



8 October 2018

Mr Ian MacDonald  
National Industrial Relations Manager  
Australian Public Transport Industrial Association  
imacdonald@bic.asn.au

Dear Mr MacDonald,

### **Reminder of actions required when persons elected to office**

The Australian Electoral Commission has provided the Registered Organisations Commission (the ROC) a declaration of results for the election of uncontested offices for National Branch [E2018/114]. This letter is a reminder of certain obligations imposed on organisations and on persons elected to office.

#### **A notice must be published on the organisation's website**

The organisation or branch must, as soon as practicable after receiving the post-election report, publish on its website a notice that a copy of the report is available from the organisation, branch or the AEC on request. The notice must be kept on the website for a period of at least 3 months (see regulation 141 of the Fair Work (Registered Organisations) Regulations 2009).

#### **Holders of office required to undertake approved training**

Section 293K of the *Fair Work (Registered Organisations) Act 2009* (the RO Act) requires each officer with financial management duties to undertake approved training that covers those duties within 6 months after the person begins to hold office. Please ensure that relevant officers undertake approved training within the required timeframe. Please also ensure that all new holders of office are advised of their obligations to make disclosures regarding remuneration, non-cash benefits and material personal interests, the details of which are provided for in the RO Act.

#### **Organisation must notify the Commission of changes**

Also, section 233(2) of the RO Act requires that an organisation must notify the Commission **within 35 days of any changes** to the holders of office in the organisation. **If there are no changes a notification is not required.** If the election has resulted in **any changes** to the holders of office, the Australian Public Transport Industrial Association must notify the Commission of these changes. In particular, please advise:

1. Person(s) who have ceased to hold office:
  - the name of the office vacated;
  - the date of the change of office holder; and
  - the name of the person vacating the office.
  
2. Person(s) who have commenced to hold office:
  - the name of the office now held;
  - the date of the change of office holder;
  - the name of the person now holding the office;
  - the postal address of the person (generally the postal address of the organisation); and

- the occupation of the person now holding the office.

The notification must include a declaration by the Secretary (or other prescribed officer) that the information is a correct statement of the changes made. A template notification of changes, which may assist you, is attached. If any change does not apply until a date in the future, you do not need to notify until then (e.g. AGM, 1 January, 2nd Monday in March). If you have already lodged this information, please disregard this reminder.

Regards

**Christine Hibberd**  
**Registered Organisations Commission**

26 September 2018

Australian Public Transport Industrial  
Association  
Scheduled Election  
E2018/114

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# Election(s) Covered in this Report

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Organisation: Australian Public Transport Industrial Association  
Election: Scheduled  
Election Decision No/s: E2018/114

## Rules

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Rules used for the election: 150N: Incorporates alterations of 05/04/2016 (R2015/257)

Rules difficult to apply/interpret: None

Model Rule reference (if any): N/A

For more details see the Model Rules on the AEC website:  
([https://www.aec.gov.au/About\\_AEC/AEC\\_Services/Industrial\\_Elections](https://www.aec.gov.au/About_AEC/AEC_Services/Industrial_Elections))

## Roll of Voters

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As there were no contested offices, no Roll of Voters was required.

## Irregularities

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Details of written allegations of irregularities, and action taken by AEC: Nil

Other irregularities identified, and action taken:

## Other Matters

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Returning Officer actions required (Section 193): Yes

Details

R31(2)(d) provides “ In all elections if RO finds that a nomination is defective, before rejecting the nomination the RO notify the person concerned of the defect and give that person the opportunity of remedying the defect before the time and date fixed for close of nominations.”

This rule was considered by the returning officer to be contrary to Section 143(c) of the *Fair Work (Registered Organisations ) Act 2009* which provides that the defect period is not less than 7 days after candidates have been notified of a defect in their nomination.

Accordingly, the returning officer advised the organization of his intention to take action under Section 193(1)(b)(i) of the *Fair Work (Registered Organisations) Act 2009* to allow 7 days after candidates were notified of the defect to remedy their nomination should the need arise.

## Signed

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Catherine Bernoth  
Returning Officer  
Australian Electoral Commission  
E: nswelections@aec.gov.au  
P: 02 9375 6362  
26 September 2018

## Attachments

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### A. Declaration of results for Uncontested Offices – National

**Australian Public Transport Industrial Association**  
**DECLARATION OF RESULTS - E2018/114**  
**Uncontested Offices**

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**Scheduled Election**

The Results of the election for the following offices conducted in accordance with the provisions of the *Fair Work (Registered Organisations) Act 2009* and the rules of the organisation are:

**Office Bearers**

**Chairperson (1)**

Candidates

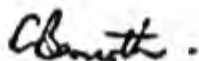
PATCH, Wayne

**Deputy Chairperson (1)**

Candidates

SCOTT, Steve

As the number of nominations accepted did not exceed the number of positions to be filled, I declare the above candidates elected.



Catherine Bernoth  
Returning Officer  
Australian Electoral Commission  
24/09/2018





## DECISION

*Fair Work (Registered Organisations) Act 2009*  
s.189—Arrangement for conduct of an election

### **Australian Public Transport Industrial Association** (E2018/114)

MR ENRIGHT

MELBOURNE, 7 JUNE 2018

*Arrangement for conduct of election.*

[1] On 30 May 2018 the Australian Public Transport Industrial Association lodged with the Registered Organisations Commission prescribed information for an election to fill the following offices:

#### **COUNCIL MEMBERS**

Nominee from New South Wales	(2)
Nominee from Victoria	(2)
Nominee from Queensland	(2)
Nominee from South Australia	(1)
Nominee from Western Australia	(1)
Nominee from the Northern Territory	(1)
Nominee from Tasmania	(1)
Urban Transport Group	(2)
Public Transport Group	(2)

#### **OFFICE BEARERS**

Chairperson	(1)
Deputy Chairperson	(1)

[2] I am satisfied that an election for the abovenamed offices is required to be held under the rules of the organisation and, under subsection 189(3) of the *Fair Work (Registered Organisations) Act 2009*, I am making arrangements for the conduct of the election by the Australian Electoral Commission.





DELEGATE OF THE COMMISSIONER

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<PR351085>

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**PRESCRIBED INFORMATION FOR ELECTIONS in accordance with Section 189 *Fair Work (Registered Organisations) Act 2009* and Regulation 138 *Fair Work (Registered Organisations) Regulations 2009***

I, Wayne Patch, being an authorised Office Bearer of the Australian Public Transport Industrial Association, make the following statement:

1. I am authorised to sign this statement containing prescribed information for the Australian Public Transport Industrial Association.
2. The following information is lodged under subsection 189(1) of the Fair Work (Registered Organisations) Act 2009 (the RO Act).
3. The elections that are required are set out in the table in Annexure A.
4. No rule alterations are pending that will impact the election.
5. This statement **IS** lodged at least 2 months before nominations open for the election below.

Signed:



Wayne Patch, Authorised Officer

Dated: 30 May 2018

## ANNEXURE A

- Elections that are required:

Branch	Name of Office	Number required	Voting System	Reason for Election	Electorate
			<i>Direct voting system; Collegiate electoral system</i>	<i>Scheduled; Casual vacancy; New office created; Insufficient nominations</i>	
<i>National</i>	<i>Council Members</i>	<i>14</i>	<i>Refer Rules 24 (3) &amp; (4)</i>	<i>Scheduled</i>	<i>National Council (Rule 24)</i>
<i>National</i>	<i>Office Bearers</i>	<i>2</i>	<i>Refer Rule 22 (3)</i>	<i>Scheduled</i>	<i>National (Rule 22)</i>
...					

- Important dates:

	Direct Voting System	
<b>Nominations OPEN</b>	<i>31 July 2018 (Rule 33 (4))</i>	
<b>Nominations CLOSE</b>	<i>17 August 2018 (Rule 33(1))</i>	
<b>Roll of Voters cut off date</b>	<i>29 June 2018 (Rule 33 (4))</i>	

### Rule 22 (3)

Subject to Rule 24 (7), within 7 days after declaring the result of the elections for Council under Rule 33 the returning officer shall call for written nominations for Office bearer positions.

### Rule 24 (3)

- The Council, which shall consist of fourteen (14) shall comprise up to ten (10) persons elected by the financial members of the Association Group members in the following mix:
  - Two nominees from New South Wales
  - Two nominees from Victoria
  - Two nominees from Queensland
  - One nominee from South Australia

- (v) One Nominee from Western Australia
- (vi) One Nominee from the Northern Territory
- (vii) One Nominee from Tasmania

Once the Association members provided their nominations for Council, as they have already been preselected by the financial members of the relevant financial Association Group member, nominees shall be deemed elected in accordance with the Rules of the Association.

#### **Rule 24 (4)**

- The Council shall also comprise at least two (2) persons elected from the financial members of the Urban Transport Group and at least two (2) persons elected from the financial members of the Public Transport Group.

#### **Rule 24 (5)**

Subject to Rule 24 (7) the Council members shall be elected every four (4) years by secret postal ballot by and from the members of the Association and, subject to these Rules and to earlier termination or removal, shall hold office for a term of four (4) years and at the expiration of their term shall be entitled TO Stand for re-election if they are otherwise eligible under these Rules.

#### **Rule 33 (1)**

The closing date for nominations shall be, as far a practicable, at least 3 weeks from the date of such delivery or posting. (i.e. nominations called).

#### **Rule 33 (4)**

Nominations shall only be made by and from members and members' representatives. In this regard the roll of members and member's representatives shall close prior to the date of the opening of nominations for election.



2 May 2018

Mr Ian MacDonald  
National Industrial Relations Manager  
Australian Public Transport Industrial Association  
Sent via email: [imacdonald@bic.asn.au](mailto:imacdonald@bic.asn.au)

CC: AEC Returning Officer by email: [industrial.elections@aec.gov.au](mailto:industrial.elections@aec.gov.au)

Dear Mr MacDonald,

**Courtesy Letter - Election for offices [E2018/114]**

The rules of the Australian Public Transport Industrial Association indicate that an election for offices within the organisation is due to commence shortly.

- Councillors

It appears that nominations for the election for the above-named offices open in August this year.

**Reminder: prescribed information must be lodged**

This is a courtesy letter to remind you of your obligation to lodge information about the election (known as the 'prescribed information') pursuant to sub-sections 189(1) and (2) of the *Fair Work (Registered Organisations) Act 2009* (the 'Act') within the month. Prescribed information must be lodged with the Registered Organisations Commission (the ROC) two months before nominations open for the election.

**If you do NOT agree that an election is due**

If you have a different interpretation for the commencement of the election or the offices due for election under your rules, please let the ROC know on [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au) as soon as possible.

**If you agree that an election is due**

If you agree that an election is due, the prescribed information must be lodged within the month. The prescribed information should contain details of the election as required by regulation 138(1) of the *Fair Work (Registered Organisations) Regulations 2009* (the 'Regulations'), and any subsequent collegiate elections, if that is relevant. A sample of the prescribed information can be found on our website at <http://www.roc.gov.au/resources-and-decisions/fact-sheets-templates-and-webinars>.

The prescribed information should be emailed to [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au). When lodging the prescribed information, please quote [E2018/114]

**If you are unable to lodge the prescribed information on time**

If your organisation believes that it will be unable to comply with the prescribed day as set out in the Regulations, it will need to apply to the Commissioner within the month for a later date. Such request will need to set out in detail the reason why your organisation is unable to comply with the requirement. While the Commissioner will consider such an application, there is no assurance that consent to a later day will be allowed.

## **Penalties apply**

**It should be noted Section 189(2) is a civil penalty provision.** Failure for an organisation to lodge prescribed information at least two months before nominations open may result in legal proceedings being issued with the possibility of a pecuniary penalty being imposed upon an officer and/or the organisation.

The ROC intends to continue to provide reminders that an election is due as a courtesy. However failure to receive a reminder from the ROC cannot be relied on as a reason for late, incorrect or non-lodgment of prescribed information. The obligation to lodge prescribed information consistent with the Act and the rules of the organisation rests with the organisation.

## **Insufficient nominations**

If there are insufficient nominations, or if a casual vacancy arises after the conduct of this election, then those unfilled or vacated offices must be filled in accordance the organisation's rules, and in any event in a timely manner.

Should you seek any clarification in relation to the above, please contact the ROC on [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au).

Yours faithfully,



**Sam Gallichio**  
**Registered Organisations Commission**