, matters and things that may appear to be in the best interests of members.
- (n) To carry on or participate directly or indirectly and alone or with others in the carrying on of any mining or prospecting operation and related activities thereto.
- (o) To take, subscribe for or otherwise acquire and hold any interest or shares, debentures, stock or other security of any company or trust or acquire any interest in any company or trust to achieve the furtherance of any of the objects of the District Branch.
- (p) To raise funds whether by loan or otherwise for all or any of the objects of the Division and to invest such funds in such manner as the District Branch shall see fit.
- (q) To purchase, take on lease or in exchange, hire and otherwise acquire and sell any real and personal property and any rights or privileges which may be necessary or convenient for the furtherance of any of the objects of the District Branch.
- (r) To support bona fide charitable and other worthy causes consistent with the interests of members of the Union. Such support may include, but is not limited to, donations to community groups, relief funds, individual and other humanitarian, environmental, social or similar causes.
- (s) To do any other act or thing to achieve or further the objects of the District Branch.

For the purpose of carrying out all or any of the objects of the District Branch, funds may be raised by entrance fees, subscriptions, donations, levies, contributions, dues and loans.

## 5 – MEMBERSHIP

### (i) Applications

- (a) All persons working in any capacity or doing any work connected with the industries referred to in Rule 2, shall be eligible for membership of the District Branch.
- (b) A candidate for membership shall apply to the Secretary of an established Lodge that covers his or her employment in writing on the form prescribed and supplied by the District Branch for that purpose. Whilst ever employed in a calling or form of employment covered by an established Lodge, a member of the District Branch shall remain a financial member of the Lodge. However, where there is no Lodge established covering the employment of a candidate for membership, the candidate shall apply for membership directly to the District Branch Secretary in writing on the form prescribed for that purpose. For the avoidance of doubt, a member of the District Branch who subsequent to joining the District Branch becomes eligible to be a member of a Lodge, shall be required to join that Lodge. All applications for membership shall be witnessed by a member of the District Branch.
- (c) Secretaries shall sign and date membership application forms on the day they receive them. Subject to Rule 5(i)(d), a candidate for membership shall be deemed to be a member of the Division from the date of the day of receipt of the membership application form by the District Branch Secretary, or authorised delegate as the case may be.
- (d) Notwithstanding anything hereinbefore contained, the Secretary of a Lodge or authorised delegate may refer any membership application to the Secretary of the District Branch. The Secretary of the District Branch shall immediately refer any such application to be considered and approved or not approved by the Central Executive of the Division. In such a case, a candidate shall not become a member of the Division until the Central Executive has approved the application and the General Secretary has notified the candidate to that effect in writing. The candidate in such a case shall be a member of the Division from the date of the day of the General Secretary's letter of notification to the candidate. Where the Central Executive, the District Branch Committee of Management or the District Branch Secretary decides against the admission to membership of a candidate, the candidate shall have a right of appeal to Central Council. Where the Central Council decides to admit the candidate to membership, the candidate shall be a member of the Division from the date of the day of the Central Council's decision.
- (e) When a candidate is admitted to membership of the Division, the new member's name, address and date of admission shall be:
  - \* entered in a book to be called the Lodge Register of Members, which shall be kept by the Lodge Secretary;
  - \* entered in a book to be called the District Register of Members, which shall be kept by the Secretary of the District Branch in which the Lodge is situated; and

- \* entered in the Register of Members, which shall be kept by the Division.
- (f) Membership of the Division, shall be subject to sub-rules 5(ii) and 5(iii) of the Division's Rules.
- (ii) Subscriptions and Fees
  - (a) Every member shall pay such fines, fees, levies and subscriptions as may be prescribed or imposed from time to time according to the Rules of the Division.
  - (b) There shall be an entrance fee payable by a candidate for membership of the Division on his/her admission to membership. The entrance fee shall be determined by the District Branch Committee of Management. Entrance fees shall be retained by the District Branch.
  - (c) Subscriptions, fines, fees and levies owing by a member of the Division shall be paid to the District Branch Secretary, or a person authorised by the District Branch Secretary.
  - (d) Subject to sub-rule 5(iii), any member owing subscriptions, fines, fees or levies or any of them for more than fourteen days shall not be entitled to any of the privileges of membership, including the right to vote, and shall be liable to be sued for the recovery of amounts owed to the Division.
  - (e) No member who has left the industry without paying all fines, fees, levies and subscriptions due by him/her to the Division shall become a financial member of the Division again until his/her case has been considered by the District Branch Board of Management and permission has been given by the District Board for the member to regain financial status.
  - (f) Any member deemed unfinancial under sub-rule 5(ii)(d) shall be deemed to have become a financial member of the Division again from the date of the completion of payment by him/her of all amounts owing to the Division. Continuity of membership and lodge seniority may be restored by a decision of the District Branch Board of Management from the date of completion of payment of all sums owing to the Division.
  - (g) Membership subscriptions shall be set by Annual Central Council of the Division and shall be payable for fifty two weeks per year.
  - (h) Employees otherwise eligible to join the Division and under eighteen years of age and not in receipt of adult wages shall be half members and pay half subscriptions, fees and levies.
  - (i) Any member being sick or out of employment in any pay period and not in receipt for that pay of award wages or other award payments equivalent to eighty dollars per fortnight (where the member is paid fortnightly) or forty dollars per week (where the member is paid weekly), or other amounts which may be determined from time to time by Annual Central Council, shall be exempt from the payment of subscriptions, fees or levies for that pay period.
  - (j) Members on compensation shall pay subscriptions as if at work, however, members receiving compensation for permanent and total incapacity shall be exempt from paying subscriptions, fees and levies.

- (k) District Branch subscriptions shall be at a rate to be determined by the Board of Management.
- (iii) Sick and Unemployed Members
  - (a) Any member registered in accordance with this rule as an unemployed member and/or member on sick leave of absence, shall be entitled to the privileges of membership and shall be entitled to vote on all matters affecting the Division excepting upon any matter upon which any decision might be made which would or might involve the Division or the District Branch in the declaration of a strike or in a stoppage of work or in the making of a levy or levies upon the members of the Division or the District Branch.
  - (b) Any member unable to pay subscriptions, fines, fees or levies by reason of his/her being unemployed and/or on sick leave of absence and wishing to retain the rights and privileges conferred on him/her by these rules, shall be registered at least once in every quarter in the District Quarterly Register of Unemployed and Sick Members.
  - (c) An unemployed or sick member may apply, in writing, to the Secretary of the Lodge of which he/she is a member for registration in the District Quarterly Register of Unemployed and Sick Members. A member of a District Branch who is not also a member of a Lodge may apply for registration, in writing, to the Secretary of the District Branch. The application to the Lodge or District Branch Secretary shall be signed by the member and his/her signature witnessed by a member of the Division. The application shall also, if the applicant is a member of a Lodge, include the name of the Lodge of which the applicant is a member.

The Lodge or District Branch Secretary shall sign and date the applications as they are received. Lodge Secretaries shall send all such applications to the District Branch Secretary immediately.

The District Branch Secretary shall submit all applications to the District Committee of Management to be considered and approved or not approved. Where an application is approved the District Branch Secretary shall enter the applicant's name and address and the date of approval of the application by the District Committee of Management in a book to be called the District Quarterly Register of Unemployed and Sick Members. The applicant shall then be duly registered for a period of three months from the approval of his/her application. The District Committee of Management shall have the power to remove the name of any member from the Register for any reason it thinks fit or may at the same time or at any other time prescribe a period for which the member shall be ineligible for registration in the register.

- (d) The District Branch Secretary shall once in each quarter submit a list of the names and addresses of members registered as unemployed or sick to the District Branch Committee of Management for consideration. Continuation of the registration of a member as an unemployed or sick member shall be at the discretion of the District Committee of Management.



(iv) Resignations

- (a) A member may resign from membership by written notice addressed and delivered to the District Secretary or Lodge Secretary or authorised delegate;
- (b) A notice of resignation from membership takes effect;
  - (i) Where the member ceases to be eligible to become a member of the District Branch;
    - (A) on the day on which the notice is received by the District Branch;  
or
    - (B) on the day specified in the notice which is a day not earlier than the day when the member ceases to be eligible to become a member;whichever is the later or
  - (ii) in any other case:
    - (A) at the end of two weeks after the notice is received by the District Branch; or
    - (B) on the day specified in the notice whichever is the later.
- (c) Any dues payable but not paid by a former member in relation to a period before the member's resignation takes effect, may be sued for and recovered in the name of the District Branch in a court of competent jurisdiction as a debt due to the District Branch.
- (d) A notice delivered to the District Secretary or Lodge Secretary shall be taken to have been received by the District Branch when it was delivered.
- (e) A notice of resignation that has been received by the District Branch is not invalid because it was not addressed and delivered in accordance with sub-rule (a) above.
- (f) A resignation from membership is valid even if it is not effected in accordance with this Rule if the member is informed in writing by or on behalf of the District Branch that the resignation has been accepted.
- (g) When a member transfers to an occupational classification within the industries in connection with which the District Branch is registered covered by another union and becomes a member of that other union he/she shall cease to be a member of the Division. A member shall also cease to be a member of the Division immediately he/she ceases to be employed in or in connection with the industries in connection with which the District Branch is registered, unless he/she is a member according to sub-rule 5(iii).

(v) Copy of Rules

Every Lodge Secretary shall inform all newcomers of the existence of this Union and if requested supply each such member with a copy of these Rules within one month after he/she commences work or as otherwise required by the *Fair Work (Registered Organisations) Act 2009*.

## 6 – ENTITLED TO VOTE

Subject to Rule 5, the members entitled to vote on any question shall be, all financial members working in the industry, all financial members unemployed or on sick leave of absence, members registered according to Rule 5(iii) in the District Quarterly Register of Unemployed and Sick Members.

## 7 – BOARD OF MANAGEMENT

(i) Elections

- (a) The Committee of Management of the South Western District Branch shall be the South Western District Branch Board of Management.
- (b) The Board of Management shall be composed of the President, Vice-President Western, Vice-President Southern, Vice-President - Metalliferous, Secretary, District Councillors and representatives of Lodges elected on a regional basis.
- (c) The geographical Lodge areas within each of the regions referred to in within this sub-rule and the number of representatives from each such Lodge area shall be determined prior to each election by the District Branch Board of Management. Lodge representatives shall be nominated and elected by and from such Lodge areas. For the purpose of determining Lodge representation the District Branch shall be divided into the following Regions:

Southern Region - all areas south of Sydney

Western Region - Blue Mountains, Lithgow and Mudgee

Far Western Region - Far Western New South Wales

The District Branch Secretary shall advise a Returning Officer appointed for the purpose of the conduct of such election pursuant to the Ballot Rules of the Division, of the determination of the District Branch Board of Management.

- (d) Board of Management representatives shall be elected every four years according to the Ballot Rules of the Division. Board of Management representatives shall take office as and from the first day of the month following the declaration of their election.

- (e) Any extraordinary vacancy which occurs in an elected position within the District Branch shall be filled by the holding of an election in accordance with the Ballot Rule of the Division, and the Member so elected shall hold office for the remainder of the term for which the previous holder of the office was elected provided that where the remainder of the term does not exceed:-

- (A) Twelve (12) months; or

- (B) Three quarters of the office whichever is greater.

The Board of Management may appoint by resolution any eligible member of the District Branch to act in that office for the remainder of the term.

- (f) Notwithstanding paragraph 7(i)(e) above, where an office of Lodge representative referred to in rule 7(i)(c) is vacant because no nomination was received by the returning officer in the conduct of an election for that office, the Board of Management may abolish the office and create a new office of Lodge representative in lieu of the abolished office. The new office shall:

- (A) be filled by the holding of an election in accordance with the Ballot Rule of the Division;

- (B) be elected by and from an electorate determined by the Board of Management, at the time the new office is created, within the same Region as the abolished office; and

- (C) have a term of office that expires at the time that the abolished office would have otherwise expired. For the avoidance of doubt, that term of office cannot be for longer than 4 years.

- (ii) Meetings

- (a) The Board of Management shall meet at least three times a year. One meeting shall be held in March, and two more spread evenly throughout each year. The March meeting shall be the Annual General Meeting. The Board of Management shall meet at such other times as the Executive of the District Branch may deem necessary.

- (b) At least one representative from each of the Lodge areas in addition to at least two Executive Officers must be present at each meeting of the Board and shall be the quorum.

- (c) The President, Vice-President Western, Vice President Metalliferous, Vice-President Southern, Secretary, District Councillors and each of the Lodge representatives shall have a deliberative vote at any meeting of the Board. The President shall, in the event of the Board being equally divided on any question, be entitled to a casting vote. Every member of the Board of Management shall vote either for or against any proposition put to the meeting, or be fined the sum of ten dollars.

- (d) Any officer or representative absenting himself/herself from any meeting of which he/she has been duly notified, by the Secretary, in writing, at least seven days before the date of the meeting, without giving an explanation which is accepted by the majority of the members attending and voting at the next subsequent meeting of the Board, may be fined a sum not exceeding two hundred dollars as the Chairman may direct.
  - (e) A special meeting of the Board of Management may be convened by a majority of the Executive, or upon written request to the Secretary or President to call such special meeting signed by at least one representative from each of at least three Lodge areas. Upon receipt of such a request, the Secretary or the President shall convene a meeting of the Board.
  - (f) The Branch Secretary shall issue or cause to be issued to Board members, a notice of the date of the Board of Management meeting at least fourteen days prior to the date of the meeting. He/she shall issue or cause to be issued an agenda paper to members of the Board at least fourteen days prior to the meeting of the Board of Management.
- (iii) Lodge Business
- (a) Any Lodge having business for the consideration of the District Branch, after having dealt with same locally, shall forward it to the Secretary to be submitted to the next following meeting of the District Branch Executive or of the Board of Management.
  - (b) Each Lodge Secretary shall forward to the District Branch Secretary within twenty eight days from receiving same, the decision of his/her Lodge on any business that may be sent to it for its consideration by the District Branch Executive or Board of Management. The decision of any Lodge failing to comply with this Rule shall be null and void.
- (iv) Endorsement of Decisions
- (a) All business transacted by the Board of Management shall be confirmed before the meeting concludes and copies of the confirmed minutes shall be posted to the Lodges of the District Branch.
  - (b) The executive committee of each Lodge shall submit the confirmed resolutions of the Board to a meeting of the Lodge membership. The Secretary of each Lodge shall record the number of votes for and against each Board resolution. The Secretary shall send a return of the votes, signed and dated by him/her on which the District Branch Secretary posted the Board minutes to the Lodges.
  - (c) A resolution of the Board of Management shall become the binding policy of the District Branch if an aggregate majority of the members of the District Branch attending and voting at Lodge meetings which consider the Board of Management resolutions, vote in favour of the resolution.

(v) Powers and Duties of the Board of Management

The powers and duties of the Board of Management shall be as follows:

- (a) To hear any appeal from any Lodge or members thereof.
- (b) To consider the financial position of the Branch and transact any business that may be placed before them by the Executive Officers.
- (c) To make, impose, order and enforce and levies, fines, fees or subscriptions on all members of the Branch not in conflict with the Rules of the District Branch or the Rules of the Division for any one or more of the objects set out in Rule 3 of these Rules.
- (d) To determine any matter or report referred to it by the Branch Executive or by any Lodge or to settle any disputes internally and between Lodges.
- (e) From time to time to alter, amend, rescind or make standing orders for the regulation of the conduct of the business and proceedings of this District Branch and of the Lodges of the District Branch.
- (f) To fix, reduce, increase or alter the salaries and allowances of the officers and employees of the District Branch.
- (g) To receive and adopt or otherwise deal with the Annual Report of the District Branch.
- (h) To inflict any fine on any Lodge or member, such fine not to exceed one thousand dollars (\$1000.00) on any Lodge or one hundred (\$100.00) on any member.
- (i) To have control of the Management and publication of the Official Organ of the Branch.
- (j) And generally to do all acts, matters and things that may appear to be in the best interests of the District Branch.

(vi) Voting other than at Meetings Assembled

- (a) If the District President or District Secretary consider it advisable to submit any matter to a vote of the Board of Management at any time when it is inconvenient to call the Board of Management together, the District Secretary may submit a resolution dealing with the matter to the members of the Board of Management, by letter, facsimile, telegram, telephone, email, in writing, by computer link and/or by any other means of communication.
- (b) The votes on such resolution shall be returnable to the District Secretary at such time as the District Secretary shall fix and shall be subject to the quorum requirement set out in sub-rule 7(ii)(b). The result of such vote shall be binding and enforceable in the same manner as a decision arrived at in meetings assembled.
- (c) The matter shall be recorded in the minutes on the next Board of Management meeting held following the vote.

## 8 – DISTRICT BRANCH EXECUTIVE

- (i) Executive Officers
- (a) The District Branch Executive shall consist of the President, Vice-President Western, Vice-President Southern, Vice-President - Metalliferous and Secretary.
- (b) The Executive Officers shall be nominated as follows:
- President - from the Western Region only  
Secretary - from the Southern Region only  
Vice-President Western - from the Western Region only  
Vice-President Southern - from the Southern Region only  
Vice-President Metalliferous - from the Far Western Region only
- The Executive Officers shall be elected by the whole membership of the District Branch each four years according to the Ballot Rules of the Division. The Officers shall take office as and from the first day of the month following the declaration of their election.
- (c) Each officer shall remain in office unless he/she resigns his/her position by writing delivered at least one month in advance of the intended date of resignation, or unless removed from office.
- (d) A person elected to office in the District Branch shall not be dismissed from office unless found guilty by the Board of Management of misappropriation of the funds of the District Branch, a substantive breach of the Rules of the Division or District Branch, gross misbehaviour, gross neglect of duty or has ceased according to the Rules to be eligible to hold office. Where dismissal of an officer under this sub-rule is contemplated the Board of Management shall appoint a Committee of three Board members to investigate and report on the case. Where dismissal of an officer under this sub-rule is contemplated the officer concerned shall have presented to him/her by the Board's investigating committee a written statement of the charges alleged against him/her. The officer shall have full freedom to make a verbal and/or written response to the charges, to both the investigating committee and the meeting of the Board of Management which hears the report of the investigating committee. There shall elapse a period of not less than one month, or any greater period the Board shall determine, between the delivery to the officer concerned of the written statement of charges against him/her, and the hearing by the investigating committee of the officer's response to the charges. The officer may if he/she wishes waive all or part of the minimum one month period of notification. The decision of the Board of Management shall not take effect until endorsed by an aggregate District majority of members attending and voting at Lodge meetings at which the business of that Board of Management meeting is considered.
- (e) The Executive Officers shall remain financial members of the Division and shall retain full membership rights of the Lodges of which they were members at the time of their election to District Branch Office. In the event of an officer's Lodge closing the officer shall become a financial member of another Lodge as directed by the District Board of Management.

(ii) Duties of Executive Officers

(a) The President

The President shall preside at all meetings of the District Branch Board of Management or meetings called by the District Branch. He/she shall cooperate with the other Branch Officers in carrying out the objects of the Branch. He/she shall as far as possible observe that the Rules are carried out by the District Branch Lodges. In the case of equal voting at Board of Management meetings the President shall have the casting vote. The President shall receive such remuneration as shall be agreed upon from time to time with the District Branch Board of Management, such remuneration to be based on District average earnings.

(b) The Vice-President Western

The Vice-President Western shall co-operate with the other Branch Officers in carrying out the objects of the District Branch and in the absence of the President he/she shall exercise all functions of the President's position and shall be paid such remuneration as shall be agreed upon from time to time with the District Branch Board of Management, such remuneration to be based on District average earnings.

(c) The Vice-President Southern

The Vice-President Southern shall co-operate with the other Branch Officers in carrying out the objects of the District Branch and in the absence of the President and Vice-President Western shall exercise all functions of the President's position and if necessary, in the absence of the Secretary, act in his/her stead. The Vice-President Southern shall be paid such remuneration as shall be agreed upon from time to time with the District Branch Board of Management, such remuneration to be based on District average earnings.

(d) The Vice-President - Metalliferous

The Vice-President - Metalliferous shall co-operate with the other Branch Officers in carrying out the objects of the District Branch and in particular shall be responsible for the servicing and representing of the membership in the Far Western region. The Vice-President-Metalliferous shall receive such remuneration as shall be agreed from time to time with the District Branch Board of Management, such remuneration to be based on District average earnings.

(e) The Secretary

The Secretary's duties shall be to keep a correct account of all monies received and expended, prepare a yearly Balance Sheet of same, copies of which shall be submitted to the members of the Branch through the Annual General Meeting of the Board of Management and to Lodge members through the Lodge Secretaries. He/she shall also cause to be kept a register of members of the Branch under the headings of the respective Lodges to which members belong. The Secretary shall attend all Board of Management meetings and take minutes of same. The Secretary shall zealously attend to all correspondence, watch the interests of the members and do all in his/her power to advance the members' position generally. He/she shall strictly observe the Rules of the South Western District Branch of the Division. He/she shall be empowered with the concurrence of the other District Executive Officers to call special meetings of the Board of Management in cases of emergency and shall vote at all Board meetings. He/she shall be under the control of the Board of Management and receive for his/her salary such remuneration as shall be agreed from time to time with the District Branch Board of Management, such remuneration to be based on District average earnings.

He/she shall, as far as possible observe that the Rules are carried out by the Branch Lodges and from time to time examine the books and accounts of the Branch and generally keep himself/herself acquainted with the financial transactions of the Branch. He/she shall prepare and forward to the Registrar all returns which may be required by law.

(iii) Meetings of the District Branch Executive

- (a) The President or Secretary may convene a meeting of the District Branch Executive at any time by oral or written communication to the other members of the Executive.
- (b) A quorum of any meeting of the Executive shall be three.
- (c) The chairman of any meeting of the Executive shall have a deliberative but not a casting vote.
- (d) Where matters are due to be decided by the Executive and an officer cannot be present, he/she may, if he/she wishes record a vote by letter or telegram. In such an event the decision of the majority shall be valid as had they assembled.



(iv) Powers of the District Branch Executive

The Branch Executive shall, subject to the review of their actions by the next ensuing meeting of the Board of Management have the care, control, custody and superintendence, management and administration in all respects of the District Branch. The powers of the Executive shall include the following:

- (a) To suspend any member of the Executive or of the Board of Management or representative of the District Branch on any Board or body for any breach or infringement of the Rules of the Division or District Branch or for any misconduct or dereliction of duty or any misapplication respecting the whole or any part of the funds, monies or other property of the Division or non-compliance with or disobedience of any request or order contained in any resolution of the Central Council or the Board of Management and to inflict any fine not exceeding one hundred dollars. Where action is taken by the Executive under this sub-rule there shall be a general right of appeal by the member, representative, councillor or body affected, to the Board of Management. This sub-rule shall be read subject to sub-rule 8(i)(d).
- (b) To consider and decide upon any application for membership referred to it by the District Branch Secretary or by any Lodge of the District Branch.
- (c) To initiate, manage and control all actions, proceedings, industrial disputes and other matters and to appoint agents, solicitors or counsel to appear for and represent the District Branch or any of its members in any Court or proceedings, legal or otherwise.
- (d) To demand and collect or cause to be collected all levies, subscriptions, fines, fees and dues payable by all members.
- (e) To demand, receive and keep possession of all books and accounts of the District Branch.
- (f) To demand, or cause to be made, an audit of the books and accounts of the District Branch.
- (g) To engage any servants or other assistance that in its opinion are necessary for the proper carrying on of the District Branch business and to pay such wages, salaries and allowances as it shall seem proper.
- (h) To enter into, and make any industrial agreements on behalf of the District Branch and its members subject to the instruction of the Board of Management and members in accordance with these Rules.
- (i) To establish regional offices of the District Branch where necessary to properly service the membership.
- (j) To call the Board of Management together at any time necessary and to call aggregate meetings of the members of the Branch when necessary.
- (k) To have the powers of the Board of Management as set down in these Rules.

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**9 – ADDITIONAL OFFICERS**

- (a) There shall be two District Branch Check Inspectors one of whom shall be nominated from the membership of the Southern Region and the other from the membership of the Western Region. The Southern Region District Branch Check Inspector shall be a full-time officer. The Western Region District Branch Check Inspector shall be a full-time or part-time officer as determined by the District Branch Board of Management.
- (b) deleted
- (c) The District Branch Check Inspectors shall be elected by the whole membership every four years according to the Ballot Rules of the Division and shall take office as and from the first day of the month following the declaration of their election.
- (d) The District Branch Check Inspectors shall be full time officers as determined by the District Branch Board of Management prior to each election.
- (e) District Branch Check Inspectors shall receive for their services such remuneration as shall be decided upon from time to time with the District Branch Board of Management, such remuneration to be based on District average earnings.
- (f) There may be such number of Relief Check Inspectors as are determined by the Board of Management prior to each election. The Relief Check Inspectors shall be elected by the whole membership every four years according to the Ballot Rules of the Division and shall take office as and from the first day of the month following the declaration of their election. The Relief Check Inspectors shall perform the duties of a District Branch Check Inspector in the absence of such officer or as required by the District Branch Board of Management. Relief Check Inspectors shall be responsible to the District Branch Executive and shall be paid such remuneration as determined from time to time by the Board of Management.
- (g) Any member of the Branch shall be eligible for the office of District Branch Check Inspector provided he/she has been a member of the Branch for six months and fills the requirements of the applicable statutory provisions governing mine safety and operation.
- (h) A District Branch Check Inspector shall, in company with the local Lodge Check Inspector, make inspections of every mine or worksite in the Branch as often as practicable and shall keep a record of all such inspections.
- (i) A District Branch Check Inspector shall comply with the General Rules of the applicable statutory provisions governing safety and operation.
- (j) A person elected to office as the District Branch Check Inspector be under the control of the Board of Management and the Branch Executive and shall not be dismissed from office unless found guilty by the Board of Management of misappropriation of the funds of the District Branch, a substantive breach of the Rules of the Division or District Branch, gross misbehaviour, gross neglect of duty or has ceased according to the Rules to be eligible to hold office duty or for any breach of the applicable statutory provisions governing mine safety and operation, subject to Rule 8(i)(d).
- (k) A District Branch Check Inspector shall, when directed to do so by the District Branch Executive, attend all inquests and inquiries held in connection with the deaths of members, and shall enter in a book to be kept in the District Branch Office all reports of such inquests or inquiries.
- (l) A District Branch Check Inspector shall keep records to be kept in the District Branch Office all reports on matters connected with his/her office.

- (m) Deleted.
- (n) The District Branch Check Inspectors shall attend any meeting of the District Branch Board of Management or Executive and shall be entitled to participate in any such meeting when called upon to do so by the Board or Executive.
- (o) The District Branch Central Councillor shall be the South Western District Branch President ex officio, where the rules of the Division require only one representative of the South Western District on the Central Council.
- (p) Where the rules of the Division require more than one representative on the Central Council from the South Western District Branch, the additional Central Councillor or Councillors shall be part time officers elected every four years according to the Ballot Rules of the Division. The elected Central Councillor or Councillors shall take office as and from the first day of the month following the declaration of their election.

Provided further, that where the Rules of the Division require more than one Central Councillor from the South Western District Branch, the District Board of Management shall determine from which of the Southern, Western or Far Western Region of the District Branch the respective Councillor or Councillors shall be nominated from prior to each election. In exercising this function, the District Board of Management shall, to the extent practical, ensure balanced representation between the Southern, Western and Far Western Regions in respect of the office of Central Councillor. Although nominations for office may be restricted to the respective Regions as determined by the District Board of Management, Central Councillors shall be elected by the whole membership of the District Branch according to the Ballot Rules of the Division and shall take office as and from the first day of the month following the declaration of the election.

- (q) The duties of a Central Councillor shall be to attend meetings of the Central Council of the Division as the representative of the South Western District Branch, to attend and address Lodges and other meetings of members at the direction of the District Branch Board of Management and to attend meetings of the District Branch Board of Management. District Councillors shall be responsible to the District Branch Board of Management and the District Branch Executive.
- (r) The District Branch Check Inspectors and District Branch Central Councillors elected under these Rules shall be subject to Rule 7(i)(e) and Rule 8(i)(e).

## **10 – FINANCE AND PROPERTY**

- (i) The District Branch Fund shall consist of:
  - (a) any real or personal property of which the District Branch by these Rules or by any established practice not inconsistent with these Rules, has, or in the absence of any limited term lease, bailment or arrangement, would have, the right of custody, control or management;
  - (b) the amounts of entrance fees, subscriptions, fines, fees or levies received by the District Branch, less so much of those amounts as is payable by the District Branch to the Central Office of the Division;
  - (c) any interest, rents or dividend derived from the investment of the Fund;

- (d) any superannuation or long service leave fund operated or controlled by the District Branch for the benefit of its officers or employees;
  - (e) any sick pay fund, accident pay fund, funeral fund, benefit fund or like fund operated or controlled by the District Branch for the benefit of its members;
  - (f) any property acquired wholly or mainly by expenditure of the money of the Fund or derived from other assets of the Fund; and
  - (g) the proceeds of any disposal of parts of the Fund.
- (ii) District Executive Control

Subject to the control of the District Branch Board of Management, the property and funds of the District Branch shall be under the control of the District Branch Executive.

(iii) Use of Funds

- (a) The funds of the District Branch shall be applied and/or invested as follows: in such lawful manner as the Board of Management may decide, including, without limiting the generality of this sub-clause, deposit on current account or fixed deposit with any bank carrying on business in the Commonwealth of Australia, the mortgage of real or personal estate situated in the Commonwealth, the subscription for or purchase of shares in any company registered and carrying on business in any State of the Commonwealth. Funds so applied shall only be realised on the authority of the District Executive or on the authority of the Board of Management.
- (b) All monies shall be banked in the names of two trustees to the credit of the District Branch.
- (c) Monies shall be drawn from the funds of the District Branch by cheque or by electronic funds transfer authorised and signed by two executive officers of the Branch or either of those officers with such other officers or senior members of staff as may be designated and authorised from time to time by the District Branch Board of Management.
- (d) All fees, fines, contributions, levies and dues received by the Branch Secretary shall pass through the Branch Office and all monies so received from the above sources shall be immediately recorded in the books and banked to the credit of the Branch by the Branch Secretary without deduction.
- (e) All monies withdrawn from the funds shall be applied only to carrying out the objects mentioned in Rule 3 of these Branch Rules and to payments to the Division.
- (f) When levies are ordered to be collected in accordance with these Rules such levies shall be collected from members as ordered by the Branch Executive or by the Board of Management.
- (g) Loans, grants and donations of any amount exceeding \$1,000 shall not be made by the District Branch unless the District Branch Board of Management has satisfied itself that the making of the loan, grant or donation is in accordance with the Rules of the District Branch and that, in relation to a loan, that in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory. Loans, grants and donations of an amount exceeding \$1,000 shall not be made unless approved by the Board of Management.

(iv) Books and Records

The Secretary shall keep or cause to be kept all books, records and papers which may be required by law, necessary to the preparation of any return or statement required by law, necessary for the information of the auditor or which may otherwise be required by these rules or by the Board of Management.

(v) Financial Year

The financial year for the accounting purposes of the District Branch shall end at 31 December in each year.

(vi) Trustees

(a) There shall be Trustees of the District Branch Fund.

(b) The Trustees shall be the President and Secretary of the District Branch.

(c) The Trustees shall, under the direction of the Board of Management, prosecute, or if, more convenient, direct any officer to prosecute any member or other person suspected by them of any offence, legally punishable with reference to the affairs of the District Branch and they may themselves institute, or if more convenient, may direct any officer or officers to institute civil proceedings against any member or other person refusing to give up possession of any of the Division's or any District Branch property: or doing or neglecting to do any act so as to render himself/herself or themselves liable to proceedings in reference to the Division's affairs, or the affairs of the District Branch.

(d) All funds, investments and other property of the District Branch shall be vested in the Trustees as joint tenants and be held by them in trust for the members of the District Branch.

(e) The Trustees and/or the Board of Management shall without prejudice to any further power and duties conferred by these rules and by statute be vested with all and every of the powers and duties with which Trustees may lawfully be vested. The Board of Management shall have all necessary powers with regard to the bringing or defending of any action, suit, prosecution or complaint in the name of the District Branch or authorise the Trustees to institute such proceedings.

(f) The Trustees shall have power:

(1) To receive monies or other property paid, delivered or conveyed to them as Trustees of the District Branch and to expend monies without distinction between capital and income.

(2) To invest, sell, exchange or otherwise dispose of investments or other property of the District Branch and to deal with the funds of the District Branch including purchase or otherwise acquiring of property out of the funds of the District Branch.

(3) To lend and advance money or give credit to any person or corporation; to guarantee, and give guarantees or indemnities for the payment of money or the performance of contracts or obligations by any person or corporation; to secure or undertake in any way the repayment of moneys lent or advanced to or the liabilities incurred by any person or corporation; and otherwise to assist any person or corporation. This sub-rule shall be subject to sub-rule 10(iii)(g).

- (4) To borrow or raise or secure the payment of money and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the District Branch in any way, and to purchase, redeem or pay off any such securities.
- (5) To lease, licence, hire or otherwise give and acquire rights to use or occupy property of the District Branch and for the purposes of the District and to carry on any business of the District Branch.

For the purposes of exercising a power listed above, the Trustees shall have all such powers ancillary or incidental to or conducive to the exercise of that power as they would have if they were exercising the listed power by employment of funds or in relation to property beneficially owned by them and were acting in a personal as against a fiduciary capacity.

The powers conferred by this sub-rule shall be in addition to such powers as are conferred upon Trustees by any law for the time being in force in Australia or any of its States or Territories (every one of which statutory powers the Trustees shall be deemed to have notwithstanding that the power is exercised outside Australia or the State or Territory under the law of which same is conferred) and shall not be construed to be limited or restricted to or by the statutory powers or so as to impose upon the Trustees any duties imposed by law upon Trustees exercising the statutory powers.

The Trustees shall be fully and effectually indemnified out of the funds of the District Branch in respect of any personal liability incurred in a proper exercise of the powers given by this rule or by law and shall not be liable to the District Branch or any of its members for loss incurred in a proper exercise of such powers.

(vii) Auditor

- (a) There shall be one auditor who shall be appointed in accordance with the requirements of the Fair Work (Registered Organisations) Act 2009 (or successor legislation).
- (b) The auditor shall be elected annually by the Board of Management and shall be eligible for re-election.
- (c) The auditor's duties shall be to audit the accounts at the end of the financial year or when required by the Board of Management. He/she shall also audit Lodge Books when authorised to do so by the Branch Officers.
- (d) On all occasions the auditor shall furnish a report as to the state of the books and such report will be submitted to the members together with the Balance Sheet.
- (e) Should at any time the position of Auditor become vacant, it shall be filled in accordance with the provisions contained within these Rules.
- (f) The selection of an auditor, the presentation of the accounts and certificates by the auditor and all other matters to do with the audit, the keeping of and presentation of accounts to the Board of Management and to the membership, shall be according to the requirements, forms and procedures of the law affecting the accounting and auditing practices of organisations registered under the provisions of the *Fair Work (Registered Organisations) Act 2009*.

(viii) Seal

The Seal of the District Branch shall be held by the Secretary and shall be used by him/her for all purposes of the District Branch for which it may be required. The affixture of the seal to any instrument shall be attested under the name of the Secretary and such other members of Executive as the Executive may decide.

(ix) Registered Office

The registered office of the District Branch shall be such place in the Southern Region as may be decided upon by the District Branch Board of Management from time to time. The District Branch shall also maintain an office in the Western Region unless otherwise decided upon by the District Branch Board of Management.

(x) Access to Books

Each member of the District Branch shall have access at all reasonable times, to the books of the Branch on applying to the Branch Secretary.

(xi) Person to Sue

The District Branch Secretary shall be the person to sue or be sued for and on behalf of the District Branch.

(xii) Political Funds

(a) The District Branch Board of Management shall be empowered to recommend to the members of the Branch a voluntary payment per annum for a political fund. Monies derived from this source shall be paid into the Branch Office and such monies so received shall be paid into a fund which shall be used only for political purposes.

(b) Contributions to the Political Fund shall not be a condition of admission to or of membership of the Branch. A member who does not contribute to this fund shall not be excluded from the benefits of the Branch by reason of his/her failure to so contribute to the political fund. Only those members who contribute to the political fund shall be allowed to enjoy the privileges for which the fund is created.

(xiii) Payment of Officers and Delegates

All Officers and Delegates, other than full-time Executive Officers and full-time District Check Inspectors, when performing work for the Branch shall be paid out of the funds of the Branch such remuneration as may be determined from time to time by the Board of Management provided that where there has been a determination by the Central Council of the Division of the level of such remuneration, Officers and Delegates shall be paid in conformity with that determination. Travelling and other expenses shall also be allowed to representatives to the District Branch Board of Management as prescribed from time to time by the Board of Management.

(xiv) Fines

All fines for violation of the Branch Rules shall be paid into the general Fund unless otherwise provided for.

- (i) Formation of Lodges
  - (a) The District Branch Executive shall take whatever steps are necessary to establish Lodges of the District Branch at all mines or worksites in the South Western District.
  - (b) A Lodge is a local grouping of members, established to enable members to participate more effectively in the affairs of the District Branch and to give collective expression to the interests, concerns and views of the members who work in the Lodge.
  - (c) Where there is no Lodge at a mine or where a new mine has started work and the District Executive is of the opinion that a Lodge should be formed, the Executive shall announce, in whatever way is best suited to the circumstances of the mine, that a meeting will be held of eligible workers for the purposes of forming a Lodge of the District Branch. The announcement shall state that officers of the Lodge will be elected at the foundation meeting.
  - (d) Any foundation meeting shall be chaired by a member of the District Branch Executive.
  - (e) The foundation meeting shall be conducted according to the Standing Orders for District Branch Lodge meetings.
  - (f) The foundation meeting shall elect a committee, officers and representatives as required by these rules.
- (ii) Where there are no Lodges
  - (a) Any member of the Division starting work at a mine or other workplace in the South Western District where there is no Lodge of the District Branch shall pay to the Secretary of the District Branch or authorised delegate all subscriptions, contributions, fees, dues and levies which shall be determined as payable by him/her by the District Executive.
  - (b) Where less than twenty five members work at a mine they may form a Lodge but shall be under the direct supervision of the Branch Executive.
- (iii) Management of Lodges
  - (a) Each Lodge shall be managed by a Committee consisting of a President, Secretary, Treasurer and three other members.
  - (b) The Committee shall be elected by the Lodge annually. The Board of Management may make guidelines for the conduct of Lodge elections.
  - (c) No member under eighteen years of age shall be eligible to hold Office or serve on the Committee.
  - (d) Three members of the Lodge Committee shall form a quorum.
  - (e) All Lodge meetings shall be conducted according to the Standing Rules of the Division.



- (f) All members of the Lodge shall have equal voting power on all questions put to a meeting of the Lodge except that in the event of equal voting on any question the Chairman shall have a casting vote.
- (g) Lodges shall meet monthly or as determined by the Lodge Committee.
- (h) All meetings of Lodges shall be convened by Notice posted on the Lodge Notice Board or by such other means as may be convenient.
- (i) Lodges shall be empowered to exempt any member from attendance at Lodge meetings owing to infirmity or other reasonable cause.
- (j) Each Lodge shall have power to make by-laws for its own guidance and control of its members. Such by-laws shall not be in contravention of the rules of the Division or the District Branch and shall not become operative until submitted to and approved by the District Board of Management.

(iv) Powers and Duties of Lodge President

The President shall preside at all meetings and in conjunction with the Secretary and Treasurer ensure that the Rules of the Division, the District Branch and the Lodge are carried out. The President shall act as advocate and spokesman for the Lodge and generally act in the interests of the membership.

(v) Powers and Duties of Lodge Secretary

The Secretary shall, in conjunction with the President and Treasurer ensure that the Rules of the Division, the District Branch and the Lodge are carried out. The Secretary shall be responsible for keeping the books and records of the Lodge including a minute book for recording resolutions of Lodge meetings, a register of agreements made with the employer at the mine, and a record of the contributions, fines, fees, levies and other monies paid by members of the Lodge.

The District Branch shall provide each Lodge Secretary with the necessary books in which he/she shall enrol the names of all members of the lodge with an account of all monies received and expended.

When entering the names of members in the Lodge register he/she shall also enter the date and time when all new members start work.

Each Lodge Secretary shall produce his/her Lodge Books to the Branch Officers and Board of Management when called upon to do so.

All books, tickets and documents held by any Lodge Officers or members relating to the District Branch shall be the property of the District Branch and shall be surrendered to the District Branch Executive upon demand. Where a Lodge has closed, the Secretary of such Lodge shall forward to the Branch Secretary all Branch and Lodge Books in his/her possession.

If any Lodge Officer or member fails to comply with these rules he/she may be expelled by the Board of Management.

The Secretary shall also produce his/her books for inspection when called upon by the majority of the Lodges of which he/she is Secretary.

The Secretary shall keep the Lodge Books in accordance with the system approved by the District Branch Board of Management.

(vi) Powers and Duties of Lodge Treasurer

The Treasurer of each Lodge shall administer any financial matters associated with the Lodge and its members that are not otherwise administered by the District Branch Secretary.

(vii) Duties of Lodge Committee

The Committee of each Lodge shall see that the health and lives of their fellow workmen are protected to the utmost and shall deal with all matters affecting the interests of the Lodge. Each member of that Lodge Committee shall, amongst his or her other duties with respect to the Lodge, be a delegate for members of the Lodge.

(viii) Strikes

(a) Before a stoppage of work takes place at any mine, the Committee of the Lodge shall fully investigate the cause of the dispute and endeavour to effect a settlement. Failing a settlement being obtained by the Lodge Committee, the dispute shall be immediately referred to the District Branch Executive who shall inquire into and endeavour to bring about a satisfactory settlement of the dispute.

(b) No Lodge or members of a Lodge shall cease work without the sanction of the District Branch Executive.

(c) Any Lodge or members of a Lodge failing to comply with these Rules shall not be financially supported by this Branch.

(d) The Branch Executive Officers shall endeavour to adjust any matters in dispute failing which they shall have the power to refer such dispute to the Board of Management.

(e) Notwithstanding anything contained in this Rule, the Lodge or members may where danger in the mine is apprehended, cease work immediately without reference to the District Branch Executive.

(ix) Private Agreements

(a) No Lodge shall be permitted to enter into any agreement with the employer without the sanction of the Branch Executive and/or the Board of Management.

(b) The fine for violation of this Rule by a Lodge shall not exceed one hundred dollars.

(x) Members not to Work When Mine is Idle

(a) When a mine is idle, members of this Branch shall not enter the mine unless with the permission of the District Executive.

(b) The fine for violation of this Rule by a member shall not exceed one hundred dollars for each offence.

(xi) Youths

No member of this Branch under the age of 18 years shall be allowed to work as a miner on a coalface or brushing tops or any work where he/she would be obliged to use explosives or on any work usually performed by adults.

(xii) Expulsion or Suspension of Lodges or Members

(a) Any Lodge or member of this District Branch refusing to comply with the decision of the majority of this Branch shall be expelled from the Branch and shall not be entitled to any benefits or privileges of the Branch.

(b) In cases of suspension or expulsion, the Lodge and/or members shall pay up all arrears before being readmitted to the Branch.

(c) Any member or Lodge expelled or suspended under this rule shall have the right to appeal against the decision to the Central Council of the Division.

(xiii) Demand by Lodges for Dismissal of Officer

No Lodge shall send to the District Branch Board of Management a notice of motion asking for the resignation of a District Branch Officer unless some specific charge is laid against such Officer in writing and he/she has been given the opportunity to attend the Lodge to vindicate himself/herself and no such motion shall be allowable unless at least fifty per cent of the Lodge are present or a Ballot of the whole of the members of the Lodge has been taken. The cost of such a Ballot shall be defrayed by the Lodge.

(xiv) Notice Before Reduction and/or Alteration of Working Conditions

All Lodges in this Branch shall demand fourteen days notice before submitting to any alteration in the mode of working or to any reduction in the rates of pay.

## 12 – ALTERATION OF RULES

(i) New District Branch Rules may be made and any of the Rules of the District Branch may be altered, amended, added to or rescinded by the District Branch Board of Management.

(ii) Proposed new Rules shall be examined and reported on by a rules committee of members of the District Branch Board of Management appointed from time to time as the occasion arises by the District Branch Board of Management.

(iii) The report of the rules committee shall be discussed by the District Branch Board of Management and the proposed rules changes submitted for approval by a majority of the members present and voting at that meeting of the District Branch Board of Management and then submitted for the approval of the membership in the same manner as other District Branch Board of Management resolutions.

### **13 – DISSOLUTION OF THE DISTRICT BRANCH**

While seven financial members remain in the District, the Branch shall not be dissolved. Should the number of members at any time fall below seven the District Branch shall be dissolved. In the event of a dissolution, all monies, after payment of all just debts, shall be held in trust by the Central Council of the Division in a separate fund until such time as a new District Branch containing seven or more members can be formed.

### **QUEENSLAND DISTRICT BRANCH**

#### **1 – NAME**

The name of the Queensland District Branch shall be the Construction, Forestry, Mining and Energy Union, Mining and Energy Division Queensland District Branch (“the District Branch”).

#### **2 – MEMBERSHIP OF THE DISTRICT BRANCH**

The District Branch shall consist of an unlimited number of employees, otherwise eligible for membership of the Union who:

- (a) Are engaged in or in connection with the Coal and Shale Industry,
- (b) Are engaged in or in connection with the Mining or Exploration Industries,
- (c) Are engaged as employees or as employees of contractors, in or in connection with the following industries:
  - (i) power generation, co-generation, transmission and distribution;
  - (ii) oil;
  - (iii) gas;
  - (iv) nuclear; and
  - (v) chemical production.
- (d) Have been elected or appointed as paid officers of the District Branch or whilst financial members of the District Branch are elected as representatives of any working class organisation to which the District Branch is affiliated, or as a working class member of Parliament.

### 3 – OBJECTS

- (i) The objects of the District Branch are:
- (a) To improve the conditions and to protect the interests of the members of the District Branch by increasing the proportionate share of the wealth to the workers and endeavouring to educate and work for the complete abolition of the present wage system and the substitution of the common ownership of the means of production, distribution and exchange.
  - (b) To promote the adoption of laws designed to further the rights and protections of Australian workers, including laws that promote collective bargaining and adherence to international labour standards and to ensure that the Union members enjoy “best practice” in all industrial and safety matters.
  - (c) To uphold the rules of the District Branch and to regulate the conditions under which members may be employed.
  - (d) To promote cooperative workplace relations, wherever employers are prepared to reciprocate and to avoid unauthorised industrial action as far as possible.
  - (e) To provide a weekly allowance for the support of members who may be locked out, or on strike, or have been unlawfully or unfairly dismissed and to resist any unjust regulation connected with their employment.
  - (f) To promote the strongest possible safety and health laws for workers and the strict enforcement of these laws by workers’ representatives and Government agencies.
  - (g) To promote the highest possible level of workers’ compensation benefits and rehabilitation services for workers who have sustained a workplace injury or illness.
  - (h) To pursue the objective of a maximum six ordinary hours working day for all members of the Union.
  - (i) To pursue collective agreements with employers containing terms and conditions that benefit members and to promote and maintain a strong and relevant award system for the benefit of members.
  - (j) To work cooperatively with other Unions, or peak bodies of Unions, that have the same or similar objects as this Union.
  - (k) To encourage all persons working in or about the industries or callings covered by the Union to be members of the Union.
  - (l) To support candidates for election to Local Government and State and Commonwealth Parliament that promote economic and industrial justice for Australian workers and whose policies and values align with that of the Union.
  - (m) To promote and support the use of all forms of electronic and print media as determined by the Board of Management to communicate the principles, policies and priorities of the Union to the membership and the broader community.

- (n) To do any other act provided for in the Rules of the District Branch.
- (o) To raise funds by levies, subscriptions, contributions, donations and loans for all or any of the objects of the District Branch.
- (p) To make such investment decisions or to apply any funds or property owned by the District Branch, or to borrow such monies that the governing bodies of the District Branch decide are necessary in furtherance of the objects of the District Branch.
- (q) To federate or to amalgamate with any trade or industrial union or organisation, or to join or to co-operate with them in any way deemed desirable or necessary for carrying out all or any of the objects set out herein.
- (r) To carry on or participate directly or indirectly alone or with others in the carrying on of any mining or prospecting operation and related activities thereto.
- (s) To take, subscribe for or otherwise acquire and hold any interest in shares, debentures, stock or other security of any company or trust or acquire any interest in any company or trust to achieve the furtherance of any of the objects of the District Branch.
- (t) To raise funds whether by loan or otherwise for all or any of the objects of the District Branch and to invest such funds in such manner as the District shall see fit.
- (u) To purchase, take on lease or in exchange, hire and otherwise acquire and sell any real and personal property and any rights or privileges which may be necessary or convenient for the furtherance of any of the objects of the District Branch.
- (v) To support bona fide charitable and other worthy causes consistent with the interests of members of the Union. Such support may include, but is not limited to, donations to community groups, relief funds, individual and other humanitarian, environmental, social or similar causes.
- (w) To promote the cooperation of trade unions internationally and to support the rights of workers throughout the world to bargain collectively free from Government and employer oppression.
- (x) Generally to do all acts, matters and things that are in the best interests of members.

#### **4 – MEANS**

For the purposes of carrying out all or any of the objects of the District Branch funds may be raised by entrance fees, subscriptions, donations, levies, contributions, due and loans.

## 5 – MEMBERSHIP

- (i) Applications
- (a) All persons working in any capacity or doing any work falling within the scope of Rule 2, Membership of the District Branch shall be eligible for membership of the District Branch. Membership of the District Branch means membership of the Division and the Union.
  - (b) A candidate for membership of the District Branch shall apply for membership to the District Secretary or his/her designate, in writing on the form prescribed and supplied by the District Branch for that purpose.
  - (c) Upon approval of application by the District Secretary or his/her designate, a candidate for membership shall be deemed to be a member of the District Branch from the date of the day of receipt of the membership application form by the District Secretary.
  - (d) Notwithstanding anything hereinbefore contained, the District Secretary may refer any such application to be considered and approved or not approved by the Board of Management. In such a case, a candidate shall not become a member of the Division until the Board of Management has approved the application and the District Secretary has notified the candidate to that effect in writing. The candidate in such a case shall be a member of the District Branch from the date of the day of the District Secretary's letter of notification to the candidate. Where the District Board of Management or the District Secretary decides against the admission to membership of a candidate, the candidate shall have a right of appeal as per rule 6(i)(b) of the Divisional Rules.
  - (e) When a candidate is admitted to membership of the District Branch, the new member's name, address and date of admission shall be:
    - \* entered in a Lodge Register of Members, (when the candidate joins a Lodge); or
    - \* entered in a District Register of State Members, which shall be kept by the District Secretary; and
    - \* entered in a District Register of Members, which shall be kept by the District Secretary; and
    - \* entered in the Register of Members, which shall be kept by the Division.
  - (f) Membership of the Division is subject to the Division's Rules.
- (ii) Subscriptions and Fees
- (a) Every member shall pay such fines, fees, levies and subscriptions as may be prescribed or imposed from time to time according to the Rules of the District Branch.

- (b) There may be an entrance fee payable by a candidate for membership of the District Branch on his or her admission to membership. The entrance fee shall be determined by the Board of Management. Entrance fees shall be retained by the District Branch.
  - (c) Subscriptions, fines, fees and levies owing by a member of the District Branch may be paid to the District Secretary or a person authorised by the District Secretary.
  - (d) Subject to sub-rule 5(iii), any member owing subscriptions, fines, fees or levies or any of them for more than fourteen days shall not be entitled to any of the privileges of membership, including the right to vote, and shall be liable to be sued for the recovery of amounts owed to the District Branch.
  - (e) No member who has left the industry without paying all fines, fees, levies and subscriptions due to the District Branch shall become a financial member of the Union again until considered by the Board of Management and permission has been given by the District Board for the member to regain financial status.
  - (f) Any member deemed unfinancial under sub-rule 5(ii)(d) shall be deemed to have become a financial member of the District Branch again from the date of the completion of payment by him or her of all amounts owing to the District Branch. However, if a member has become unfinancial as a result of extenuating circumstances outside of the member's control, they may also be deemed financial if the District Secretary approves a repayment plan for all subscriptions, fines, fees and levies owed. If such a plan is approved then the member shall be deemed financial from the date of such approval. Continuity of membership may be restored from the date of completion of payment of all sums owing to the District Branch.
  - (g) Membership subscriptions shall be set by Annual Central Council of the Division and shall be payable for fifty two weeks per year.
  - (h) Members on compensation shall pay subscriptions as if at work, however, members receiving compensation for permanent and total incapacity shall be exempt from paying subscriptions, fees and levies.
  - (i) District Branch subscriptions shall be at a rate to be determined by the Board of Management.
- (iii) Sick, Unemployed and Parental Leave Members
- (a) Any member registered in accordance with this Rule as an unemployed member and/or member on sick or parental leave of absence, shall be entitled to the privileges of membership and shall be entitled to vote on all matters affecting the District Branch excepting on any matter upon which any decision might be made which would or might involve the District Branch in the declaration of a strike or in a stoppage of work or in the making of a levy or levies upon the members of the District Branch.
  - (b) Any member unable to pay subscriptions, fines, fees or levies by reason of his or her being unemployed and/or on sick or parental leave of absence and wishing to retain the rights and privileges conferred on him or her by these rules, shall be registered at least once in every quarter in the District Quarterly Register of Sick, Unemployed and Parental Leave Members ('the Register').



- (c) An unemployed and/or sick or parental leave member may apply to the District Secretary to be placed on the Register. The applicant shall then be duly registered for a period of three months from the approval of his or her application. The Board of Management shall have the power to remove the name of any member from the Register for any reason it thinks fit. A member who is placed on the Register has an obligation to inform the District Secretary immediately upon recommencing work or obtaining employment. When a member has informed the District Secretary of such a change of circumstances he or she shall be removed from the Register.
  
- (iv) Resignations
  - (a) A member may resign from membership by written notice delivered to the District Secretary;
  
  - (b) A notice of resignation from membership takes effect:
    - (i) Where the member ceases to be eligible to become a member of the Union;
      - (1) on the day on which the notice is received by the District Branch;  
or
      - (2) on the day specified in the notice, which is a day not earlier than the day when the member ceases to be eligible to become a member; or
      - (3) in the case of a member who pays by weekly instalment, on the last day of effect of the member's last fee payment to the District Branch;whichever is the later; or
    - (ii) In any other case:
      - (1) at the end of 14 days after the notice is received by the District Branch; or
      - (2) on the day specified in the notice;whichever is the later.
  
  - (c) Any dues payable but not paid by a former member in relation to a period before the member's resignation took effect, may be sued for and recovered in the name of the District Branch, in a Court of competent jurisdiction as a debt due to the District Branch.
  
  - (d) A notice delivered to the District Secretary shall be taken to have been received by the District Branch when it was delivered.
  
  - (e) A notice of resignation that has been received by the District Branch is not invalid because it was not addressed and delivered in accordance with sub-rule (a) above.
  
  - (f) A resignation from membership is valid even if it is not effected in accordance with this rule if the member is informed in writing by or on behalf of the District Branch that the resignation has been accepted.

## 6 – ENTITLED TO VOTE

Subject to Rule 5, the members entitled to vote on any question shall be: all financial members working in the industries; all financial members unemployed or on sick or parental leave of absence; members registered according to Rule in the District Quarterly Register of Sick, Unemployed and Parental Leave Members.

## 7 – DISTRICT BRANCH CONVENTION

- (i) Elections
  - (a) There shall be a quadrennial meeting of representatives of the Queensland District Branch of the Construction, Forestry, Mining and Energy Union, Mining and Energy Division called the Queensland District Branch Convention.
  - (b) The Convention shall be composed of one delegate from each lodge in the District Branch, the District Branch Executive Officers, the District Branch Central Councillors and the members of the Board of Management.
  - (c) The District Branch Executive Officers, the District Branch Central Councillors and the members of the Board of Management shall be members of Convention ex officio.
  - (d) Lodge representatives to the Queensland District Branch Convention shall be nominated by each Lodge and shall be drawn from the members of the Lodge.
- (ii) Meetings
  - (a) District Branch Convention shall meet once in every four years and no later than six months after the Division's general election.
  - (b) All expenses of the Convention shall be met by the District Branch, excluding the expenses of the Lodge delegates.
  - (c) Standing Orders and the Code of Conduct for Convention shall be in accordance with the Standing Orders and Code of Conduct Policy of the District Branch as determined by the Board of Management.
  - (d) The Board of Management shall determine the dates on which Convention is to meet.
  - (e) Four months before Convention is to meet the District Secretary shall notify each Lodge Secretary in writing of the meeting of Convention and call for each lodge to submit agenda items. The District Secretary shall allow at least two months for agenda items to be submitted. The District Secretary shall, one month before Convention meets, prepare an agenda and send a copy to lodge secretaries and lodge representatives to Convention. Convention shall have the right to accept further agenda items submitted during the course of Convention.
  - (f) The District President shall be the Chairperson of the Convention. The District Secretary shall act as Secretary to the Convention.

- (g) Only Lodge representatives to Convention and the District Branch Executive Officers shall have a deliberative vote excepting the Chairperson who shall have a casting vote as well as a deliberative vote.
- (iii) Powers and Duties of Convention
  - (a) Convention is an advisory body and its resolutions have the status of non-binding recommendations.
  - (b) Convention has the right to consider and debate all matters of relevance to the District Branch, including policies, finances, rules and other matters.
  - (c) All resolutions of Convention that are duly passed, shall be submitted as agenda items at the next scheduled Board of Management meeting of the District Branch after Convention is held. The Board of Management must consider the resolutions of Convention before any other substantive business is conducted. If approved by the Board of Management, the resolutions of Convention shall be put to a vote of members as per sub-rule 8(iv).

## 8 – BOARD OF MANAGEMENT

- (i) Elections
  - (a) The Queensland District Branch shall be controlled and directed by the Board of Management, (within the Queensland District Branch Rules generally referred to as “the Board of Management”) which is the Committee of Management of the Branch.
  - (b) The Board of Management shall be composed of the District President, District Senior Vice-President, District Secretary, District Central Councillors and representatives of Lodges and members elected on a divisional basis. For the purposes of this rule, members of the District Branch who are not members of a Lodge are referred to as “State Members”.
  - (c) Representation from the Lodges and State Members on the Board of Management shall be based on one representative per Division. The number of Divisions on the Board of Management shall be determined by the Board of Management at the Annual General meeting of the Board in the year preceding a General Election. There shall be no less than five Division based representatives on the Board of Management, unless the membership of the District Branch falls to below 2000 members, in which case the Board of Management may determine to have a smaller number of Division representatives.
  - (d) The Board of Management shall allocate each Lodge and each State Member to a Division taking into account, as far as practical, the geographic location of Lodges, the industries and callings of members and the general aim of achieving an approximate parity of voting members in each Division. Nominations for a Division representative will be called from only those members allocated to that Division and the election will only be made by members allocated to that Division.
  - (e) Division representatives shall be elected every four years according to the Ballot Rules of the Construction Forestry Mining and Energy Union Mining and Energy Division.

- (f) Should any member of the Board of Management die or resign, or otherwise cease to be a member of the Board, the Division from which he or she was elected shall forthwith elect in her/his place another representative.

Until such an election is held the Board of Management shall have the power to appoint a member to fill the vacancy, provided however, that such representative so appointed shall hold office for the same period only as her/his predecessor could have done or until the Division shall elect another representative, and, in any event, for only so much of the unexpired part of the original period of office as does not exceed three quarters of the original period.

Any representative appointed under this sub-rule shall have the right to nominate in the election for representatives from her/his Division next following her/his appointment as representative and to any other election of representatives.

- (g) When a new Lodge is formed the Board of Management shall allocate the Lodge to an existing Division. Provided that, in accordance with sub-rules 8(1)(c) and (d) above, the Board may allocate the new Lodge to a different Division for the purposes of a General Election.
- (h) Notwithstanding anything else in this Rule, the existing offices of the Lodge representatives on the Board of Management (including those representing State Members) elected in the 2016 General Elections shall continue for the remainder of the term.
- (i) A member eligible for election may only nominate for one (1) elected position at any time.

(ii) Meetings

- (a) The Board of Management shall meet at least three times a year and in addition a meeting shall be held immediately upon the conclusion of District Convention in order to discuss and vote upon resolutions arising from the Convention. The Board of Management shall meet at such other times as the Executive of the District Branch may deem necessary. The Board of Management shall determine which of its meetings will be the Annual General Meeting.
- (b) At least three Officers of the Board of Management of the District Branch, excluding the District Branch Executive Committee Officers and in addition at least two District Branch Executive Committee Officers must be present at each meeting of the Board to form a quorum.
- (c) The District President, District Senior Vice-President, District Secretary, District Councillors and each of the Lodge representatives shall have a deliberative vote at any meeting of the Board. The District President shall in the event of the Board being equally divided on any question, be entitled to a casting vote. Every member of the Board of Management shall vote either for or against any proposition put to the meeting.
- (d) Any officer or representative absenting himself or herself from any meeting of which s/he has been duly notified, by the District Secretary, in writing, at least seven days before the date of the meeting, without giving an explanation which is accepted by a majority of the members attending and voting at the next subsequent meeting of the Board, may be fined a sum not exceeding two hundred dollars as the Chairperson may direct.

## 8 – BOARD OF MANAGEMENT

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- (e) A special meeting of the Board of Management may be convened by a majority of the Executive, or upon written request to the District Secretary or District President to call such special meeting signed by at least one representative from each of at least three Divisions. Upon receipt of such a request, the District Secretary or the District President shall convene a meeting of the Board.
  - (f) The District Secretary shall issue or cause to be issued to Board members, a notice of the date of the Board of Management meeting at least fourteen days prior to the date of the meeting. S/He shall issue or cause to be issued an agenda paper to members of the Board at least fourteen days prior to the meeting of the Board of Management.
- (iii) Lodge Business
- (a) Any Lodge having business for the consideration of the District Branch, after having dealt with same locally, shall forward it to the District Secretary to be submitted to the next following meeting of the District Branch Executive or of the Board of Management.
  - (b) Each Lodge Secretary shall forward to the District Secretary within twenty eight days from receiving same, or such other time as the Board may determine, the decision of her/his Lodge on any business that may be sent to it for its consideration by the District Branch Executive or Board of Management. The decision of any Lodge failing to comply with this Rules shall be null and void.
  - (c) The District Branch Executive or the Board of Management may, upon requisition from Lodges whose combined financial membership is not less than twenty per cent of the District Branch call a Board of Management meeting. The business to be done at such meetings shall be limited to that stated in the decision or requisition covering the meeting.
- (iv) Endorsement of Decisions
- (a) All business transacted by the Board of Management shall be confirmed before the meeting concludes and copies of the confirmed minutes shall be sent to the Lodges of the District Branch.
  - (b) The executive committee of each Lodge shall submit the confirmed resolutions of the Board to a meeting of the Lodge membership. The Secretary of each Lodge shall record the number of votes for and against each Board resolution. The Secretary shall send a return of the votes, signed and dated by her/him, to the District Secretary within the timeframe set by the District Secretary or such other time as the Board shall direct.

- (c) The District Branch shall convene meetings of State Members to consider the resolutions of the Board of Management and other Union business. The meetings of State Members shall be chaired by an officer of the District Branch and shall be open to all State Members that are able to attend. There shall be no minimum quorum requirement in relation to a meeting of State Members and the officer shall record all votes by State Members attending, provided he or she is satisfied that the members are financial members of the District Branch. Meetings of State Members shall be conducted in accordance with the Standing Orders and Code of Conduct of the District Branch. The meetings of State Members shall be held, as a minimum, in three separate locations throughout the State of Queensland that the District President determines would best facilitate the participation of State Members. The District President shall also determine the best means of advertising the meeting of State Members.
- (d) A resolution of the Board of Management shall become the binding policy of the District Branch if an aggregate District majority of the members of the District Branch attending and voting at Lodge and State Member meetings which consider the Board of Management resolutions, vote in favour of the resolution/s. For the avoidance of doubt, the failure of one or more Lodges to send to the District Secretary a return of votes within the specified time shall not invalidate the existence of an aggregate District majority achieved under this sub-rule. That is, an aggregate majority is defined as a majority of those Lodge and State Members who voted and for whom returns were received within the specified time.
- (e) Notwithstanding the other paragraphs of this sub-rule 8(iv) and/or for the avoidance of doubt, resolutions made by the Board of Management relating to any expenditure, donation or loan related to a specific Lodge does not have to be endorsed in accordance with this rule where the expenditure, donation or loan was made at the request of a Lodge and utilises funds that have been otherwise allocated to that Lodge.
- (f) Notwithstanding the other paragraphs of this sub-rule 8(iv), the presentation of the signed auditor's report, general purpose financial report and operating report of the District Branch to the Board of Management shall constitute, and be sufficient for, presentation for the purposes of section 266 of the *Fair Work (Registered Organisations) Act 2009*. Provided that if 5% of the members of the District Branch request a general meeting of the members, or a series of general meetings of the members, to consider the auditor's report, the general purpose financial report, and the operating report, such a meeting or meetings shall be called as soon as practicable following the request.
- (v) Voting other than at Meetings Assembled
  - (a) If the District President or District Secretary considers it advisable to submit any matter, including the imposition of a levy or the alteration or rescission of a Rule, to a vote of the Board of Management at any time when it is not practical to call the Board of Management together, the District Secretary may submit a resolution dealing with the matter to the members of the Board of Management by any electronic means as determined by the Board of Management.
  - (b) The votes on such resolution shall be returnable to the District Secretary at such time as the District Secretary shall fix and shall be subject to the quorum requirements set out in sub-rule 8(ii)(b). The result of such vote shall be binding and enforceable in the same manner as a decision arrived at in a meeting of the Board of Management assembled.

- (c) The matter shall be recorded in the minutes on the next Board of Management meeting held following the vote.

(vi) Powers and Duties of the Board of Management

The powers and duties of the Board of Management shall be as follows:

- (a) To promote the objectives of the District Branch.
- (b) To deal with any grievances arising at any of the Lodges or from members of the District Branch in relation to work, wages and conditions; to consider appeals for other Unions, and transact the business of the Union.
- (c) To expend funds, acquire property, enter into loans and mortgages, make investment decisions and to generally make such financial decisions as are necessary and desirable in furtherance of the objects of the District Branch.
- (d) To decide the industrial policies and priorities of the District Branch.
- (e) To hear any appeal from any Lodge or members thereof.
- (f) To make, impose, order and enforce any levy, fee or subscription, on all members of the District Branch.

No District Branch Funds or money are to be granted to any political organisation without first being submitted to and endorsed by the majority of members of the District Branch.

- (g) To inflict any fine on any member or Lodge.
- (h) To suspend or expel any member or Lodge of the Union, if such member or Lodge refuses to carry out the Rules of the Division or the District Branch, or to carry out any decision when instructed to do so by the Board of Management. Where the Board of Management decides to suspend or expel any member or lodge an explanation of the decision by the Board of Management shall be sent by the District Secretary in writing to the Secretary of the Lodge or the member concerned. The Lodge Executive or the member shall have power to appeal against the Board of Management's decision at the next following meeting of the Board of Management and to address the Board verbally and/or in writing in support of the appeal. The Board of Management decision then shall be final subject to any other rights of appeal that may apply to the Member or Lodge contained elsewhere in the Rules of the Division or Union and based on the specific circumstances of the matter.
- (i) To receive and adopt or otherwise deal with the annual report and balance sheet of the District Branch.
- (j) To fix, reduce, increase or alter the salaries and allowances of all the officers of the District Branch.
- (k) To determine the number and location of District Vice-Presidents and to determine the number of Division representatives on the Board of Management and the apportionment of Lodges and State Members to those Divisions.
- (l) To reverse any decision of any Lodge, subject to sub-rule 8(iv), and generally to do all acts, business or things which the Board of Management decides are proper for the achievement of the objects established in Rule 3 of these Rules.

- (m) To initiate any legal proceedings in any court or arbitral tribunal relating to any matter within the authority of the District Branch.
- (n) To authorise the payment of any allowance, subsidy, grant or other sustenance to any member of the District Branch whose circumstances the Board of Management determines justify the granting of such sustenance.

## 9 – DISTRICT BRANCH EXECUTIVE

### (i) Executive Officers

- (a) The District Branch Executive shall consist of the District President, District Senior Vice-President, District Vice Presidents and District Secretary. The Board of Management shall determine the number and location of each District Vice-President for the purposes of the election of the District Vice-President/s taking into account the operational needs and financial position of the District Branch at the Annual General Meeting of the Board of Management in the calendar year before the General Election.
- (b) The Executive Officers shall be elected by the Membership of the District Branch each four years according to the Ballot Rules of the Division. The Officers shall take office for a term of four years.
- (c) Each officer shall remain in office unless s/he resigns her/his position by writing delivered at least one month in advance of the intended date of resignation, or unless removed from office.
- (d) A person elected to office in the District Branch shall not be dismissed from office unless found guilty by the Board of Management of misappropriation of the funds of the District Branch, a substantive breach of the Rules of the Division or District Branch, gross misbehaviour, gross neglect of duty or has ceased according to the Rules to be eligible to hold office. Where dismissal of an officer under this sub-rule is contemplated the Board of Management shall appoint a Committee of three Board members to investigate and report on the case. Where dismissal of an officer under this sub-rule is contemplated the officer concerned shall have presented to the officer by the Board's investigating committee a written statement of the charges alleged against the officer. The officer shall have full freedom to make a verbal and/or written response to the charges, and bring such material or witnesses as may be relevant to the charges, to both the investigating committee and the meeting of the Board of Management which hears the report of the investigating committee. There shall elapse a period of not less than one month, or any greater period the Board shall determine, between the delivery to the officer concerned of the written statement of charges against the officer, and the hearing by the investigating committee of the officer's response to the charges. The officer may if he wishes waive all or part of the minimum one month period of notification.

The decision of the Board of Management shall not take effect until endorsed by an aggregate District majority of members attending and voting at Lodge and State Member meetings at which the business of that Board of Management meeting is considered.

- (e) Where the Board of Management determines to fill any extraordinary vacancy which occurs in an Executive Officer position within the District Branch it shall be filled by the holding of an election in accordance with the Ballot Rules of the Division and the member so elected shall hold office for the remainder of the term for which the previous holder of the office was elected, provided that where the remainder of the term does not exceed:



- (1) Twelve (12) months; or
- (2) Three-quarters of the office;

Whichever is the greater;

The Board of Management may appoint by resolution any eligible member of the District Branch to act in that office for the remainder of the term.

- (f) The executive officers shall remain financial members of the Construction, Forestry, Mining and Energy Union, Mining and Energy Division and retain full membership rights of the Lodges of which they were members at the time of their election to District Branch Office.
  - (g) Any member eligible for election may only nominate for one (1) elected position at any time.
- (ii) Duties of Executive Officers

- (a) The District President

The District President shall act in conjunction with the District Vice-Presidents and District Secretary in transacting the general business of the District Branch and, in the absence of the District Secretary, shall attend to the correspondence of the District Branch. The District President shall preside at all meetings of the Board of Management or meetings called by the District Branch, except where s/he is unavailable due to a genuine absence. The District President shall assist the District Secretary in the preparation of annual reports and accounts and arrange with the District Secretary for the attendance of either at important meetings of the Lodges. The District President shall act as advocate for the District Branch and ensure that the rules are carried out in the Lodges. The District President shall receive for her/his services such remuneration as shall be agreed upon from time to time between her/himself and the Board of Management.

- (b) The District Senior Vice-President

The District Senior Vice-President shall act in conjunction with the District President and District Secretary in transacting the general business of the District Branch. The District Senior Vice-President shall, in the absence of the District President, perform the duties of the District President, and on instruction of the District President, deputise for the District President. S/he shall receive for her/his services such remuneration as shall be agreed upon from time to time between s/he and the Board of Management.

- (c) The District Vice-Presidents

The District Vice-Presidents shall act in conjunction with the District President, District Senior Vice-President and District Secretary in transacting the general business of the District Branch. The District Vice-Presidents shall, in the absence of the District President, and District Senior Vice-President perform the duties of the District President, and on instruction of the District President, deputise for the District President. They shall receive for their services such remuneration as shall be agreed upon from time to time between themselves and the Board of Management.

- (d) The District Secretary

The District Secretary's duties shall be to keep separate accounts of all monies received or paid on account of every particular fund and to keep separate accounts

of the expenses of management and of all contributions on account thereof; and with the assistance of the District President and District Senior Vice-President, prepare such financial statements and reports as may be required and submit them to the first Board of Management Meeting after the end of the financial year. The District Secretary shall subsequently provide signed copies of such statements and reports and a signed copy of the auditor's report to members of the District Branch.

The District Secretary shall attend, and shall be responsible for the recording and keeping of minutes of all Board of Management meetings except where the District Secretary is unavailable due to a genuine absence.

The District Secretary shall, with the District President and District Senior Vice-President, attend to all correspondence, watch the interests of the District Branch and do all in the District Secretary's power to advance the members' interests generally.

The District Secretary shall arrange with the District President for attendance of either at important meetings of the various Lodges, and also be empowered with the concurrence of the District President to call special Board of Management Meetings in all cases of emergency. The District Secretary shall be responsible to the Board of Management and shall receive such remuneration as shall be agreed upon from time to time between her/himself and the Board of Management.

(iii) Meetings of the District Branch Executive

- (a) The District President or District Secretary may convene a meeting of the District Branch Executive at any time by oral or written communication to the other members of the Executive.
- (b) A quorum of any meeting of the Executive shall be three.
- (c) The chairperson of any meeting of the Executive shall have a deliberative but not a casting vote.
- (d) Where matters are due to be decided by the Executive and an officer cannot be present, s/he may, if s/he wishes record a vote by any electronic means as determined by the District Branch Executive. In such an event the decision of the majority shall be valid as had they assembled.

(iv) Powers of the District Branch Executive

The Executive shall, subject to the review of its actions by the next ensuing meeting of the Board of Management have the care, control, custody and superintendence, management and administration in all respects of the affairs, funds and property of the District. The powers of the Executive shall include the following:

- (a) To suspend any member of the Executive or of the Board of Management or representative of the District Branch on any Board or body for any breach of infringement of the Rules of the Division or District Branch or for any misconduct or dereliction of duty or any misapplication respecting the whole or any part of the funds, monies or other property of the Union or non-compliance with or disobedience of any request or order contained in any resolution of the Central Council or the Board of Management and to inflict any fine. Where action is taken by the Executive under this sub-rule there shall be a general right of appeal by the member, representative, councillor or body affected, to the Board of Management. This sub-rule shall be read subject to sub-rule 9(i)(d).
- (b) To initiate, manage and control all actions, proceedings, industrial disputes and other matters and to appoint agents, solicitors or counsel to appear for any representation

of the District Branch or any of its members in any Court or proceedings, legal or otherwise.

- (c) To engage such administrative and professional staff or other assistance that in its opinion are necessary for the proper carrying out of the business of the District Branch and to pay such wages, salaries and allowances, as it shall deem proper.
- (d) To exercise such other powers as may be conferred upon them by the Board of Management or by any Rule of the Division or of the District Branch.
- (e) To appoint Committees or Sub-Committees amongst the members of the District Branch for specific purposes of inquiry and report in respect of any matter that may involve the interests of the District Branch or any member thereof.
- (f) To submit such matters as may appear to it to be of sufficient importance to the Board of Management for decision.
- (g) Industrial agreements may be made, entered into and executed and may from time to time be altered, varied, modified or cancelled by or on behalf of the District Branch by the Executive. Any industrial agreement made, entered into or executed, shall be signed by the District President, District Vice-President or District Secretary. All other documents shall be executed on behalf of the District Branch by the District Secretary, District President or District Vice-President.
- (h) All acts of the Executive done in pursuance of the powers granted it by these Rules shall have full force and effect and be of full validity, notwithstanding anything in these Rules, unless such acts shall be reversed or altered or otherwise dealt with by the next ensuing meeting of the Board of Management.
- (i) The Executive shall, prior to the sitting of any meeting of the Board of Management, prepare an agenda paper. The paper shall set out in such form as the Executive may decide the matters to be brought before the Board of Management for consideration, and a copy of such shall be sent to all members of the Board of Management seven days before the meeting.

(v) District Branch Executive Committee

There shall be a District Branch Executive Committee comprising the District President, District Senior Vice-President and District Secretary. The District Branch Executive Committee is also known as the District Branch Administration Committee.

(vi) Powers of the District Branch Executive Committee

The Executive Committee shall, subject to the review of its decisions by the District Branch Executive and the next ensuing meeting of the Board of Management, have the following specific powers and responsibilities:

- (a) To demand and collect or cause to be collected all levies, subscriptions, fines, fees and dues payable by the members;
- (b) To demand, or cause to be made an audit of the accounts and records of the District Branch;
- (c) To incur all necessary accounts and expenditure for the proper upkeep of the District Branch and to pay all sums so incurred;
- (d) To demand, receive and keep possession of all accounts and records of the District Branch;
- (e) To incur all necessary accounts and expenditure for the proper upkeep of the District Branch and to pay all sums so incurred;
- (f) To exercise such other powers as may be conferred upon them by the Board of Management or by any Rule of the Division or of the District Branch;
- (g) To submit such matters as may appear to it to be of sufficient importance to the Board of Management for decision;
- (h) All acts of the Executive Committee done in pursuance of the powers granted it by these Rules shall have full force and effect and be of full validity, notwithstanding anything in these Rules, unless such acts shall be reversed or altered or otherwise dealt with by the next ensuing meeting of the Board of Management.

**10 – ADDITIONAL OFFICERS**

- (a) There shall be up to four District Union Inspectors and four District Branch Central Councillors or such other number of councillors as may be determined from time to time by Central Council in accordance with the Rules of the Division.
- (b) The District Union Inspectors shall be elected every four years by the members of the District Branch according to the Ballot Rules of the Division. The District Branch Central Councillors shall be elected every four years by the members of the District Branch according to the Ballot Rules of the Division. They shall hold office for a period of four years.
- (c) Subject to sub-rule 10(a), the Board of Management shall determine the number and location of the District Union Inspectors for the purposes of the election of the District Union Inspectors taking into account the operational needs and financial position of the District Branch at the Annual General Meeting of the Board of Management in the calendar year before the General Election. The Board of Management shall determine whether the offices are full time or relief.
- (d) The District Union Inspectors shall be responsible to the District Branch Executive.

- (e) A relief District Union Inspector will only take up his or her statutory duties upon a decision of the Board of Management, or the District Executive.
- (f) Each District Union Inspector shall be paid such remuneration as the Board of Management may determine from time to time.
- (g) The Union Inspectors elected in accordance with these Rules shall, in conjunction with the local site safety and health representative elected by the employees working at the coal mine to be inspected, inspect the whole of the coal mines in Queensland and shall record the results of each inspection in a report maintained at the District Branch office. The Union Inspectors shall provide general advice and guidance to members of the District Branch on matters relating to occupational health and safety.
- (h) The District Branch Central Councillors shall be part time officers of the District Branch whose duties shall be to attend meetings of the Central Council of the Construction, Forestry, Mining and Energy Union, Mining and Energy Division as elected representatives of the Queensland District Branch, to attend and address lodges and other meetings of members at the direction of the Board of Management and to attend meetings of the Board of Management. The District Councillors shall be responsible to the District Executive and Board of Management.
- (i) The District Branch Central Councillors and District Union Inspectors elected in accordance with these Rules shall be subject to Rule 9(i)(d), (e) and (f) herein.
- (j) A member eligible for election may only nominate for one (1) elected position at any time.

## 11 – FINANCE AND PROPERTY

- (i) The District Branch Assets shall consist of:
  - (a) Any real or personal property of which the District Branch by the Rules or by any established practice not inconsistent with the Rules, has, or in the absence of any limited term, lease, bailment or arrangement, would have, the right of custody, control or management;
  - (b) Any entrance fees, subscriptions, fines, fees, or levies received by the District Branch, less so much of these amounts as is payable by the District Branch to the National office of the Construction, Forestry, Mining and Energy Union, Mining and Energy Division.
  - (c) Any interest, rents, dividends or other income derived from the investment of the funds of the District Branch.
  - (d) Any sick pay fund, accident pay fund, funeral fund, benefit fund or like fund operated or controlled by the District Branch for the benefit of its members;
  - (e) Any other asset purchased or acquired by the District Branch and any income derived from such asset.
  - (f) Any proceeds of any disposal of parts of the above.
- (ii) District Executive Control

Subject to the control of the Board of Management the property and funds of the District Branch shall be under the control of the District Branch Executive Committee.

(iii) Use of Funds

- (a) The funds of the District Branch shall be applied and/or invested as follows: in such lawful manner as the Board of Management may decide, including, without limiting the generality of this sub-clause, deposit on current account or fixed deposit with any Bank or Financial Institution carrying on business within or outside the Commonwealth of Australia, the mortgage of real or personal estate whether situated within or outside the Commonwealth, the subscription for or purchase of shares in any Company registered and carrying on business in any State of the Commonwealth or elsewhere. Funds so applied shall only be realised on the authority of the District Branch Executive Committee or on the authority of the Board of Management.
- (b) Monies shall be drawn from the funds of the District Branch by cheque signed by, or by electronic means authorised by, either two of the three District Branch Executive Committee officers, or by one of the three District Branch Executive Committee Officers and a member of the District Office staff authorised by the Board of Management.
- (c) Loans, grants and donations of any amount exceeding \$1,000 shall not be made by the District Branch unless the Board of Management has satisfied itself that the making of the loan, grant or donation is in accordance with the Rules of the District Branch and that, in relation to a loan, that in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory. Loans, grants and donations of an amount exceeding \$1,000 shall not be made unless approved by the Board of Management.
- (d) Notwithstanding sub-rule (c) above, the District Secretary may make a loan, grant or donation of an amount not exceeding \$3,000 to a member of the organisation if the loan, grant or donation:
  - (A) was first approved by the District Branch Executive Committee;
  - (B) is for the purpose of relieving the member or any of the member's dependents from severe financial hardship; and
  - (C) is subject to a condition to the effect that, if the Board of Management, at the next meeting of the Board of Management, does not approve the loan, grant or donation, it must be repaid as determined by the Board of Management.
- (e) In considering whether to approve a loan, grant or donation made in accordance with this sub-rule (d), the Board of Management must have regard to:
  - (A) whether the loan, grant or donation was made under the Rules of the organisation; and
  - (B) in the case of a loan:
    - (i) whether the security (if any) given for the repayment of the loan is adequate; and
    - (ii) whether the arrangements for the repayment of the loan are satisfactory.

(iv) Accounts and Records

The District Secretary shall keep or cause to be kept all accounts, records and papers which may be required by law, necessary to the preparation of any return or statement required by law, necessary for the information of the auditor or which may otherwise be required by these rules or by the Board of Management.

(v) Financial Year

The financial year for the accounting purposes of the District Branch shall end at 30 June in each year.

(vi) Trustees

(a) There shall be three Trustees. The Trustees shall be the District President, District Senior Vice-President and District Secretary. Trustees shall hold office for four years concurrently with the Executive Officers. The Trustees' office shall be subject to sub-rules 9(i)(d), (e) and (f) above.

(b) The Trustees shall, under the direction of the Board of Management, prosecute, or, if more convenient, direct any officer to prosecute any member or other person suspected by them of any offence, legally punishable with reference to the affairs of the District Branch and they may themselves institute, or if more convenient, may direct any officer or officers to institute civil proceedings against any member or other person refusing to give up possession of any of the Union's or any District Branch property: or doing or neglecting to do any act so as to render himself or herself or themselves liable to proceedings in reference to the Division's affairs, or the affairs of the District Branch.

(c) All funds, investments and other property of the District Branch shall be vested in the Trustees as joint tenants inter se and held by them in trust for the members of the District Branch.

(d) The Trustees and/or the Board of Management shall without prejudice to any further power and duties conferred by these rules and by statute be vested with all and every of the powers and duties with which Trustees may lawfully be vested. The Board of Management shall have all necessary powers with regard to the bringing or defending of any action, suit, prosecution or complaint in the name of the District Branch or authorise the Trustees to institute such proceedings.

(f) The Trustees shall have power:

(1) To receive monies or other property paid, delivered or conveyed to them as Trustees of the District Branch and to expend monies without distinction between capital and income.

(2) To invest, gift, donate sell, exchange or otherwise dispose of investments or other property of the District Branch and to deal with the funds of the District Branch including purchase or otherwise acquiring of property out of the funds of the District Branch.

- (3) To lend and advance money or give credit to any person or corporation; to guarantee, and give guarantees or indemnities for the payment of money or the performance of contracts or obligations by any person or corporation; to secure or undertake in any way the repayment of moneys lent or advance to or the liabilities incurred by any person or corporation: and otherwise to assist any person or corporation. This sub-rule shall be subject to sub-rule 11(iii)(c).
- (4) To borrow or raise or secure the payment of money and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the District Branch in any way, and to purchase, redeem or pay off any such securities.
- (5) To lease, licence, hire or otherwise give and acquire rights to use or occupy property of the District Branch and for the purposes of the District and to carry on any business of the District Branch.
- (6) To call upon any Lodge Secretary to submit to the Trustees all documentation whether in the form of Contracts loans or otherwise together with full financial particulars and to render such further information as the Trustees may require from time to time relating to any activity or transaction be it Commercial or otherwise of any Lodge which may in the opinion of the Trustees contravene Rule 12(iii)(g) of these Rules or contrary to the objects of the Branch as particularised in Rule 3(i) of these Rules.

For the purposes of exercising a power listed above, the Trustees shall have all such powers ancillary or incidental to or conducive to the exercise of that power as they would have if they were exercising the listed power by employment of funds or in relation to property beneficially owned by them and were acting in a personal as against a fiduciary capacity. The powers conferred by this sub-rule shall be in addition to such powers as are conferred upon Trustees by any law for the time being in force in Australia or any of its States or Territories (every one of which statutory powers the Trustees shall be deemed to have notwithstanding that the power is exercised outside Australia or the State or Territory under the law of which same is conferred) and shall not be construed to be limited or restricted to or by the statutory powers or so as to impose upon the Trustees any duties imposed by law upon Trustees exercising the statutory powers.

The Trustees shall be fully and effectually indemnified out of the funds of the District Branch in respect of any personal liability incurred in a proper exercise of the powers given by this rule or by law and shall not be liable to the District Branch or any of its members for loss incurred in a proper exercise of such powers.

(vii) Auditor

- (a) An auditor appointed by the Board of Management shall audit the accounts in July of each year, and see that the same are correctly kept in accordance with these Rules and the requirements of the law.



The auditor shall have power at any time to call for all books, records, papers, vouchers and documents belonging to the District Branch or any delegate, officer or committee thereof, so far as is necessary to the task of carrying out the audit. The auditor shall make a report of the audit to the Board of Management and shall sign an auditor's report at, or as soon as practicable after, the meeting of the Board of Management where the report is presented.

- (b) The selection of an auditor and all other matters to do with the audit, shall be according to the requirements of the law affecting the accounting and auditing practices of organisations registered under the provisions of the *Fair Work (Registered Organisations) Act 2009* (or any successor legislation).

(viii) Seal

The Seal of the District Branch shall be held by the District Secretary and shall be used by the District Secretary for all purposes of the District Branch for which it may be required. The affixture of the seal to any instrument shall be attested under the name of the District Secretary and such other members of Executive as the Executive may decide.

(ix) Registered Office

The registered office of the District Branch shall be the 2nd Floor, 61 Bowen Street, Spring Hill, or such other place as may be decided upon by the Board of Management from time to time.

(x) Access to Accounts and Records

Each member of the District Branch or person having an interest in the funds, shall, at all reasonable times, have access to the accounts and records both of the Lodge of which he is a member and of the District Branch.

- (xi) Travelling fares, wages and other expenses as prescribed from time to time shall be allowed to representatives to any other conference convened by the District Branch, Central Council and any other meeting or conference approved by the District Executive or Board of Management and shall be defrayed by the Board of Management.

## 12 – LODGES

(i) Formation of Lodges

- (a) The District Branch Executive shall take whatever steps are necessary to establish Lodges of the District Branch at all workplaces in Queensland.
- (b) A Lodge is a local grouping of members, established to enable members to participate more effectively in the affairs of the District Branch and to give collective expression to the interests, concerns and views of the members who work in the Lodge.

- (c) Where there is no Lodge at a workplace or a new workplace has been commenced and the District Executive, in consultation with the relevant members of the workplace, is of the opinion that a Lodge should be formed, the Executive shall announce, in whatever way is best suited to the circumstances of the workplace, that a meeting will be held of eligible workers for the purposes of forming a Lodge of the District Branch. The announcement shall state that officers of the Lodge will be elected at the foundation meeting.
  - (d) The foundation meeting shall be chaired by a member of the District Branch Executive, by a member of the Board of Management or by a member of Central Council.
  - (e) The foundation meeting shall be conducted according to the Standing Orders and Code of Conduct of the District Branch.
  - (f) The foundation meeting shall elect a committee, officers and representatives as required by these Rules.
- (ii) Management of Lodges
- (a) Each Lodge shall be managed by a Committee consisting of, as a minimum, the President and Secretary. Lodges shall agree by a majority vote of Lodge members to increase the number of members of the Lodge on the Committee if it is to be determined appropriate to the circumstances of the Lodge.
  - (b) The President and Secretary positions shall be elected annually by means of an election conducted by the Lodge Returning Officer, provided that a longer term of office may be agreed by a majority vote of Lodge members. However, the term of office of Lodge Committee members shall not exceed four years. Any additional positions determined by the Lodge, as above, shall be elected in accordance with Lodge policies.
  - (c) The President shall preside at all meetings, except where s/he is unavailable due to a genuine absence, and have both a deliberative and a casting vote.
  - (d) The majority of members of the Committee, including either the Lodge President or Lodge Secretary shall form a quorum.
  - (e) All Lodge meetings shall be conducted according to the Standing Orders and Code of Conduct Policy of the District Branch.
  - (f) Each Lodge shall have power to make by-laws and policies for its own guidance and control of its members. Such by-laws and policies shall not be in contravention of the rules and policies of the Division or the District Branch and shall not become operative until submitted to and approved by the District Executive.
  - (g) Notwithstanding sub-rules (a) and (b) above, where a Lodge has not filled either the office of Lodge President or Lodge Secretary because no nominations were received for the office, a Lodge may have a Committee of either a Lodge President or Lodge Secretary. In such circumstances either the Lodge President or Lodge Secretary may perform the role of both offices. Where there is a Lodge Committee of only one person, any request for funds from the District Branch by the Lodge President or Lodge Secretary must be endorsed by another member of the Lodge.

(iii) Powers and Duties of Lodge President

Subject to the above, the President shall preside at all meetings and in conjunction with the Secretary ensure that the Rules of the Division, the District Branch and the Lodge are carried out. The President shall act as advocate and spokesman for the Lodge and generally act in the interests of the membership.

(iv) Powers and Duties of Lodge Secretary

The Secretary shall, in conjunction with the President ensure that the Rules of the Division, the District Branch and the Lodge are carried out. The Secretary shall be responsible for keeping the records of the Lodge including resolutions of Lodge meetings and a register of agreements made with the employer at the workplace.

(v) Powers and Duties of Lodge Committees

The Lodge Committee shall do whatever may be necessary to ensure that the health, lives and interests of their fellow workers are to the utmost protected.

Each member of the Lodge Committee shall, amongst his or her duties with respect to the Lodge, be a Delegate for members of the Lodge.

The Lodge Committee shall have power to strike a special levy to pay for Lodge expenses legitimately incurred in the conduct of Lodge business. Such special levy shall not be collected unless endorsed by a majority of members of the lodge attending and voting at a meeting of the lodge. The Committee of any lodge, with the concurrence of such Lodge, may request that the Board of Management fine any member whose conduct has been or is inconsistent with the Rules of the Union or decisions of the lodge reached by majority vote.

(vi) Financial

(a) Subscriptions, fines, fees, dues and levies owed by Lodge members shall be paid to the District Secretary or to the person authorised by the District Secretary to receive such funds.

(b) All accounts and property of the Lodge shall be held by the District Branch.

(vii) Strikes

(a) No Lodge of this District Branch shall begin a strike before the Lodge's grievance has been considered by the Board of Management or the District Branch Executive.

(b) In every case, before a strike is begun the District Executive, in consultation with the Board of Management, shall offer to the employer or employees the option of settling the dispute by conciliatory means. If no settlement is reached by conciliation, the District Executive in consultation with the Board of Management shall have free power to take whatever steps are necessary having regard to the Rules of the Union and the District Branch and the Commonwealth and State industrial laws.

(c) No Lodge of the District Branch shall begin a strike unless a majority of Lodge members attending the voting at a meeting called to consider the question shall vote in favour of the strike.

- (d) The conduct of negotiations in any dispute shall be under the direction of the District Branch Executive and the Board of Management.
  - (e) In the case of a strike conducted in accordance with these Rules, or a lockout by the employers, the District Executive in consultation with the Board of Management shall have power to levy members of Lodges for support of the members on strike or locked out. Such levies shall not be collected unless endorsed by an aggregate District majority of members of the District Branch attending and voting at meetings called to consider the question.
- (viii) Employees of Contractors and Contractor Lodges
- (a) Existing Lodges are encouraged to enrol and represent employees of contractors permanently based at the workplace covered by the Lodge. However, the decision to enrol or not enrol employees of contractors remains a prerogative of the Lodge. Lodges may enrol and represent employees of contractors subject to any reasonable qualifications the Lodge may decide. For example, the enrolment and representation of employees of contractors may be based on the preclusion of employees of contractors from voting on matters directly affecting only the employees of the mine operator and vice versa. The Board of Management or the District Executive has the power to over-rule any Lodge policy that imposes an unfair or unreasonable restriction on the rights of Lodge members who are employees of contractors.
  - (b) Subject to the approval of the District Executive, or the Board of Management, employees of contractors may form Lodges specific to their contractor employer. Such a Lodge may be confined to a specific workplace or geographic location; or alternatively may cover more than one workplace at which the contractor operates. In deciding whether to approve or not approve the formation of such a Lodge, the District Executive or Board of Management shall be guided by the objective of facilitating the greatest level of involvement of employees of contractors in the activities of the Union.
- (ix) Closure or Merger of a Lodge
- (a) When a Lodge drops below the required number of members to form a Lodge Committee in accordance with the Rules they shall automatically be attached to the District Office.
  - (b) In the event of a total closure of a Lodge all assets will become the property of the District Branch, and will be placed in the Legal and Assistance fund once all liabilities of the Lodge have been extinguished. Similarly, if a Lodge proposes to merge with another Lodge due to the amalgamation of workplaces or for other good reason, the District Branch Executive or the Board of Management shall approve such merger, provided it is not against the best interests of members.
  - (c) Any decision to merge or dissolve an existing Lodge can only occur after a resolution of the Board of Management approving such merger.

### **13 – ALTERATIONS TO RULES**

- (i) Proposed new District Rules may be made and any of the Rules of the District Branch may be altered, amended, added to or rescinded upon an examination and a report being received from the District Secretary.
- (ii) The report of the District Secretary shall be discussed by the Board of Management and the proposed rules change submitted for approval by a majority of the members present and voting at that meeting of the Board of Management and then submitted for the approval of the membership in the same manner as other Board of Management resolutions.

### **14 – DISSOLUTION OF THE DISTRICT BRANCH**

While seven financial members remain in the District, the Branch shall not be dissolved. Should the number of members at any time fall below seven, the District Branch shall be dissolved. In the event of a dissolution, all monies, after payment of all just debts, shall be held on trust by the Central Council of the Construction, Forestry, Mining and Energy Union, Mining and Energy Division in a separate fund until such time as a new District Branch containing seven or more members can be formed.

### **15 – MORTUARY BENEFIT FUND**

- (i) There shall be a fund established by the District Branch known as the Mortuary Benefit Fund.
- (ii) The rules governing the operation of the Mortuary Benefit Fund shall be established by the Board of Management and may be varied from time to time.
- (iii) In between meetings of the Board of Management, decisions concerning disbursements from the Mortuary Benefit Fund shall be made by the Administration Committee.
- (iv) The disbursements from the Mortuary Benefit Fund shall be reported to the Board of Management and shall be included in the District Branch's financial reports.

### **16 – LEGAL AND ASSISTANCE FUND**

- (i) There shall be a fund established by the District Branch known as the Legal and Assistance Fund.
- (ii) The rules governing the operation of the Legal and Assistance Fund shall be established by the Board of Management and may be varied from time to time.
- (iii) In between meetings of the Board of Management, decisions concerning disbursements from the Legal and Assistance Fund shall be made by the Administration Committee.
- (iv) The disbursements from the Legal and Assistance Fund shall be reported to the Board of Management and shall be included in the District Branch's financial reports.

### 17 – STANDING ORDERS AND CODE OF CONDUCT

Standing orders and code of conduct for all meetings of the District Branch shall be determined by the Board of Management and contained in the policies of the District Branch.

### 18 – CANDIDATE’S STATEMENTS IN BRANCH ELECTIONS

- (i) Up to 7 days after the close of nominations, a candidate may submit to the National Returning Officer a biography and/or a statement (“a Candidate’s Statement”) in support of their candidature only for distribution by the Returning Officer. The Candidate’s Statement shall not exceed one A4 single sided page. The Candidate’s Statement may include one photo of the candidate.
- (ii) A candidate can only submit one Candidate’s Statement regardless of the number of offices within the District Branch that they are contesting, should the candidate be otherwise allowed by the rules of the District Branch or Division to contest more than one office within the District Branch.
- (iii) The Returning Officer shall reject any Candidate’s Statement:
  - (a) which in the opinion of the Returning Officer:
    - (1) uses offensive language;
    - (2) is defamatory;
    - (3) is false or misleading; or
    - (4) may lead to an irregularity; or
  - (b) which does not comply with this rule.
- (iv) A candidate whose Candidate’s Statement is rejected shall be notified and shall be given not more than 2 working days from being notified to supply a replacement Candidate’s Statement that complies with this rule.
- (v) The Returning Officer shall as soon as practicable forward all relevant Candidate’s Statements to each Lodge involved in the election in which the candidate has nominated for an office and the Statements shall be displayed at each Lodge on the union notice board or other prominent place.
- (vi) In addition to forwarding the relevant Candidate’s Statements in accordance with sub-rule 19(v), the Returning Officer shall, at no cost to the candidate, supply each member who is subject to a postal ballot with all relevant Candidate’s Statements at a time no later than when the member receives a ballot paper.

## **19 – RETIRED MEMBERS**

- (i) Any member contributing dues to the District Branch for five years and over, in the event of ceasing work through old age or infirmity shall be exempt from the payment of subscriptions, levies and fines and may still remain a member of the District Branch, but will not be allowed to vote in Union ballots or any other voting process.
- (ii) The District Branch supports the formation of an Association of retired members in the District.
- (iii) In accordance with Divisional Rule 20, an Association of retired members requires approval by Central Council in order to obtain official recognition under the Rules of the Division and District Branch. The District Executive will assist any bona fide attempt to establish an Association of Retired Members of the Queensland District Branch.

## **TASMANIAN DISTRICT BRANCH**

### **1 – NAME**

The name of the Union shall be the Construction, Forestry, Mining and Energy Union, Mining and Energy Division, Tasmanian Branch (hereinafter referred to as the District Branch).

### **2 – CONSTITUTION**

The District Branch shall be composed of an unlimited number of persons otherwise eligible for membership of the Union, who, in Tasmania;

- (A) are engaged in or in connection with the Coal and Shale Industry,
- (B) are engaged in or in connection with the Mining or Exploration Industries,
- (C) are engaged as employees or as employees of contractors, in or in connection with the following industries;
  - (a) power generation, co-generation, transmission and distribution;
  - (b) oil;
  - (c) gas;
  - (d) nuclear; and
  - (e) chemical production
- (D) have been elected or appointed as have been elected or appointed as paid officers of the District Branch or whilst financial members of the District Branch are elected as representatives of any working class organisation to which the District Branch or the Division is affiliated, or as a working class member of parliament.

### 3 – OBJECTS

The objects of the Union shall be to endeavour by all lawful means as follows:

- (a) To improve the conditions and protect the interests of the members by increasing the proportionate share of the value created by the workers which is paid back to them as wages and endeavouring to educate and organise for the complete abolition of the present wage system and the substitution therefore of the common ownership of the means of production.
- (b) To discuss, consider, and put into force when approved, any scheme for the guidance and advancement of industrial unionism in the industries of Australia.
- (c) To prevent, if possible, by conference or otherwise, any threatened cessation of work, and to endeavour by conciliatory measure to uphold the rules of the District Branch, failing which, to provide ways and means for the support of members involved.
- (d) To prevent illegal and improper stoppages of members' wages at the pay office.
- (e) To provide for more efficient inspection of mines of the State and to take any legal steps which the District Branch may consider necessary to ensure the maximum safety and health for its members.
- (f) From time to time raise funds for the purpose of applying and/or investing the same in any manner authorised by the Rules of the District Branch.
- (g) To obtain legislative enactments whereby the lives and health of the members may be preserved and if necessary to take steps to obtain compensation for accidents where the employer is liable.
- (h) To obtain legislative enactments for the more efficient management and inspection of Mines.
- (i) To secure the prices and/or wages for which members may at all times contract and to prevent illegal stoppages of wages at pay offices.
- (j) To provide an allowance for the support of members who may be deemed unjustly dealt with and to provide benefits for dependents of members who die from any cause.
- (k) Generally to do all acts, matters and things that may appear to be in the best interests of members.
- (l) To carry on or participate directly or indirectly and alone or with others in the carrying on of any mining or prospecting operation and related activities thereto.
- (m) To take, subscribe for or otherwise acquire and hold any interest or shares, debentures, stock or other security of any company or trust or acquire any interest in any company or trust to achieve the furtherance of any of the objects of the District Branch.
- (n) To raise funds whether by loan or otherwise for all or any of the objects of the District Branch and to invest such funds in such manner as the District Branch shall see fit.
- (o) To purchase, take on lease or in exchange, hire and otherwise acquire and sell any real and personal property and any rights or privileges which may be necessary or convenient for the furtherance of any of the objects of the District Branch.



- (p) To support bona fide charitable and other worthy causes consistent with the interests of members of the Union. Such support may include, but is not limited to, donations to community groups, relief funds, individual and other humanitarian, environmental, social or similar causes.
- (q) To do any other act or thing to achieve or further the objects of the District Branch.

#### **4 – REGISTERED OFFICE**

The registered office of the District Branch shall be 215-217 Clarence Street, Sydney, or such other place as may from time to time be determined by the District Branch Board of Management.

#### **5 – MEMBERSHIP**

- (i) Applications
  - (a) Any candidate for membership of the District Branch shall apply for membership to the State Executive Officer, in writing on the form prescribed and supplied by the District Branch for that purpose.
  - (b) Subject to Rule 5(i)(d), a candidate for membership shall be deemed to be a member of the District Branch from the date of the day of receipt of the membership application form by the State Executive Officer.
  - (c) Notwithstanding anything hereinbefore contained, the State Executive Officer may refer any membership application to the District Branch Board of Management. In such a case a candidate shall not become a member until the District Branch Board of Management has approved the application and the State Executive Officer has notified the candidate to that effect in writing. The candidate in such a case shall be a member of the District Branch from the date of the day of the State Executive Officer's letter of notification to the candidate. Where the Central Executive, the District Branch Board of Management or the State Executive Officer decides against the admission to membership of a candidate, the candidate shall have a right of appeal to Central Council. Where the Central Council decides to admit the candidate to membership the candidate shall be a member of the Division from the date of the day of the Central Council's decision.
  - (d) When a candidate is admitted to membership of the District Branch, the new member's name, address and date of admission shall be: entered in a Lodge Register of Members, which shall be kept by the Lodge Secretary; entered in a District Register of Members, which shall be kept by the State Executive Officer; and entered in the Register of Members, which shall be kept by the Division.
  - (e) Membership of the District Branch shall be subject to sub-rules 5(ii) and 5(iii) of the District Branch Rules.
  - (f) The District Branch shall inform each candidate for membership, in writing, of:
    - A. The financial obligations arising from membership; and
    - B. The circumstances and the manner in which a member may resign from the District Branch.

(ii) Subscription and Fees

- (a) Every member shall pay such fines, fees, levies and subscriptions as may be prescribed or imposed from time to time according to the Rules of the District Branch.
- (b) There may be an entrance fee payable by a candidate for membership of the District Branch on the member's admission to membership. The entrance fee shall be determined by the District Branch Board of Management. Entrance fees shall be retained by the District Branch.
- (c) Subscriptions, fines, fees and levies owing by a member of the Division shall be paid to the State Executive Officer or to a person authorised by the State Executive Officer of the District Branch. It is the responsibility of each member, and no other person, to ensure that the member remains financial in accordance with these rules.
- (d) Subject to sub-rule 5(iii) any member owing subscriptions, fines, fees or levies or any of them for more than fourteen days shall not be entitled to any of the privileges of membership, including the right to vote, and seniority rights, and shall be liable to be sued for the recovery of amounts owed to the District Branch.
- (e) No member who has left the industry without paying all fines, fees, levies and subscriptions due by them to the District Branch shall become a financial member of the District Branch again until their case has been considered by the District Branch Board of Management and permission has been given by the District Board for the member to regain financial status.
- (f) Any member deemed unfinancial under sub-rule 5(ii)(d) shall be deemed to have become a financial member of the District Branch again from the date of the completion of payment by them of all amounts owing to the District Branch. Continuity of membership and lodge seniority may be restored by a decision of the District Branch Board of Management from the date of completion of payment of all sums owing to the District Branch.
- (g) Membership subscriptions shall be set by Annual Central Council of the Division and shall be payable for fifty two weeks per year.
- (h) Employees otherwise eligible to join the District Branch and under eighteen years of age and not in receipt of adult wages shall pay half subscriptions, fees and levies.
- (i) Members paying half subscriptions may receive half financial benefits provided that they may if they so desire pay full subscriptions, fees and levies and shall then be entitled to full financial benefits.
- (j) Any member being sick or out of employment in any pay period and not in receipt for that pay period of the equivalent of award wages, or other amounts which may be determined from time to time by Annual Central Council, shall be exempt from the payment of subscriptions, fees or levies for the pay period.
- (k) Members on compensation shall pay subscriptions as if at work, however, members receiving statutory workers compensation for permanent and total incapacity shall be exempt from paying subscriptions, fees and levies.

- (l) District Branch subscriptions shall be at a rate to be determined by the Board of Management.
- (iii) Sick and Unemployed Members
  - (a) Any member registered in accordance with this rule as an unemployed member and/or member on sick leave of absence, shall be entitled to the privileges of membership and shall be entitled to vote on all matters affecting the District Branch excepting upon any matter upon which any decision might be made which would or might involve the District Branch in the declaration of a strike or in a stoppage of work or in the making of a levy or levies upon the members of the Division.
  - (b) Any member unable to pay subscriptions, fines, fees or levies by reason of them being unemployed and/or on sick leave of absence and wishing to retain the rights and privileges conferred on them by these rules other than the right to vote, shall be registered at least once in every quarter in the District Quarterly Register of Unemployed and Sick Members.
  - (c) An unemployed or sick member may apply, in writing, to the State Executive Officer for registration in the District Quarterly Register of Unemployed and Sick Members. The application to the State Executive Officer shall be signed by the member and his signature witnessed by a member of the District Branch. The application shall also, if the applicant is a member of a Lodge, include the name of the Lodge of which the applicant is a member.

The State Executive Officer shall submit all applications to the District Board of Management to be considered and approved or not approved. Where an application is approved the State Executive Officer shall cause the applicant's name and address and the date of approval of the application by the District Committee of Management to be entered in a register, or electronic record, to be called the District Quarterly Register of Unemployed and Sick Members. The applicant shall then be duly registered for a period of three months from the approval of his application. The District Committee of Management shall have the power to remove the name of any member from the Register for any reason it thinks fit or may at the same time or at any other time prescribe a period for which the member shall be ineligible for registration in the register.
  - (d) The State Executive Officer shall cause once in each quarter a list of the names and addresses of members registered as unemployed or sick to be submitted to the District Board of Management for consideration. Continuation of the registration of a member as an unemployed or sick member shall be at the discretion of the District Board of Management.
- (iv) Resignations
  - (a) A member may resign from membership by written notice addressed and delivered to the State Executive Officer, or a person authorised by the State Executive Officer to receive resignations.

- (b) A notice of resignation from membership takes effect:
  - (i) Where the member ceases to be eligible to become a member of the Division;
    - (A) on the day on which the notice is received by the District Branch;  
or
    - (B) on the day specified in the notice, which is a day not earlier than the day when the member ceases to be eligible to become a member;whichever is the later; or
  - (ii) in any other case:
    - (A) at the end of 2 weeks after the notice is received by the District Branch; or
    - (B) on the day specified in the notice;whichever is the later.
- (c) Any dues payable but not paid by a former member in relation to a period before the member's resignation took effect, may be sued for and recovered in the name of the District Branch, in a Court of competent jurisdiction as a debt due to the District Branch.
- (d) A notice delivered to the State Executive Officer shall be taken to have been received by the District Branch when it was delivered.
- (e) A notice of resignation that has been received by the District Branch is not invalid because it was not addressed and delivered in accordance with sub-rule (a) above.
- (f) A resignation from membership is valid even if it is not effected in accordance with this rule if the member is informed in writing by or on behalf of the District Branch that the resignation has been accepted.

## 6 – ENTITLED TO VOTE

Subject to Rule 5, the members entitled to vote on any question shall be, all financial members working in the industry, all financial members unemployed or on sick leave of absence, members registered according to Rule 5(iii) in the District Quarterly Register of Unemployed and Sick Members.

## 7 – BOARD OF MANAGEMENT

- (i) Elections
  - (a) The Committee of Management of the District Branch shall be the Tasmanian District Branch Board of Management.
  - (b) The Board of Management shall be composed of the State Executive Officer, Honorary District President, and such number of Lodge representative members as shall be determined from time to time by the Branch.
  - (c) Lodge representative members shall be elected every four years according to the Ballot Rules of the Division from sub areas of the District Branch as shall be determined from time to time by the District Branch. The representatives elected shall take office from the first day of the month next following their election.
  - (d) Any extraordinary vacancy which occurs in an elected position within the District Branch shall be filled by the holding of an election in accordance with the Ballot Rules of the Division and the member so elected shall hold office for the remainder of the term for which the previous holder of the office was elected, provided that where the remainder of the term does not exceed:
    - (i) twelve months; or
    - (ii) three-quarters of the office, whichever is the greater;the District Branch Board of Management, depending on the nature of the office, may appoint by resolution any eligible member of the District Branch to act in that office for the remainder of the term.
- (ii) Meetings
  - (a) The Board of Management shall meet at least three times a year. Unless the Board of Management determines otherwise, the first meeting shall be the Annual General Meeting. Meetings of the Board of Management may be conducted either in person or, in whole or in part, by members attending by telephone.
  - (b) Two-thirds of the members of the Board of Management shall form a quorum.
  - (c) The State Executive Officer, Honorary District President and each of the Lodge representatives shall have a deliberative vote at any meeting of the Board. The State Executive Officer, or in his or her absence, the Honorary District President, shall, in the event of the Board being equally divided on any question, be entitled to a casting vote. Every member of the Board of Management shall vote either for or against any proposition put to the meeting.
  - (d) Any officer or representative absenting himself from any meeting of which he has been duly notified, by the State Executive Officer, in writing, at least seven days before the date of the meeting, without giving an explanation which is accepted by a majority of the members attending and voting at the next subsequent meeting of the Board, may be fined a sum not exceeding two hundred dollars as the Chairperson may direct.

- (e) A meeting of the Board of Management may be convened by the State Executive Officer, or Honorary District President, or upon written request to the State Executive Officer or Honorary District President, to call such a meeting signed by at least one representative from each Lodge. Upon receipt of such a request the State Executive Officer or Honorary District President shall convene a meeting of the Board.
  - (f) The State Executive Officer shall issue or cause to be issued to Board members a notice of the date of the Board of Management meeting and an agenda paper at least fourteen (14) days prior to the date of the meeting but no failure to notify will of itself vitiate a meeting.
- (iii) Lodge Business
- (a) Any Lodge having business for the consideration of the District Branch, after having dealt with same locally, shall forward it to the State Executive Officer or Honorary District President to be submitted to the next following meeting of the Board of Management.
  - (b) Each Lodge Secretary shall forward to the State Executive Officer or Honorary District President within twenty eight days, or such other period as may be determined by the Board of Management, from receiving same, the decision of his Lodge on any business that may be sent to it for its consideration by the Board of Management. The decision of any Lodge failing to comply with this Rule shall be null and void.
- (iv) Endorsement of Decisions
- (a) All business transacted by the Board of Management shall be confirmed before the meeting concludes and copies of the confirmed minutes shall be posted to the Lodges of the District Branch.
  - (b) The Executive Committee of each Lodge shall submit the confirmed resolutions of the Board to a meeting of the Lodge membership. The Secretary of each Lodge shall record the number of votes for and against each Board resolution. The Secretary shall send a return of the votes, signed and dated by him to the State Executive Officer within six weeks of the date on which the State Executive Officer posted the Board minutes to the Lodge.
  - (c) A resolution of the Board of Management shall become the binding policy of the District Branch if an aggregate majority of the members of the District Branch attending and voting at Lodge meetings which consider the Board of Management resolutions, vote in favour of the resolution.
  - (d) This sub rule is to be read subject to the provisions of Rule 12.
- (v) Powers and Duties of the Board of Management
- The powers and duties of the Board of Management shall be as follows:
- (a) To hear any appeal from any Lodge or members thereof.
  - (b) To consider the financial position of the Branch and transact any business that may be placed before them by the State Executive Officer.

- (c) To make, impose, order and enforce any levies, fines, fees or subscriptions on all members of the Branch not in conflict with the Rules of this District Branch or the Rules of the Division for any one or more of the objects set out in Rule 3 of these Rules.
- (d) To determine any matter or report referred to it by the State Executive Officer or by any Lodge or to settle any disputes internally and between Lodges.
- (e) From time to time to alter, amend, rescind or make standing orders for the regulation of the conduct of the business and proceedings of this District Branch and of the Lodges of the District Branch.
- (f) To fix, reduce, increase or alter the salaries and allowances of the officers and employees of the District Branch.
- (g) To receive and adopt or otherwise deal with the Annual Report of the District Branch.
- (h) To inflict any fine on any Lodge or member, such fine not to exceed one thousand dollars (\$1,000) on any Lodge or five hundred dollars (\$500) on any member.
- (i) To have control of the management and publication of the Official Organ of the Branch.
- (j) And generally to do all acts, matters and things that may appear to be in the best interests of the District Branch.

## **8 – STATE EXECUTIVE OFFICER**

- (i) Office of State Executive Officer
  - (a) The State Executive Officer shall be elected by the membership of the District Branch each four years according to the Ballot Rules of the Division. The State Executive Officer shall take office for a term of four years as from the first day of the month next following his/her election. For the avoidance of doubt, a member who holds the office of State Executive Officer, may nominate for election to another office within the District Branch however, a person may not hold the position of State Executive Officer and Honorary District President at the same time.
  - (b) The State Executive Officer shall remain in office unless they resign their position by writing delivered to the Board of Management, or unless removed from office.
  - (c) The State Executive Officer shall remain a financial member of the Division and shall retain full membership rights of the Lodge of which they were members at the time of their election to District Branch Office. In the event of a State Executive Officer's Lodge closing the officer shall become a financial member of another lodge as directed by the District Board of Management.

- (d) No member shall be eligible for any District Branch Office unless they have been a member continuously for at least 12 months prior to the closing date of nominations but a member who has been cavilled out for any period, and had not forfeited seniority rights prior to resumption shall be eligible to nominate and contest any District Branch ballot immediately upon resumption.

(ii) Office of State Executive Officer to be Left Vacant / Administration of District

If the Office of State Executive Officer is vacant at any time following the approval of this rule, the office shall not be filled unless there is a specific resolution of the District Branch Board of Management determining that the office should be filled. Where no person occupies the office of State Executive Officer, the powers and responsibilities of the office become the powers and responsibilities of the Honorary District President.

If the office of State Executive Officer and the office of Honorary District President are unfilled, the General Secretary of the Division may use the powers otherwise granted to the State Executive Officer, or the Honorary District President, to act as an administrator for the District Branch. The administration conducted by the General Secretary shall be subject to the rules of the Division, the District Branch and the direction of the District Branch Board of Management. Where the General Secretary has the power of administrator, the General Secretary may convene, attend and/or address any Board of Management Meeting however will not have a vote on the Board of Management.

(iii) Powers and Responsibilities of the State Executive Officer

The State Executive Officer shall, subject to the review of his/her actions by the next ensuing meeting of the Board of Management have the care, control, custody and superintendence, management and administration in all respects of the District Branch. The powers and responsibilities of the State Executive Officer shall include the following:

- (a) To keep a correct account of all monies received and expended, prepare a yearly Balance Sheet of same, copies of which shall be submitted to the members of the Branch through the Annual General Meeting of the Board of Management and to Lodge members through the Lodge Secretaries.
- (b) To cause to be kept a register of members of the District Branch, including to which respective Lodges members belong.
- (c) To attend and vote at all meetings of the Board of Management meetings. To preside over such meetings and take minutes of same, or direct another Board Member to take minutes. In the case of equal voting at Board of Management meetings the State Executive Officer shall have the casting vote.
- (d) To attend to all correspondence, watch the interests of the members and advance the members' position generally.
- (e) To observe the Rules of the District Branch unless they are otherwise inconsistent with the rules of the Division.
- (f) To as far as possible observe that the Rules are carried out by the Branch Lodges and from time to time examine the books and accounts of the Branch and generally keep themselves acquainted with the financial transactions of the Branch.



- (g) To prepare and forward to the relevant statutory body all returns which may be required by law.
- (h) To suspend any member of the Board of Management or representative of the District Branch on any Board or body for any breach or infringement of the Rules of the Division or District Branch or for any misconduct or dereliction of duty or any misapplication respecting the whole or any part of the funds, monies or other property of the Division or non-compliance with or disobedience of any request or order contained in any resolution of the Central Council or the Board of Management and to inflict any fine not exceeding one hundred dollars. Where action is taken by the State Executive Officer under this sub-rule, there shall be a general right of appeal by the member, representative, Councillor or body affected, to the Board of Management. This sub-rule shall be read subject to rule 13.
- (i) To consider and decide upon any application for membership.
- (j) To initiate, manage and control all actions, proceedings, industrial disputes and other matters and to appoint agents, solicitors or counsel to appear for and represent the District Branch or any of its members in any Court or proceedings, legal or otherwise.
- (k) To demand and collect or cause to be collected all levies, subscriptions, fines, fees and dues payable by all members.
- (l) To demand, receive and keep possession of all books and accounts of the District Branch.
- (m) To demand, or cause to be made, an audit of the books and accounts of the District Branch.
- (n) To engage any employees or other assistance that are necessary for the proper carrying on of the District Branch business and to pay such wages, salaries and allowances as it shall deem proper.
- (o) To enter into, and make any industrial agreements on behalf of the District Branch and its members subject to the instruction of the Board of Management and members in accordance with these Rules.
- (p) To call the Board of Management together at any time necessary and to call aggregate meetings of the members of the Branch when necessary.
- (q) To submit such matters as may appear to it to be of sufficient importance, to the Board of Management for decision or directly to the members of the District Branch for decision by Ballot.
- (r) All acts of the State Executive Officer done in pursuance of the powers granted it by these Rules shall have full force and effect and be of full validity, notwithstanding anything in these Rules, until such acts shall be reversed or altered, or otherwise dealt with by the next ensuing meeting of the Board of Management.

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**9 – HONORARY DISTRICT PRESIDENT**

- (i) Office of Honorary District President
  - (a) There shall be an office of Honorary District President (Tasmanian District Branch) (“the Honorary District President”).
  - (b) The office of Honorary District President shall be honorary and the person holding the office will not be entitled to receive a regular salary.
  - (c) The first term of office of the Honorary District President shall commence 2 weeks after the declaration of the first election held to fill the position and shall expire on 30 June 2020. Every following term of the office of the Honorary District President will be for 4 years.
  - (d) Elections for the office of Honorary District President will be conducted in accordance with the Ballot Rules of the Division. The electorate for the office is the membership of the Tasmanian District Branch.
  - (e) Any candidate for the office of Honorary District President must be a financial member of the Tasmanian District Branch and have been a member of the District for no less than 12 months.
- (ii) Powers and Responsibilities of the Honorary District President
  - (a) The Honorary President is a member of the Board of Management.
  - (b) If the State Executive Officer’s office is occupied, aside from his or her position on the Board of Management, the role of the Honorary District President is to assist the State Executive Officer.
  - (c) If the State Executive Officer’s office is vacant, or not filled, the Honorary District President shall assume the powers and the responsibilities of the office of State Executive Officer. For the avoidance of doubt, in such a circumstance:
    - (A) the Honorary District President exercises only the voting rights otherwise allocated to the State Executive Officer on the Board of Management; and
    - (B) the Honorary District President takes the place of the State Executive Officer on Central Council.
  - (d) For the purposes of fulfilling the responsibilities of the office, the Honorary District President may authorise, another person, or persons, to exercise any of his or her powers on his or her behalf, provided that:
    - (A) the Honorary District President maintains the power to direct the person or persons in the exercise of the powers;
    - (B) any authorisation is subject to any resolution of the District Branch Board of Management; and
    - (C) the Honorary District President cannot authorise another person to exercise any power with respect to voting on the Board of Management or any other Committee of Management within the District Branch.

**9A – DISTRICT BRANCH CENTRAL COUNCILLOR**

- (a) There shall be such number of District Branch Councillors as are required by the rules of the Division.
- (b) The duties of the District Branch Central Councillor shall be to attend meetings of the Central Council of the Division as the representative of the Tasmanian District Branch, to attend and address Lodges and other meetings of members at the direction of the District Branch Board of Management and to attend meetings of the District Branch Board of Management. The District Councillor shall be responsible to the District Branch Board of Management.
- (c) Where the Division's rules require the District Branch to have one or more District Branch Central Councillors, the District Branch Central Councillor/s shall be elected in accordance with the Ballot Rules of the Division. The electorate for the office of District Branch Central Councillor is the membership of the District Branch. The term of office for the office of a District Branch Central Councillor is 4 years.

**10 – FINANCE AND PROPERTY**

- (i) The District Branch Fund shall consist of:
  - (a) Any real or personal property of which the District Branch by these Rules or by any established practice not inconsistent with the Rules, has, or in the absence of any limited term lease, bailment or arrangement, would have, the right of custody, control or management;
  - (b) The amounts of entrance fees, subscriptions, fines, fees or levies received by the District Branch, less so much of those amounts as is payable by the District Branch to the Central Office of the Division;
  - (c) Any interest, rents or dividend derived from the investment of the Fund;
  - (d) Any superannuation or long service leave fund operated or controlled by the District Branch for the benefit of its officers or employees;
  - (e) Any sick pay fund, accident pay fund, funeral fund, benefit fund or like fund operated or controlled by the District Branch for the benefit of its members;
  - (f) Any property acquired wholly or mainly by expenditure of the moneys of the Fund or derived from other assets of the Fund; and
  - (g) The proceeds of any disposal of parts of the Fund.
  - (h) All Lodge property and funds.
- (ii) State Executive Officer Control

Subject to the control of the District Branch Board of Management, the property and funds of the District Branch shall be under the control of the State Executive Officer.

(iii) Use of Funds

- (a) The funds of the District Branch shall be applied and/or invested as follows: in such lawful manner as the Board of Management may decide, including, without limiting the generality of this sub-clause, deposit on current account or fixed deposit with any approved deposit taking institution carrying on business in the Commonwealth of Australia, the mortgage of real or personal estate situated in the Commonwealth, the subscription for or purchase of shares in any company registered and carrying on business in any State of the Commonwealth. Funds so applied shall only be realized on the authority of the State Executive Officer or on the authority of the Board of Management.
- (b) All monies shall be banked to the credit of the District Branch.
- (c) Monies shall be drawn from the funds of the District Branch by the State Executive Officer, or a person authorised by the State Executive Officer.
- (d) All fees, fines, contributions, levy and dues shall be banked to the credit of the District Branch without deduction.
- (e) All monies withdrawn from the funds shall be applied only to carrying out the objects mentioned in Rule 4 of these Branch Rules and to payments to the Division.
- (f) When levies are ordered to be collected in accordance with these Rules such levies shall be collected from members as ordered by the State Executive Officer or by the Board of Management.
- (g) Loans, grants and donations of any amount exceeding \$1000 shall not be made by the District Branch unless the District Branch Board of Management has satisfied itself that the making of the loan, grant or donation is in accordance with the Rules of the District Branch and that, in relation to a loan, that in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory. Loans, grants and donations of an amount exceeding \$1000 shall not be made unless approved by the Board of Management.

(iv) Books and Records

The State Executive Officer shall keep or cause to be kept all books, records and papers which may be required by law, necessary to the preparation of any return or statement required by law, necessary for the information of the auditor or which may otherwise be required by these rules or by the Board of Management.

(v) Financial Year

The financial year for the accounting purposes of the District Branch shall end at 31 December in each year.

(vi) Deleted

(vii) Auditor

- (a) The Board of Management shall appoint an auditor.

- (b) The auditor's duties shall be to audit the accounts at the end of the financial year or when required by the Board of Management. The signed auditor's report, general purpose financial report and operating report of the District Branch shall be presented to the Board of Management. The presentation to the Board of Management shall constitute, and be sufficient for, presentation for the purposes of section 266 of the *Fair Work (Registered Organisations) Act 2009*. Provided that if 5% of the members of the District Branch request a general meeting of the members, or a series of general meetings of the members, to consider the auditor's report, the general purpose financial report, and the operating report, such a meeting or meetings shall be called as soon as is practicable.
- (c) A copy of the signed auditor's report, general purpose financial report and operating report of the District Branch shall be provided to the Tasmanian District Members in accordance with section 265 of the *Fair Work (Registered Organisations) Act 2009*.
- (d) The selection of an auditor, shall be according to the requirements of the law affecting the accounting and auditing practices of organizations registered under the provisions of the *Fair Work (Registered Organisations) Act 2009* (or any successor legislation).

(viii) Seal

The Seal of the District Branch shall be held by the State Executive Officer and shall be used for all purposes of the District Branch for which it may be required. The affixture of the seal to any instrument shall be attested under the name of the State Executive Officer or such other members of the Board of Management as the Board of Management may decide.

(ix) Access to Books

Each member of the District Branch shall have access at all reasonable times, to the books of the Branch on applying to the State Executive Officer.

(x) Person to Sue

The State Executive Officer shall be the person to sue or be sued for and on behalf of the District Branch.

(xi) Political Funds

- (a) The District Branch Board of Management shall be empowered to recommend to the members of the Branch a voluntary payment per annum for a political fund. Monies derived from this source shall be paid into a fund which shall be used only for political purposes.
- (b) Contributions to the Political Fund shall not be a condition of admission to or of membership of the Branch. A member who does not contribute to this fund shall not be excluded from the benefits of the Branch by reason of his failure to so contribute to the political fund. Only those members who contribute to the political fund shall be allowed to enjoy the privileges for which the fund is created.

(xii) Payment of Officers and Delegates

All Officers and Delegates when performing work for the Branch shall be paid out of the funds of the Branch such remuneration as may be determined from time to time by the Board of Management.

(xiii) Fines

All fines for violation of the Branch Rules shall be paid into the General Fund unless otherwise provided for.

## 11 – LODGES

(i) Formation of Lodges

(a) The State Executive Officer shall take whatever steps are necessary to establish Lodges of the District Branch at all workplaces in the District coming within the eligibility of the union. A Lodge is a local grouping of members, established to enable members to participate more effectively in the affairs of the District Branch and to give collective expression to the interests, concerns and views of the members who work in the Lodge.

(b) Where there is no Lodge at a workplace or where a new workplace has started work and the State Executive Officer is of the opinion that a Lodge should be formed, the State Executive Officer shall announce, in whatever way is best suited to the circumstances of the workplace, that a meeting will be held of eligible workers for the purposes of forming a Lodge of the District Branch. The announcement shall state that officers of the Lodge will be elected at the foundation meeting.

(c) The foundation meeting shall be chaired by the State Executive Officer.

(d) The foundation meeting shall be conducted according to the Standing orders for District Branch Lodge meetings.

(e) The foundation meeting shall elect a committee, officers and representatives as required by these rules.

(ii) Management of Lodges

(a) Each Lodge shall be managed by a Committee consisting of a President, Secretary and such other members as the Lodge shall determine from time to time.

(b) The Committee shall be elected by the Lodge at least once every 4 years.

(c) No member under eighteen years of age shall be eligible to hold Office or serve on the Committee.

(d) Two-thirds of the members of the Lodge Committee shall form a quorum.

(e) All Lodge meetings shall be conducted according to the Standing Rules of the Division.

- (f) All members of the Lodge shall have equal voting power on all questions put to a meeting of the Lodge except that in the event of equal voting on any question the Chairperson shall have a casting vote.
- (g) Lodges shall meet at least quarterly, or otherwise as determined by the Lodge Committee.
- (h) Any member of a Lodge failing to attend a meeting of the Lodge may be fined ten dollars for each offence but a member shall have the right to make an appeal for the remission of his fine at the next monthly meeting of his Lodge.
- (i) All meetings of Lodges shall be convened by Notice posted on the Lodge Notice Board or by such other means as may be convenient.
- (j) Any fine imposed on members for non-attendance at a meeting shall be paid before any appeal is entertained by the Lodge.
- (k) Fines for non-attendance shall be paid into the District Branch fund.
- (l) Lodges shall be empowered to exempt any member from attendance at Lodge meeting owing to infirmity or other reasonable cause.
- (m) Each Lodge shall have power to make By-laws for its own guidance and control of its members. Such By-laws shall not be in contravention of the rules of the Division or the District Branch and shall not become operative until submitted to and approved by the District Board of Management.

(iii) Powers and Duties of Lodge President

The President shall preside at all meetings and in conjunction with the Secretary, ensure that the Rules of the Division, the District Branch and the Lodge are carried out. The President shall act as advocate and spokesman for the Lodge and generally act in the interest of the membership.

(iv) Powers and Duties of Lodge Secretary

The Secretary shall, in conjunction with the President ensure that the Rules of the Division, the District Branch and Lodge are carried out. The Secretary shall be responsible for records of the Lodge including a minute book for recording resolutions of Lodge meetings and a register of agreements made with the employer.

Upon request, the District Branch shall provide each Lodge Secretary with the necessary information in which shall be enrolled the names of all members of the Lodge with an account of all monies received and expended to ascertain the financial status of the members of the Lodge.

When entering the names of members in the Lodge register the Secretary shall also enter the date and time when all new members start work.

Each Lodge Secretary shall produce the Lodge Books to the Branch Officers and Board of Management when called upon to do so.

All books, tickets and documents held by any Lodge Officers or members relating to the District Branch shall be the property of the District Branch and shall be surrendered to the State Executive Officer upon demand. Where a Lodge has closed the Secretary of such Lodge shall forward to the State Executive Officer all Branch and Lodge Books in the Lodge's possession.

If any Lodge Officer or member fails to comply with these rules they may be expelled by the Board of Management.

The Secretary shall also produce the books for inspection when called upon by the majority of the Lodges of which he/she is Secretary.

The Secretary shall keep the Lodge Books in accordance with the system approved by the District Branch Board of Management.

(v) Duties of Lodge Committee

The Committee of each Lodge shall see that the health and lives of their fellow workers are protected to the utmost and shall deal with all matters as affecting the interest of the Lodge.

Each member of the Lodge Committee shall, amongst his or her duties with respect to the Lodge, be a Delegate for members of the Lodge.

(vi) Private Agreements

(a) No member of any Lodge in the Branch shall be permitted to enter into any private agreement with his employer without the sanction of the Lodge of which he is a member and the Lodge shall be permitted to enter into any agreement with the employer without the sanction of the State Executive Officer and/or the Board of Management.

(vii) Members not to Work When mine is Idle

(a) When a mine is idle members of this Branch shall not enter the mine unless with the permission of the State Executive Officer or District Board of Management.

(viii) Youths

No member of this Branch under the age of 18 years shall be allowed to work as a miner on a coalface or brushing tops or any work where they would be obliged to use explosives or on any work usually performed by adults.

(ix) Expulsion or Suspension of Lodges or Members

(a) Any Lodge or member of this District Branch refusing to comply with the decision of the majority of this Branch shall be expelled from the Branch and shall not be entitled to any benefits or privileges of the Branch.

(b) In cases of suspension or expulsion the Lodge and/or members shall pay up all arrears before being readmitted to the Branch.

(c) Any member or Lodge expelled or suspended under this rule shall have the right to appeal against the decision to the Central Council of the Division.



(x) Demand by Lodges for Dismissal of Officer

No Lodge shall send to the District Branch Board of Management a notice of motion asking for the resignation of a District Branch Officer unless some specific charge is laid against such Officer in writing and has been given the opportunity to attend the Lodge to vindicate themselves and no such motion shall be allowable unless at least fifty per cent of the Lodge are present or a Ballot of the whole of the members of the Lodge has been taken.

## 12 – ALTERATION OF RULES

- (i) New District Branch Rules may be made and any of the Rules of the District Branch may be altered, amended added to or rescinded by the District Branch Board of Management.
- (ii) Proposed new Rules shall be examined and reported on by a rules committee of members of the District Branch Board of Management appointed from time to time as the occasion arises by the District Branch Board of Management.
- (iii) The report of the rules committee shall be discussed by the District Branch Board of Management and the proposed rules changes submitted for approval by a majority of the members present and voting at that meeting of the District Branch Board of Management, provided that the provisions of Rule 7(iv) shall not apply in the application of this rule.

## 13 – DISMISSAL OF OFFICERS

A person elected to office in the District Branch shall not be dismissed from office unless found guilty by the Board of Management of misappropriation of the funds of the District Branch, a substantive breach of the Rules of the Division or District Branch, gross misbehaviour, gross neglect of duty or has ceased according to the rules to be eligible to hold office. Where dismissal of an officer under this sub-rule is contemplated the Board of Management shall appoint a Committee of Board members to investigate and report on the case. Where dismissal of an officer under this sub-rule is contemplated the officer concerned shall have presented to them by the Board's investigating committee a written statement of the charges alleged against them. The officer shall have full freedom to make a verbal and/or written response to the charges, to both the investigating committee and the meeting of the Board of Management which hears the report of the investigating committee. There shall elapse a period of not less than one month, or any greater period the Board shall determine, between the delivery to the officer concerned of the written statement of charges against them, and the hearing by the investigating committee of the officer's response to the charges. The officer may if they wish waive all or part of the minimum one month period of notification. The decision of the Board of Management shall not take effect until endorsed by an aggregate District majority of members attending and voting at Lodge meetings at which the business of that Board of Management meeting is considered.

## **WESTERN AUSTRALIAN DISTRICT BRANCH**

### **1 – NAME**

The name of the District Branch shall be the Construction, Forestry, Mining and Energy Union, Mining and Energy Division, Western Australian District Branch (hereinafter referred to as the District Branch).

A reference to the "Division" shall be a reference to the Construction, Forestry, Mining and Energy Union, Mining and Energy Division. A reference to the "Union" shall be a reference to the Construction, Forestry, Mining and Energy Union.

### **2 – MEMBERSHIP OF THE DISTRICT BRANCH**

The District Branch shall consist of an unlimited number of employees, otherwise eligible for membership of the Union, who, in Western Australia;

- (A) are engaged in or in connection with the Coal and Shale Industry,
- (B) are engaged in or in connection with the Mining or Exploration Industries,
- (C) are engaged as employees or as employees of contractors, in or in connection with the following industries;
  - (a) power generation, co-generation, transmission and distribution;
  - (b) oil;
  - (c) gas;
  - (d) nuclear; and
  - (e) chemical production
- (D) have been elected or appointed as paid officers of the District Branch or whilst financial members of the District Branch are elected as representatives of any working class organisation to which the District Branch or the Division is affiliated, or as a working class member of parliament.

### **3 – OBJECTS**

The objects of the District Branch shall be to endeavour by all lawful means as follows:

- (a) To improve the conditions and protect the interests of the members by increasing the proportionate share of the value created by the workers which is paid back to them as wages and endeavouring to educate and organise for the complete abolition of the present wage system and the substitution therefore of the common ownership of the means of production.
- (b) To discuss, consider and, put into force when approved, any scheme for the guidance and advancement of industrial unionism in the industries of Australia.
- (c) To prevent, if possible, by conference or otherwise, any threatened cessation of work, and to endeavour by conciliatory measure to uphold the Rules of the District Branch, failing which, to provide ways and means for the support of members involved.

- (d) To prevent illegal and improper stoppages of members' wages at the pay office.
- (e) To provide for more efficient inspection of the mines of the State and to take any legal steps which the Branch may consider necessary to ensure the maximum safety, health and welfare for its members.
- (f) From time to time raise funds for the purpose of applying and/or investing the same in any manner authorised by the Rules of the Branch.
- (g) To obtain legislative enactments whereby the lives, health and welfare of the members may be preserved and if necessary to take steps to obtain compensation for accidents where the employer is liable.
- (h) To obtain legislative enactments for the more efficient management and inspection of workplaces.
- (i) To secure the prices and/or wages for which members may at all times contract and to prevent illegal stoppages of wages at pay offices.
- (j) To provide an allowance for the support of members who may be deemed unjustly dealt with and to provide benefits for dependents of members who die from any cause.
- (k) Generally to do all acts, matters and things that may appear to be in the best interests of members.
- (l) To carry on or participate directly or indirectly and alone or with others in the carrying on of any mining, power, energy or prospective operation and related activities thereto.
- (m) To take, subscribe for or otherwise acquire and hold any interest or shares, debentures, stock or other security of any company or trust or acquire any interest in any company or trust to achieve the furtherance of any of the objects.
- (n) To raise funds whether by loan or otherwise for all or any of the objects and to invest such funds in such manner as the Union shall see fit.
- (o) To purchase, take on lease or in exchange, hire and otherwise acquire and sell any real and personal property and any rights or privileges which may be necessary or convenient for the furtherance of any of the objects of the Union.
- (p) To support bona fide charitable and other worthy causes consistent with the interests of members of the Union. Such support may include, but is not limited to, donations to community groups, relief funds, individual and other humanitarian, environmental, social or similar causes.
- (q) To do any act or things to achieve or further the objects of the Union.

#### **4 – REGISTERED OFFICE**

The registered office of the District Branch shall be the Mineworkers Institute, Throssell Street, Collie, Western Australia or such other place as may from time to time be determined by the District Board of Management.

## 5 – MEMBERSHIP

### (i) Applications

- (a) Any candidate for membership of the Union shall apply for membership to the District Secretary, in writing on the form prescribed and supplied for that purpose.
- (b) The District Secretary shall sign and date membership application forms on the day he or she receives them. Subject to Rule 5(i)(d), a candidate for membership shall be deemed to be a member from the date of the day of receipt of the membership application form by the District Secretary.
- (c) Notwithstanding anything hereinbefore contained the District Secretary may refer any membership application to the District Branch Board of Management. In such a case a candidate shall not become a member until the District Branch Board of Management has approved the application and the District Secretary has notified the candidate to that effect in writing. The candidate in such a case shall be a member of the Union from the date of the day of the District Secretary's letter of notification to the candidate. Where the Central Executive, the District Branch Board of Management or the District Branch Secretary decides against the admission to membership of a candidate, the candidate shall have a right of appeal to Central Council.

Where the Central Council decides to admit the candidate to membership the candidate shall be a member from the date of the day of the Central Council's decision.

- (d) When a candidate is admitted to membership the new member's name, address and date of admission shall be: entered in a book to be called the Lodge Register of Members, which shall be kept by the Lodge Secretary; entered in a book to be called the District Register of Members, which shall be kept by the District Secretary; and entered in the Register of Members, which shall be kept by the Division.
- (e) Membership shall be subject to sub-rules 5(ii) and 5(iii) of these Rules.
- (f) The District Branch shall inform each candidate for membership, in writing, of:
  - A. The financial obligations arising from membership; and
  - B. The circumstances and the manner in which a member may resign.
- (g) Membership of the District Branch means membership of the Division and the Union.

### (ii) Subscription and Fees

- (a) Every member shall pay such fines, fees, levies and subscriptions as may be prescribed or imposed from time to time according to the Rules.
- (b) There may be an entrance fee payable by a candidate for membership on his admission to membership. Any entrance fee shall be determined by the District Branch Board of Management. Entrance fees shall be retained by the District Branch.

- (c) Subscriptions, fines, fees and levies owing by a member shall be paid to the District Secretary or a person authorised by the District Secretary. It is the responsibility of each member, and no other person, to ensure that he remains financial in accordance with these rules.
  - (d) Subject to sub-rule 5(iii) any member owing subscriptions, fines, fees or levies or any of them for more than fourteen days shall not be entitled to any of the privileges of membership, including the right to vote, and shall be liable to be sued for the recovery of amounts owed.
  - (e) No member who has left the industry without paying all fines, fees, levies and subscriptions due by him or her shall become a financial member again until his or her case has been considered by the District Branch Board of Management and permission has been given by the District Branch Board of Management for the member to regain financial status.
  - (f) Any member deemed unfinancial under sub-rule 5(ii)(d) shall be deemed to have become a financial member again from the date of the completion of payment by him of all amounts owing.
  - (g) Membership subscriptions shall be set by Annual Central Council and shall be payable for fifty-two weeks per year.
  - (h) Employees otherwise eligible to join the Union and under eighteen years of age and not in receipt of adult wages shall pay half subscriptions, fees and levies.
  - (i) Members on compensation shall pay subscriptions as if at work, however, members receiving statutory workers compensation for permanent and total incapacity shall be exempt from paying subscriptions, fees and levies.
  - (j) District Branch subscriptions shall be at a rate to be determined by the Board of Management.
- (iii) Sick and Unemployed Members (including Members on Unpaid Parental Leave)
- (a) Any member registered in accordance with this rule as an unemployed member and/or member on sick or unpaid parental leave of absence, shall be entitled to the privileges of membership and shall be entitled to vote on all matters affecting the Union excepting upon any matter upon which any decision might be made which would or might involve the declaration of a strike or in a stoppage of work or in the making of a levy or levies upon the members.
  - (b) Any member unable to pay subscriptions, fines, fees or levies by reason of the member being unemployed and/or on sick leave or unpaid parental leave and wishing to retain the rights and privileges conferred on the member by the rules, shall be registered at least once in every quarter in the District Branch Quarterly Register of Unemployed and Sick Members.

- (c) An unemployed or sick member, or a member on unpaid parental leave, may apply, in writing, to the Secretary of the Lodge of which he or she is a member for registration in the District Branch Quarterly Register of Unemployed and Sick Members. A member of a District Branch who is not also a member of a Lodge may apply for registration, in writing, to the District Secretary. The application to the Lodge or District Branch Secretary shall be signed by the member. The application shall also, if the applicant is a member of a Lodge, include the name of the Lodge of which the applicant is a member. The Lodge or District Branch Secretary shall sign and date the applications as they are received. Lodge Secretaries shall send all such applications to the District Branch Secretary immediately.

The District Branch Secretary shall submit all applications to the District Board of Management to be considered and approved or not approved. Where an application is approved the District Branch Secretary shall enter the applicant's name and address and the date of approval of the application by the District Committee of Management in a register to be called the District Branch Quarterly Register of Unemployed and Sick Members. The applicant shall then be duly registered for a period of three months from the approval of his application. The District Branch Board of Management shall have the power to remove the name of any member from the Register for any reason it thinks fit or may at the same time or at any other time prescribe a period for which the member shall be ineligible for registration in the register.

- (d) The District Branch Secretary shall once in each quarter submit a list of the names and addresses of members registered as unemployed, sick or on unpaid parent leave to the District Branch Board of Management for consideration. Continuation of the registration shall be at the discretion of the District Board of Management.

(iv) Resignations

- (a) A member may resign from membership by written notice addressed and delivered to the District Secretary or Lodge Secretary.
- (b) A notice of resignation from membership takes effect:
  - (i) where the member ceases to be eligible to become a member;
    - (A) on the day on which the notice is received by the Union; or
    - (B) on the day specified in the notice, which is a day not earlier than the day when the member ceases to be eligible to become a member; whichever is the later; or
  - (ii) in any other case:
    - (A) at the end of 3 months after the notice is received by the Union; or
    - (B) on the day specified in the notice; whichever is the later.
- (c) Any dues payable but not by a former member in relation to a period before the member's resignation took effect, may be sued for and recovered in the name of the Union, in a court of competent jurisdiction as a debt due to the Union.
- (d) A notice delivered to the District Secretary or Lodge Secretary shall be taken to have been received by the Union when it was delivered.

- (e) A notice of resignation that has been received by the Union is not invalid because it was not addressed and delivered in accordance with sub-rule (a) above.
- (f) A resignation from membership is valid even if it is not effected in accordance with this rule if the member is informed in writing by or on behalf of the Union that the resignation has been accepted.

## 6 – ENTITLED TO VOTE

Subject to Rule 5, the members entitled to vote shall be, all financial members working in the industry, all financial members unemployed or on sick leave or unpaid parental leave, members registered according to Rule 5(iii)(c) in the District Branch Quarterly Register of Unemployed and Sick Members.

## 7 – BOARD OF MANAGEMENT

- (i) Elections
  - (a) The Committee of Management of the District Branch shall be the District Branch Board of Management.
  - (b) The Board of Management shall be composed of the Branch Executive Officers, and six (6) Lodge representative members.
  - (c) For the purpose of the election of the Vice-Presidents and the lodge representative members, the District Branch shall be divided into a Northern and Southern region.

The Northern Region shall consist of that part of the State of Western Australia, north of the Tropic of Capricorn and the Southern Region shall consist of that part of the State of Western Australia south of the Tropic of Capricorn. Lodge representative members shall be elected every four (4) years according to the Ballot Rule of the Division as follows:

Northern Region - two representatives

Southern Region - two representatives

The representatives shall be nominated by and from and elected by the members assigned to the relevant region. The representatives elected shall take office from the first day of the month next following their election.

- (d) Any extraordinary vacancy which occurs in an elected position within the District Branch shall be filled by the holding of an election in accordance with the Ballot Rules of the Union and the members so elected shall hold office for the remainder of the term for which the previous holder of the office was elected, provided that where the remainder of the term does not exceed:
  - (i) twelve months; or
  - (ii) three-quarters of the office, whichever is the greater;

the District Branch Board of Management, depending on the nature of the office, may appoint by resolution any eligible member of the District Branch to act in that office for the remainder of the term.

(ii) Meetings

- (a) The Board of Management shall meet at least three times a year and at such place as may be determined by the Board. One meeting shall be held in March, one in July and one in December of each year. The March meeting shall be the Annual General Meeting. The Board of Management shall meet at such other times as the District Branch Executive may deem necessary and may be conducted by telephone conference.
- (b) Two-thirds of the members of the Board of Management shall form a quorum.
- (c) The District President, District Secretary, District Vice-Presidents and each of the Lodge Representatives shall have a deliberative vote at any meeting of the Board. The officer chairing the meeting shall, in the event of the Board being equally divided on any question, be entitled to a casting vote. Every member of the Board of Management shall vote either for or against any proposition put to the meeting.
- (d) Any officer or representative absenting himself or herself from any meeting of which he or she has been duly notified, by the District Secretary, in writing, at least seven days before the date of the meeting without giving an explanation which is accepted by a majority of the members attending and voting at the next subsequent meeting of the Board, may be fined a sum not exceeding two hundred dollars as the District President may direct.
- (e) A special meeting of the Board of Management may be convened by a majority of the Executive, or upon written request to either the District Secretary or the District President to call such special meeting signed by at least one representative from each Lodge. Upon receipt of such requests, either the District Secretary or District President shall convene a meeting of the Board.
- (f) The District Secretary shall issue or cause to be issued to Board members a notice of the date of the Board of Management meeting and an agenda paper at least fourteen (14) days prior to the date of the meeting but no failure to notify will of itself vitiate a meeting.



(g) Electronic Voting Outside of Meetings

- A. If the District President or District Secretary considers it advisable to submit any matter, including the imposition of a levy or the alteration or rescission of a Rule, to a vote of the Board of Management at any time when it is not practical to call the Board of Management together, the District Secretary may submit a resolution dealing with the matter to the members of the Board of Management by any electronic means.
- B. The votes on such resolution shall be returnable to the District Secretary at such time as the District Secretary shall fix and shall be subject to the quorum requirements set out in sub-rule 8(ii)(b). The result of such vote shall be binding and enforceable in the same manner as a decision arrived at in a meeting of the Board of Management assembled.
- C. The matter shall be recorded in the minutes on the next Board of Management meeting held following the vote.

(iii) Lodge Business

- (a) Any Lodge having business for the consideration of the District Branch, after having dealt with same locally, shall forward it to the District Secretary to be submitted to the next following meeting of the District Branch Executive or of the Board of Management.
- (b) Each Lodge Secretary shall forward to the District Secretary within twenty-eight days, or such other period as may be determined by the Board of Management, from receiving same, the decision of his or her Lodge on any business that may be sent to it for its consideration by the District Branch Executive or Board of Management. The decision of any Lodge failing to comply with this Rule shall be null and void.

(iv) Endorsement of Decisions

- (a) All business transacted by the Board of Management shall be confirmed before the meeting concludes and copies of the confirmed minutes shall be posted to the Lodges of the District Branch.
- (b) The Executive Committee of each Lodge shall submit the confirmed resolutions of the Board to a meeting of the Lodge membership. The Secretary of each Lodge shall record the number of votes for and against each Board resolution. The Secretary shall send a return of the votes, signed and dated by him or her to the District Secretary within six weeks of the date on which the District Secretary posted the Board minutes to the Lodge. Any failure of an Executive Committee to submit the minutes or of the Lodge Secretary to send a return of votes does not prevent an endorsement by other Lodges of the District Branch.
- (c) A resolution of the Board of Management shall become the binding policy of the District Branch if an aggregate majority of the members of the District Branch attending and voting at Lodge meetings which consider the Board of Management resolutions, vote in favour of the resolution.
- (d) This sub rule is to be read subject to the provisions of Rule 13.

(v) Powers and Duties of the Board of Management

The powers and duties of the Board of Management shall be as follows:

- (a) To hear any appeal from any Lodge or members thereof.
- (b) To consider the financial position of the Branch and transact any business that may be placed before them by the Executive Officers.
- (c) To make, impose, order and enforce any levies, fines, fees or subscriptions on all members of the Branch not in conflict with the rules of this District Branch or the Rules of the Union for any one or more of the objects set out in Rule 3 of these Rules.
- (d) To determine any matter of report referred to it by the Branch Executive or by any Lodge or to settle any disputes internally and between Lodges.
- (e) From time to time to alter, amend, rescind or make standing orders for the regulation of the conduct of the business and proceedings of this District Branch and of the Lodges of the District Branch.
- (f) To fix, reduce, increase or alter the salaries and allowances of the officers and employees of the District Branch.
- (g) To receive and adopt or otherwise deal with the Annual Report of the District Branch.
- (h) To inflict any fine on any Lodge or member, such fine not to exceed one thousand dollars (\$1,000) on any Lodge or five hundred dollars (\$500) on any member.
- (i) To have control of the management and publication of the Official Organ of the Branch.
- (j) And generally to do all acts, matters and things that may appear to be in the best interests of the District Branch.

**8 – DISTRICT BRANCH EXECUTIVE**

(i) Executive Officers

- (a) The District Branch Executive shall consist of the District President, two District Vice-Presidents and the District Secretary.
- (b) The District President and the District Secretary shall be nominated by and elected from the whole membership of the District Branch, each four (4) years according to the Ballot rules of the Division. The District President and the District Secretary shall take office for a term of four (4) years from the first day of the month next following their election.

- (c) One District Vice-President shall be nominated by and elected from the membership in the Northern Region and one District Vice-President shall be nominated by and elected from the membership of the Southern Region. The District Vice-Presidents shall be elected each four (4) years according to the Ballot rule of the Division. The District Vice-Presidents shall take office for a term of four (4) years from the first day of the month next following their election.
- (d) Each officer shall remain in office unless he or she resigns his position in writing delivered at least one month in advance of the intended due date of resignation, or unless removed from office.
- (e) A person elected to office in the District Branch shall not be dismissed from office unless found guilty by the Board of Management of misappropriation of funds of the District Branch, a substantive breach of the Rules of the Union or District Branch, gross misbehaviour, gross neglect of duty or has ceased according to the Rules to be eligible to hold office. Where dismissal of an officer under this sub-rule is contemplated the Board of Management shall appoint a Committee of three Board members to investigate and report on the case. Where dismissal of an officer under this sub-rule is contemplated the officer concerned shall have presented to him or her by the Board's investigating committee a written statement of the charges alleged against him. The officer shall have full freedom to make a verbal and/or written response to the charges, to both the investigating committee and the meeting of the Board of Management which hears the report of the investigating committee. There shall elapse a period of not less than one month, or any greater period the Board shall determine, between the delivery to the officer concerned of the written statement of charges against him, and the hearing of the investigating committee of the officer's response to the charges. The officer may if he or she wishes waive all or part of the minimum one month period of notification. The decision of the Board of Management shall not take effect until endorsed by an aggregate District majority of members attending and voting at Lodge meetings at which the business of that Board of Management meeting is considered.
- (f) The Executive Officers shall remain financial members of the Union, and shall retain full membership rights.
- (g) No member shall be eligible for any District Branch Office unless he or she has been a member continuously for at least 12 months prior to the closing date of nominations.
- (h) No member shall hold more than one District Branch Office at the same time.

(ii) Duties of Executive Officers

(a) The District President

The District President shall preside at all meetings of the District Branch Board of Management or meetings called by the District Branch. The District President shall co-operate with other District Branch Officers in carrying out the objects of the District Branch, and if necessary, in the absence of the District Secretary, act in his or her stead. The District President shall as far as possible observe that the Rules are carried out by the District Branch Lodges. In the case of equal voting at Board of Management meetings, the District President shall have the casting vote. The District President shall receive such remuneration as shall be agreed upon from time to time with the District Board of Management.

(b) The District Vice-Presidents

The District Vice-Presidents shall act as members of the District Branch Executive in the exercise of the powers and duties of the Executive and shall attend all meetings of the District Branch Board of Management. The District Vice-Presidents shall be prepared to preside, in the place of the District President, over any meeting. When presiding in the District President's place at any meeting, a District Vice-President shall have the casting vote. The District Vice-Presidents shall, with the co-operation of other Executive Officers, carry out the objects of the District Branch and shall as far as possible ensure that these Rules are carried out.

(c) The District Secretary

The District Secretary's duties shall be to keep a correct account of all monies received and expended, prepare a yearly Balance Sheet of same, copies of which will be submitted to the members of the Branch through the Annual General Meeting of the Board of Management and to Lodge members through the Lodge Secretary.

The District Secretary shall also cause to be kept a register of members of the Branch under the headings of the respective Lodges to which members belong. The District Secretary shall attend all Board of Management meetings and take minutes of same. The District Secretary shall attend to all correspondence, watch the interests of the members and do everything possible to advance the members' position generally. The District Secretary shall strictly observe the Rules of the District Branch. The District Secretary shall be empowered with the concurrence of the other District Executive Officers to call special meetings of the Board of Management in cases of emergency and shall vote at all meetings of the Board of Management. The District Secretary shall as far as possible observe that the Rules are carried out by the Branch Lodges and from time to time examine the books and accounts of the District Branch and generally keep themselves acquainted with the financial transactions of the District Branch. The District Secretary shall prepare and forward to the relevant government authority all returns which may be required by law. The District Secretary shall receive for his or her salary such remuneration as shall be agreed from time to time with the District Branch Board of Management.

(iii) Meetings of the District Branch Executive

- (a) The District President or the District Secretary may convene a meeting of the District Branch Executive at any time by oral or written communication to the other members of the District Branch Executive.
- (b) The District President or District Secretary may allow members of the District Branch Executive to participate in the meeting by telephone.
- (c) A quorum of any meeting of the District Branch Executive shall be four.
- (d) The chairman of any meeting of the District Branch Executive shall have a deliberative but not a casting vote.
- (e) Where matters are due to be decided by the District Branch Executive and an officer cannot be present the officer may record a vote by letter, facsimile or email.

(iv) Powers of the District Branch Executive

The District Branch Executive shall, subject to the review of their actions by the next ensuing meeting of the Board of Management have the care, control, custody and superintendence, management and administration in all respects of the District Branch. The powers of the District Branch Executive shall include the following:

- (a) To suspend any member of the District Branch Executive or of the Board of Management or representative of the District Branch on any Board or body for any breach or infringement of the Rules of the Union or District Branch or for any misconduct or dereliction of duty or any misapplication respecting the whole or any part of the funds, monies or other property of the Union or non-compliance with or disobedience of any request or order contained in any resolution of the Central Council or the Board of Management and to inflict any fine not exceeding one hundred dollars. Where action is taken by the District Branch Executive under this sub-rule, there shall be a general right of appeal by the member, representative, Councillor or body affected, to the Board of Management. This sub-rule shall be read subject to sub-rule 8(i)(d).
- (b) To consider and decide upon any application for membership referred to it by the District Branch Secretary or by any Lodge of the District Branch.
- (c) To initiate, manage and control all actions, proceedings, industrial disputes and other matters and to appoint agents, solicitors or counsel to appear for and represent the District Branch or any of its members in any Court or proceedings, legal or otherwise.
- (d) To demand and collect or cause to be collected all levies, subscriptions, fines, fees and dues payable by all members.
- (e) To demand, receive and keep possession of all books and accounts of the District Branch.
- (f) To demand, or cause to be made, an audit of the books and accounts of the District Branch.

- (g) To engage any employees or other assistance that in its opinion are necessary of the proper carrying on of the District Branch business and to pay such wages, salaries and allowances as it shall deem proper.
- (h) To enter into, and make any industrial agreements on behalf of the District Branch and its members subject to the instruction of the Board of Management and members in accordance with these Rules.
- (i) To call the Board of Management together at any time necessary and to call aggregate meetings of the members of the District Branch when necessary.
- (j) To have the powers of the Board of Management as set down in these Rules.
- (k) To submit such matters as may appear to it to be of sufficient importance, to the Board of Management for decision or directly to the members of the District Branch for decision by Ballot.
- (l) All acts of the Executive done in pursuance of the powers granted it by these Rules shall have full force and effect and be of full validity, notwithstanding anything in these Rules, until such acts shall be reversed or altered, or otherwise dealt with by the next ensuing meeting of the Board of Management.

## **9 – ADDITIONAL OFFICERS**

- (a) There shall be such number of District Branch Central Councillors as are required by the rules of the Division.
- (b) The duties of the District Branch Central Councillors shall be to attend meetings of the Central Council as the representatives of the District Branch, to attend and address Lodges and other meetings of members at the direction of the District Branch Board of Management and to attend meetings of the District Branch of Management. The District Branch Central Councillors shall be responsible to the District Branch Board of Management and the District Branch Executive.
- (c) The District Branch Central Councillor elected under these Rules shall be subject to Rules 8(i)(d) and 8(i)(e).

## **10 – FINANCE AND PROPERTY**

- (i) The District Branch Fund shall consist of:
  - (a) Any real or personal property of which the District Branch by these Rules or by any established practice not inconsistent with the Rules, has, or in the absence of any limited term lease, bailment or arrangement, would have, the right of custody, control or management.
  - (b) The amounts of entrance fees, subscriptions, fines, fees or levies received by the District Branch, less so much of those amounts as is payable by the District Branch to the Divisional Office of the Union;
  - (c) Any interest, rents or dividends derived from the investment of the Fund;

- (d) Any superannuation or long service leave fund operated or controlled by the District Branch for the benefit of its officers or employees;
- (e) Any sick pay fund, accident pay fund, funeral fund, benefit fund or like fund operated or controlled by the District Branch for the benefit of its members provided that any such fund specific to members in any Group shall be subject to the control of the appropriate Group Committee;
- (f) The proceeds of any disposal of parts of the Fund;
- (g) All Lodge property and funds, provided that any such property or funds collected or accumulated for Lodge purposes only, shall be recorded as to be used for that purpose.

(ii) District Executive Control

Subject to the control of the District Branch Board of Management, the property and funds of the District Branch shall be under the control of the District Branch Executive.

(iii) Use of Funds

- (a) The funds of the District Branch shall be applied and/or invested as follows: in such lawful manner as the Board of Management may decide, including, without limiting the generality of this sub-clause, deposit on current account or fixed deposit with any approved deposit-taking institution carrying on business in the Commonwealth of Australia, the mortgage of real or personal estate situated in the Commonwealth, the subscription for or purchase of shares in any company registered and carrying on business in any State of the Commonwealth. Funds so applied shall only be realised on the authority of the District Branch Executive or on the authority of the Board of Management.
- (b) Monies shall be drawn from the funds of the District Branch by cheque or electronic means, signed or authorised by any two of the District Branch President or the District Branch Secretary or any one of those officers with any other officer or senior staff member as designated from time to time by the District Branch Board of Management.
- (c) All fees, fines, contributions, levy and dues received shall be immediately recorded in the books and banked to the credit of the Branch by the District Branch Secretary without deduction.
- (d) All monies withdrawn from the funds shall be applied only to carrying out the objects mentioned in Rule 3 of these Branch Rules and to payments to the Division.
- (e) When levies are ordered to be collected in accordance with these Rules such levies shall be collected from members as ordered by the District Branch Executive or by the Board of Management.

- (f) Loans, grants and donations of any amount exceeding \$1000 shall not be made by the District Branch unless the District Branch Board of Management has satisfied itself that the making of the loan, grant or donation is in accordance with the Rules of the District Branch and that, in relation to a loan, that in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory. Loans, grants and donations of an amount exceeding \$1000 shall not be made unless approved by the Board of Management.
- (g) In spite of paragraph (f), the District Secretary may make a loan, grant or donation of an amount not exceeding \$3,000 to a member of the District Branch if the loan, grant or donation:
  - (i) is for the purpose of relieving the member or any of the member's dependents from severe financial hardship; and
  - (ii) is subject to a condition to the effect that, if the Board of Management, at the next meeting of the Board of Management, does not approve the loan, grant or donation, it must be repaid as determined by the Board of Management.

(iv) Books and Records

The District Branch Secretary shall keep or cause to be kept all books, records and papers which may be required by law, necessary to the preparation of any return or statement required by law, necessary for the information of the auditor or which may be otherwise required by these rules or by the Board of Management.

(v) Financial Year

The financial year for the accounting purposes of the District Branch shall end at 31 December in each year.

(vi) Trustees

- (a) There shall be Trustees of the District Branch Fund.
- (b) The Trustees shall be the President and Secretary of the District Branch.
- (c) The Trustees shall, under the direction of the Board of Management, prosecute, or, if more convenient, direct any officer to prosecute any member or other person suspected by them of any offence, legally punishable with reference to the affairs of the District Branch and they may themselves institute, or if more convenient, may direct any officer or officers to institute civil proceedings against any member or other person refusing to give up possession of any of the Union's or any District Branch property; or doing or neglecting to do any act so as to render himself or themselves liable to proceedings in reference to the Union's affairs, or the affairs of the District Branch.
- (d) All funds, investments and other property of the District Branch, held in the name of the Trustees, shall be vested in the Trustees as joint tenants and be held by them in trust for the members of the District Branch.



- (e) The Trustees and/or the Board of Management shall without prejudice to any further power and duties conferred by these rules and by statute be vested with all and every of the powers and duties with which Trustees may lawfully be vested. The Board of Management shall have all necessary powers with regard to the bringing or defending of any action, suit, prosecution or complaint in the name of the District Branch or authorise the Trustees to institute such proceedings.
- (f) The Trustees shall have power:
  - (1) To receive money or other property paid, delivered or conveyed to them as Trustees of the District Branch and to expend monies without distinction between capital and income.
  - (2) To lend and advance money or give credit to any person or corporation; to guarantee, and give guarantees or indemnities for the payment of money or the performance of contracts or obligations by any person or corporation; to secure or undertake in any way the repayment of monies lent or advanced to or the liabilities incurred by any person or corporation; and otherwise to assist any person or corporation. This sub-rule shall be subject to sub-rule 10(iii)(g).
  - (3) To borrow or raise or secure the payment of money and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the District Branch in any way, and to purchase, redeem or pay off any such securities.
  - (4) To lease, licence, hire or otherwise give and acquire rights to use or occupy property of the District Branch and for the purposes of the District Branch and to carry on any business of the District Branch.

For the purposes of exercising a power listed above the Trustees shall have all such powers ancillary or incidental to or conducive to the exercise of that power as they would have if they were exercising the listed power by employment of funds or in relation to property beneficially owned by them and were acting in a personal as against a fiduciary capacity.

The powers conferred by this sub-rule shall be in addition to such power as are conferred upon Trustees by any law for the time being in force in Australia or any of its States or Territories (every one of which statutory powers the Trustees shall be deemed to have notwithstanding that the power is exercised outside Australia or the State or Territory under the law of which same is conferred) and shall not be construed to be limited or restricted to or by the statutory powers or so as to impose upon the Trustees any duties imposed by law upon Trustees exercising the statutory powers.

The Trustees shall be fully and effectually indemnified out of the funds of the District Branch in respect of any personal liability incurred in a proper exercise of the powers given by this rule or by the law and shall not be liable to the District Branch or any of its members for loss incurred in a proper exercise of such powers.

(vii) Auditor

- (a) There shall be one auditor who shall be duly qualified in accordance with the requirements of the *Fair Work (Registered Organisations) Act 2009* or any relevant successor legislation.
- (b) The auditor shall be appointed by the Board of Management.
- (c) The auditor's duties shall be to audit the accounts at the end of the financial year or when required by the Board of Management.
- (d) On all occasions the auditor shall furnish a report as to the state of the books and such report will be submitted to the members together with the Balance Sheet.
- (e) The selection of an auditor, the presentation of the accounts and certificates by the auditor and all other matters to do with the audit, the keeping of and presentation of accounts to the Board of Management and to the membership, shall be according to the requirement, forms and procedures of the law affecting the accounting and auditing practices of organisations registered under the provisions of the *Fair Work (Registered Organisations) Act 2009* or any relevant successor legislation.

(viii) Seal

The Seal of the District Branch shall be held by the District Secretary and shall be used by him for all purposes of the District Branch for which it may be required. The affixture of the seal to any instrument shall be attested under the name of the District Secretary and such other members of Executive as the Executive may decide.

(ix) Access to Books

Each member of the District Branch shall have access at all reasonable times, to the books of the Branch on applying to the District Secretary.

(x) Person to Sue

The District Branch Secretary shall be the person to sue or be sued for and on behalf of the District Branch.

(xi) Political Funds

- (a) The District Branch Board of Management shall be empowered to recommend to the members of the Branch a voluntary payment per annum for a political fund. Monies derived from this source shall be paid into the Branch Office and such monies so received shall be paid into a fund which shall be used only for political purposes. No monies of the District, other than the amount raised by such voluntary payment shall be paid into the Political Fund.
- (b) Each member of the District Branch has a right to be exempt from the making of such voluntary payment. To become exempt a member must inform the District Secretary in writing that the member does not desire to pay the voluntary payment.

- (c) Contributions to the Political Fund shall not be a condition of admission to or of membership of the District Branch. A member who does not contribute to this fund shall not be excluded from the benefits of the District Branch by reason of the member's failure to so contribute to the political fund. Only those members who contribute to the political fund shall be allowed to enjoy the privileges for which the fund is created.

(xii) Payment of Officers and Delegates

All Officers and Delegates when performing work for the District Branch shall be paid out of the funds of the District Branch such remuneration as may be determined from time to time by the Board of Management.

(xiii) Fines

All fines for violation of the District Branch Rules shall be paid into the District Branch Fund unless otherwise provided for.

## 11 – GROUP COMMITTEES

- (i) The District Branch Executive may establish Group Committees for the purpose of carrying out organisational work and to assist the District Branch Board of Management in the administration of the District Branch.
- (ii) The District Branch Board of Management may make such By-laws as it thinks fit, not inconsistent with the Rules of the District Branch, for the effective operation of the Group Committees including, to the extent thought necessary, the election of Group Committee members, their duties, finances of the Group Committees and any other matter relating to the operation of the Group Committees.

## 12 – LODGES

(i) Formation of Lodges

- (a) The District Branch Executive may establish Lodges of the District Branch where it considers it necessary. A Lodge is a local grouping of members, established to enable members to participate more effectively in the affairs of the District Branch and to give collective expression to the interests, concerns and views of the members who work in the Lodge.
- (b) Where there is no Lodge at a place of employment or where a new place of employment has started work and the District Executive is of the opinion that a Lodge should be formed, the Executive shall announce, in whatever way is best suited to the circumstances of that place of employment, that a meeting will be held of eligible workers for the purposes for forming a Lodge of the District Branch. The announcement shall state that officers of the Lodge will be elected at the foundation meeting.

- (c) The foundation meeting shall be chaired by a member of the District Branch Executive.
  - (d) The foundation meeting shall be conducted according to the Standing orders for District Branch Lodge meetings.
  - (e) The foundation meeting shall elect a committee, officers and representatives as required by these Rules.
- (ii) Management of Lodges
- (a) Each Lodge shall be managed by a Committee consisting of a President, Secretary, and such other number of committee members as determined by the Lodge.
  - (b) The Committee shall be elected by the Lodge no less than every 4 years. The Board of Management may make guidelines for the conduct of the elections.
  - (c) No member under eighteen years of age shall be eligible to hold office or serve on the Committee.
  - (d) Three members of the Lodge Committee shall form a quorum or if a Lodge Committee is comprised of only a President and Secretary, both members of the Committee.
  - (e) All Lodge meetings shall be conducted according to the Standing Rules of the Division.
  - (f) All members of the Lodge shall have equal voting power on all questions put to a meeting of the Lodge except that in the event of equal voting on any question the President shall have a casting vote.
  - (g) Lodges shall meet as required, but at least every two months.
  - (h) Any member of a Lodge failing to attend a summonsed meeting of the Lodge, without reasonable cause, may be fined ten dollars for each offence but a member shall have the right to make an appeal for the remission of his fine at the next meeting of his Lodge.
  - (i) All meetings of Lodges shall be convened by Notice posted on the Lodge Notice Board or by such other means as may be convenient.
  - (j) Any fine imposed on a member for non-attendance at a meeting shall be paid before any appeal is entertained by the Lodge.
  - (k) Fines for non-attendance shall be paid into the District Branch Fund.
  - (l) Lodges shall be empowered to exempt any members from attendance at Lodge meeting owing to infirmity or other reasonable cause.
  - (m) Each Lodge shall have power to make By-laws for its own guidance and control of its members. Such By-laws shall not be in contravention of the rules of the Union or the District Branch and shall not become operative until submitted to and approved by the District Branch Board of Management.

(iii) Powers and Duties of Lodge President

The President shall preside at all meetings and in conjunction with the Secretary ensure that the Rules of the Union, the District Branch and the Lodge are carried out.

(iv) Powers and Duties of Lodge Secretary

The Secretary shall, in conjunction with the President ensure that the Rules of the Union, the District Branch and Lodge are carried out. The Secretary shall be responsible for keeping the books and records of the Lodge including a minute book for recording resolutions of Lodge meetings, a register of agreements made with the employer at the place of employment, and is entitled to obtain from the District Branch a record of the contribution, fines, fees, levies and other monies paid by members of the Lodge.

The District Branch shall provide each Lodge Secretary with the necessary books.

When entering the names of members in the Lodge register the Secretary shall also enter the date and time when all new members start work.

Each Lodge Secretary shall produce the Lodge Books to the Branch Officers and Board of Management when called upon to do so.

All books, tickets and documents held by any Lodge Officers or members relating to the District Branch shall be the property of the District Branch and shall be surrendered to the District Branch Executive upon demand. Where a Lodge has closed the Secretary of such Lodge shall forward to the District Secretary all Branch and Lodge books in his possession.

If any Lodge Officers or member fails to comply with these Rules he or she may be expelled by the Board of Management.

The Secretary shall also produce Lodge books or records for inspection when called upon by the majority of the Lodge of which he or she is Secretary.

The Secretary shall keep the Lodge Books or Records in accordance with the system approved by the District Branch Board of Management.

(v) Duties of Lodge Committee

The Committee of each Lodge shall see that the health and lives of their fellow workers are protected to the utmost and shall deal with all matters as affecting the interest of the Lodge. In addition to their other duties, each member of the Lodge Committee also has the role of a delegate representing members of the Lodge.

(vi) Financial

(a) Subscriptions, fines, fees, dues and levies shall be collected quarterly by the District Branch unless provision is otherwise made in these rules or by specific agreement between the District Branch Executive and the Lodge Committee.

(vii) Private Agreements

No member of any Lodge in the District Branch shall be permitted to enter into any private agreement with his employer without the sanction of the Lodge of which he is a member and no Lodge shall be permitted to enter into any agreement with the employer without the sanction of the District Branch Executive and/or the Board of Management.

(viii) Expulsion or Suspension of Lodges or Members

(a) Any Lodge or member of this District Branch refusing to comply with the decision of the majority of this District Branch shall be expelled from the Branch and shall not be entitled to any benefits or privileges of the District Branch.

(b) In cases of suspension or expulsion the Lodge and/or members shall pay up all arrears before being readmitted to the District Branch.

(c) Any member or Lodge expelled or suspended under this rule shall have the right to appeal against the decision to the Central Council.

(ix) Demand by Lodges for Dismissal of Officer

No Lodge shall send to the District Branch Board of Management a notice of motion asking for the resignation of a District Branch Officer unless some specific charge is laid against such Officer in writing and he has been given the opportunity to attend the Lodge to vindicate himself and no such motion shall be allowable unless at least fifty per cent of the Lodge are present or a Ballot of the whole of the members of the Lodge has been taken.

### **13 – ALTERATION OF RULES**

(i) New District Branch Rules may be made and any of the rules of the District Branch may be altered, amended, added to or rescinded by the District Branch Board of Management.

(ii) Proposed new Rules shall be examined and reported on by a rules committee of members of the District Branch Board of Management appointed from time to time as the occasion arises by the District Branch Board of Management.

(iii) The report of the rules committee shall be discussed by the District Branch Board of Management and the proposed rules changes submitted for approval by a majority of the members present and voting at that meeting of the District Branch Board of Management, provided that the provision of rule 7(iv) shall not apply in the application of this rule.

## VICTORIAN DISTRICT BRANCH

### 1 – NAME

The name of the District Branch shall be the Victorian District Branch of the Construction, Forestry, Mining and Energy Union, Mining & Energy Division (hereinafter referred to as the “District”). A reference to the “Union” shall be a reference to the Construction, Forestry, Mining and Energy Union and a reference to the “Division” shall be a reference to the Construction, Forestry, Mining and Energy Union, Mining and Energy Division.

### 2 – CONSTITUTION

The District shall consist of an unlimited number of persons, otherwise eligible for membership of the Union, who, in Victoria:

- 2(A) are engaged as employees or as employees of contractors, in or in connection with any of the following industries:
- (1) mining or exploration;
  - (2) power generation, co-generation, transmission and distribution;
  - (3) oil, gas, coal, shale;
  - (4) nuclear; and
  - (5) chemical production.
- 2(B) have been elected as paid officers of the District; or
- 2(C) are paid employees of the District; or
- 2(D) as a working class Member of Parliament.

### 3 – OBJECTS

The objects of the District shall be, by all lawful means:

- 3(A) To improve the conditions and to protect the interest of the members of the District by:
- (1) increasing the proportionate share of the wealth to the workers; and
  - (2) endeavouring to educate and organise for the complete abolition of the present wage system and the substitution of the common ownership of the means of production, distribution and exchange.
- 3(B) To discuss, consider and put into force, when approved, any scheme for the better guidance and extension of Australian industrial organisation.

- 3(C) In order to further or ensure the better advocacy of workers or for any other purpose which the Board of Management may deem proper, to support, own in whole or part and/or subsidise any newspaper or any other publication advocating the cause of workers and their community.
- 3(D) To secure the election of such working class representatives in Parliament that are committed to promote such legislative enactments as will ensure the protection and improvement of the social and industrial interests of Australian workers.
- 3(E) To obtain legislative enactments:
  - (1) for the more efficient management and inspection of workplaces; and
  - (2) to preserve the lives, health and welfare of workers.
- 3(F) To take steps to obtain compensation and justice for accidents where the employer is liable or negligent.
- 3(G) To provide an allowance for the support of members who may be deemed unjustly dealt with and to provide benefits for dependents of members who died from any cause.
- 3(H) To prevent, if possible, by conference or otherwise any threatened cessation of work and to endeavour by conciliatory measures to uphold the Rules of the District, failing which, to provide ways and means for the support of members involved.
- 3(I) To secure the prices and/or wages for which members may at all times be engaged or contract and to prevent illegal or improper stoppage or reduction of member's wages.
- 3(J) To support bona fide charitable and other worthy causes consistent with the interests of members of the Union. Such support may include, but is not limited to, donations to community groups, relief funds, individual and other humanitarian, environmental, social or similar causes.
- 3(K) Generally to do all acts, matters or things that are reasonably considered to be in the best interests of the members, or further any or all of the objects of the District.
- 3(L) To do any other act provided for in the Rules of the District.

#### 4 – MEANS

Where necessary or convenient for the purpose of carrying out or furthering all or any of the objects of the District, the District may:

- 4(A) raise funds by entrance fees, subscriptions, donations, levies, contributions, dues, loans or otherwise for the purpose of applying and/or investing the same in any manner;
- 4(B) take, subscribe for or otherwise acquire, hold or divest any interest, shares, debentures, stock or other security of any company or trust; and
- 4(C) purchase, take on lease or in exchange, hire or otherwise acquire or sell any real or personal property or any rights or privileges.



## 5 – MEMBERSHIP

### 5(A) APPLICATIONS

- (1) All persons working in any capacity or doing any work falling within the scope of Rule 2 shall be eligible for membership of the District.
- (2) A candidate for membership of the District shall apply for membership to the District Secretary or Lodge Secretary at the place in which he works, in writing on the form prescribed and supplied by the District for that purpose.
- (3) Where the District Secretary or Lodge Secretary receive a membership application, the District Secretary or Lodge Secretary, as the case may be, shall sign and date the back of the membership application form on the day they receive them.
- (4) Subject to Rule 5(A)(5), a candidate for membership shall be deemed to be a member of the District from the date of receipt of the membership application form by the District Secretary or Lodge Secretary as the case may be.
- (5) Notwithstanding anything hereinbefore contained;
  - (a) The District Secretary may decide against the admission to membership of any candidate. In such case, the District Secretary shall immediately refer any such application to be considered and approved or not approved by the District Board of Management.
  - (b) In the event of a membership candidate being referred on in accordance with Rule 5(A)(5)(a), the candidate shall not become a member of the District until the District Board of Management has approved the application and the District Secretary has notified the candidate to that effect in writing. The candidate in such a case shall be a member of the District from the date of the District Secretary's letter of notification to the candidate.
  - (c) Where the District Board of Management decides against the admission to membership of a candidate, the candidate shall have a right of appeal to Central Council. Where the Central Council decides to admit the candidate to membership, the candidate shall be a member of the District from the date of the Central Council's decision.
- (6) When a candidate is admitted to membership of the District, the new member's name, address, date of birth and date of admission shall be:
  - (a) DELETED.
  - (b) entered in a register or database to be called the District Register of Members, which shall be kept by the District Secretary; and
  - (c) submitted to the General Secretary of the Division for entry in the Division Register of Members.
- (7) It shall be the responsibility of the person or body who approves a candidates membership to submit the new member's name address and date of admission in accordance with Rule 5(A)(6).

- (8) Membership of the District shall be subject to Rules 5(B) and 5(C).
- (9) Membership of the District also means membership of the Division and the Union.
- (10) The District Branch shall inform each candidate for membership, in writing, of:
  - (a) the financial obligations arising from membership; and
  - (b) the circumstances, and the manner, in which a member may resign from the organization."

5(B) *SUBSCRIPTIONS AND FEES*

- (1) Every member shall pay such fines, fees, levies and subscriptions as may be prescribed or imposed from time to time according to the Rules of the District, Division and/or Union.
- (2) A candidate for membership of the District may be required to pay an entrance fee on their admission to membership. The District Board of Management shall determine the entrance fee. All entrance fees shall be payable to the District for use by the District in accordance with the District Rules.
- (3) Subscriptions, fines, fees and levies owing by a member of the District may be paid to the District Secretary, a person authorised by the District Board of Management or by such other means as determined by the District Board of Management.
- (4) Subject to Rule 5(C), any member owing subscriptions, fines, fees or levies for more than fourteen days shall not be entitled to any of the privileges of membership, including the right to vote, and shall be liable to be sued for the recovery of amounts owed.
- (5) Any member deemed unfinancial under Rule 5(B)(3) shall be deemed to have become a financial member of the District again from the date of the completion of payment by them of all amounts owing. Continuity of membership shall be restored from the date of payment of all sums owing, provided they have not been non-financial for longer than 12 months. Members non-financial for longer than 12 months shall cease membership and shall be removed from the District Register of Members.
- (6) District membership subscriptions shall be set by the District Board of Management and shall be payable for 52 weeks of the year.
- (7) Employees and apprentices, otherwise eligible to join the District, but who are on low incomes shall be entitled to a reduced rate of membership subscriptions, as set by the Board of Management from time to time.
- (8) Members on compensation shall pay subscriptions as if at work, however, members receiving compensation for permanent and total incapacity shall be exempt from paying subscriptions, fees and levies.

5(C) *SICK MEMBERS*

- (1) There shall be a register or database called the District Quarterly Register of Sick Members. The register shall be kept updated by the District Secretary.
- (2) Any member unable to pay subscriptions, fees or levies by reason of their being on sick leave of absence and wishing to retain the rights and privileges conferred on them by these Rules, may apply to be entered on the District Quarterly Register of Sick Members.
- (3) Applications for registration in the District Quarterly Register of Sick Members:
  - (a) must be in writing, signed by the applicant, witnessed by a member of the District and submitted to the District Secretary. Where the applicant is a member of a Lodge, the application shall also include the name of such Lodge;
  - (b) be signed and dated by the District Secretary as they are received and be submitted to the District Board of Management for its consideration;
  - (c) Where approved by the District Board of Management, the District Secretary shall enter the applicant's name, address and the date of approval in the District Quarterly Register of Sick Members. The applicant shall then be duly registered for a period of a minimum of three months from the approval of his/her application.
- (4) Members, whilst entered on the District Quarterly Register of Sick Members shall be:
  - (a) exempt from subscriptions, fees and levies applicable to such period;
  - (b) entitled to the privileges of membership and to vote on all matters affecting the District, excepting upon any matter which would or might involve the declaration of a strike or in a stoppage of work or in the making of a levy upon other members.
- (5) In respect to the District Quarterly Register of Sick Members the District Board of Management shall have the power to:
  - (a) review persons listed on the Register from a list presented by the District Secretary once in each quarter;
  - (b) remove the name of any member from the District Quarterly Register of Sick Members for any reason it thinks fit; and/or
  - (c) prescribe a period for which a member shall be ineligible for registration in the District Quarterly Register of Sick Members.

5(D) UNEMPLOYED MEMBERS & LEAVE WITHOUT PAY

- (1) Any member unable to pay subscriptions, fees or levies by reason of their being unemployed, and wishing to retain the rights and privileges conferred on them by these Rules, may apply to have their membership status put on “hold” until they commence employment once again. Providing that the member has not resigned in writing, then membership fees will become payable immediately upon recommencement of employment.
- (2) Members with an on “hold” status for longer than 12 months will be reviewed by the District Secretary. If they have resumed work without notification, then membership subscriptions will become payable from the date of their recommencing of employment. If the member remains unemployed after 12 months, then their membership will cease and they will be removed from the Register of Members, just as if they had resigned their Membership in writing under Rule 5(E)(1).

5(E) *RESIGNATIONS*

- (1) A member may resign from membership by written notice addressed and delivered to the District Secretary;
- (2) A notice of resignation from membership takes effect;
  - (a) Where the member ceases to be eligible to become a member of the District;
    - (i) on the day on which the notice is received by the District; or
    - (ii) on the day specified in the notice, which is a day not earlier than the day when the member ceases to be eligible to become a member;whichever is the later, or
  - (b) in any other case:
    - (i) at the end of two weeks after the notice is received by the District; or
    - (ii) on the day specified in the notice;whichever is the later.
- (3) Any dues payable but not paid by a former member in relation to a period before the member’s resignation took effect, may be sued for and recovered in the name of the District in a court of competent jurisdiction as a debt due to the District.
- (4) A notice of resignation delivered to the District Secretary shall be considered as received by the District when it was delivered.
- (5) A notice of resignation that has been received by the District is not invalid because it was not addressed and delivered in accordance with Rule 5(D)(1) above.

## 7 – BOARD OF MANAGEMENT

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- (6) A resignation from membership is valid even if it is not effected in accordance with this Rule if the member is informed in writing by or on behalf of the District that the resignation has been accepted.
- (7) Any member whose membership fee subscriptions fall in arrears greater than an amount which is equivalent to 12 months membership fee subscriptions shall be deemed to have ceased Membership of the District and will be removed from the District Register of Members, just as if they had resigned their Membership in writing under Rule 5(E)(1).

### 5(E) *CLEARANCES*

- (1) Members moving from this District to another District shall obtain a District clearance from the District Secretary, who shall be the only person entitled to issue a District clearance. The District clearance shall be stamped with the seal of the District.
- (2) The District Secretary shall at all times be empowered to refer any application for a district clearance to the District Executive.

## 6 – ENTITLED TO VOTE

Subject to Rule 5, the members entitled to vote on any question shall be, all financial members working in the industries shown in Rule 2 in addition to all members registered on the District Quarterly Register of Unemployed and Sick Members according to Rule 5(C).

## 7 – BOARD OF MANAGEMENT

The Board of Management of the Victorian District shall be the Victorian District Board of Management.

### 7(A) *COMPOSITION*

The District Board of Management shall be composed of:

- (1) The District Executive, being:
  - (a) the District President;
  - (b) the District Vice President; and
  - (c) the District Secretary.

- (2) Lodge Representatives as follows (where such Lodge exists):
  - (a) DELETED.
  - (b) Hazelwood Lodge President (Mining);
  - (c) Hazelwood Lodge President (Energy);
  - (d) Loy Yang Mine Lodge President;
  - (e) Loy Yang ‘A’ Power Station Lodge President;
  - (f) Loy Yang ‘B’ Power Station Lodge President;
  - (g) Yallourn Mine Lodge President;
  - (h) Yallourn Power Station Lodge President;
  - (i) Emergency Services Lodge President;
  - (j) DELETED.
  - (k) Stawell Gold Mine Lodge President
  - (l) Other elected representatives of Lodges or groups of members as determined by the District Board of Management.

Except that whilst a Lodge President holds a District Executive position, a Lodge Committee member of that same Lodge shall hold the position of Lodge Representative on the District Board of Management instead of the Lodge President. Such Lodge Committee member shall be elected by collegiate vote of that Lodge Committee.

- (3) Such District Central Councillors as determined by the Rules of the Division.

7(B) *ELECTIONS*

- (1) Upon any determination of the District Board of Management pursuant to Rules 7(B)(2) & 7(B)(3) or 7(B)(4), the District Secretary shall advise the Returning Officer appointed for the purpose, of the requirement of an election pursuant to the Ballot Rules of the Division.
- (2) Representatives to the District Board of Management shall be elected every four years in accordance with the Ballot Rules of the Division and shall take office as and from the first day of the month following the declaration of their election.
- (3) The District Executive positions shall be elected every four years according to the Ballot Rules of the Division and shall take office as and from the first day of the month following the declaration of their election.

- (4) Subject to Rule 7(B)(5), any extraordinary vacancy that occurs in an elected position within the District Board of Management shall be filled by the immediate holding of an election in accordance with the Ballot Rules of the Division. The member so elected shall hold office for the remainder of the term for which the previous holder of the office was elected.
- (5) Where the remainder of the term applicable to Rule 7(B)(4) is less than three years, then the District Board of Management may appoint by resolution any eligible member of the District to act in that office for the remainder of the term. Where the vacancy is a Lodge Representative referred to in Rule 7(A)(2)(a) to (g) and an appointment is made by the District Board of Management, such appointee will be determined by the collegiate vote of the relevant Lodge Committee.

7(C) *MEETINGS*

- (1) The District Board of Management shall meet at least three times each year, including a meet at such other times as the majority of the District Executive or the District Board of Management may deem necessary.
- (2) A special meeting of the District Board of Management shall be convened by either the District President or District Secretary upon receipt of a written request to do so signed by at least one District Board of Management Lodge Representative from each of at least three Lodges, and stating the agenda items to be raised.
- (3) More than half of the number of District Board of Management members, including at least half of the District Executive Officers must be present at each meeting of the District Board of Management and shall be the quorum.
- (4) All members of the District Board of Management shall have a deliberative vote at any meeting of the District Board of Management. In the event of the Board being equally divided on any question, the District President shall be entitled to a casting vote.
- (5) At all meetings of the District Board of Management every Board member in attendance shall vote either for or against any proposition put to the meeting.
- (6) Any District Board of Management member absenting himself from any meeting, of which they have been duly notified by or on behalf of the District Secretary at least fourteen days before the date of the meeting, may be called upon to give an explanation at the next subsequent meeting of the District Board of Management.
- (7) The District Secretary shall issue or cause to be issued to District Board of Management members, a notice of the date of the District Board of Management meeting at least fourteen days prior to the date of the meeting. The District Secretary shall also issue or cause to be issued a meeting agenda to members of the District Board of Management at least fourteen days prior to the meeting of the District Board of Management. Such fourteen day periods may be reduced where special circumstances exist and the District Executive agrees to do so.

7(D) *LODGE BUSINESS*

Any Lodge having business for the consideration of the District, after having dealt with the same matter locally, shall forward it to the District Secretary for inclusion in the agenda of the next meeting of the District Executive or of the District Board of Management.

7(E) *ENDORSEMENT OF DECISIONS*

- (1) All business transacted by the District Board of Management shall be confirmed before the meeting concludes and copies of the confirmed minutes shall be forwarded to each of the Lodges of the District.
- (2) All District Board of Management resolutions that affect either:
  - a) a change in District policy affecting members directly;
  - b) a change in the District rules;
  - c) an increase in membership fees;
  - d) the imposition of a subscription or levy;
  - e) an appointment to an Executive Officer vacancy; or
  - f) an expenditure exceeding that of the delegated authority of the District Executive

will be put to a vote for endorsement by the District membership. All other resolutions shall be regarded as administrative in nature and will not require endorsement by members, with the exception of Central Council resolutions and any other resolutions not considered administrative only in nature by the Board of Management.

- (3) Voting will be conducted by either postal ballot, electronic survey or at Lodge meetings of members or the general membership; as determined by the District Executive or Board of Management from time to time.
- (4) All votes shall be returned to the District Secretary within 21 days from the date that the ballots commence or the meeting was held. All votes of any Lodge or member failing to comply with this rule shall be null and void.
- (5) A resolution of the District Board of Management shall become binding on the District if an aggregate majority of the members returning votes considers and vote in favour of the District Board of Management resolution concerned.

7(F) *POWERS AND DUTIES OF THE DISTRICT BOARD OF MANAGEMENT*

The powers and duties of the District Board of Management shall be as follows:

- (1) To hear any appeal from any Lodge or member.
- (2) To consider the financial position of the District and transact any business that may be placed before them by the District Executive.
- (3) To make, impose, order and enforce any levies, fines, fees or subscriptions on any or all members of the District not in conflict with the Rules of the District or the Rules of the Division for any one or more of the objects set out in Rule 3 of these Rules.
- (4) To determine any matter or report referred to it by the District Executive or by any Lodge or to settle any disputes between the membership.



- (5) From time to time to alter, amend, rescind or make standing orders for the regulation of the conduct of the business and proceedings of this District and of the Lodges of the District.
- (6) New District Rules may be made and any of the Rules of the District may be altered, amended, added to or rescinded by the District Board of Management in accordance with Rule 12.
- (7) To fix, reduce, increase or alter the salaries and allowances of the officers and employees of the District.
- (8) To refer any matter to the Central Council for its consideration.
- (9) To receive and adopt or otherwise deal with the Annual Report of the District.
- (10) To inflict any fine on any Lodge or member, such fine not to exceed one thousand dollars (\$1000.00) on any Lodge or one hundred (\$100.00) on any member subject to a general right of appeal.
- (11) To expel any Lodge Officer or member who fails to comply with the Rules of the District, Division or Union subject to a general right of appeal.
- (12) DELETED.
- (13) To consider and decide upon any application for membership referred to it by the District Secretary or by any Lodge of the District.
- (14) And generally to do all acts, matters and things that are reasonably considered to be in the best interests of the District.

## 8 – DISTRICT EXECUTIVE

### 8(A) *EXECUTIVE OFFICERS*

- (1) The District Executive shall consist of the District President, the District Vice-President and the District Secretary.
- (2) Each officer shall remain in office for their elected term unless they either die, resign their position in writing, delivered at least one month in advance of the intended date of resignation, or are dismissed from office in accordance with Rule 8(A)(3).
- (3) A person elected to office in the District shall not be dismissed from office unless found guilty by the District Board of Management of:
  - (a) misappropriation of the funds of the District;
  - (b) a substantial breach of the Rules of the Union, Division or District;

- (c) gross misbehaviour;
  - (d) gross neglect of duty; or
  - (e) has ceased according to the Rules to be eligible to hold office.
- (4) Where dismissal of an officer under Rule 8(4)(3) is contemplated the District Board of Management shall appoint an Investigating Committee of three District Board of Management members to investigate and report on the case. The Investigating Committee shall present the officer under investigation with a written statement of the charges alleged against them. The officer shall have full freedom to make a verbal and/or written response to the charges, to both the Investigating Committee and the meeting of the District Board of Management, which hears the report of the Investigating Committee. There shall elapse a period of not less than one month, or any greater period the District Board of Management may determine, between the delivery to the officer concerned of the written statement of charges against them, and the hearing by the Investigating Committee of the officer's response to the charges. The officer may, if he wishes, waive all or part of the minimum period of notification. The decision of the District Board of Management shall not take effect until endorsed by an aggregate District majority of members attending and voting at Lodge meetings at which the business of that District Board of Management meeting is considered.
- (5) The Executive Officers shall remain financial members of the District and shall retain full membership rights of the Lodges of which they were members at the time of their election to District Office. In the event of an officer's Lodge closing the officer shall become a financial member of another Lodge as directed by the District Board of Management.
- (6) No member shall be eligible for any District Executive Office unless they have been a member continuously for at least 12 months prior to the closing date of nominations.
- (7) No member may contest for more than one District Executive Office in the same election. If a member is nominated for more than one position they must indicate to the Returning Officer which position they wish to contest, prior to the closing of nominations. Where a member is nominated for more than one District Executive Office, and fails to withdraw the excess nominations before the close of nominations, the Returning Officer shall disregard all but the highest office nomination. In such case, the office of District President shall be considered higher than that of District Secretary which shall be considered higher than District Vice-President.

8(B) *DUTIES OF EXECUTIVE OFFICERS*

- (1) The District President's duties shall be to:
- (a) Preside at all meetings of the District Board of Management or other meetings called by the District;
  - (b) Co-operate with the other District Executive Officers in carrying out the objects of the District;
  - (c) In conjunction with the other District Executive Officers, transact the general business of the District;

- (d) Assist, where required, the District Secretary in the conduct of their duties;
  - (e) If necessary, in the absence of the District Secretary, act in their stead;
  - (f) Strictly observe the Rules of the District and as far as possible, observe that the District Lodges carry out the Rules;
  - (g) Ensure that one or more members of the District Executive attend Lodge meetings when requested by the Lodge President; and
  - (h) In the case of equal voting at District Board of Management meetings, have the casting vote.
- (2) The District Secretary's duties shall be to:
- (a) Keep a correct account of all monies received and expended and have prepared a yearly Balance Sheet of same, copies of which shall be submitted to the members of the District through the Annual General Meeting of the District Board of Management and to Lodge members through the Lodge Secretaries;
  - (b) Cause to be kept a register or database of members of the District under the headings of the respective Lodges to which members belong;
  - (c) Attend all District Board of Management meetings and take minutes of same;
  - (d) Co-operate with the other District Executive Officers in carrying out the objects of the District;
  - (e) Zealously attend to all correspondence, watch the interests of the members and do all in their power to advance the members' position generally;
  - (f) Strictly observe the Rules of the District and as far as possible observe that the Rules are carried out by the District Lodges;
  - (g) Be empowered, with the concurrence of the other District Executive Officers, to call special meetings of the District Board of Management in cases of emergency and shall vote at all District Board of Management meetings;
  - (h) Be under the control of the District Board of Management;
  - (i) From time to time examine the books and accounts of the District and generally keep acquainted with the financial transactions of the District; and
  - (j) Prepare and forward to the Registrar all returns that may be required by law.
  - (k) To have control of the management and publication of the journal of the District.
- (3) The District Vice-President shall co-operate with the other District Executive Officers in carrying out the objects of the District and in the absence of the District President shall exercise all functions of the District President's position.

8(C) *MEETINGS OF THE DISTRICT EXECUTIVE*

- (1) The District President or District Secretary may convene a meeting of the District Executive at any time by oral or written communication to the other members of the Executive.
- (2) A quorum of any meeting of the District Executive shall be three.
- (3) The chairman of any meeting of the District Executive shall have a deliberative but not a casting vote.
- (4) Where matters are due to be decided by the District Executive and an officer cannot be present, they may, if they wish, record a vote by post, facsimile or electronic mail. In such an event the decision of the majority shall be valid as had they assembled.

8(D) *POWERS OF THE DISTRICT EXECUTIVE*

The District Executive shall, subject to the review of their actions by the next ensuing meeting of the District Board of Management have the care, control, custody superintendence, management and administration in all respects of the District. All acts of the Executive done in pursuance of the powers granted it by these Rules shall have full force and effect and be of full validity, notwithstanding anything in these Rules, until such acts shall be reversed or altered, or otherwise dealt with by the next ensuing meeting of the District Board of Management.

The powers of the District Executive shall include the following:

- (1) To suspend any member of the District Executive or of the District Board of Management or representative of the District on any Board or body for any:
  - (a) breach or infringement of the Rules of the Division or District;
  - (b) misconduct or dereliction of duty;
  - (c) misapplication respecting the whole or any part of the funds, monies or other property of the Division or District; or
  - (d) non-compliance with or disobedience of any request or order contained in any resolution of the Central Council or the District Board of Management;
  - (e) and to inflict any fine not exceeding one hundred dollars.
  - (f) Where action is taken by the District Executive under this Rule there shall be a general right of appeal by the member, representative, councillor or body affected, to the District Board of Management. This Rule shall be read subject to Rule 8(A)(3).
- (2) To initiate, manage and control all actions, proceedings, industrial disputes and other matters and to appoint agents, solicitors or counsel to appear for or represent the District or any of its members in any Court or proceedings, legal or otherwise.
- (3) To demand and collect or cause to be collected all levies, subscriptions, fines, fees and dues payable by all members.
- (4) To demand, receive and keep possession of all books, records and accounts of the District.

## 9 – DISTRICT CENTRAL COUNCILLORS

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- (5) To demand, or cause to be made, an audit of the books, records and accounts of the District.
- (6) To engage any persons, agents or other assistance that in its opinion are necessary for the proper carrying on of the District business and to pay such wages, salaries and allowances, as it shall deem proper.
- (7) To enter into, and make any industrial agreements on behalf of the District and its members subject to the instruction of the District Board of Management and members in accordance with these Rules.
- (8) To establish regional offices of the District where necessary to properly service the membership.
- (9) To call meetings of the District Board of Management, a Lodge or aggregate meetings of the members of the District at any time necessary and to attend such meetings.
- (10) To have the powers of the District Board of Management as set down in these Rules, pending endorsement by the Board of Management at their next meeting.
- (11) To submit such matters as may appear to it to be of sufficient importance, to the District Board of Management for decision or directly to the members of the District for decision by Ballot.

### 8(E) *REMUNERATION*

District Executive Officers shall receive such remuneration as shall be agreed upon from time to time between the Officer and the District Board of Management.

## 9 – DISTRICT CENTRAL COUNCILLORS

- 9(A) There shall be such number of District Central Councillors as may be determined from time to time by Central Council in accordance with the Rules of the Division.
- 9(B) The District Central Councillor shall be the District President ex officio, where the Rules of the Division require only one representative of the Victorian District on the Central Council.
- 9(C) Where the Rules of the Division require more than one representative on the Central Council from the District, the additional District Central Councillor or Councillors shall be part time officers elected every four years according to the Ballot Rules of the Division.
- 9(D) The elected District Central Councillor or Councillors shall take office as and from the first day of the new term of office following the declaration of their election.
- 9(E) The duties of a District Central Councillor shall be:
  - (1) to attend meetings of the Central Council of the Division as the representative of the Victorian District;
  - (2) to attend and address Lodge meetings and other meetings of members at the direction of the District Board of Management;
  - (3) to attend meetings of the District Board of Management;

- (4) District Central Councillors shall be responsible to the District Board of Management and the District Executive.
- 9(F) The District Central Councillors elected under these Rules shall be subject to Rules 7(B)(4), 7(B)(5), and 8(A)(5).

## **10 – FINANCE AND PROPERTY**

10(A) The District Fund shall consist of:

- (1) any real or personal property of which the District by these Rules or by any established practice not inconsistent with these Rules, has, or in the absence of any limited term lease, bailment or arrangement, would have, the right of custody, control or management;
- (2) the amounts of entrance fees, subscriptions, fines, fees or levies received by the District, less so much of those amounts as is payable by the District to the Central Office of the Division;
- (3) any interest, rents or dividend derived from the investment of the Fund;
- (4) any superannuation or long service leave fund operated or controlled by the District for the benefit of its officers or employees;
- (5) any sick pay fund, accident pay fund, funeral fund, benefit fund or like fund operated or controlled by the District for the benefit of its members or employees;
- (6) any property acquired wholly or mainly by expenditure of the money of the Fund or derived from other assets of the Fund; and
- (7) the proceeds of any disposal of parts of the Fund.

10(B) *DISTRICT EXECUTIVE CONTROL*

Subject to the control of the District Board of Management, the property and funds of the District shall be under the control of the District Executive.

10(C) *USE OF FUNDS*

- (1) The funds of the District shall be applied and/or invested in such lawful manner as the District Board of Management may decide, including, without limiting the generality of this sub-clause:
  - (a) deposit on current account or fixed deposit with any financial institution;
  - (b) the mortgage of real or personal estate;
  - (c) the subscription for or purchase of shares in any company;

Funds so applied shall only be realised on the authority of the District Executive or on the authority of the District Board of Management.

- (2) All monies shall be banked in the names of the trustees to the credit of the District.

## 10 – FINANCE AND PROPERTY

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- (3) Monies shall be drawn from the funds of the District by cheques signed by, or by electronic funds transfer authorised by two Executive Officers of the District.
- (4) All fees, fines, subscriptions and levies received by the District Secretary or other persons in accordance with these Rules shall pass through the District Office and all monies so received from the above sources shall be immediately recorded in the books and banked to the credit of the District by the District Secretary without deduction.
- (5) All monies withdrawn from the funds shall be applied only to carrying out the objects mentioned in Rule 3 of these District Rules and to payments to the Division.
- (6) When levies are ordered to be collected in accordance with these Rules such levies shall be collected from members as ordered by the District Executive or by the District Board of Management.
- (7) Loans, grants and donations of any amount exceeding \$1,000 shall not be made by the District unless the District Board of Management has satisfied itself that the making of the loan, grant or donation is in accordance with the Rules of the District and that, in relation to a loan, that in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory. Loans, grants and donations of an amount exceeding \$1,000 shall not be made unless approved by the District Board of Management.

### 10(D) *BOOKS AND RECORDS*

The District Secretary shall keep or cause to be kept all books, records and papers which may be required by law, necessary to the preparation of any return or statement required by law, necessary for the information of the auditor or which may otherwise be required by these Rules or by the District Board of Management.

### 10(E) *FINANCIAL YEAR*

The financial year for the accounting purposes of the District shall end at 31 December in each year.

### 10(F) *TRUSTEES*

- (1) The Trustees shall be the District President, the District Vice-President and the District Secretary of the District.
- (2) The Trustees shall, under the direction of the District Board of Management, prosecute, or if more convenient, direct any officer to prosecute any member or other person suspected by them of any offence, legally punishable with reference to the affairs of the District and they may themselves institute, or if more convenient, may direct any officer or officers to institute civil proceedings against any member or other person refusing to give up possession of any of the Division's or any of the District's property; or doing or neglecting to do any act so as to render himself or themselves liable to proceedings in reference to the Division's affairs, or the affairs of the District.
- (3) All funds, investments and other property of the District shall be vested in the Trustees as joint tenants and be held by them in trust for the members of the District.

- (4) The Trustees and/or the District Board of Management shall without prejudice to any further power and duties conferred by these Rules and by statute, be vested with all and every of the powers and duties with which Trustees may lawfully be vested. The District Board of Management shall have all necessary powers with regard to the bringing or defending of any action, suit, prosecution or complaint in the name of the District or authorise the Trustees to institute such proceedings.
- (5) The Trustees shall have power:
  - (a) To receive monies or other property paid, delivered or conveyed to them as Trustees of the District and to expend monies without distinction between capital and income.
  - (b) To invest, sell, exchange or otherwise dispose of investments or other property of the District and to deal with the funds of the District including purchase or otherwise acquiring of property out of the funds of the District.
  - (c) To lend and advance money or give credit to any person or corporation; to guarantee, and give guarantees or indemnities for the payment of money or the performance of contracts or obligations by any person or corporation; to secure or undertake in any way the repayment of moneys lent or advanced to or the liabilities incurred by any person or corporation: and otherwise to assist any person or corporation. This Rule shall be subject to Rule 10(C)(7).
  - (d) To borrow or raise or secure the payment of money and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the District in any way, and to purchase, redeem or pay off any such securities.
  - (e) To lease, licence, hire or otherwise give and acquire rights to use or occupy property of the District and for the purposes of the District and to carry on any business of the District.
- (6) For the purposes of exercising a power listed above, the Trustees shall have all such powers ancillary or incidental to or conducive to the exercise of that power as they would have if they were exercising the listed power by employment of funds or in relation to property beneficially owned by them and were acting in a personal as against a fiduciary capacity. The powers conferred by this Rule shall be in addition to such powers as are conferred upon Trustees by any law for the time being in force in Australia or any of its States or Territories (every one of which statutory powers the Trustees shall be deemed to have notwithstanding that the power is exercised outside Australia or the State or Territory under the law of which same is conferred) and shall not be construed to be limited or restricted to or by the statutory powers or so as to impose upon the Trustees any duties imposed by law upon Trustees exercising the statutory powers.
- (7) The Trustees shall be fully and effectually indemnified out of the funds of the District in respect of any personal liability incurred in a proper exercise of the powers given by this rule or by law and shall not be liable to the District or any of its members for loss incurred in a proper exercise of such powers.



10(G) *AUDITOR*

- (1) There shall be one auditor who shall be a duly qualified Chartered Accountant.
- (2) The auditor shall be elected annually by the District Board of Management and shall be eligible for re-election.
- (3) The auditor's duties shall be to audit the accounts at the end of the financial year or when required by the District Board of Management. He shall also audit Lodge Books when authorised to do so by the District Executive Officers.
- (4) On all occasions the auditor shall furnish a report as to the state of the books and such report will be submitted to the members together with the Balance Sheet.
- (5) Should at any time the position of Auditor become vacant, it shall be filled in accordance with Rule 10(G).
- (6) The selection of an auditor, the presentation of the accounts and certificates by the auditor and all other matters to do with the audit, the keeping of and presentation of accounts to the District Board of Management and to the membership, shall be according to the requirements, forms and procedures of the law affecting the accounting and auditing practices of organisations registered under the provisions of the *Fair Work (Registered Organisations) Act 2009* or successor legislation.

10(H) *SEAL*

The Seal of the District shall be held by the District Secretary and shall be used by the District Secretary for all purposes of the District for which it may be required. The affixture of the seal to any instrument shall be attested under the name of the District Secretary and such other members of District Executive as the District Executive may decide.

10(I) *REGISTERED OFFICE*

The registered office of the District shall be Wing 5 Lignite Court, Morwell, Victoria or such other place as may be decided upon by the District Board of Management from time to time.

10(J) *ACCESS TO BOOKS*

Each member of the District shall have access at all reasonable times, to the books of the District on applying to the District Secretary.

10(K) *PERSON TO SUE*

The District Secretary shall be the person to sue or be sued for and on behalf of the District.

10(L) *POLITICAL FUNDS*

- (1) The District Board of Management shall be empowered to recommend to the members of the District a voluntary payment per annum for a Political Fund. Monies derived from this source shall be paid into the District Office and such monies so received shall be paid into a fund which shall be used only for political purposes.
- (2) Contributions to the Political Fund shall not be a condition of admission to or of membership of the District. A member who does not contribute to this fund shall not be excluded from the benefits of the District by reason of his failure to so contribute to the Political Fund. Only those members who contribute to the Political Fund shall be allowed to enjoy the privileges for which the fund is created.

10(M) *PAYMENT OF OFFICERS AND DELEGATES*

All Officers and Delegates when performing work for the District shall be paid out of the funds of the District, such remuneration as may be determined from time to time by the District Board of Management, provided that where there has been a determination by the Central Council of the Division of the level of such remuneration, Officers and Delegates shall be paid in conformity with that determination. Travelling, lost time and other expenses shall also be allowed to representatives to the District Board of Management as prescribed from time to time by the District Board of Management.

10(N) *FINES*

All fines for violation of the District Rules shall be paid into the General Fund of the District unless otherwise provided for.

**11 – LODGES**

11(A) *FORMATION OF LODGES*

- (1) The District Executive shall take whatever steps are necessary to establish Lodges of the District at all workplaces in the District.
- (2) A Lodge is a local grouping of members, established to enable members to participate more effectively in the affairs of the District Branch and to give collective expression to the interests, concerns and views of the members who work in the Lodge.
- (3) Where there is no Lodge at a workplace and the District Executive is of the opinion that a Lodge should be formed, the Executive shall announce, in whatever way is best suited to the circumstances of the workplace, that a meeting will be held of eligible workers for the purposes of forming a Lodge of the District. The announcement shall state that officers of the Lodge will be elected at the foundation meeting.
  - (a) Any foundation meeting shall be chaired by a member of the District Executive.
  - (b) The foundation meeting shall be conducted according to the Standing Orders for District Lodge meetings.

- (c) The foundation meeting shall elect a Lodge Committee, officers and representatives as required by these Rules.

11(B) *WHERE THERE ARE NO LODGES*

- (1) Any member of the Division who works at a workplace where there is no Lodge of the District, shall pay to the District Secretary or a person authorised by the District Board of Management, all subscriptions, fines, fees, and levies which shall be determined as payable by them by the District Executive or District Board of Management.
- (2) Where there are less than twenty-five members at a workplace, they may form a Lodge but shall be under the direct supervision of and managed by the District Executive rather than a Lodge Committee.

11(C) *MANAGEMENT OF LODGES*

- (1) Subject to Rule 11(B)(2), each Lodge shall be managed by a Lodge Committee consisting of:
  - (a) Where the Lodge consists of both Mine and Power Station workplaces;
    - (i) a Lodge President (Mining);
    - (ii) a Lodge President (Energy);
    - (iii) a Lodge Secretary;
    - (iv) a Lodge Assistant Secretary; and
    - (v) such number of ordinary Lodge Committee members determined in accordance with Rule 11(C)(2).
  - (b) In all other Lodges;
    - (i) a Lodge President;
    - (ii) a Lodge Secretary; and
    - (iii) such number of ordinary Lodge Committee members determined in accordance with Rule 11(C)(2).
- (2) The number of ordinary Lodge Committee members shall be determined annually, prior to the calling of nominations of the Lodge Committee elections, by a meeting of the Lodge members. Such determination shall endeavour to provide each distinct work group within the Lodge with proportionate representation on the Lodge Committee and shall not become policy until submitted to and approved by the District Board of Management.
- (3) All members of the Lodge Committee, including Lodge Presidents, shall have equal voting power on all questions put to a meeting of the Lodge Committee.
- (4) More than half of the number of Lodge Committee members, including more than half of the Lodge Executive Officers must be present at each meeting of a Lodge Committee and shall be the quorum.

11(D) *ELECTION OF LODGE COMMITTEE MEMBERS*

Subject to Rule 11(B)(2) and Rule (2) Lodge Committee positions, with the exclusion of Lodge President who is elected according to Rule 7 (B), shall be elected annually by Lodge Ballot in accordance with the following:

- (1) Lodges consisting of both Mine and Power Station workplaces
  - (a) For the purposes of Lodge elections, Lodge members shall be classified as either Mine or Power Station members and further as required, into work groups. This classification shall be carried out by the Lodge Committee and submitted to the District Board of Management for its approval.
  - (b) The Lodge President (Mining) shall be elected from and by the Lodge Mine members.
  - (c) The Lodge President (Energy) shall be elected from and by the Lodge Power Station members.
  - (d) The election of Lodge Secretary and Lodge Assistant Secretary shall be combined under the nomination of Lodge Secretary and shall be elected from and by all Lodge members. Where the first placed candidate so elected for Lodge Secretary is classified as:
    - (i) a Mine member, the Assistant Secretary shall be the next placed candidate classified as a Power Station member, or where no such candidate exists, the second placed candidate; or
    - (ii) a Power Station member, the Assistant Secretary shall be the next placed candidate classified as a Mine member, or where no such candidate exists, the second placed candidate;provided that the first placed candidate may choose to take the Assistant Lodge Secretary position instead and thus the second successful candidate the Lodge Secretary position.
  - (e) Lodge Ordinary Committee members shall be elected by and from such work group or industry sector as such positions exist within that Lodge.
- (2) All other Lodges
  - (a) The Lodge President and Lodge Secretary positions shall be elected from and by all Lodge members.
  - (b) For the purposes of the Lodge ordinary Committee member elections, Lodge members shall be classified into such work groups or occupations as are required. This classification shall be carried out by the Lodge Committee and submitted to the District Board of Management for its approval. Lodge ordinary Committee members shall be elected by and from such work group or industry sector as such positions exist within that Lodge.

11(E) *DUTIES OF LODGE COMMITTEE*

- (1) The Committee of each Lodge shall see that the health and lives of their fellow workers are protected to the utmost and shall deal with all matters affecting the interests of the Lodge.
- (2) Lodge Committees shall endeavour to protect and improve the working conditions and living standards of all members.
- (3) Lodge Committees shall comply with, and put into effect, all resolutions that are carried by a majority vote of their Lodge members. Resolutions carried by a majority of Lodge members may only be revoked by another Lodge member resolution receiving a majority vote.

11(F) *LODGE MEETINGS*

- (1) All Lodge meetings shall be conducted according to the Standing Orders of the Union.
- (2) Subject to Rule 5(B) and 5(C), all members of the Lodge shall have equal voting power on all questions put to a meeting of the Lodge except that in the event of equal voting of any question the chairman shall have a casting vote. The chairman shall normally be the Lodge President. Where a Lodge has two Presidents, the two Presidents will take alternate turns chairing meetings unless the two Presidents agree otherwise.
- (3) The maximum time between successive meetings of Lodges shall be four calendar months.
- (4) All meetings of Lodges shall be convened by Notice posted on the Lodge Notice Boards or by such other means as may be convenient.
- (5) Each Lodge shall have power to make by-laws for its own guidance and control of its members. Such by-laws shall not be in contravention of the Rules of the Union, Division or the District and shall not become operative until submitted to and approved by the District Board of Management.

11(G) *POWERS AND DUTIES OF LODGE PRESIDENT*

Lodge President(s) shall preside at all Lodge meetings and in conjunction with the Lodge Secretary ensure that the Rules of the Division, the District and the Lodge are carried out. Lodge Presidents shall act as advocates and spokesmen for their Lodge and generally act in the interests of the membership.

11(H) *POWERS AND DUTIES OF LODGE SECRETARY*

- (1) The Lodge Secretary shall, in conjunction with the Lodge President(s) ensure that the Rules of the Division, the District and the Lodge are carried out. The Lodge Secretary shall be responsible for keeping the books and records of the Lodge including a minute book for recording resolutions of Lodge meetings and a register of agreements made with the employer at the workplace.
- (2) The District shall provide each Lodge Secretary with the necessary books, equipment or facilities required to record Lodge information.
- (3) To produce their Lodge books/records to the District Executive Officers and District Board of Management when called upon to do so.
- (4) All books, tickets, records, information (electronic or otherwise) and documents held by any Lodge Officers or members relating to the District shall be the property of the District and shall be surrendered to the District Executive upon demand. Where a Lodge has closed, the Lodge Secretary of such Lodge shall forward to the District Secretary all District and Lodge books/records in his possession.
- (5) If any Lodge Officer or member fails to comply with these Rules the District Board of Management may expel them.
- (6) To produce the Lodge books/records for inspection when called upon by a majority of the members of the Lodge.
- (7) To keep the Lodge books/records in accordance with the system approved by the District Board of Management.
- (8) To administer and keep records of any Lodge funds in a manner consistent with District methods.

11(I) *DELEGATES*

- (1) Lodge Committees shall endeavour to have all work groups within their Lodge represented by Delegates. Accordingly, the Lodge Committee may, from time to time, call for nominations for Delegates from members.
- (2) Nominations for Delegates shall be in writing and signed by at least two financial members of the Lodge and be accepted by way of the signature of the nominee. Nominees shall be financial members of the Lodge.
- (3) Lodge Committees shall submit all eligible Delegate nominations for endorsement by a majority of members present at the next meeting of the Lodge. Endorsed nominations shall then be submitted by the Lodge Secretary to the next meeting of the District Board of Management for its consideration.
- (4) Where the District Board of Management endorses a Lodge nomination for a Delegate, the District Secretary shall notify both the member and Lodge concerned in writing.

- (5) Authorised Delegates shall:
  - (a) remain informed of the concerns and issues affecting members in their work group and report same to the Lodge Committee;
  - (b) act as the advocate and spokesman for their work group; and
  - (c) generally act in the interests of all Lodge members.
- (6) All Lodge Committee and District Board of Management members shall ex-officio be Authorised Delegates for their Lodge.

11(J) *STRIKES*

- (1) Before a stoppage of work takes place at any workplace, the Lodge Committee shall fully investigate the cause of the dispute and endeavour to effect a settlement. Failing a settlement being obtained by the Lodge Committee, the dispute shall be immediately referred to the District Executive who shall inquire into and endeavour to bring about a satisfactory settlement of the dispute.
- (2) No Lodge or members of a Lodge shall cease work without the sanction of the District Executive.
- (3) Any Lodge or members of a Lodge failing to comply with these Rules shall not be financially supported by this District.
- (4) The District Executive Officers shall endeavour to settle any matters in dispute failing which they shall have the power to refer such dispute to the District Board of Management.
- (5) Notwithstanding anything contained in this Rule, the Lodge or members may where danger in the workplace is apprehended, cease work immediately without reference to the District Executive.

11(K) *PRIVATE AGREEMENTS*

No member of any Lodge in the District shall be permitted to enter into any private negotiation or agreement with his employer without the sanction of the Committee of the Lodge of which they are a member and no Lodge shall be permitted to enter into any agreement with the employer without the sanction of the District Executive and/or the District Board of Management.

11(L) *MEMBERS NOT TO WORK WHEN WORKPLACE IS IDLE*

When a workplace is idle, members of this District shall not enter the workplace unless with the permission of the District Executive.

11(M) *EXPULSION OR SUSPENSION OF LODGES OR MEMBERS*

- (1) Any Lodge or member of this District refusing to comply with the decision of the majority of this District shall be expelled from the District and shall not be entitled to any benefits or privileges of the District.
- (2) In cases of suspension or expulsion, the Lodge and/or members shall pay up all arrears before being readmitted to the District.
- (3) Any member or Lodge expelled or suspended under this rule shall have the right to appeal against the decision to the Central Council of the Division.

11(N) *DEMAND BY LODGES FOR DISMISSAL OF OFFICER*

No Lodge shall send to the District Board of Management a notice of motion asking for the resignation of a District Officer, unless some specific charge is laid against such Officer in writing and he has been given the opportunity to attend the Lodge to vindicate himself and no such motion shall be allowable unless at least fifty per cent of the Lodge are present or a Ballot of the whole of the members of the Lodge has been taken. The Lodge shall defray the cost of such a Ballot.

## **12 – ALTERATION OF RULES**

New District Rules may be made and any of the Rules of the District may be altered, amended, added to or rescinded by the District Board of Management.

- 12(A) Proposed new Rules shall be examined and reported on by a Rules Committee of members of the District Board of Management appointed from time to time as the occasion arises by the District Board of Management.
- 12(B) The report of the Rules Committee shall be discussed by the District Board of Management and the proposed rule changes submitted for approval by a majority of the members present and voting at that meeting of the District Board of Management and then submitted for the approval of the membership in the same manner as other District Board of Management resolutions.

## **13 – DISSOLUTION OF THE DISTRICT**

While seven financial members remain in the District, the District shall not be dissolved. Should the number of members at any time fall below seven the District shall be dissolved. In the event of dissolution, all monies remaining, after payment of all just debts, shall be held in trust by the Central Council of the Division in a separate fund until such time as a new District containing seven or more members can be formed.



## 14 – BALLOTS

For the purposes of these Rules, "the Ballot Rules of the Division" shall mean the following Rules.

- 14(A) Each directly elected office in the District Branch shall be by secret ballot in accordance with the provisions of the *Fair Work (Registered Organisations) Act 2009* and pursuant to these Rules.
- 14(B) The District Branch Board of Management shall appoint a Returning Officer to conduct elections within the District Branch. Such Returning Officer shall not be the holder of any office in or be an employee of the District Branch.
- 14(C) (1) the Returning Officer shall determine the times and dates of the commencement and close of the period for lodging nominations for election to an office having regard to:
- (a) the date of the expiration of the term of office of the holder of the office;
  - (b) the time required to lodge the nomination;
  - (c) the time required to complete the election.
- 14(D) (1) the Returning Officer shall within the period of twenty-one (21) days before the date of commencement of the period for lodging nominations of candidates for an election for office within the District Branch cause to be published in the newspaper or papers a notice setting out
- (a) the title of the office;
  - (b) the form in which nominations are to be made
  - (c) the place for lodging nominations
  - (d) the times and dates of commencement and close of the period for lodging nominations, and inviting nominations of persons, eligible for election for the office under these Rules to stand as candidates for election to the office.
- (2) the Returning Officer shall determine the newspaper or newspapers in which the notice shall be published having regard to any particular region to which the functions of the office relate.
- 14(E) (1) a person is not eligible for election for an office unless the nomination is in writing and is signed by the person and 2 other financial members.
- (2) where the Returning Officer finds that document lodged at the place and within the period determined by the Returning Officer under paragraph (C) of this rule and purporting to be the nomination of a person as a candidate for an election to an office, is not a nomination in accordance with the provisions of this paragraph, the Returning Officer shall, before rejecting the nomination, notify the person concerned of the defect and, where it is practicable to do so, give the person the opportunity of remedying the defect within not less seven days after Returning Officer being so notified.

## 14 – BALLOTS

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- (3) a person is not eligible for election unless the nomination of the person as a candidate for election is lodged at the place determined by the Returning Officer under paragraph (D)(1)(c) of this rule and within the period of lodging nominations under paragraph (C), or under paragraph (E)(2) this rule.
- 14(F) where on the expiry of the period for lodging the nominations of a candidate for election to an office, only one candidate is nominated for election for the office, the Returning Officer shall declare under paragraph (N) of this rule that the candidate has been elected to that office.
- 14(G) (1) The names and addresses of members of the District Branch who are entitled under the Rules to vote in an election shall form the roll of votes for the election.
- (2) The Returning Officer shall prepare a roll of voters who, on the fourteenth day before the date determined under paragraph (I)(1) of this Rule for the commencement of issuing ballot papers, are entitled to vote in the election.
- (3) The Returning Officer shall add to the roll of voters the names and addresses of persons who, after the day referred to in sub-paragraph (2) of this paragraph become entitled to vote in the election.
- (4) The Returning Officer shall delete from the roll of voters the names and addresses of persons who, after the day referred to in sub-paragraph (2) of this paragraph cease to be entitled to vote in the election
- (5) The Returning Officer shall make the roll of voters in an election for an office available for inspection by members or by any person authorised by the Returning Officer, during the ordinary hours of business in the period that commences on the day referred to in sub-paragraph (2) and ends on the day on which the result of the election is declared.
- 14(H) (1) The Returning Officer shall use, for the purpose of receiving ballot papers in respect of an election a private box at a post office being a private box used exclusively for that purpose.
- Access to the private box shall be under the exclusive control of:
- (a) persons authorised by the Australian Postal Corporation for the purpose;
- (b) the Returning Officer; and
- (c) persons authorised in writing by the Returning Officer for the purpose.
- 14(I) (1) Where more than one candidate is nominated for election for an office the Returning Officer shall determine the date of commencement of issuing ballot papers and the time and date of the close of the ballot having regard to:
- (a) the date of expiration of the term of office of the holder of the office;
- (b) the time required to send and return ballot papers by post; and
- (c) the time required to complete the election.

- (2) As soon as practicable after the date determined for the commencement of issuing ballot papers in respect of an election, the Returning Officer shall issue by posting by prepaid post, to each person:
  - (a) whose name is on the roll of voters referred to in sub-paragraph (G)(2);
  - (b) whose name is, under sub-paragraph (G)(3) added to the roll; and
  - (c) whose name has not, before the issue of the ballot paper, been deleted from the roll under sub-paragraph (G)(4), at the address shown on the roll, a ballot paper in a sealed envelope.
- (3) Where in respect of an election the Returning Officer has issued a ballot paper to a person whose name is, after the issue of a ballot paper, deleted from the roll of voters the person shall be deemed to be entitled to vote in the election.
- (4) The envelope referred to in sub-paragraph (2) of this paragraph shall bear an instruction that, if it is not delivered to the addressee, it should be returned to a specified private box at a post office other than the private box referred to in paragraph (H)
- (5) Access to the private box referred to in sub-paragraph (4) shall be under the exclusive control of:
  - (a) persons authorised by the Australian Postal Corporation for the purpose;
  - (b) the Returning Officer; and
  - (c) persons authorised in writing by the Returning Officer for the purpose.
- (6) The envelope referred to in sub-paragraph (2) shall contain:
  - (a) a ballot paper showing the time and date of the close of the ballot, being a ballot paper initialled by the Returning Officer or bearing a facsimile of those initials;
  - (b) an envelope addressed to the private box referred in paragraph 14(H) being an envelope that may be posted without expense to the voter;
  - (c) written instructions to the voter how to mark the ballot paper in order to record a formal vote in accordance with these Rules;
  - (d) any other document required for the conduct of the election.
- (7) The names of candidates for election for an office shall appear on the ballot paper for that election in the alphabetical order of the surnames of the candidates or, in relation to candidates whose surnames are identical, in the alphabetical order of their christian or given names.

- (8) The Returning Officer shall include on the ballot paper instructions to the voter that are substantially in accordance with the following form:
  - (a) do not put on the ballot paper any mark or writing by which you can be identified;
  - (b) fold the ballot paper in a manner that conceals the way in which it is marked;
  - (c) place the ballot paper in the envelope that is supplied and that is addressed to the Returning Officer;
  - (d) seal the envelope and post it to reach the Returning Officer before the time of the close of the ballot. Where, on application before the time of the close of the ballot in an election, the Returning Officer is satisfied that a ballot paper or return envelope issued to a person whose name is on the roll of voters, has not been received or has been lost, destroyed or spoiled, the Returning Officer shall issue to that person a duplicate ballot paper, or return envelope, as the case may be.
- (9) An application by a person for a duplicate ballot paper, or return envelope, for an election shall be in writing setting out the grounds on which the application is made and declaring that the person has not voted in the election and shall, if practicable, be accompanied by an evidence that is available of that non-receipt, loss, destruction or damage.
- 14(J) (1) The Returning Officer may, at any time before the close of the ballot for an election for an office and shall, as soon as practicable after the time of the close of the ballot:
  - (a) place unopened into a container or containers envelopes addressed to the private box referred to in paragraph (H) received before the time of the close of the ballot;
  - (b) seal each of the containers;
  - (c) endorse on each of the containers:
    - (i) the name of the District Branch and the title of the office;
    - (ii) the words “Ballot papers received from voters after the closing date;
    - (iii) the Returning Officer’s signature; and
    - (iv) the date of signing; and
  - (d) keep each of the containers in safe custody until the containers are opened in accordance with paragraph (L).

- (2) The Returning Officer shall;
  - (a) place unopened into a container or containers envelopes addressed to the private box referred to in paragraph (h) received after the time of the close of the ballot for an election for an office within the District Branch;
  - (b) seal each of the containers;
  - (c) endorse on each of the containers:
    - (i) the name of the District Branch and the title of the office;
    - (ii) the words “Ballot papers received from voters after the closing date;
    - (iii) the Returning Officer’s signature;
    - (iv) the date of signing; and
  - (d) subject to Section 217 of the Industrial Relations Act, 1988 keep each of the containers in safe custody.
- 14(K) The Returning Officer shall, as soon as practicable after the time of the close of the ballot, open the sealed containers referred to in sub-paragraph (J)(1), withdraw the ballot paper from each envelope and without looking at the manner in which the ballot is marked, place each ballot paper in a ballot box, provided for the purpose for scrutiny in accordance with paragraph (I).
- 14(L) (1) The Returning Officer shall open the ballot box in which the ballot papers have been placed, withdraw each ballot paper and after rejecting informal ballot papers:
  - (a) count the number of votes to ascertain which candidate is successful in the election to the relevant office;
  - (b) place into a container or containers the ballot papers admitted as formal, seal each of the containers and endorse on each of the containers;
    - (i) the name of the District Branch and the title of the office;
    - (ii) the words “Ballot papers admitted as formal”;
    - (iii) the Returning Officer’s signature; and
    - (iv) the date of signing.
  - (c) place into a container or containers the ballot papers rejected as informal seal each of the containers and endorse on each of the containers;
    - (i) the name of the District Branch and the title of the office;
    - (ii) the words “Ballot papers rejected as informal”;
    - (iii) the Returning Officer’s signature; and

- (iv) the date of signing; and
    - (d) subject to Section 217 of the Industrial Relations Act, 1988 keep each of the containers in safe custody.
  - (2) The Returning Officer shall reject as informal a ballot paper that;
    - (a) does not bear the initials of the Returning Officer or the facsimile of those initials that is referred to in paragraph (I)(6)(a);
    - (b) has upon it a mark or writing by which the voter can be identified; or
    - (c) is not marked substantially in accordance with the instructions referred to in paragraph (I)(6).
  - (3) Where, during the scrutiny, the Returning Officer is informed by a scrutineer appointed under paragraph (N) that the scrutineer objects to a ballot paper being admitted as formal, or rejected as informal, as the case may be, the Returning Officer shall decide the matter and endorse the decision on the ballot paper.
- 14(M)
- (1) Each candidate nominated for election may, in writing, appoint a scrutineer in respect of that election, being a person other than a candidate, and may in writing, appoint another such person to carry out the functions of the scrutineer where the first mentioned person does not carry out those functions.
  - (2) Subject to sub-paragraph (3), a scrutineer appointed under this regulation may:
    - (a) be present while the Returning Officer carries out the functions under paragraphs (K),(L) or (M); and
    - (b) direct the attention of the Returning Officer to any irregularity concerning the issue of ballot papers, the admission of any envelope to scrutiny, the admission of a ballot paper as formal, the rejection of a ballot paper as informal or the counting of the votes.
  - (3) Where a scrutineer appointed under this sub-rule:
    - (a) interrupts the scrutiny otherwise than in accordance with sub-paragraph (2)(b); or
    - (b) fails to carry out a lawful request by the Returning Officer;the Returning Officer may direct the scrutineer to leave the place where the scrutiny is being conducted.
  - (4) A scrutineer appointed under this paragraph shall comply with a direction by the Returning Officer under sub-paragraph (3).

- 14(N) (1) As soon as is practicable the Returning officer shall declare the result of an election by giving notice in writing to the District Branch in relation to which such election applies of the result.
- (2) When declaring the result in respect of the election the Returning Officer shall also declare in respect of the election:
- (a) the number of ballot papers issued (other than duplicate ballot papers);
  - (b) the number of duplicate ballot papers issued;
  - (c) the number of ballot papers admitted as formal;
  - (d) the number of ballot papers rejected as informal.

\*\*\*END OF RULES\*\*\*