

**DECLARATION OF AUTHORISED OFFICER in accordance with Regulation 126 Fair Work (Registered Organisations) Regulations 2009**

**ALTERATION OF OTHER RULES OF ORGANISATIONS in accordance with section 159 of the Fair Work (Registered Organisations) Act 2009)**

I, Ken Blackband, the President of the Australian Maritime Officers' Union (**AMOU**) declare:

- 1) The AMOU makes application to the Fair Work Commission for the alteration of its rules.
- 2) I am authorised under the rules of the AMOU to give this notice of particulars of the alterations to the rules of the AMOU and to make this declaration under Regulation 126 of the Fair Work (Registered Organisations) Regulations 2009 (Cth).
- 3) The action taken under the AMOU Rules to make the Application is set out below.
- 4) Rule 101 relevantly provides for rule alterations:

*101 - ALTERATIONS TO RULES*

- (a) *The Executive Council may determine to alter the rules.*
  - (b) *If under sub-rule (a) the Executive Council determines to alter these rules, the President must publicise the determination within seven (7) days of the determination by notice to the financial members on the Union Website and made available to the members at the registered office.*
  - (c) *If within 28 days after the date of giving notice under sub-rule (b) the President receives a written request for a referendum on the proposed alteration signed by at least 150 financial members, then the President will direct the Returning Officer to, as soon as practicable, conduct a referendum as to whether or not the financial members of the Union approve the determination of the Executive Council.*
  - (d) *If the President does not receive a request under sub-rule (c) the alteration which the Executive Council determined may be certified by the FWC.*
  - (e) *If the President receives a request within sub-rule (c) then:*
    - (i) *if the referendum approves of the alteration set out in the determination of the Executive Council it may be certified by the FWC;*
    - (ii) *if the referendum does not approve of the determination, the determination of the Executive Council is rescinded.*
  - (f) *Despite the other provisions of this rule, where the Union:*
    - (i) *is required by law to alter its rules; or*
    - (ii) *proposes to alter rule 6, part 3(c) to provide for a further employer or for the successor or assignee of an employer,*  
*only a majority of the Executive Council is required to determine to make that alteration.*
- 5) At the meeting of the Executive Council on 28/29 November 2022 the proposed alterations to the rules were discussed and on-the-voices approved but without formal resolution. I wanted to ensure that the approval resolution was cast in appropriate terms. Consequently, I then determined, following the discussion at Executive Council, to allow some time to elapse to ensure that the members of the Executive Council would have an opportunity to raise issues with me about the proposed alterations and to permit time to obtain advice about the formulation of the necessary resolution.
  - 6) On 15 December 2022 as no member of the Executive Council had raised an issue with the proposed alterations, I caused a ballot to be conducted under rule 39 (e) by email (**Ballot**).

- 7) I considered that the application to amend, given that 2023 was the year in which the quadrennial elections of the AMOU are to be held and that the proposed alterations must be in place prior to the quadrennial elections being held, must be dealt with urgently.
- 8) The resolution relevantly the subject of the Ballot was:  
‘To delete the current rules, save and except for the eligibility rule and the industry rule (being respectively rules 6 and 7), and replace those rules with the attached rules marked ‘A’.’  
**(Resolution)**
- 9) The Ballot was forwarded to each member of the Executive Council at the email address used for notices to them.
- 10) The Ballot opened on 15 December 2022 and I determined and advised that it closed on 21 December 2022.
- 11) There are 12 officers on the Executive Council.
- 12) Eleven officers voted in the Ballot under rule 49 (e) and all of the officers voting voted in favour of the Resolution.
- 13) I annexe as ‘KB1’ the respective minute of the meeting of the 28/29 November 2022;
- 14) I annexe as ‘KB2’ the email forwarded to the members of the Executive Council;
- 15) I annexe as ‘KB3’ the Resolution.
- 16) I annexe as ‘KB4’ the proposed rule alterations ‘A’.
- 17) On the 21 December 2022 I declared the resolution unanimously carried.
- 18) The majority required by rule 39(e)(iii), has been met.
- 19) Under rule 101(a) the Executive Council has determined to alter the rules of the AMOU **(Determination)**.
- 20) On 21 December 2022 I caused the financial members of the AMOU to be given notice of the Determination by:
  - a) publishing the Determination on the AMOU Website for financial members of the AMOU; and
  - b) making a copy of the Determination available for AMOU members at the registered office of the AMOU.**(together - Notice)**
- 21) The Determination was published on the AMOU Website, for the financial members of the AMOU, inclusive of a link to the proposed rules in the following terms:  
**“AMOU Rules Proposed Redraft** (on the website this was the link)  
The proposed redraft of the AMOU rules can be found at this link:”
- 22) On 19 January 2023, being 28 days after the date of giving Notice, I had not received a written request for a referendum under rule 101 (c) and no such application has been received as at the date of this declaration.
- 23) Pursuant to Regulation 126(1)(b) the notice for these further amendments to the rule alterations has been published on the AMOU Website **(Application Notice)**.
- 24) The Notice (as published on the AMOU Website) has, to avoid confusion been replaced on 25 January 2023 with the Application Notice.
- 25) I annexe as ‘KB5’ a screenshot of the Application Notice.

I declare that the particulars set out in this notice are true and correct to the best of my knowledge and belief.

**DATED:** 25<sup>th</sup> January 2023

Declared by me, Ken Blackband

A handwritten signature in black ink, appearing to be 'Ken Blackband', with a long horizontal flourish extending to the right.

President  
AMOU

**'KB1'**

**Ordinary Executive Council face-to-face & videoconference meeting  
AMOU Sydney Office, 28<sup>th</sup> to 29<sup>th</sup> November - 1000 hours**

**Draft Minutes**

**The meeting commenced at 0956 hours on 28<sup>th</sup> March 2022.**

**Chair** - President Ken Blackband presided over a meeting of 8 members.

**Present face-to-face** - Brent Warhurst – Vice President, Darryl Dorrón – Port Services Delegate, Brent Hills  
- Eastern Area Secretary, Wayne Lewis – Offshore Oil & Gas Delegate

**Present via Teams** - Luke Hosking – Southern Area Secretary, Andrew Hawkins – Pilotage Delegate, Matt  
Jepson – National Councillor, Tony Jerome - Towage Delegate

**In attendance** – Mark Davis – Executive Officer; Jarrod Moran – Senior Industrial Officer (Minutes)

## 7. Rules

### a. Executive Council rules changes – constituency, staff roles

The redraft of the Rules reflects the decisions of the EC, but John Payne has not yet drafted the resolution which will be submitted to the FWC with the redrafted Rules.

Action 7 - MD to get the Rules resolution from John Payne and include it in the email EC meeting in December.

**'KB2'**

## John Payne

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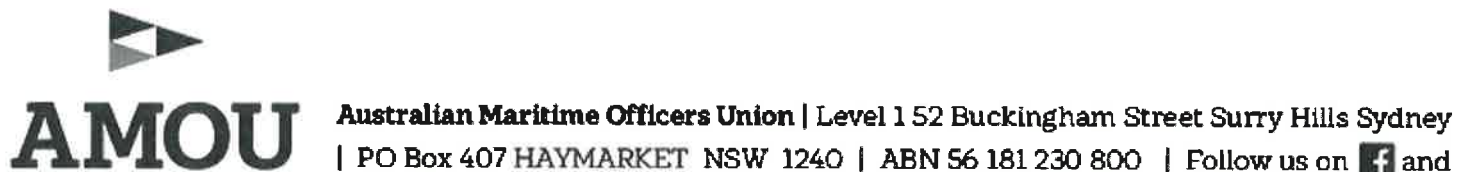
**From:** Mark Davis <Mark@amou.com.au>  
**Sent:** Tuesday, 24 January 2023 12:11 PM  
**To:** John Payne  
**Subject:** FW: Email EC meeting  
**Attachments:** 221204 - 2021-22 - Draft Annual Report.docx; 221128 - Draft EC meeting minutes.docx

Email commencing EC meeting John.

Regards

**Mark Davis**  
Executive Officer

0437 099 886



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**From:** Mark Davis  
**Sent:** 15 December 2022 16:47  
**To:** Andrew Hawkins (Personal) <andrew.hawkins5065@gmail.com>; bjmiddleton@hotmail.com; Brent Hills <brent109hills@hotmail.com>; brentwarhurst@yahoo.com.au; Darryl Dorron <DDorron@hotmail.com>; Glenn Andersen <gandersen877@gmail.com>; Ken Blackband (Personal) <blackbandken@gmail.com>; lukehosking@me.com; Matt Jepson (matty.jeppo@gmail.com) <matty.jeppo@gmail.com>; Ryan Thornton <rjthornton0@gmail.com>; Tony Jerome <jeromes4573@gmail.com>; Wayne Lewis <wklewis@duck.com>  
**Subject:** Email EC meeting

Dear Councillors

Ken has asked that we convene an email EC meeting to conclude some end-of-year issues. We will need to close responses off by COB next Wednesday 21<sup>st</sup> December so please respond as requested asap.

1. Minutes of 221128 Executive Council meeting  
The draft of the latest EC meeting minutes is attached.

**Resolution 1**

That the minutes of the 221128 Executive Council meeting are a true and accurate record of the business transacted.



2. Rules Redraft

John Payne our Rules guru from Hall Payne has drafted the resolution that must accompany the submission of the Rules redraft to the Fair Work Commission. The redrafted Rules were approved at the 28-29 November EC meeting but the resolution which has a particular format was not available to be moved at the time.

**Resolution 2**

The Executive Council having considered the changes proposed to be rules of the AMOU determines:

1. To delete the current rules, save and except for the eligibility rule and the industry rule (being respectively rules 6 and 7), and replace those rules with the attached rules marked 'A'.
2. That the Executive Council directs the Executive Officer to file the application for rule change as soon as is practicable.
3. That the Executive Council authorises, and directs, the President to make such amendment to the rules marked 'A' as may be required to ensure that they are lawful, consistent and typographically correct provided that no such change results in the intention of the proposed rules being altered.

3. Annual Report

The Draft Annual Report, which is attached and has been circulated is available to be received by the EC. There is only one change, and this involves the addition of a breakdown of some of the more significant legal fees.

**Resolution 3**

That the 2021-2022 Draft Annual Report is approved as drafted and can now be made available to the membership.

4. Financial Statements

The resolutions validating the audited accounts, substituting the decision of the EC for the round of AGMs and re-appointing MGI as Auditor for the next financial year were passed at the last meeting so there is nothing further to resolve. The only issue remaining is to take any membership input into account on the Financial Statements that were posted on the website on 22<sup>nd</sup> November. The monthly meeting is on Tuesday so if there is any feedback this will be reported to the EC by email and need not prevent the above resolutions being executed.

As usual the first to respond will be taken to have moved the resolutions unless specified otherwise, the second will second them or anyone that specifically wants to move or second any resolution can also let me know.

If we don't speak before 23<sup>rd</sup> December have a safe and happy Christmas and I hope the new year starts well for you all.


Regards

**Mark Davis**

Executive Officer

0437 099 886



**Australian Maritime Officers Union** | Level 1 52 Buckingham Street Surry Hills Sydney  
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**'KB3'**

The Executive Council having considered the changes proposed to be rules of the AMOU determines:

1. To delete the current rules, save and except for the eligibility rule and the industry rule (being respectively rules 6 and 7), and replace those rules with the attached rules marked 'A'.

**'KB4'**

**'A'**

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'A'

## Rules of The Australian Maritime Officers' Union

### 1 - NAME

The name of the Union is "The Australian Maritime Officers' Union".

### 2 - REGISTERED OFFICE

The registered office of the Union shall be at 52 Buckingham Street, Sydney, or other place as Executive Council may determine.

### 3 - DEFINITIONS

(a) In these rules, if the context permits, the words in column A have the meaning assigned opposite in column B:

A	B
<b>Act</b>	<i>Fair Work (Registered Organisations) Act 2009</i> (Cth)
<b>Administrative Regulation</b>	an administrative regulation made under rule 90
<b>AMOU Industry</b>	severably the industries comprised of: <ul style="list-style-type: none"><li>• Port Authorities Industry;</li><li>• Private Port Services Industry;</li><li>• Ferries and Tourism Industry;</li><li>• Offshore Energy Industry;</li><li>• Seagoing Industry;</li><li>• Towage Industry; and</li><li>• Pilotage Industry</li></ul>
<b>Annual Subscription</b>	the annual subscription fee determined under these rules
<b>Auditor</b>	a person appointed by the National Executive as an auditor under rule 58
<b>Classification</b>	that occupation or calling in which a member works
<b>Document</b>	a record of information inclusive of: <ul style="list-style-type: none"><li>• anything on which there is writing;</li><li>• anything on which there are marks, figures, symbols or perforations having a</li></ul>



	<p>meaning for persons qualified to interpret them;</p> <ul style="list-style-type: none"> <li>• anything from which sounds, images or writings can be reproduced with or without the aid of anything else; and</li> <li>• a map, plan, drawing or photograph</li> </ul>
<b>Election Procedure Rules</b>	rules 46 to 76 of these rules
<b>Entrance fee</b>	the fee for entrance to the Union determined under these rules
<b>Executive Officer</b>	the person appointed to the position of executive officer under these rules
<b>Ferries and Tourism Industry</b>	<p>consisting of persons engaged:</p> <ul style="list-style-type: none"> <li>• in relation to ferries, whether ashore or in a river, lake or sea going capacity by ferry operators; and</li> <li>• in relation to tourism, whether on a vessel engaged in a river, lake or sea going capacity by tourism operators</li> </ul>
<b>Financial Member</b>	a Member employed, or usually employed, within the industry of the Union who is financial under these rules
<b>Financial Policies</b>	the policies determined under these rules to be financial policies
<b>Financial Records</b>	<p>records, however recorded or stored, to the extent that they relate to the finances or financial administration of the Union and include:</p> <ul style="list-style-type: none"> <li>• registers;</li> <li>• records of financial information;</li> <li>• financial reports;</li> <li>• annual returns; and</li> <li>• documents relating to financial transactions</li> </ul>
<b>Full Report</b>	<ul style="list-style-type: none"> <li>• a copy of the report of the auditor in relation to the inspection and audit of the financial records of the reporting unit in relation to a financial year;</li> <li>• a copy of the general purpose financial report to which the report relates; and</li> <li>• a copy of the operating report to which the report relates;</li> <li>• unless the Act otherwise provides</li> </ul>

<b>General Fund</b>	the general fund under rule 82
<b>General Manager</b>	the General Manager of the Fair Work Commission
<b>General Meeting</b>	a general meeting of the Financial Members
<b>Geographical Zone</b>	an area, zone or location determined by the Executive Council
<b>Industry Delegate</b>	a person holding the office of industry delegate under these rules
<b>Member</b>	a member of the Union and includes a life member, an associate member and a deferred member
<b>Membership Register</b>	the register of Members under rule 14
<b>National Councillor</b>	a person holding the office of national councillor under these rules
<b>Objects</b>	the objects under rule 5
<b>Office</b>	severably the offices of: <ul style="list-style-type: none"> <li>• President;</li> <li>• Vice President;</li> <li>• National Councillor; and</li> <li>• Industry Delegate</li> </ul>
<b>Officer</b>	a member who holds an Office under these rules
<b>Officers Register</b>	the register of Officers
<b>Offshore Energy Industry</b>	consisting of persons engaged in relation to offshore energy by an entity that: <ul style="list-style-type: none"> <li>• explores, develops and/or exploits oil and gas resources;</li> <li>• decommissions infrastructure associated with exploration, development and/or exploitation of oil and gas resources; and</li> <li>• constructs, develops and exploits sources of renewable energy</li> </ul>
<b>Pilotage Industry</b>	consisting of persons engaged as a licensed or trainee marine pilot
<b>Policies</b>	policies of the Union determined by the Executive Council under rule 104
<b>Port Authorities Industry</b>	consisting of persons engaged by: <ul style="list-style-type: none"> <li>• a Port Authority; and</li> <li>• Maritime Regulatory Bodies Industry</li> </ul>

<b>President</b>	the person holding the office of president under these rules
<b>Private Port Services Industry</b>	consisting of persons engaged by entities in the following port service sectors: <ul style="list-style-type: none"> <li>• private port operators;</li> <li>• stevedoring companies;</li> <li>• companies providing services to Port Authorities; and</li> <li>• vessel surveying companies</li> </ul>
<b>Quadrennial Election</b>	the elections required by these rules to be held each four (4) years in accordance with the Election Procedure Rules
<b>Registered Office</b>	the place referred to in rule 2
<b>Returning Officer</b>	a returning officer appointed under these rules
<b>Seagoing Industry</b>	consisting of persons engaged by an entity in the following seagoing sectors: <ul style="list-style-type: none"> <li>• floating production storage offtake vessel;</li> <li>• floating storage offtake vessel;</li> <li>• dredging;</li> <li>• inshore marine construction;</li> <li>• remotely operated vessel operators; and</li> <li>• coastal or international shipping</li> </ul>
<b>Towage Industry</b>	consisting of persons engaged in towage by an entity providing harbour and sea-going towage services
<b>Union</b>	The Australian Maritime Officers' Union
<b>Union Journal</b>	a publication produced or adopted by the Union and which is provided free of charge to Financial Members by means of print or electronic media
<b>Union Website</b>	a website maintained by the Union for communication with its members

#### 4 - INTERPRETATION

(a) In these rules if the context permits:

- (i) singular words include the plural and vice versa;
- (ii) words importing any gender include every gender;
- (iii) all dollar (\$) amounts are in Australian currency;
- (iv) all references to statutes will be construed so as to include all regulations or codes of practice made under the statute and any statutory modification, replacement or re-

enactment of the statute (whether before or on or after the date of these rules) for the time being in force;

- (v) words denoting individuals include corporations and vice versa;
- (vi) listed items may be construed separately or in a group as a whole;
- (vii) every agreement or undertaking expressed or implied by which more than one person covenants, agrees, undertakes or appoints or are deemed to do so will be deemed to bind and extend to such persons and to any two or greater number of them jointly and to each of them severally;
- (viii) document headings, clause headings, schedule headings and the table of contents are for convenience only and will not affect the interpretation of these rules;
- (ix) where any word or phrase is given a defined meaning in these rules, any other part of speech or grammatical form in respect of such word or phrase will have a corresponding meaning;
- (x) a reference to a 'rule' is, a reference to a rule of these rules;
- (xi) a reference to a 'sub-rule' means, a sub-rule of the rule in which the reference to the sub-rule is made;
- (xii) a reference to a 'paragraph' means, a paragraph of the sub-rule in which the reference to the part is made;
- (xiii) a reference to a 'part' means, part of the sub-rule in which the reference to a part is made;
- (xiv) a reference to a 'schedule', is a reference to a schedule to, and which forms part of, these rules;
- (xv) the schedules to these rules have the same force and effect in all respects as if they were set out in the body of these rules;
- (xvi) a reference to a 'month' is a reference to calendar months;
- (xvii) a reference to 'present in person' includes attendance in person or by a means of communication where the member may participate without being in physical attendance;
- (xviii) a reference to a 'majority' means at least half ( $1/2$ ) the number of members required to be present at a meeting held under these rules, and present in person, plus one (1);
- (xix) a reference to a 'special majority' means a two thirds ( $2/3$ ) majority of the Executive Council voting on a resolution in person;
- (xx) where any period of time, dating from a given day, act or event, is prescribed or allowed for any purpose, the period must be reckoned exclusive of such day or the day of such act or event;
- (xxi) where the last day of any period prescribed or allowed for the doing of a thing falls on a day which is a Saturday, Sunday or public holiday in the place in which the thing is to be or may be done, the thing may be done on the first day following which is not a Saturday, Sunday or public holiday in that place;
- (xxii) a reference to the performance of a duty by an Officer or person is inclusive of a reference to the officer or person causing the duty to be discharged and/or inclusive of the duty being discharged by any other person, entitled to hold a delegation under these rules, and holding the written delegation of the relevant officer or person;

- (xxiii) a word or expression that is not defined in these rules, but is defined in the Act has the meaning given by the Act;
- (xxiv) the expression 'in writing' includes printing, typing, facsimile, text messaging, email and other means of representing or reproducing words, figures, drawings or symbols in a visible and tangible or electronic form, in English;
- (xxv) 'signature' and 'signing' means due execution of a document by a person, corporation or other relevant entity and include signing by an agent or attorney or representative (if a body corporate);
- (xxvi) an 'agreement' or 'document' means that agreement or document, whether in written copy or electronic form, as amended, novated or supplemented;
- (xxvii) 'sell' or 'sold' include transfer, lease, assign, grant options and/or any other form of disposing of or creating an interest in the thing being considered and 'buy' or 'purchase' will be interpreted correspondingly;
- (xxviii) each paragraph or sub-paragraph in a list is to be read independently from the others in the list;
- (xxix) a reference to a party giving consent means prior written consent;
- (xxx) where these rules require the giving of a notice, whether by or to the Union, that notice is to be in writing; and
- (xxxi) a notice to be given to a member by the Union under these rules may be sent to an address on the Membership Register.

## **5 - OBJECTS**

- (a) The objects of the Union are to:
  - (i) enrol in the Union persons eligible to be members;
  - (ii) uphold the right of the organisation and combination of labour, and to improve, protect and advance the best interests of the Union and its members;
  - (iii) assist members to obtain their rights under industrial, social or other legislation;
  - (iv) advance the living and working conditions of members and their families;
  - (v) seek preference of employment for unionists generally and for members;
  - (vi) obtain progressively improved working hours;
  - (vii) promote the policy of equality of status and opportunity for all members;
  - (viii) to promote the principle of equality of opportunity in employment in the Union and the industries of the Union regardless of sex, age, marital status, race, colour, nationality, ethnic or national origin, physical impairment or sexual preference;
  - (ix) adopt, promote and implement family friendly policies for members, Union employees and officials;
  - (x) secure appropriate classification structures with appropriate rates of pay that adequately reflect the training and skills of members and the conditions and circumstances in which members are employed;
  - (xi) take steps to ensure that all members are able to work in their classification;

- (xii) ensure adequate training is available for members;
- (xiii) organise the education and training of members;
- (xiv) foster the study of disciplines relevant to members of the Union;
- (xv) ensure that rates of pay and other provisions in awards adequately reflect the training and skills of members and the conditions and circumstances in which members are employed;
- (xvi) advance and protect the vocational interests of members including seeking and maintaining representation on all relevant authorities, committees and bodies;
- (xvii) secure by just and equitable methods, the settlement of any difference that may arise between members and their employers;
- (xviii) promote industrial peace by all amicable means such as conciliation and arbitration so as to prevent strikes and lock-outs between members of the Union and their employers;
- (xix) provide legal protection for members with respect to industrial, professional and work injury related matters;
- (xx) provide legal or other assistance to members, their dependants or family where in the judgement of the Union it is appropriate to do so;
- (xxi) assist members in the event of unemployment, underemployment, distress, calamity, sickness, injury, mortality or industrial dispute;
- (xxii) publish, or contribute to the publication of, a Union journal, newspaper or other media;
- (xxiii) communicate to members on all matters concerning Union activities and professional issues;
- (xxiv) establish sections of the Union and organise members into those sections;
- (xxv) assist the industrial movement generally;
- (xxvi) promote and encourage closer unity amongst all unions;
- (xxvii) promote and encourage membership by women employed in the industries of the Union;
- (xxviii) co-operate and maintain contact with members, other unions, peak councils, labour bodies and socially responsible organisations in Australia and overseas;
- (xxix) assist kindred unions and other bodies having objects similar in whole or in part to the Union's objects;
- (xxx) affiliate to, federate with, amalgamate with, or otherwise combine with any trade, industrial union, peak body, or association, any political party or any other organisation having objects similar in whole or in part to the Union;
- (xxxi) be involved in socially responsible actions as part of the wider community in Australia and overseas;
- (xxxii) establish and maintain, or to contribute to the establishment and maintenance of, an employment bureau for members;
- (xxxiii) contribute to a charitable or public benevolent institution;
- (xxxiv) provide assistance to a socially responsible community organisation;
- (xxxv) enter into contracts and agreements for the purpose of carrying out the Union's objects;
- (xxxvi) incorporate and support entities for the purpose of carrying out the Union's objects and maintain an interest in such entities;

- (xxxvii) hold, purchase, lease, mortgage, sell or otherwise deal in property for the purposes of carrying out the Union's objects;
  - (xxxviii) establish superannuation and insurance funds and undertake other co-operative enterprises for the benefit of members;
  - (xxxix) establish funds to assist and support members as provided for by the Union's objects;
    - (xl) make financial provision for carrying out the Union's objects;
    - (xli) constitute, conduct, carry on and manage clubs, holiday and rest centres for the benefit of members and their families;
    - (xlii) extend the powers of the Union to the greatest possible extent for the benefit of members;
    - (xliii) pursue such other objects as the Executive Council may determine;
    - (xliv) protect and maintain the registration of the Union; and
    - (xlv) do all other things as may be necessary or incidental to the carrying out of the Union's objects.
- (b) Each object of the Union set out in sub-rule (a) does not limit any other object set out in sub-rule (a).

## **6 - ELIGIBILITY FOR MEMBERSHIP**

### **PART 1**

The union shall consist of:

Members of Mercantile Marine and dependent services possessed of certificates of competency issued or recognised by the Commonwealth of Australia, or any State thereof, the Board of Trade, or by any British possession or dependency, or possessed of any qualifications entitling him to undertake any duty connected with the navigation of vessels, may be elected as members.

Indentured Shipwrights performing the functions of and who are classified as a shipwright and who form part of the complement of a vessel shall be admitted as members.

Marine Engineers (so engaged), including Third Class and Port Engineers and Marine Engine Drivers, may be admitted to membership, provided that this rule as to Engineers shall only apply in cases where such engineer is not eligible for membership in or has been rejected by the Australian Institute of Marine and Power Engineers. This part of the rule as to eligibility of Engineers shall include Engineers upon vessels owned by the Government, but Engineers who have become Shipowners, superintendents, or who are otherwise acting in the interests of employers, shall be strictly debarred from membership. Apprentices who are bound by indenture for sea service to a shipowner or Master (other than engineer apprentices) and cadets may be admitted to membership but shall not be entitled to be nominated for or hold office or cast a vote in connection with the affairs of the Union during their apprenticeship or cadetship as the case may be. Together with any other persons employed in the industry of shipping and marine or not who have been or are hereafter elected as officers of the Union and admitted as members thereof.

All persons employed or engaged in the function of ROV Pilot/Technicians in or in association with the operation, utilisation, control, maintenance, installation, repair and service of remotely operated sub sea vehicles and associated equipment shall be admitted as members.

Notwithstanding any other provisions of Part 1 of this Rule, the Union shall also consist of employees who are employed in or in connection with the recreational diving industry throughout the Commonwealth of Australia who are:-

- (i) in command, control, or who supervise or operate vessels including employees described as masters, mates, deck officers and skippers, (other than those employees who are in command or control of small vessels which are operated in or in connection with a Port or adjacent to an offshore facility who are required to possess and use a Coxswain's Certificate or equivalent in such operations),
- (ii) marine engineers, however described, but excluding engineers who are members of The Australian Institute of Marine and Power Engineers;

except for employees who are;

- (a) employed in the State of Queensland in or in connection with the sale or supply of recreational diving equipment or facilities, the provision of recreational diving services or related underwater services by an employer whose sole or predominant business activity consists of the operation of one or more tourist resorts or hospitality facilities of a similar nature, and where such sale, supply or services are provided in association with the operation of that tourist facility;
- (b) solely or predominantly engaged in the sale, reception or delivery of merchandise in a retail outlet operating separately and distinct from the provision of recreational diving services;
- (c) solely or predominantly engaged in clerical duties in a retail outlet operating separately and distinct from the provision of recreational diving services.

For the purposes of this Rule an employee shall be regarded as employed in or in connection with the recreational diving industry only if the employee is employed by an employer whose sole or predominant business activity consists of either the sale or supply of recreational diving equipment or facilities, the provision of recreational diving services or related underwater services.

Without limiting the generality of the foregoing paragraphs hereof, persons employed as Radio Officers, Radio Operators, Deck Communication Officers and Barge Administrators on a vessel including Mobile Offshore Drilling Units and Floating Production Facilities shall be admitted as members.

## PART 2:

The Union shall also consist of the following persons:

An unlimited number of persons employed, or usually employed, in or in connection with the Stevedoring Industry, in or in connection with the following industries and/or industrial pursuits:

- (a) wharf superintendents and/or supervisors, cargo superintendents and/or supervisors, traffic superintendents and/or supervisors, stevedoring supervisors (whether in conventional or container stevedoring), however described or styled and such other employees who are



required themselves or in conjunction with any other employees to control, plan, co-ordinate or integrate stevedoring operations in connection with vessels allocated to them and where required in relation thereto the work of foreman stevedores, clerks, watchmen, gearmen, waterside workers and mechanical equipment operators, storemen and packers, crane and overhead lifting appliance operators.

- (b) Persons who are elected or appointed to any office in the Union (subject to Part 4 below).
- (c) Notwithstanding any other provisions of this rule or any other rule of the Union, the following persons shall not be eligible for membership of the Union:
  - (i) Any persons employed or usually employed in or in connection with the Stevedoring Industry or any industry or industrial pursuit referred to in this part, by C.S.R. Limited, or any corporation or business in which C.S.R. Limited or a subsidiary thereof has a controlling interest by way of share-holding or management rights, or by any bulk sugar terminal organisation;
  - (ii) Employees of the Australian Shipping Commission (the Australian National Line) or A.N.L. Cargo Operations Pty. Limited, other than those persons employed in the terminals of the Australian National Line who predominantly and substantially directly supervise and instruct foremen, stevedores or waterside workers in the terminal operation and take responsibility for their work; and/or are operational ship planners;
  - (iii) Persons eligible for membership of the Australian Shipping Officers Association, other than those persons employed in the terminals of the Australian Shipping Commission (The Australian National Line) who are, by reason of sub-paragraph (ii) of this paragraph (c), eligible to join the Union.

### PART 3

- (a) Without limiting the generality of Part 1 and Part 2 of this Rule, or being limited thereby, the Union shall also consist of all employees as defined in subrule (b) who are employed in supervisory duties of any nature (other than employees performing the duties of forepersons or leading hands or otherwise who exercise similar and direct supervisory powers over other employees) and employees who possess a Maritime Certificate of Competency where the possession of the certificate is part of the requirement of a classification, and employees who are employed as harbourmasters, port managers, marine pilots, marine surveyors, maintenance technicians, masters and deck officers of vessels, officers of pilot cutters, port control officers, signal station officers, radio officers, superintendents, stevedoring supervisors or who are employed in managerial or professional occupations; provided that employees who perform clerical and administrative, professional/supervisory or technical duties shall not be eligible to be members of the Union by virtue of this subrule until:
  - (i) 1 December, 1995 if employed by the Fremantle Port Authority or the Port of Brisbane Corporation;
  - (ii) 1 June, 1996 if employed by the Sydney Ports Corporation, the Newcastle Port Corporation, the Port Kembla Corporation, the Waterways Authority in NSW or the Port of Melbourne Authority;
  - (iii) 1 January, 1996 if employed by the Townsville Port Authority;

and provided that employees who are employed in professional occupations within the limits of the constitution and rules of The Association of Professional Engineers, Scientists and Managers, Australia shall not be eligible to be members of the Union by virtue of this subrule until:

- (i) 1 December, 1995 if employed by the Port of Brisbane Corporation;
  - (ii) 1 June, 1996 if employed by the Sydney Ports Corporation, the Newcastle Port Corporation, the Port Kembla Port Corporation, the Waterways Authority in NSW, the Port of Geelong Authority, the Port of Portland Authority or the Port of Melbourne Authority.
- (b) For the purposes of subrule (a) "employees" means all those persons employed by the employers identified in subrule (c) other than those persons who are employed in the office of public servant in accordance with relevant State Government legislation in the States of South Australia and Western Australia (other than persons employed as port managers, assistant port managers, harbour masters, assistant harbour masters, senior marine pilots or marine pilots by the Department of Transport (South Australia) or who are employed as harbour masters, senior marine pilots, or marine pilots by the Department of Transport (Western Australia).
- (c) For the purposes of Part 3 of this rule the employers are:

Albany Port Authority  
Bunbury Port Authority  
Bundaberg Port Authority  
Burnie Port Authority  
Dampier Port Authority  
Darwin Port Authority  
Department of Transport, Marine & Harbours Agency (in the State of South Australia)  
Department of Transport (in the State of Western Australia in relation to the Department of Marine and Harbours)  
Esperance Port Authority  
Fremantle Port Authority  
Geraldton Port Authority  
Kimberley Port Authority  
Marine Board of Circular Head  
Marine Board of Flinders  
Marine Board of Hobart  
Marine Board of King Island  
Newcastle Port Corporation  
NSW Ports Operation Hold Co Pty Ltd  
Port Botany Operations Pty Ltd  
Port Hedland Port Authority  
Port Kembla Operations Pty Ltd  
Port of Brisbane Corporation  
Port of Devonport Authority  
Port of Geelong Authority  
Port Kembla Port Corporation  
Port of Launceston Authority

Port of Melbourne Authority  
Port of Newcastle Operations Pty Ltd  
Port of Portland Authority  
Rockhampton Port Authority  
Sydney Ports Corporation  
Townsville Port Authority  
Waterways Authority

and any successor or assignee of the business (or part of the business or undertaking) concerned with port services as named in Rule 6, Part 3(c).

#### **PART 4**

No restriction or qualification in Part 1 of this rule shall apply so as to restrict or qualify Part 2 of this rule and no restriction or qualification in Part 2 of this rule shall apply so as to restrict or qualify Part 1 of this rule.

#### **PART 5**

No person who would become eligible under these rules by virtue only of his or her employment as an industrial or research officer shall be eligible for membership after the date of amalgamation provided that a person in that category admitted to membership prior to that date shall be entitled to retain his or her membership.

### **7 - INDUSTRY**

The industry in or in connection with which the Union is registered is:

#### **PART 1**

Shipping and Marine.

#### **PART 2**

The stevedoring industry, in or in connection with the industrial pursuits set out in Part 2 of Rule 6.

### **8 - POWERS**

- (a) The Union has in the attainment of its Objects all the powers of an individual.
- (b) Without limiting the power under sub-rule (a), the Union may achieve the Objects by the application of all lawful means available including, without limitation, industrial, political and legal means.

### **9 - APPLICATION FOR MEMBERSHIP**

- (a) Applications for membership of the Union will be:

- (i) in the form determined by the Executive Council (for this rule the 'application form');
  - (ii) accompanied by the material required, if any, by the Executive Council; and
  - (iii) signed by the applicant.
- (b) The Union may publish the application form in the way the Executive Council considers appropriate.
- (c) The Union may, despite sub-rule (b), publish, and accept, applications for membership through the internet, and in relation to any applications received through the internet the provisions of the *Electronic Transactions Act 1999* (Cth) apply and an applicant for membership will be held to have signed the application form if the requirements of the *Electronic Transactions Act 1999* (Cth) are met.
- (d) The Executive Council may, despite sub-rule (a), waive the completion of the application form by an applicant, may accept an application that is in some other form or may accept applications that are made by phone.
- (e) No omission, irregularity or want of form will invalidate an application for membership made under this rule, provided that:
- (i) the applicant intended the document submitted to the Union to be an application for membership; and
  - (ii) the Union treated the document submitted as an application for membership.
- (f) An application is accepted and membership commences, subject to sub-rule (g), when the application is received by the Executive Officer or another person authorised by the Executive Council, whichever is the earlier.
- (g) The Executive Officer, or another person authorised under sub-rule (h), may refer an application for membership to the Executive Council for its determination where the Executive Officer, or another person authorised under sub-rule (h), has concerns in relation to the applicant's bona fides.
- (h) Applications referred under sub-rule (g), will be considered by the Executive Council which will, if satisfied with the bona fides of the applicant, accept the application, admit the applicant to membership of the Union and that membership will commence, when it otherwise would have commenced under sub-rule (f), as if the application had not been referred.
- (i) The Executive Council may reject an application if it does not accept the applicant is bona fide, provided that where an application is rejected, any monies paid by the applicant are to be reimbursed.
- (j) The Executive Officer will report all applications for membership to the next ordinary meeting of the Executive Council.
- (k) Applicants for membership will, subject to these rules, when admitted to membership under this rule, enjoy the advantages of membership of the Union of the type of membership to which they have been admitted so long as they comply with these rules.
- (l) Applicants for membership must be informed in writing of:
- (i) a member's financial obligations; and
  - (ii) how, and when, a member may resign from membership.

## **10 - OBLIGATIONS OF MEMBERSHIP**

- (a) Each applicant by becoming a member of the Union agrees to be, and is, bound by these rules.

## 11- ENTITLEMENTS OF MEMBERSHIP

- (a) Subject to these rules, only a Financial Member in accordance with these rules is entitled to:
- (i) participate in the Union's business or affairs;
  - (ii) the benefits and privileges of membership;
  - (iii) participate in benefit services;
  - (iv) access the Union's services;
  - (v) requisition a meeting as permitted by these rules;
  - (vi) to vote, or participate, in a meeting as permitted by these rules;
  - (vii) hold, or continue to hold, any Office;
  - (viii) inspect the Membership Register; and
  - (ix) inspect the minutes of the Union as permitted by these rules.

## 12- LIFE MEMBER

- (a) In this Sub-rule the words in column A have the meaning assigned opposite in column B:

A	B
<b>Occupation</b>	the eligibility comprised in rule 6

- (b) A Life Member is a person appointed as a life member under these rules.
- (c) Appointment as a Life Member is the highest honour the Union may confer on a member for services rendered to the Union.
- (d) Life membership may only be conferred on a Member who, in the Union has:
- (i) been a member of good standing;
  - (ii) demonstrated achievement at a high level to the benefit of other members of the Union;
  - (iii) made a significant contribution to the Union; and/or
  - (iv) demonstrated service to the Union that is worthy of recognition.
- (e) The Executive Council may confer Life membership on:
- (i) its own motion; or
  - (ii) a recommendation of the President.
- (f) A Member on being appointed as a Life Member is not required to pay subscriptions, levies or other fees.
- (g) A Life Member, employed in an Occupation, is entitled to the rights that a Financial Member is entitled to under rule 11.
- (h) A Life Member, not employed in an Occupation, is not entitled to the rights that a Financial Member is entitled to under rule 11 and is only entitled to:
- (i) access the services of the Union; and
  - (ii) other rights that the Executive Council determines and that are consistent with this rule.

- (i) A Life Member, not employed in an Occupation, is no longer eligible to nominate for, or hold, an office.
- (j) The Executive Council may posthumously award Life Membership.

### **13 - ASSOCIATE MEMBER AND DEFERRED MEMBER**

- (a) A Financial Member who:
  - (i) ceases to work in the industry of the Union due to retirement; or
  - (ii) is forced to retire permanently due to ill health or accident,  
may make application to be an associate member without payment of fees.
- (b) A Financial Member who ceases to seek employment in the industry of the Union may make application for deferred membership.
- (c) If the application is approved the member will be added to a register of deferred members.
- (d) A deferred member must pay an annual administration fee as determined by the Executive Council.
- (e) An associate member and a deferred member will be entitled to the rights of membership of a Financial Member except they do not have the right to:
  - (iii) propose motions;
  - (iv) second motions;
  - (v) hold Office;
  - (vi) nominate or be nominated for Office; and
  - (vii) vote at meetings or elections.

### **14 - MEMBERSHIP REGISTER**

- (a) The Executive Officer will keep the Membership Register at the Registered Office.
- (b) The Membership Register must show for each Member, other than an associate member or a deferred member, their:
  - (i) full name;
  - (ii) postal address;
  - (iii) residential address;
  - (iv) home phone number;
  - (v) mobile phone number;
  - (vi) email address;
  - (vii) the date of admission of the member to the Union;
  - (viii) classification;
  - (ix) AMOU Industry;
  - (x) unpaid subscriptions, levies and fines (if any);
  - (xi) the name of the member's employer; and

- (xii) the place of the member's employment.
- (c) The Executive Officer will:
  - (i) transfer to a separate register the names and particulars of all members whose membership of the Union has ceased or who have been removed from membership;
  - (ii) keep the records, in accordance with the Act, of each election held under the rules; and
  - (iii) in each year keep a record of members on 31 December in the previous year.

#### **15 - REGISTER OF OFFICERS**

- (a) The Executive Officer will keep the Officers Register at the Registered Office showing each officer's current:
  - (i) full name;
  - (ii) classification;
  - (iii) residential address; and
  - (iv) postal address.
- (b) The Membership Register and the Officers Register will be kept up to date and will be available for inspection by, or production to, as the case may be:
  - (i) the manager of an election;
  - (ii) the auditor;
  - (iii) an Officer;
  - (iv) a Financial Member authorised by the Executive Council;
  - (v) a person entitled under the Act; or
  - (vi) a person authorised by the General Manager.

#### **16 - CHANGE OF MEMBERSHIP PARTICULARS**

- (a) If a Member, other than an associate member or a deferred member, changes their:
  - (i) name;
  - (ii) postal address;
  - (iii) residential address;
  - (iv) home phone number;
  - (v) mobile phone number;
  - (vi) email address;
  - (vii) classification;
  - (viii) name of the member's employer; or
  - (ix) place of employment,

the member will promptly notify the change to the Executive Officer, and the Executive Officer must promptly make those changes on the Membership Register and the Officers Register, as the case may be.

- (b) The Union is entitled to rely on the information set out in the Membership Register as being correct when giving notice required under these rules.

#### **17 - ATTACHMENT**

- (a) An applicant for membership will on admission be attached by the Executive Council to the AMOU Industry relevant to their employment.
- (b) A Member, other than an associate member or a deferred member, must, at any one time, be attached to only one (1) AMOU Industry.
- (c) An associate member or a deferred member is not attached to a AMOU Industry.
- (d) A Financial Member may request the Executive Council to reconsider the member's attachment to an AMOU Industry, and, if making a request for reconsideration, must advise the Executive Council of the:
  - (i) AMOU Industry to which they wish to be attached; and
  - (ii) basis for the request for reconsideration.
- (e) Nothing in this rule prevents the Executive Council from changing the attachment of a Member, other than an associate member or a deferred member, from one (1) AMOU Industry to another where the:
  - (i) employment of the member; or
  - (ii) AMOU Industries,alter.

#### **18 - ENTRANCE FEE**

- (a) The Executive Council may, subject to the Act, determine to charge an entrance fee to applicants for membership of the Union.
- (b) An entrance fee, if any, payable by an applicant for membership will not be in excess of 30% of the annual subscription to be paid by a Member, according to the member's membership type, in the first year of membership.

#### **19 - ANNUAL SUBSCRIPTION**

- (a) For the purposes of this rule:
  - (i) 'Instalment Scheme' means one of the following types of payment schemes:
    - (1) Direct Debit Scheme;
    - (2) PRD Scheme; or
    - (3) Other Scheme.
  - (ii) 'Direct Debit Scheme' means a scheme where a Member provides written authority for the payment of their annual subscription to the Union to be deducted, on such regular basis as the Executive Council determines, from the member's bank account or similar debit account;
  - (iii) 'PRD Scheme' means a scheme where a Member provides written authority to their employer for the payment of their annual subscription to the Union to be deducted, on such regular basis as the Executive Council determines, from the member's salary; and
  - (iv) 'Other Scheme' means any other scheme authorised by the Executive Council and agreed to by the member whereby the Member can pay their annual subscription by instalments.



- (b) The annual subscription to be paid by Members will be the amount determined by the Executive Council, provided that the amount of the annual subscription fee may vary as between groups of members based on members' income, membership type or other appropriate factor.
- (c) A Member will, under this rule, pay to the Union their annual subscription in advance or by an Instalment Scheme.
- (d) A Member:
  - (i) paying their annual subscription in advance will, subject to these rules, be financial for the financiality period calculated in accordance with the following formula:
 
$$\frac{\text{member's payment}}{1/52 \text{ of member's subscription fee}} \times 1 = \text{financiality period (expressed in weeks)}$$
  - (ii) if making a payment under paragraph (i) was financial when making the further payment, then the financiality period will commence from the end of the period that the member was financial.
- (e) The Executive Council may determine to discount fees paid in advance or paid with greater regularity.
- (f) If the Executive Council determines to provide a discount under sub-rule (e) they must promptly publish the availability of that discount to the Members by means of the Union Website.
- (g) The Executive Council will determine the terms of the Instalment Schemes under which a Member pays their annual subscription to the Union and a member, to remain financial, under these rules must, if paying under an Instalment Scheme, comply with the terms of the respective Instalment Scheme.
- (h) The Executive Council on determining the terms of an Instalment Scheme must promptly publish those terms on the Union Website.
- (i) If a Member is, in accordance with the terms determined by the Executive Council under sub-rule (g), paying their annual subscription by means of an Instalment Scheme then, subject to these rules, the member will be financial on, and from, the date the first payment is received or the date the agreement is entered into, whichever is the later, and will remain a Financial Member for so long as they comply with the terms of the respective Instalment Scheme.

## **20 - ADDITIONAL FEE FOR LATE PAYMENT**

- (a) Where a member is in arrears in paying annual subscriptions or levies, the member may be required to pay an additional administration fee.
- (b) The amount to be paid under sub-rule (a) will be a reasonable amount determined having regard to:
  - (i) the period of the arrears;
  - (ii) the incidence of previous arrears being incurred;
  - (iii) the financial hardship caused to the member; and
  - (iv) any other relevant factor.
- (c) The Executive Council may, by Administrative Regulation, provide a formula for the setting of the additional administration fee under sub-rule (b).
- (d) The Executive Council may, by Administrative Regulation, provide for the delegation of the power to determine that a member must pay an additional administration fee under this rule.

## **21 - WAIVER/EXEMPTION**

- (a) In special circumstances, the obligation of a member to pay their:
- (i) annual subscription;
  - (ii) levies; or
  - (iii) fines,
- (for this rule 'the Monies Owed')
- may be waived by the Executive Council:
- (iv) on the application of a member; and
  - (v) on the recommendation of the Executive Officer,
- provided that the Executive Council may delegate this power to the Executive Officer and the Executive Officer (if the power is delegated) must report all waivers to the next ordinary meeting of the Executive Council.
- (b) The Executive Council may determine, by Administrative Regulation, circumstances that are special for the purposes of sub-rule (a).
- (c) A waiver given under sub-rule (a) of this rule:
- (i) may be for the whole, or for part, of the Monies Owed;
  - (ii) must be for the benefit of the Union; and
  - (iii) must be noted on the Membership Register.
- (d) The Executive Council may, without limitation to sub-rule (a), determine to exempt a member from the payment of their annual subscription during the period of an extended absence by the member from their employment on leave without pay, on terms and conditions as the Executive Council considers appropriate, provided that the Executive Council will only grant an exemption:
- (i) on written application made by the member; and
  - (ii) for the period the member is on leave without pay,
- provided that the Executive Council may delegate this power to the Executive Officer and the Executive Officer (if the power is delegated) must report all exemptions to the next ordinary meeting of the Executive Council.
- (e) The quantum of the exemption, the period and the purpose for which it is granted must be noted on the Membership Register.
- (f) The Executive Council may determine, by Administrative Regulation, the terms and conditions for exemptions granted under sub-rule (d).
- (g) A member who has been granted a waiver or exemption, as the case may be, under this rule, is for the purposes of these rules a Financial Member for the whole of the period the waiver or exemption is granted.

## **22 - LEVIES**

- (a) The Executive Council may, in each financial year, determine to levy:
- (i) Members, other than an associate member or a deferred member;
  - (ii) Members in a classification;
  - (iii) Members in an AMOU Industry;

- (iv) Members, other than an associate member or a deferred member, in a Geographical Zone; or
  - (v) Members employed by a particular employer.
- (b) Where the Executive Council levies Members under sub-rule (a)(ii)-(v), the levy when paid may only be applied to the benefit of the members in the classification, AMOU Industry, Geographical Zone or employed by a particular employer, as the case may be.
- (c) Levies to be paid by a Member, unless a member otherwise consents, cannot in a financial year be an amount greater than 30% of the annual subscription fee paid by the member.
- (d) A levy determined to be raised under sub-rule (a) may, subject to this rule, be applied for the purpose that the Executive Council determines, and if following the prosecution of that purpose the funds raised by the levy are not fully expended, then the balance of the monies are to be paid to the general fund.

### **23 – RESIGNATION OF MEMBERSHIP**

(a) A Member may resign from membership of the Union by written notice addressed and delivered to the President.

(b) A notice of resignation from membership takes effect:

(1) Where a Member ceases to be eligible to become a member of the Union:

(i) on the day on which the notice is received by the President; 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

(2). In any other case:

(i) at the end of fourteen days after the notice is received by the President; or

(ii) on the day specified in the Notice;

whichever is the later.

(c) Any dues payable but not paid by a former Member of the Union, in relation to a period before the member's resignation from the Union took effect, may be sued for and recovered by the Union in a court of competent jurisdiction, as a debt due to the Union.

(d) A notice delivered to the Executive Officer 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).

(f) A resignation from membership of the Union is valid even if it is not effected in accordance with this rule if the former Member is informed in writing by, or on behalf of, the Union that the resignation has been accepted.

#### **24 - UNFINANCIAL MEMBERSHIP – LEVIES OR FINES**

- (a) A Member is unfinancial if in arrears for payments of annual subscriptions (other than members paying by means of an Instalment Scheme under rule 19), levies or fines for a period exceeding six (6) months from the date on which the annual subscription, levy or fine became due, and remains unfinancial until the respective levy or fine has been paid.

#### **25 - REMOVAL FROM MEMBERSHIP – LEVIES OR FEES**

- (a) A Member who is unfinancial under rule 24 will be given notice by the Executive Officer:
  - (i) of their unfinancial status;
  - (ii) how they may become financial; and
  - (iii) that if they fail to become financial within 14 days they will be purged from membership.
- (b) If the Member fails to become financial within 14 days of notice being provided under sub-rule (a), the member will cease to be a member and the Executive Officer will purge them from membership.
- (c) A Member purged from membership remains liable, subject to the provisions of the Act, for unpaid annual subscriptions, levies, fines or other monies owed to the Union at the date of their being removed from membership.

#### **26 - CESSATION OF MEMBERSHIP**

- (a) A Member ceases to be a member when the member:
  - (i) resigns;
  - (ii) dies;
  - (iii) is removed from membership under these rules; or
  - (iv) becomes ineligible for membership.
- (b) A Member, who was a Financial Member, will cease to have any privileges of membership immediately upon becoming unfinancial or the cessation of their membership, whichever is the earlier.
- (c) The Executive Officer will promptly give notice to a person whose membership ceases under sub-rule (a)(iv), of the cessation of their membership and the date of cessation of membership.

#### **27 - EXECUTIVE COUNCIL**

- (a) The Executive Council is the management committee of the Union and is responsible for conducting the affairs and administering the Union.

#### **28 - COMPOSITION OF THE EXECUTIVE COUNCIL**

- (a) The Executive Council is comprised of, subject to rule 27:
  - (i) the President
  - (ii) the Vice President
  - (iii) four (4) National Councillors
  - (iv) Delegates:
    - (1) one (1) Port Authority Industry Delegate
    - (2) one (1) Maritime Regulatory Bodies Industry Delegate;
    - (3) one (1) Private Port Services Industry Delegate;

- (4) one (1) Ferries and Tourism Industry Delegate;
- (5) one (1) Offshore Energy Industry Delegate;
- (6) one (1) Seagoing Industry Delegate;
- (7) one (1) Towage Industry Delegate; and
- (8) one (1) Pilotage Industry Delegate.

### **29 - POWERS AND DUTIES - EXECUTIVE COUNCIL**

- (a) The Executive Council has:
  - (i) the power to do all things necessary or convenient to carry out the Objects;
  - (ii) the obligation to ensure that the Union carries out the Objects; and
  - (iii) in exercising its power, and performing its obligation, all the powers of the Union.
- (b) Without limitation to sub-rule (a) the Executive Council has, subject to these rules, power and obligation to:
  - (i) manage the day to day industrial affairs of the Union;
  - (ii) ensure the prompt prosecution of matters;
  - (iii) conduct the Union's correspondence;
  - (iv) determine policy of the Union and take appropriate steps to ensure the carrying out of the policy of the Union;
  - (v) direct a member of the Executive Council to perform any duty provided for by these rules to be performed by the Executive Council, and to discharge other duties and responsibilities as may be required;
  - (vi) confirm, vary, over-rule or otherwise deal with a decision of the Executive Officer or other employee of the Union;
  - (vii) determine matters submitted to it by the Executive Officer or other employee of the Union;
  - (viii) subject to rule 89 institute, and/or defend, proceedings in matters affecting the Union;
  - (ix) appoint and dismiss an employee, an agent or a contractor as it considers necessary;
  - (x) determine the terms and conditions of an employee of the Union; and
  - (xi) hear and determine disputes between members arising from these rules.
- (c) The power of the Executive Council, to determine the following matters, may not be delegated by the Executive Council:
  - (i) whether any claim, application or proceeding be commenced; and
  - (ii) whether a claim, application or proceeding is defended.

### **30 - SUB-COMMITTEES**

- (a) The Executive Council may determine to establish Sub-Committees, inclusive of works councils, to further the work of the Union.
- (b) A Sub-Committee will be comprised of the members of the Executive Council as the Executive Council determines, provided that the President is, ex-officio, a member of any Sub-Committee.
- (c) The Executive Council will determine who will chair a Sub-Committee.

- (d) A Sub-Committee has the power to co-opt Financial Members, or appoint persons who are not Members but who agree to abide by these rules, as may contribute to its deliberations.
- (e) The Executive Council has, subject to this rule, the power to delegate to a Sub-Committee any of its powers other than the Executive Council's power of delegation for so long, on such conditions and for the purpose it considers appropriate.
- (f) The Executive Council may dissolve a Sub-Committee.
- (g) A Sub-Committee is responsible to, and subject to the control of, the Executive Council.
- (h) A Sub-Committee must meet regularly, or as otherwise required by the Executive Council or by Administrative Regulation, and must promptly report to the Executive Council on its deliberations.
- (i) The quorum for a meeting of a Sub-Committee is three (3) members of the Sub-Committee.
- (j) If the Chair of the Sub-Committee is not present within 15 minutes of the time the meeting is to commence, the Sub-Committee will appoint a member of the Sub-Committee to act as Chair.
- (k) Questions arising at meetings of a Sub-Committee will, wherever possible, be determined by consensus, provided that questions arising at any meeting of a Sub-Committee, which cannot be determined by consensus, will be determined by a majority of votes.
- (l) A determination of a Sub-Committee is not binding on the Executive Council.

### **32 - NATURE OF OFFICE**

- (a) The Offices are honorary.
- (b) An Officer must not be engaged by the Union under a contract of, or for, service except for engagement on fixed term projects following a determination of the Executive Council.

### **33 - POWERS AND DUTIES - PRESIDENT**

- (a) The President is the principal officer and the treasurer of the Union and reports to and, subject to these rules, acts as directed by the Executive Council.
- (b) The President will chair all meetings of Executive Council in a way that permits its business to be conducted appropriately, with propriety and in conformity with these rules.
- (c) The President will, under these rules, take all reasonably practicable steps to:
  - (i) give notice of meetings of the Executive Council;
  - (ii) ensure that minutes of a meeting are taken;
  - (iii) on confirmation of the Minutes, sign them;
  - (iv) sign all documents approved for signature;
  - (v) prepare under the Act an operating report, as soon as practicable after the end of each financial year, of the affairs of the Union for presentation to the Executive Council;
  - (vi) prepare and forward to the General Manager all returns required by the Act;
  - (vii) ensure the necessary financial personnel required to keep the accounting and other records of the Union are engaged;
  - (viii) collect, receipt and deposit monies payable to the Union;
  - (ix) make payments on behalf of the Union;
  - (x) account for monies received and disbursed by the Union;

- (xi) invest funds as directed by the Executive Council;
  - (xii) prepare and produce financial statements;
  - (xiii) present to a meeting of the Executive Council, held within six (6) months of the conclusion of the financial year, the Full Report;
  - (xiv) ensure that the Union complies with its audit requirements; and
  - (xv) ensure these rules are observed.
- (d) The President is responsible for the keeping of the prescribed accounting records of the organisation.
  - (e) The President will, when vacating office, deliver all documents and other property of the Union, in the President's possession or control to an officer determined by the Executive Council.

#### **34 - POWERS AND DUTIES - VICE PRESIDENT**

- (a) The Vice President will assist the President in the carrying out of the President's duties.
- (b) The Vice President will act as the President in the President's absence, provided that the President may advise the Vice President, in writing, of a period of absence during which the Vice President is to assume the powers and duties of the President.
- (c) The Vice President will carry out functions of the President that the President may delegate to the Vice President.

#### **35 – Not Used**

#### **36 - EXECUTIVE OFFICER**

- (a) The Executive Council will appoint an Executive Officer.
- (b) The Executive Officer is subject to the control of the Executive Council.
- (c) The Executive Officer will, on a day-to-day basis, report to and be under the direction of the President.
- (d) The Executive Officer will, under these rules:
  - (i) give notice of General Meetings;
  - (ii) ensure the databases and registers of the Union are maintained;
  - (i) lodge for safe keeping all securities and other legal documents;
  - (ii) maintain the Membership Register;
  - (iii) maintain the Officers Register;
  - (iv) in conjunction with the President, prepare and file returns other than financial returns;
  - (v) edit the Union Journal;
  - (vi) maintain the Union Website; and
  - (vii) perform other duties as are provided by these rules.
- (e) The Executive Council may determine to direct the Executive Officer to perform a function other than those functions provided under sub-rule (d), or that the Executive Officer is not to perform a function provided under sub-rule (d).
- (f) The Executive Council must, if making a determination under sub-rule (d) that a function is not to be performed by the Executive Officer, direct an Officer to perform that function.

- (g) The Executive Council remains at all times responsible for the performance of the functions by the Executive Officer or Officer directed under sub-rule (f).
- (h) The Executive Council may make an Administrative Regulation in relation to the performance of a function by the Executive Officer.
- (i) The Executive Officer must not delegate the functions provided under these rules without the consent of the Executive Council, and if the Executive Council consents, then on the terms that the Executive Council may require and subject to the Executive Council determining to withdraw any delegation made.
- (j) The Executive Officer will, on ceasing to be engaged by the Union, deliver to the President or another Officer determined by the Executive Council, all documents and other property of the Union in the Executive Officer's possession or control.
- (k) The Executive Council will determine the terms and conditions on which the Executive Officer is engaged.
- (l) The Executive Council:
  - (i) may appoint a person to act as the Executive Officer during a period when the Executive Officer is temporarily absent and cannot perform the functions or carry out the obligations of the position; and
  - (ii) if appointing under part (i) make payment to the person appointed, as it determines.
- (m) The position of Executive Officer is full time.

### **37 - RETURNING OFFICER**

- (a) The Executive Council will appoint a Returning Officer.
- (b) The Returning Officer must not be:
  - (i) an employee;
  - (ii) a Member; or
  - (iii) an Officer.
 of the Union.
- (c) In the event of a Returning Officer being unable to discharge the duties required, the Executive Council will terminate the appointment, and appoint a replacement.
- (d) The Executive Council may appoint for such period as is required an assistant returning officer to assist the Returning Officer in the performance of the Returning Officer's obligations under these rules.
- (e) Assistant returning officer/s must not be:
  - (i) an employee;
  - (ii) a Member; or
  - (iii) an Officer,
 of the Union.
- (f) The Returning Officer will be responsible for the conduct of all ballots except where a ballot must be conducted by the Australian Electoral Commission.
- (g) Despite this rule the Executive Council may appoint a life member or an employee of the Union to conduct a referendum under rule 102.



### 38 - EXECUTIVE COUNCIL MEETINGS

- (a) Ordinary meetings of the Executive Council will be held three (3) times each year in the months of February/March, June/July and October/November, but may at any time be called:
  - (i) by the President; or
  - (ii) by written requisition, setting out the proposed business of the meeting, by at least one third (1/3) of the members of the Executive Council requesting the President do so.
- (b) The President will give seven (7) days' notice to the members of the Executive Council, specifying the place, the day and the hour of the meeting, provided that in cases where the President considers the request for the meeting is urgent, the President may call a meeting by giving notice as is practicable.
- (c) Subject to sub-rule (b), the President will give to the members of the Executive Council at least three (3) days' notice of any item of business on the agenda with an explanation of the substance of the item, otherwise an item of business on the agenda will not be dealt with, unless a majority of the members of the Executive Council, at the meeting to which the agenda relates, determines otherwise.
- (d) Subject to these rules, the Executive Council may meet together and regulate its proceedings as it determines appropriate.
- (e) The Executive Council may conduct a meeting by any means by which the members of the Executive Council are able to communicate with each other without being physically present, provided that each member ensures the security of their communication.
- (f) Quorum for an Executive Council meeting is 50% of the members currently holding office.
- (g) If within 30 minutes from the time appointed for the commencement of a Executive Council meeting a quorum is not present, the meeting, if convened upon the requisition of the members of the Executive Council, will lapse, in any other case the meeting of the Executive Council will stand adjourned to the same day in the next week at the same time and place, or to another day and at another time and place as the President may determine, and advise the members of the Executive Council, and if at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting, the meeting will proceed and will be deemed quorate.
- (h) If the President is not present at a meeting of the Executive Council within 30 minutes after the time appointed for holding the meeting, or being present is unwilling to act, the Vice President will be chairperson or if the Vice President is not present at the meeting, or being present is unwilling to act, then the members of the Executive Council may choose one (1) of their number to be chairperson of the meeting, who will act with all the powers of the President during that meeting.
- (i) The Executive Council may invite the following persons to attend, report to and address the Executive Council, the:
  - (i) Executive Officer;
  - (ii) national industrial officers;
  - (iii) financial administrator; and
  - (iv) office administrator.
- (j) The persons referred to in sub-rule (i) are not entitled to vote or otherwise participate in the meeting beyond the extent permitted by the Executive Council.

### **39 - EXECUTIVE COUNCIL MEETING - VOTING**

- (a) Questions arising at an Executive Council meeting are to be, except as otherwise provided for in these rules, decided by a majority of the votes of the members of the Executive Council present in person.
- (b) Voting will be by show of hands or oral affirmation, provided that three (3) members of the Executive Council present in person may request a secret ballot.
- (c) Each member of the Executive Council is entitled to exercise one (1) vote.
- (d) Despite sub-rule (c) the President has a casting vote as well as an ordinary vote.
- (e) Despite sub-rule (a) where the President considers that a matter requires urgent attention a ballot of the members of the Executive Council may be conducted on the matter by means of courier, post, facsimile transfer, email, text message or by other means of print communication, provided that:
  - (i) in the ballot a majority of the votes entitled to be cast and voting, constitutes quorum;
  - (ii) the President will determine a time limit in which the ballots must be received; and
  - (iii) determination of the ballot will be by a majority of the votes cast.
- (f) If at least 30% of members of the Executive Council promptly notify the President, following receipt of a ballot under sub-rule (e), that a matter submitted to them is of such importance that a meeting of the Executive Council should be convened, then a meeting of the Executive Council will be convened within seven (7) days of receipt of the notice by the President.

### **40 – Not Used**

### **41 - GENERAL MEETINGS**

- (a) The President or the Executive Council may, if the President or the Executive Council determine to do so, requisition a General Meeting.
- (b) At least five percent (5%) of the Financial Members may requisition a General Meeting by each signing a requisition, which may be in multiple copies, setting out the business to be conducted at the General Meeting.
- (c) A requisition under sub-rule (a) or (b) will:
  - (i) be in writing;
  - (ii) state the business of the meeting;
  - (iii) be signed by the requisitioners; and
  - (iv) be given to the President.
- (d) The President must, when in receipt of a determination under sub-rule (a) or a requisition under sub-rule (b), give notice to the Financial Members of the date (or dates) and place (or places), provided that the meeting, or the last meeting in a series of meetings, is held within three (3) months of the date the determination or requisition is received.
- (e) At least 14 days' notice specifying the place (or places), the day and the hour of the meeting (and if relevant at which places) and the nature of the business requisitioned, will be given to all the Financial Members.
- (f) No other business, other than the business specified in the determination under sub-rule (a) or the requisition under sub-rule (b), will be dealt with at the General Meeting, or any adjournment of the meeting.

- (g) The accidental omission of notice of a meeting to, or the non-receipt of a notice by, a Financial Member does not invalidate the proceedings of a meeting.
- (h) A General Meeting may be held as a series of meetings of Financial Members at different locations.
- (i) The General Meeting is taken to have occurred at the time of the last of the meetings in the series.
- (j) A General Meeting may be conducted by any means by which the members entitled to attend the meeting are able to communicate with each other without being physically present.
- (k) Quorum for a General Meeting is 50 Financial Members, provided that if the General Meeting is being held as a series of meetings, then the quorum is determined by aggregating the number of members in attendance at each of the meetings in the series of meetings.
- (l) If, within 30 minutes from the time appointed for meeting (if held as a single meeting) or the last meeting (if held as a series of meetings), a quorum is not present, the meeting or series of meetings cannot proceed.
- (m) If the President is not present at a meeting of the General Meeting within 30 minutes after the time appointed for holding the meeting, or being present is unwilling to act, the Vice President will be chairperson or if the Vice President is not present at the meeting, or being present is unwilling to act, then the Financial Members in attendance at the meeting may choose one (1) of their number to be chairperson of the meeting, who will act with all the powers of the President during that meeting.

#### **42 - GENERAL MEETINGS - VOTING**

- (a) Questions arising at a General Meeting are to be decided by a majority of the votes of the Financial Members present in person.
- (b) Voting will be by show of hands but will be by secret ballot on the request of at least ten (10) Financial Members present at the meeting.
- (c) Each Financial Member in attendance is entitled, subject to these rules to exercise one (1) vote.
- (d) A decision of a General Meeting is binding upon the Executive Council.
- (e) A matter having been determined by a General Meeting cannot again be submitted to a General Meeting for reconsideration until a period of six (6) months has elapsed from the date of the determination.
- (f) The accidental omission of notice of a meeting to, or the non-receipt of a notice by, a Financial Member does not invalidate the proceedings of a meeting.

#### **43 - MEETING FOR THE PURPOSE OF RECEIVING THE EXECUTIVE COUNCIL REPORT**

- (a) The President or the Executive Council may, if the President or the Executive Council determine it appropriate, requisition a General Meeting for the Executive Council report, which can be held in conjunction with the Annual General Meeting, for the purpose of:
  - (i) receiving the Full Report; and
  - (ii) receiving the report of the Executive Council for the previous 12 months.
- (b) At least five percent (5%) of the Members may requisition a General Meeting by each signing a requisition, which may be in multiple copies, for the purpose of considering the Full Report.
- (c) The President must promptly proceed to convene a meeting, and the meeting must be held as soon as reasonably practicable and no later than three (3) months from the date a requisition is provided to the President under sub-rule (b).

- (d) At least seven (7) days' notice specifying the place, the day and the hour of the meeting and the nature of the business requisitioned, will be given to all the members.
- (e) No other business, other than the business specified in the requisition, will be dealt with at the meeting, or any adjournment of the meeting.

#### **44 - ANNUAL GENERAL MEETINGS**

- (a) An Annual General Meeting may be held during November/December in each year at the place or places, as the case may be, determined by the Executive Council.

#### **45 – Not Used**

#### **46 - QUALIFICATION FOR OFFICE/ELIGIBILITY TO VOTE**

- (a) Election for the Offices will be conducted in accordance with the Election Procedure Rules.
- (b) Only Financial Members, who are financial at the date of the opening of nominations and who have been continuously financial for a period of six (6) months prior to that date, may nominate for an Office.
- (c) The:
  - (i) President;
  - (ii) Vice President; and
  - (iii) National Councillors,are to be elected by, and from, the Financial Members at the Quadrennial Election held under the Election Procedure Rules.
- (d) Despite sub-rule (b), only Financial Members, who are financial at the date of the opening of nominations and who have been continuously financial for a period of two (2) years prior to that date, may nominate for the offices of:
  - (i) President; or
  - (ii) Vice President.
- (e) Despite sub-rule (b), only Financial Members, who are financial at the date of the opening of nominations and who have been continuously financial for a period of one (1) year prior to that date, may nominate for the office of National Councillor.
- (f) Subject to the Election Procedure Rules only Financial Members attached to an AMOU Industry on the day preceding the opening of nominations may:
  - (i) nominate; or
  - (ii) vote in an election,for the office of AMOU Industry Delegate of the AMOU Industry to which they are attached.
- (g) A nomination for an Office must be:
  - (i) in writing;
  - (ii) in the form determined by the Executive Council;
  - (iii) signed by the nominee, and
  - (iv) otherwise in compliance with this rule.

- (h) A member nominating for the Office of President, Vice President or National Councillor must have their nomination seconded by three (3) Financial Members.
- (i) A member nominating for an Office of AMOU Industry Delegate must have their nomination seconded by two (2) Financial Members attached to the respective AMOU Industry.
- (j) A nomination must make clear the Office nominated for.
- (k) A Financial Member may only nominate for one (1) Office.

#### **47- ELECTION PROCEDURE DEFINITIONS**

- (a) These election rules will apply to all elections of the Executive Council.
- (b) In these Election Procedure Rules:
  - (i) 'ballot box' means a ballot box kept under rule 61;
  - (ii) 'candidate', for an election, means a person:
    - (1) who has nominated as a candidate for the office the election is about; and
    - (2) whose nomination has been accepted under sub-rule 52(c); and
    - (3) whose nomination has not been withdrawn;
  - (iii) 'eligible member' means a person who was a Financial Member on the day that nominations open;
  - (iv) 'initialled' by the Manager of an election includes being marked with a facsimile of the Manager's initials;
  - (v) 'member' means a Member other than a life member not working in an Occupation, an associate member or a deferred member;
  - (vi) 'return envelope' see paragraph 60(a)(ii);
  - (vii) 'roll', for an election, means the roll of voters prepared for the election under rule 56;
  - (viii) 'scrutineer' means:
    - (1) a candidate who acts personally as a scrutineer; or
    - (2) a person appointed as a scrutineer for a candidate under rule 67;
  - (ix) 'voter' means a person:
    - (1) who is an eligible member; and
    - (2) whose name is on the roll under rule 56;
  - (x) 'voting material' see sub-rule 60(a).

#### **48 - MANAGER OF ELECTION – FUNCTIONS AND POWERS**

- (a) The Manager of an election:
  - (i) subject to the Act, will be the Australian Electoral Commission or such other person or body that the Executive Council designate;
  - (ii) must not be the holder of an Office or an employee of, the Union;
  - (iii) must not influence, or attempt to influence, the outcome of the election;
  - (iv) must conduct the election under these rules;
  - (v) may take the action, and give the directions, the Manager considers reasonably necessary to ensure that the processes under which the election is conducted are transparent; and

- (vi) must ensure suitable arrangements are made with Australia Post for the return of ballot papers to a box or locked bag at a post office.
- (b) The Manager of an election may take the action, and give the directions, the Manager considers reasonably necessary:
  - (i) to ensure no irregularities happen in the election; or
  - (ii) to remedy a procedural defect that appears to the Manager to exist about the election.
- (c) To ensure the integrity of an election, the address for return of ballot papers must not be the Union's usual postal address.

#### **49 - CLOSING DAY AND TIME FOR NOMINATIONS**

- (a) The Manager of the election must fix the opening day and closing day for nominations for office.
- (b) The closing day must be at least 28 days after notice is given under rule 51.
- (c) Nominations open at midday on the opening day and close at midday on the closing day.

#### **50 - STARTING AND FINISHING DAYS OF BALLOT**

- (a) If a ballot becomes necessary under rule 54, the Manager of the election must fix the start and finish days for the ballot to decide the result of the election.
- (b) The start day must not be before the closing day for nominations for the offices to be filled at the election.

#### **51 - CALLING FOR NOMINATIONS**

- (a) The Manager of the election must call for nominations for the offices to be filled by notice given to Financial Members in at least one (1) of the following ways:
  - (i) by post or email to each eligible member at the address recorded in the Financial Members Register;
  - (ii) if the Union publishes a journal or newsletter that it gives to its Financial Members free of charge, by advertisement in the journal or newsletter.
- (b) The notice must state:
  - (i) the opening day for nominations;
  - (ii) the closing day for nominations;
  - (iii) that nominations for office:
    - (1) open at midday on the opening day; and
    - (2) close at midday on the closing day;
  - (iv) who may nominate as a candidate in the election;
  - (v) that nominations for office must be written, signed by the nominee and given to the Manager before nominations close;
  - (vi) the starting and finishing days for a ballot to decide the result of the election if a ballot becomes necessary under rule 54;
  - (vii) that only a person who was a Financial Member at the opening time for nominations may vote in the election; and
  - (viii) that the ballot will be decided by a first-past-the-post system of voting.

## **52 - NOMINATION PROCEDURE**

- (a) A nomination for an office must be written, signed by the nominee and given to the Manager of the election before nominations close.
- (b) A person may not nominate for more than one (1) office.
- (c) The Manager must accept a nomination if:
  - (i) it complies with sub-rule (a); and
  - (ii) the nominee is an eligible member.
- (d) A candidate may withdraw the candidate's nomination by written notice given to the Manager no later than seven (7) days after nominations close.

## **53 - WHAT HAPPENS IF A NOMINATION IS DEFECTIVE**

- (a) If a nomination for an office is defective, the Manager must, before rejecting the nomination, notify the person concerned of the defect and, where practicable, give the person the opportunity of remedying the defect within a period of not less than seven (7) days after the person has been notified.

## **54 - WHEN A BALLOT MUST BE HELD**

- (a) If there are more candidates for election to an office than the number to be elected, the Manager must conduct a secret postal ballot under rules 56 to 76.

## **55 - ELECTION WITHOUT BALLOT**

- (a) The Manager of the election must declare a candidate elected to an office if:
  - (i) nominations have closed; and
  - (ii) the number of candidates for the office is not more than the number of offices of the same type to be elected at the same time.

## **56 - ROLL - PREPARATION**

- (a) A roll for a ballot must be prepared at the direction of the Manager of the election.
- (b) The roll of voters for any ballot is to be closed seven (7) days before the day on which nominations for the election open.
- (c) The Manager must ensure the roll:
  - (i) states:
    - (1) the name of each person who is an eligible member of the Union in alphabetical order; and
    - (2) each eligible member's address, opposite their name; and
  - (ii) is completed when nominations for the election close.
- (d) The Union must give the Manager:
  - (i) a copy of its Financial Members Register; and
  - (ii) access to the Union's records reasonably necessary for the Manager to ensure the roll is accurate.

## **57 - ROLL INSPECTION**

- (a) The Manager of the election must make the roll for the election available for inspection—
  - (i) in the period that:

- (1) starts on the day after the roll must be completed under rule 56; and
  - (2) ends 30 days after the result of the election is declared; and
  - (ii) at the Manager's office when it is open for business.
- (b) A candidate, member or a person authorised by the Manager may inspect the roll, free of charge.
- (c) If, during the period stated in this rule, a candidate or member asks for a copy of the roll or a stated part of the roll, the Manager must give the person the copy, free of charge.

#### **58 - WHEN SOMEONE CAN CLAIM A RIGHT TO VOTE**

- (a) Despite sub-rule 56(c), if an eligible member's name does not appear on the roll, the member may apply to the Manager of the election to have the member's name included on the roll.
- (b) If the Manager is satisfied the applicant is an eligible member, the Manager must include the applicant's name on the roll.

#### **59 - BALLOT PAPERS**

- (a) A ballot paper for the election must:
- (i) have a watermark or other distinctive pattern that prevents it from being reproduced other than by the Manager or a person authorised by the Manager;
  - (ii) be of paper that will hide a vote marked on it from view when it is folded once;
  - (iii) be a different colour from the colour used for ballot papers at the two (2) previous elections held for the Union;
  - (iv) list the names of each candidate once only for each office the election is for, with the surname first, followed by the candidate's other names;
  - (v) state how the voter may vote;
  - (vi) state that the voter must fill in and sign the voting declaration or the vote will not be counted; and
  - (vii) state that the voter must return the ballot paper to the Manager so it is received on or before the finish day of the ballot.
- (b) The order of names on the ballot paper must be decided by lot.
- (c) If two (2) or more candidates have the same surname and first names, the candidates must be distinguished in an appropriate way.

#### **60 - DISTRIBUTING VOTING MATERIAL**

- (a) The Manager of the election must post the following things (the 'voting material') to each voter:
- (i) a ballot paper initialled by the Manager;
  - (ii) an unsealed reply-paid envelope (a 'return envelope') addressed to the Manager;
  - (iii) a declaration envelope in accordance with Regulation 5 of the *Fair Work (Registered Organisations) Regulations 2009* (Cth);
  - (iv) other material the Manager considers appropriate for the ballot including, for example, directions or notes to help the eligible member to comply with these rules and cast a valid vote.
- (b) Voting material must be posted to each voter:
- (i) in a sealed envelope to the voter's address on the roll; and



- (ii) as soon as practicable, but no later than two (2) days before the starting day of the ballot.
- (c) The voting declaration must state *'I certify that I am the person whose name appears on this envelope, I have voted on the ballot paper enclosed and I have not voted in this ballot previously'*.
- (d) If a voter gives the Manager a notice that the voter will be at an address other than the address stated on the roll when voting material is to be given, the Manager must post the material to the other address.
- (e) Before posting voting material to a voter, the Manager must mark a ballot number for each voter on:
  - (i) the roll against the voter's name; and
  - (ii) the declaration-form.
- (f) The Manager must give each voter a different ballot number.
- (g) The ballot numbers must start with a number chosen by the Manager.
- (h) A ballot paper or ballot envelope must not be marked in a way that could identify the voter.

#### **61 - MANAGER MUST KEEP A BALLOT BOX**

- (a) The Manager must get a ballot box and:
  - (i) keep the box in a safe place; and
  - (ii) seal the box in a way that:
    - (1) allows voting material to be put in it until the ballot finishes; and
    - (2) prevents voting material from being taken from it until votes for the ballot are to be counted.

#### **62 - DUPLICATE VOTING MATERIAL**

- (a) This rule applies if voting material posted to a voter:
  - (i) has not been received by the voter;
  - (ii) has been lost or destroyed; or
  - (iii) if the document is a ballot paper, it has been spoilt.
- (b) The voter may apply to the Manager of the election for a duplicate of the document.
- (c) The application must:
  - (i) be received by the Manager on or before the finish day of the ballot;
  - (ii) state the grounds on which it is made;
  - (iii) if practicable, be substantiated by evidence verifying or tending to verify the grounds;
  - (iv) state that the voter has not voted at the ballot; and
  - (v) if the document is a spoilt ballot paper, be accompanied by the ballot paper.
- (d) If the application complies with sub-rule (c), the Manager must:
  - (i) if the document is a spoilt ballot paper:
    - (1) mark 'spoilt' on the paper;
    - (2) initial the paper beside that marking and keep the paper; and
    - (3) give a fresh ballot paper to the voter; or
  - (ii) if otherwise, give a duplicate of the document to the voter.

### **63 - HOW LONG BALLOT IS OPEN**

- (a) A ballot must remain open for:
  - (i) at least 21 days; and
  - (ii) no longer than 49 days.

### **64 - HOW TO VOTE**

- (a) A voter may vote only by completing the following steps:
  - (i) completing a ballot paper by:
    - (1) writing a tick or cross in the square opposite the name or names of the number of candidates the voter may vote for under rule 65; and
    - (2) complying with the instructions on the paper about how to vote;
  - (ii) putting the ballot paper in a declaration envelope;
  - (iii) sealing the declaration envelope;
  - (iv) filling and signing the declaration on the declaration envelope;
  - (v) putting the declaration envelope in the return envelope;
  - (vi) sealing the return envelope;
  - (vii) complying with any direction given under paragraph 60(a)(iv); and
  - (viii) returning the return envelope to the Manager of the election so that the envelope is received on or before the finish day for the ballot.

### **65 - HOW MANY VOTES MAY BE CAST**

- (a) A voter may vote for only the number of candidates that is not more than the number of offices of the same type to be elected at the same time.

### **66 - HOW THE MANAGER MUST DEAL WITH VOTING MATERIAL**

- (a) The Manager of the election must put all voting material returned to the Manager in the ballot box until voting has ended.
- (b) If, after the finishing day for the election, the Manager receives a return envelope apparently containing a ballot paper for the election, the Manager must:
  - (i) keep the envelope sealed;
  - (ii) mark the envelope '*Received by the Manager after the finishing day for the ballot*'; and
  - (iii) keep the envelope in safe custody, but separately from return envelopes received before or on the finishing day.

### **67- SCRUTINEERS - APPOINTMENT**

- (a) A candidate may:
  - (i) act personally as a scrutineer; or
  - (ii) appoint another person (an 'appointee') as a scrutineer for the candidate.
- (b) An appointment must be in writing and signed by the candidate.
- (c) A candidate must notify the Manager of the election of the name of the candidate's appointee as soon as possible after the appointee is appointed.
- (d) The Manager may refuse to allow an appointee to act as a scrutineer if:

- (i) the Manager asks to inspect the appointment as a scrutineer; and
- (ii) the appointee does not produce it.

#### **68 - SCRUTINEERS' RIGHTS**

- (a) Subject to rule 69 a scrutineer may be present when:
  - (i) ballot papers or other voting material for a ballot are prepared and given to voters;
  - (ii) voting material is received and put in safe custody under rule 66; and
  - (iii) votes are counted.

#### **69 - SCRUTINEERS – NUMBERS ATTENDING**

- (a) Each candidate may have only one (1) scrutineer exercising a right under rule 68 for each official present where the ballot is being conducted.
- (b) In sub-rule (a) 'official' means:
  - (i) if the ballot is being conducted by the Australian Electoral Commission—an electoral officer; or
  - (ii) if the ballot is not being conducted by the Australian Electoral Commission-
    - (1) the Manager of the election; or
    - (2) any other person appointed by the Manager to exercise the Manager's powers for the election.

#### **70 - INITIAL SCRUTINY OF VOTING MATERIAL**

- (a) As soon as possible after the ballot finishes, the Manager of the ballot must:
  - (i) seal the ballot box in a way that prevents voting material from being put in it; and
  - (ii) take the ballot box to the place where votes are to be counted.
- (b) The Manager must then:
  - (i) unseal the ballot box;
  - (ii) take out the return envelopes;
  - (iii) open each return envelope and take out the declaration envelope;
  - (iv) examine the declaration and mark off the voter's name on the roll;
  - (v) check the ballot number on the declaration against the ballot number marked against the voter's name on the roll; and
  - (vi) ensure the declaration is signed.
- (c) After complying with sub-rule (b), the Manager must put the declaration envelopes in a container if satisfied:
  - (i) each declaration is signed; and
  - (ii) the ballot number on each declaration corresponds with the ballot number marked beside the voter's name on the roll.
- (d) However, the Manager must not put a declaration envelope in the container mentioned in sub-rule (c) if:
  - (i) the Manager reasonably believes the voter to whom it was sent did not sign the declaration; or

- (ii) the person named on the declaration is not the person to whom it was sent.
- (e) Sub-rule (d) does not apply if the Manager is satisfied the person who filled in and signed the declaration:
  - (i) is a voter;
  - (ii) has not previously voted in the ballot; and
  - (iii) has a reasonable explanation for using someone else's ballot material.
- (f) The Manager must keep declaration envelopes excluded under sub-rule (d) separate from other declaration envelopes.
- (g) A declaration is valid only if:
  - (i) it complies with sub-rule (c)(i) and (ii); and
  - (ii) sub-rule (d) does not apply.
- (h) A valid declaration must be accepted as valid, and an invalid declaration must be rejected, by the Manager.
- (i) If a declaration is accepted as valid by the Manager, the Manager must:
  - (i) note the acceptance of validity on the declaration; and
  - (ii) record that acceptance on the roll against the name of the voter who signed the declaration.
- (j) After accepting the declaration, the Manager must, in the following order:
  - (i) open the declaration envelopes not excluded under sub-rule (d) and take out the ballot papers;
  - (ii) if a declaration envelope contains more than one (1) ballot paper for each office the election is for, mark each of the ballot papers from the envelope '*informal under paragraph 71(b)(v)*' and exclude those ballot papers from the count and place them in a container reserved for '*informal ballots*'; and
  - (iii) put all ballot papers other than those excluded under part (ii) in a separate container to be counted.

#### **71 - COUNTING VOTES**

- (a) To count votes the Manager of the election must:
  - (i) admit the formal votes and reject the informal votes;
  - (ii) count the formal votes, and record the number for each candidate; and
  - (iii) count the informal votes.
- (b) A vote is informal only if:
  - (i) the ballot paper is not initialled by the Manager and the Manager is not satisfied the paper is authentic;
  - (ii) the ballot paper is marked in a way that allows the voter to be identified;
  - (iii) the ballot paper is not marked in a way that makes it clear how the voter meant to vote;
  - (iv) the ballot paper does not comply with a direction given under paragraph 60(a)(iv); or
  - (v) the ballot paper was taken from a ballot envelope that contained another ballot paper for the office the election is for.

- (c) All ballot papers, determined to be informal, under this rule will be placed in the container referred to in paragraph 70(j)(iii).

#### **72 - SCRUTINEERS' OBJECTIONS**

- (a) Before votes are counted, a scrutineer may advise the Manager that the scrutineer considers an error has been made in conducting the ballot.
- (b) When votes are counted, a scrutineer may:
  - (i) object to a ballot paper being admitted as formal or rejected as informal by the Manager of the election; or
  - (ii) advise the Manager of the election that the scrutineer considers an error has been made in conducting the ballot or counting votes.
- (c) If a scrutineer advises the Manager under sub-rule (a) or paragraph (b)(ii), the Manager must:
  - (i) decide whether the error has been made; and
  - (ii) if appropriate, direct action to correct or mitigate the error.
- (d) If a scrutineer objects under paragraph (b)(i), the Manager must:
  - (i) decide whether the ballot paper is to be admitted or rejected; and
  - (ii) note the decision on the ballot paper and initial the note.

#### **73 - DIRECTION BY THE MANAGER TO LEAVE COUNT**

- (a) The Manager of the election may direct a person to leave the place where votes are being counted if the person:
  - (i) does not have the right to be present at the count; or
  - (ii) interrupts the count, other than to exercise a scrutineer's right.

#### **74 - HOW RESULT IS DECIDED**

- (a) The method of deciding the result of a ballot is by a first-past-the post system.
- (b) That number of candidates corresponding with the number of offices to be filled who have the most formal votes are elected.
- (c) This rule is subject to rule 75.

#### **75 - WHAT HAPPENS IF VOTES FOR TWO OR MORE CANDIDATES ARE EQUAL**

- (a) If the Manager cannot decide which candidate is elected to an office because the votes cast for two (2) or more candidates are equal, the Manager of the election must decide which candidate is elected by drawing lots.
- (b) A decision under sub-rule (a) must be made in the presence of any scrutineer who wishes to attend.

#### **76 - DECLARATION**

- (a) The Manager will promptly declare the candidates elected to Office.

#### **77 - TERM OF OFFICE**

- (a) The term of office of all Officers is four (4) years.

- (b) Officers, will hold their respective office until their successors are elected in elections held under these rules unless they earlier die, resign, or otherwise cease to hold their respective office under these rules.

#### **78 - CASUAL VACANCY**

- (a) A casual vacancy will, subject to rule 86, occur in an Office, where the holder of the officer dies, resigns, is removed from office, does not take up office or ceases to hold office under these rules.
- (b) Casual vacancies will be promptly filled under this rule.
- (c) Where a casual vacancy occurs, and less than one (1) year of the term of the Office has expired, the office must be filled by an election held in accordance with the Election Procedure rules.
- (d) Where a casual vacancy occurs and one (1) year or more of the term of the Office has, expired, the office can be filled by the Executive Council appointing a Financial Member, eligible to nominate for the office, to the office or by an election held in accordance with the Election Procedure Rules.
- (e) The successful candidate or appointee will hold the respective Office until the next election for that office is held under these rules, subject to sub-rule 77(c).

#### **79 - TEMPORARY APPOINTMENT**

- (a) When the Office of a member of the Executive Council is:
  - (i) temporarily vacant as the respective officer is absent or unable to perform the functions of their office; or
  - (ii) casually vacant under these rules and the process of filling that vacancy has commenced, then the Executive Council may temporarily appoint a person, eligible to be appointed to the respective office to perform the obligations of the office and to act with the powers of the office, until the Officer concerned is either present and able to perform the obligations of their office or a person is elected to the casual vacancy, as the case may be.
- (b) A person appointed temporarily under sub-rule (a) who is already a member of the Executive Council, does not hold a further vote on Executive Council, other than the vote they held prior to the temporary appointment.
- (c) A member of the Executive Council may give notice to the other members of the Executive Council of a meeting for the purpose of the Executive Council making a determination under sub-rule (a).

#### **80 - LOANS GRANTS AND DONATIONS**

- (a) A loan, grant or donation of an amount exceeding \$1,000 will not be made by the Union unless the Executive Council has:
  - (i) satisfied itself that the making of the loan, grant or donation would be in accordance with the other rules of the Union;
  - (ii) satisfied itself in relation to a loan, that in the circumstances:
    - (1) the security proposed to be given for the repayment of the loan is adequate; and
    - (2) the proposed arrangements for the repayment of the loan are satisfactory; and
  - (iii) approved the making of the loan, grant or donation.

- (b) The Executive Officer will keep a register of loans, grants and donations.

### **81 - BENEFIT SCHEMES**

- (a) The Executive Council may determine that the Union, either by itself or in cooperation with other entities, will provide benefit and welfare schemes for Financial Members and their families.

### **82 - FUNDS AND PROPERTY**

- (a) All real and personal property belonging to the Union comprises the General Fund of the Union to be used for carrying out the Objects.
- (b) The General Fund includes the bank accounts of the Union.
- (c) Any Officer, member or employee of the Union receiving monies on behalf of the Union will deposit the monies, without deduction, in a bank account of the Union.
- (d) The name of a bank account utilised by the Union must include the words 'Australian Maritime Officers Union'.
- (e) When not presently required for carrying out the Objects, property may be held in a form or forms determined by the Executive Council and must be registered, deposited or invested in the name of the Union.
- (f) Any Union property or funds held by an Officer, member or employee of the Union, whether expressed to be held in the name of the Union or not, is held on trust by that person for, and on behalf of, the Union.
- (g) Officers, members or employees of the Union, as the case may be, will account to the Union for property and funds, held under sub-rule (f), in accordance with these rules and the law, provided that upon a demand being made by the President to an Officer, member or employee of the Union, as the case may be, to deliver up the property or monies to the Union, the Officer, member or employee of the Union concerned must promptly comply.
- (h) The General Fund of the Union will only be expended for the purpose of carrying out the Objects and must be disbursed by direct debit facility or cheque and signed or authorised, as the case may be, by the President and another Officer, the Vice President and another Officer or any two (2) of the President, the Vice President and the Executive Officer.
- (i) This rule does not prevent the General Fund from being held, under this rule, as a number of special purpose funds.

### **83 - EXPENSES**

- (a) In this rule 'reasonable expenses' means expenditure incurred by members of the Executive Council and employees of the Union on:
  - (i) transport;
  - (ii) accommodation;
  - (iii) meals; and
  - (iv) other items as determined by the Executive Council,and in the amount determined by the Executive Council.
- (b) Reasonable expenses incurred by members of the Executive Council, and employees of the Union, whilst on approved Union business will be reimbursed by the Union in accordance with the Financial Policies.

- (c) The reimbursement of expenses may be provided for in an Administrative Regulation determined by the Executive Council consistently with the Financial Policies.
- (d) The reimbursement of reasonable expenses must be authorised by the President, and in the case of expenditure by the President, by the Vice President.
- (e) Expenses, other than reasonable expenses, incurred by members of the Executive Council, or employees of the Union, whilst on Union business and which are not included in a determination by the Executive Council, require the approval of the Executive Council before reimbursement may be made.

**84 - FINANCIAL YEAR**

- (a) The financial year of the Union commences on 1 July in a year and ends on 30 June in a year.

**85 - AUDITOR**

- (a) A yearly audit of the accounts of the Union will be conducted by an Auditor appointed under this rule who is qualified under the Act.
- (b) The Auditor will, subject to the Act, be appointed by the Executive Council and the appointment will, subject to the Act, continue unless the auditor resigns, dies or is replaced by the Executive Council.
- (c) Where the Auditor resigns or dies, the Executive Council will, as soon as practicable, replace the auditor under these rules.
- (d) The Auditor will audit the financial accounts of the Union for the Financial Year and will promptly present those audited financial accounts and report to the Executive Council.

**86 - CESSATION OF OFFICE**

- (a) If a member of the Executive Council ceases to be a Financial Member, then their Office is vacant.
- (b) If a member of the Executive Council ceases to be eligible to nominate for the Office they hold, they cease to hold office and their office is vacant.
- (c) An Officer may only be removed from office by a decision of the Executive Council when they have been found guilty, under these rules, and in accordance with the process provided by rule 87, of:
  - (i) misappropriation of funds of the Union;
  - (ii) a substantial breach of these rules;
  - (iii) gross misbehaviour; or
  - (iv) gross neglect of duty.
- (d) The General Meeting will be called by the President, or if the officer charged is the President, then by the Vice President.

**87 – Misconduct of Members**

- (a) In this rule the words in column A have the meaning assigned opposite in column B:

<b>A</b>	<b>B</b>
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Agent	an agent appointed by the Union
Bond	a sum of \$500.00, or another amount as the National Executive determines, which, subject to this rule, will be refundable
Charge	a charge made under sub-rule (b)
Charged Member	a member charged under sub-rule (b)
Notice	a notice that is in writing and sets out the: <ul style="list-style-type: none"> <li>• Charge; and</li> <li>• Particulars; and</li> <li>• name of the person Charging; and</li> <li>• Process</li> </ul>
Particulars	sufficient particulars so that the matters and circumstances of the Charge are clear
Process	the process made under sub-rule (f)
<b>Union Employee</b>	a person employed by the Union

(b) A Financial Member may charge a Member with:

- (i) tampering with, falsifying or otherwise wilfully misusing membership cards, books or Documents of the Union;
- (ii) contrary to these rules knowingly obtaining or keeping the possession of books, Documents or property belonging to the Union;
- (iii) knowingly failing to comply with these rules;
- (iv) knowingly failing to comply with a determination of Executive Council binding on them;
- (v) grossly misbehaving;
- (vi) misappropriating the funds of the Union;
- (vii) substantially breaching these rules;
- (viii) acting in a disorderly and/or offensive manner at a meeting held under these rules;
- (ix) obstructing the Executive Council, a Union Employee, an Agent or other lawful representative of the Union in the performance of the functions of the Union;
- (x) knowingly giving false or misleading information to the Executive Council, an Officer, a Union Employee, an Agent or other lawful representative of a Governing Body on a matter;
- (xi) obstructing, insulting or behaving in an offensive manner towards an Officer in the course of the officer's duties;
- (xii) obstructing, insulting or behaving in an offensive manner towards a Union Employee in the course of the employee's duties;
- (xiii) wrongfully holding themselves out as occupying an Office, or as being entitled to represent the Union, provided that it will be a defence to this charge that the member honestly believed on reasonable grounds that they were entitled to act in that Office or as a representative;

- (xiv) aiding or encouraging a Member to breach these rules;
  - (xv) encouraging a Member to resign from the Union;
  - (xvi) knowingly and wrongfully causing injury to the reputation of the Union, an Officer, a Union Employee, Agent or other lawful representative of the Union or a Member;
  - (xvii) knowingly making a false allegation against the Union, an Officer, a Union Employee, Agent or other lawful representative of the Union or a Member;
  - (xviii) knowingly conducting themselves in a way that is calculated to bring the Union, an Officer, a Union Employee, Agent or other lawful representative of the Union or a Member into disrepute;
  - (xix) distributing to Members a statement concerning the activities of the Union, an Officer, a Union Employee or a Member, knowing the statement to be false;
  - (xx) engaging in conduct which has the effect of harassing or victimising an Member because that member engages in lawful Union activities;
  - (xxi) after, having been reasonably requested to assist, failing to assist the Executive Council, an Officer, a Union Employee, Agent or other lawful representative of the Union in the performance of the functions of the Union;
  - (xxii) after, having been reasonably requested to assist, failing to assist an Officer or Union Employee in the course of the officer's or employee's duties; and/or
  - (xxiii) refusing to comply with the direction of the Executive Council to show cause to a meeting of the Executive Council why the respective member should not be suspended from membership or expelled from the Union;
  - (xxiv) lending or selling to some other person their membership card or other document used to identify a person as a Member;
  - (xxv) if the Member is an Officer, of failing, despite a request from the National President to do so and having a reasonable opportunity to do so, to comply with their financial management training obligations under the Act; and/or
  - (xxvi) knowingly breaching the Union Code of Conduct.
- (c) A Financial Member making a Charge must provide the Executive Officer in writing with the:
- (i) Charge;
  - (ii) Particulars; and
  - (iii) Bond.
- (d) The Executive Officer must, within 28 days, notify the Executive Council of the Charge.
- (e) The Executive Council must, as soon as is practicable, hear and determine the Charge.
- (f) Having regard to the circumstances, the Executive Council will determine the process to apply for it to discharge its obligation under sub-rule (e) to ensure the Charged Member is provided with natural justice and will consider matters including:
- (i) whether to conduct an oral hearing or receive written submission;
  - (ii) if an oral hearing is to be conducted, whether this is to be in person or by telephone or videolink or other communication platform or any combination of these;
  - (iii) when, and where, any hearing is to occur;

- (iv) whether there are interlocutory matters to be determined and if so whether by written submission or at an oral hearing;
  - (v) whether it will consider evidence from persons, whether Members or not, and if so the means by which it will consider such evidence; and
  - (vi) how, and when, it will receive material relevant to the Charge.
- (g) The Executive Council will, having regard to its determinations under sub-rule (f), issue directions for the conduct of the hearing and determination of the Charge.
  - (h) The Executive Council will provide the Charged Member with a Notice.
  - (i) In the hearing of the Charge, the Executive Officer will be the prosecutor but will not otherwise participate in determining the Charge.
  - (j) A Charge may, subject to any determination under sub-rule (f), be determined in the absence of the Charged Member.
  - (k) The Executive Council may, where it finds the Charged Member guilty of a Charge, and subject to this rule, determine to:
    - (i) impose no penalty; or
    - (ii) fine the member a sum not exceeding \$1000.00; or
    - (iii) expel the member from the Union.
  - (l) If the Executive Council determines that the Charged Member is guilty of a Charge, then the Executive Council will give the member an appropriate opportunity to make submission on penalty, and the Executive Council may determine to receive such submissions orally at a hearing or in writing.
  - (m) A Charged Member may, in relation to an oral hearing of a Charge, including submissions on penalty, be self-represented or by a Financial Industrial Member, but by no other person.
  - (n) The Executive Council must provide the Charged Member with its determination, whether as to guilt, or penalty, or both, in writing.
  - (o) If the Executive Council finds the Charged Member guilty, then the Bond must be repaid to the Financial Member who made the Charge.
  - (p) If the Executive Council finds the Charged Member not guilty, then the Bond will be forfeited to the Union and paid to the General Fund.
  - (q) The determination of the Executive Council is final.
  - (r) Where a Charged Member is fined under this rule, the Charged Member is required to pay the fine within 14 days of having been notified, of the imposition of the fine.

#### **88 - NOTICES TO MEMBERS**

- (a) A notice of meeting required to be given by these rules may be given:
  - (i) personally;
  - (ii) by sending the notice through the post in a prepaid letter;
  - (iii) by facsimile;
  - (iv) by email;
  - (v) by text message; or
  - (vi) if for a General Meeting by placing it on the Union Website,

addressed respectively, and relevantly, to the person who is to receive the notice at their address, their facsimile number, email address, or mobile number as entered in the register.

- (b) The non-receipt of a notice by a Member does not invalidate a meeting held in accordance with the respective notice.

#### **89 - REPRESENTATION**

- (a) The Union will not provide representation to a member for any events occurring prior to the date they were accepted as a member, unless the Executive Council otherwise determines.

#### **90 - ADMINISTRATIVE REGULATIONS**

- (a) The Executive Council may determine Administrative Regulations for the administration of the Union.
- (b) Administrative Regulations may be amended by the Executive Council by ordinary resolution.
- (c) Administrative Regulations must be promptly notified to the members by being placed on the Union's Website.
- (d) Administrative regulations are binding on members once notified.

#### **91 - COPY OF THE RULES**

- (a) A Financial Member may request the Executive Officer to provide a copy of these rules, free of charge.
- (b) The Executive Officer may, where a request is made under sub-rule (a) and the member has an email address on the Membership Register, provide the copy of the rules by email.

#### **92 - INSPECTION OF BOOKS**

- (a) The Membership Register, minutes of meetings and the financial records of the Union will, subject to these rules and the Act, be open to personal inspection, at reasonable times, by a Financial Member who gives reasonable notice in writing to the President, at:
  - (i) the Registered Office; or
  - (ii) a location agreed between the member seeking inspection and the President.

#### **93 - PERSON TO RESPOND TO PROCESS**

- (a) The President is the designated officer of the Union and will be the person to sue on behalf of the Union and in its name.
- (b) Despite sub-rule (a) the Executive Council may appoint a person to sue for or defend a matter on behalf of the Union and in its name.
- (c) The President has, in circumstances that the President considers to be urgent, the power, on behalf and in the name of the Union, to take proceedings, provide information, make complaint, or do any other act, matter or thing which the Union may do under the provisions of the Act, concerning the enforcement of awards or agreements, the carrying out of any provisions of the Act or protecting the interests of a member.

#### **94 - INDUSTRIAL DISPUTES**

- (a) Notification of industrial disputes will be submitted to the Fair Work Commission on behalf of the Union by the President or other person as the Executive Council authorises.

#### **95 - EXECUTION OF DOCUMENTS**

- (a) The President is authorised to execute on behalf of the Union contracts of employment for Union employees, collective industrial agreements, applications and all other documents or instruments.
- (b) Subject to sub-rule (a) the Executive Council may authorise an Officer or employee of the Union to execute a class of documents or instruments.
- (c) The President may delegate the President's power under sub-rule (a) to authorise an Officer or employee of the Union to execute a class of documents or instruments

#### **96 - INDUSTRIAL REPRESENTATION**

- (a) Each Financial Member authorises the Union to act as their agent in dealings with their employer and to enter into binding legal agreements on their behalf in respect of their employment provided that:
  - (i) agreements are collective industrial agreements entered into in good faith for the benefit of the Financial Member concerned; and
  - (ii) the terms of agreement have been approved by the Financial Members concerned.
- (b) In agreements made under sub-rule (a) the Union may act as both party principal and as agent on behalf of its members.
- (c) The Executive Council will appoint the representatives of the Union for the conduct of negotiations.

#### **97 - FINANCIAL DELEGATIONS**

- (a) Officers and employees of the Union are entitled to incur expenditure where:
  - (i) it derives from the necessary discharge of their Office or employment;
  - (ii) the Executive Council has expressly resolved that the expenditure occurs; or
  - (iii) the expenditure is derived from a budget approved by the Executive Council.
- (b) Any determination of the Executive Council, relating to expenditure, must be by way of minuted resolution, and retained as part of the minutes of the Executive Council.
- (c) Any proposed expenditure of more than \$10,000.00, or such higher sum as the Executive Council determines, must be approved in advance of expenditure occurring.

#### **98 - INDEMNITY**

- (a) The officers, the members of a Sub-Committee and employees of the Union are indemnified by the Union, to the extent only of its assets, from losses and expenses incurred by them in, or about, the discharge of their respective duties, except for losses and expenses incurred through their own wilful default or neglect.
- (b) The officers, the members of a Sub-Committee or employees of the Union will not be liable for losses or expenses incurred by any other officer, member of a Sub-Committee or employee or for any loss or expenses sustained by the Union, unless the losses or expenses are incurred through their own wilful default or neglect.

#### **99 - COMMON SEAL**

- (a) There will be a common seal containing the words:

'Common Seal – Australian Maritime Officers Union'
- (b) The common seal is to be affixed to any document requiring a common seal.

- (c) The President is authorised to affix the seal of the Union if required under sub-rule (b).

#### **100 - INTERPRETATION OF RULES**

- (a) The rules of the Union will be construed liberally to facilitate the functioning of the Union under laws of the States and of the Commonwealth.
- (b) The President is empowered in the case of a dispute on the interpretation of these rules, and in any case where the rules are silent upon a question of procedure, to determine the action to be taken.
- (c) Should a question arise on a matter which is not provided for by these rules the Executive Council will determine the question, providing that pending a determination the President will, if required, rule upon the question and the President's ruling will be binding until a determination is made by the Executive Council.

#### **101 - ALTERATIONS TO RULES**

- (a) The Executive Council may determine to alter the rules.
- (b) If under sub-rule (a) the Executive Council determines to alter these rules, the President must publicise the determination within seven (7) days of the determination by notice to the Financial Members on the Union Website and made available to the members at the registered office.
- (c) If within 28 days after the date of giving notice under sub-rule (b) the President receives a written request for a referendum on the proposed alteration signed by at least 150 Financial Members, then the President will direct the Returning Officer to, as soon as practicable, conduct a referendum as to whether or not the Financial Members of the Union approve the determination of the Executive Council.
- (d) If the President does not receive a request under sub-rule (c) the alteration which the Executive Council determined may be certified by the FWC.
- (e) If the President receives a request within sub-rule (c) then:
  - (i) if the referendum approves of the alteration set out in the determination of the Executive Council it may be certified by the Fair Work Commission;
  - (ii) if the referendum does not approve of the determination, the determination of the Executive Council is rescinded.
- (f) Despite the other provisions of this rule, where the Union:
  - (i) is required by law to alter its rules; or
  - (ii) proposes to alter rule 6, part 3(c) to provide for a further employer or for the successor or assignee of an employer,only a majority of the Executive Council is required to determine to make that alteration.

#### **102 - REFERENDUM**

- (a) The President will, on receipt of a request in writing signed by five per cent (5%) of the Financial Members of the Union direct the conduct of a referendum of the Financial Members of the Union on a matter concerning the Union.
- (b) The President or the Executive Council may direct the conduct of a referendum of the Financial Members of the Union on a matter concerning the Union.
- (c) A referendum will be conducted by secret ballot by a Returning Officer appointed under this rule, who may be a member or employee of the Union, and will be completed, in the case of a

referendum under sub-rule (a) within two (2) months of the receipt by the President of the request and in the case of a referendum under sub-rule (b) within two (2) months of the direction by the Executive Council.

- (d) Where a request has been received under sub-rule (a) or a direction given under sub-rule (b), the Executive Council will not, so far as it is practicable, until the completion of the referendum, act in relation to the matter the subject of the referendum.
- (e) Where a majority of Financial Members of the Union, voting at a referendum approve the matter submitted to referendum, the matter will be carried out and the Executive Council will, so far as it is practicable, implement the decision of the plebiscite.
- (f) In the event of a tied referendum the proposal will be declared lost.
- (g) Where a request is received under sub-rule (a) or a direction given under sub-rule (b), the President will advise the Returning Officer and the Returning Officer will direct the conduct of the referendum and will take all necessary steps to ensure the secrecy of the ballot.
- (h) The Returning Officer will determine the opening and closing dates of the ballot.
- (i) The Executive Council will appoint two (2) scrutineers and prior to the opening of the ballot will advise the Returning Officer of the name and contact information of each scrutineer.
- (j) The Returning Officer will:
  - (i) on the opening date of the ballot forward or cause to be forwarded by prepaid post or otherwise to each Financial Member, a ballot paper bearing the Returning Officer's signature together with a reply-paid return envelope addressed to the Returning Officer;
  - (ii) give such directions to voters as the Returning Officer considers appropriate;
  - (iii) give a direction that a voter will not make any mark on the ballot paper which will identify them and that any such mark will render the vote invalid; and
  - (iv) provide for a method of permitting Financial Members to vote whilst preserving the secrecy of the ballot,provided that an electronic balloting system that provides for security and secrecy to the same extent as a postal ballot may be utilised, or partly utilised, to conduct the ballot.
- (k) A voter will cast a vote in a ballot under this rule by completing the ballot paper forwarded to the voter under sub-rule (j) in accordance with the directions to voters and forwarding the ballot paper to the state Returning Officer so as to reach the Returning Officer no later than the closing date of the ballot.
- (l) A vote cast in the ballot will be informal if the intention of the voter is not clear.
- (m) Subject to sub-rule (n) a scrutineer appointed under sub-rule (i) may be present during the conduct of the ballot by the Returning Officer including the counting of ballot papers returned in the referendum and may object to a ballot paper being counted on the ground that it does not clearly express the voter's attitude to the question to which the referendum is directed.
- (n) A scrutineer will observe a direction given by the Returning Officer during the conduct of the ballot and will comply with any decision given by the Returning Officer as to whether a ballot paper is to be counted as sufficiently expressing a voter's attitude to the question which is the subject of the referendum.
- (o) On completion of the counting of ballot papers returned in a referendum the Returning Officer will declare the result of the referendum by advising the President in writing of the number of ballot papers forwarded to voters, the number approving the matter or the subject of the referendum, the number not approving and the number of informal votes.

- (p) The Executive Council on receiving a request in writing for a referendum may adopt the proposal contained in the request and if it does so no referendum is required.

**103 – Not Used**

**104 - ORGANISATION POLICIES AND PROCEDURES**

- (a) The Union will develop and implement policies and procedures relating to the expenditure of the Union.

**105 - NOT USED**

**106 - NOT USED**

**107 - NOT USED**

**108 - NOT USED**

**109 - STANDING ORDERS**

- (a) The standing orders will be adhered to as far as practicable at all meetings of the Executive Council and Sub-Committees.
- (b) The standing order for ordinary meetings of the Executive Council is:
- (i) attendance and apologies;
  - (ii) minutes will be presented for confirmation, but no discussion will be allowed except as to their accuracy as a record of the proceedings;
  - (iii) business arising out of minutes;
  - (iv) business as notified;
  - (v) correspondence;
  - (vi) financial statements and accounts;
  - (vii) reports; and
  - (viii) general business on notice.
- (c) Subject to this rule, the suspension of standing orders requires a two thirds (2/3) majority to be passed.
- (d) The standing order for special meetings of Executive Council, which cannot be suspended, is:
- (i) attendance and apologies; and
  - (ii) business as notified.
- (e) The order of business at the Annual General Meeting is:
- (i) formal opening;
  - (ii) attendance and apologies;
  - (iii) minutes will be presented for confirmation, but no discussion will be allowed except as to their accuracy as a record of the proceedings;
  - (iv) business arising out of minutes;
  - (v) business as notified;
  - (vi) financial statements and accounts; and



- (vii) reports.
- (f) The standing order for General Meetings (other than the Annual General Meeting) which cannot be suspended, is:
  - (i) attendance and apologies; and
  - (ii) business as notified.
- (g) A notice of motion will be dealt with in the order in which it stands in the agenda, in relation to other similar notices, provided that a motion to suspend the standing orders will be dealt with prior to the agenda item of concern being dealt with.
- (h) No notice of motion entered on the notice paper will be proceeded with unless the person who has given such notice is present when the business is called in its order.
  - (i) No notice of motion will proceed unless it is seconded.
  - (j) Notices of motion not proceeded with are struck out.
- (k) Any person engaging in misconduct during a meeting or obstructing the business of the meeting will be called to order by the chair and if, after being called to order, the person persists in the misconduct or obstruction or otherwise refuses or fails to comply with the chair's direction, that person may be excluded from taking any further part in the business of the meeting and may be physically expelled from the meeting.

#### **110 - RULES OF DEBATE**

- (a) The following rules of debate will be adhered to as far as practicable at all meetings of the Union held under these rules.
- (b) No discussion will be allowed except on a motion or amendment, duly proposed and seconded.
- (c) A call for a seconder will only be put twice at which time if the motion or amendment has not been seconded it will lapse.
- (d) Any member desiring to propose a motion or amendment or to discuss any matter under consideration must address the chair.
- (e) No member will address the meeting unless, and until, called upon by the chair.
- (f) When the chair speaks during a meeting the member then speaking, or offering to speak, will cease so that the chair may be heard without interruption.
- (g) The chair will call to order any speaker who departs from the question or who violates the courtesies or rules of debate.
- (h) If the chair determines to participate in a debate at any meeting, then the chair will vacate the chair whilst participating, which will be taken by the person who acts, under these rules, in the absence of the chair.
- (i) All motions will be determined in the following manner:
  - (i) the mover of the motion will have five (5) minutes at the time of moving the motion to present argument in support of the motion and three (3) minutes to reply, where the reply is limited to the answering of arguments advanced against the motion;
  - (ii) the seconder of a motion and all other speakers will be limited to three (3) minutes;
  - (iii) the meeting, on motion without debate, may extend the time of any speaker but an extension of time must not exceed three (3) minutes and the meeting may agree to further extensions on the same basis;

- (iv) the chair will call attention to the time of all speakers one (1) minute before their time expires and motions for extensions may be made when the chair so calls, but not later; and
  - (v) after the motion has been moved and seconded, no more than two (2) members will speak in succession on one side, either for or against any question before the meeting and if at the conclusion of the second speaker's remarks no member rises to speak on the other side, the motion or amendment will at once be put to the meeting, subject to part (i) of this sub-rule.
- (j) All votes at meetings will be subject to the following:
- (i) the chair will read the motion and determine the question on the voices, provided that the chair may call for a show of hands;
  - (ii) every question submitted to a meeting will be decided by a show of hands, unless a poll is demanded by five (5) members; and
  - (iii) the chair will then declare the motion carried or lost.
- (k) In the event of a motion being carried or lost by a narrow majority, any three (3) members may demand a division and on a division being called for, those in favour will go to the side of the room on the chair's right and those against to the chair's left and the number on each side will be counted and the number of voters, for and against, will be recorded in the minutes.
- (l) At any time during debate on any motion it will be competent for any member who has not spoken to the motion to move an amendment, which will be subject to the following:
- (i) all amendments must be seconded;
  - (ii) motions may be amended by adding words, by deleting words, or by deleting words and inserting others in their place;
  - (iii) the effect of any proposed amendment cannot be to establish a direct negative to the question contained in the motion;
  - (iv) only one amendment will be received at a time and that amendment must be disposed of before any further amendment may be considered or moved;
  - (v) all amendments will be put before the original motion;
  - (vi) the mover of an amendment will not have a right of reply; and
  - (vii) should an amendment be carried it becomes the substantive motion and thereon a further amendment may be proposed, however, if no further amendment is proposed, the amendment which has become the substantive motion, will be put without further debate subject to part (v) of sub-rule (i).
- (m) Where a motion is considered by a meeting without any amendments being proposed no member except for the mover of the motion will speak more than once on the motion, unless by way of personal explanation or with the consent of the meeting.
- (n) Where an amendment is proposed a member may speak for or against the proposed amendment.
- (o) Any member who considers they have been misrepresented by a speaker may, with the indulgence of the chair, interrupt the speaker to correct the misrepresentation, but the member interrupting must not enter into argument.
- (p) It will be competent at any time during a debate for a member who has not spoken to a motion under consideration to rise and move "That the question be now put" but no discussion will be

- allowed and if this motion is seconded and carried, the chair will immediately call upon the member (if any) who may have the right of reply, and then, immediately following the reply, the chair will put the motion which will include the amendments (if any) that have been moved and accepted.
- (q) No motion upon any other subject will be submitted until the one before the chair is disposed of under this rule.
  - (r) Should any question have occupied the attention of the meeting for 20 minutes, the discussion on such question will be closed and the chair will then call on the mover to reply, unless the meeting decides by resolution to continue the discussion of the matter in question.
  - (s) A motion may be dealt with by:
    - (i) adoption as moved;
    - (ii) rejection as moved; or
    - (iii) adoption after amendment of the subject matter.
  - (t) Any of the following motions, will be in order despite a motion (or motion with amendments) being before the meeting:
    - (i) 'The Order of the Day', i.e., that the next business in order be now taken;
    - (ii) postponement of the question, either to a definite time or a time to be fixed;
    - (iii) reference to a committee; or
    - (iv) adjournment of the:
      - (1) debate; or
      - (2) meeting.
  - (u) A motion for adjournment:
    - (i) may be moved and seconded at any time during the meeting;
    - (ii) may be debated, provided that not more than four (4) speakers be allowed both for and against the motion, inclusive of the mover and seconder;
    - (iii) provides no right of reply for the mover of the motion; and
    - (iv) will be successful if carried by a majority of members present.
  - (v) A second motion for adjournment will not be moved until the subject under discussion at the time of the first motion for adjournment has been disposed of.
  - (w) Questions of order will be decided by the chair, whose ruling will be final unless challenged by a formal motion submitted to the meeting.
  - (x) Any member may rise to a point of order when the member considers the rules of debate to have been violated provided that the member must submit the "point of order" to the chair, who will decide the question as prescribed in sub-rule (w).
  - (y) Upon the point of order being raised, the member addressing the meeting at the time will take their seat and will remain seated until the point of order has been decided.
  - (z) A ruling given by the chair on any question may be subject to a motion of dissent calling the meeting to disagree with the ruling.
  - (aa) On the motion of dissent being seconded, the chair will vacate the chair which will be taken by the person who acts, under these rules, in the absence of the chair.

- (bb) No motion of dissent from the chair's ruling will be permitted unless it is made before any other business has been proceeded to.
- (cc) The procedure to determine a motion of dissent will be as follows:
  - (i) the member moving the motion of dissent will be given five (5) minutes to support the motion;
  - (ii) the chair will be given five (5) minutes to defend their ruling; and
  - (iii) the acting chair will then put the question and on the question being determined the chair will resume the chair.
- (dd) A report of a Sub-Committee officially presented will be received without motion, but the adoption of such report either absolutely, or by clauses, will be moved and seconded.
- (ee) It will be competent for any member to move the reconsideration of a resolution that has been passed by a meeting, provided that the member will have given notice at a previous meeting.
- (ff) It will be competent for any member to propose that any subject will be considered in a committee of the whole meeting.
- (gg) The vote on such proposition when seconded will then be taken without discussion.

#### **111 - DISSOLUTION OF THE UNION**

- (a) The Executive Council may submit the question of dissolution of the Union to a vote of the Financial Members, and if, a two-thirds (2/3) majority of the Financial Members vote in favour of dissolution, the Union will be dissolved, and the Executive Council will cause the funds and property remaining, after payment of liabilities, to be divided equally amongst the Financial Members of the Union.

#### **112 – Transitional Rule 2023**

- (a) For the purposes of this rule the words in column A have the meaning set out opposite in column B:

<b>A</b>	<b>B</b>
<b>2023 Quadrennial Election</b>	the quadrennial elections of the Union following the Commencement Day
<b>Commencement Day</b>	the day on which this rule is certified by the Fair Work Commission
<b>Commencement Day Rules</b>	the rules of the Union that apply on, and from, the Commencement Day
<b>Pre commencement Day Officer</b>	those persons elected, or appointed, as officers of the Union under the Pre-commencement Day Rules
<b>Pre-commencement Day Rules</b>	the rules of the Union that applied on the day immediately preceding the Commencement Day

- (b) The purpose of this rule is to:
  - (i) provide for certainty in the holding of the offices of the Executive Council during the period of transition; and
  - (ii) other matters of a transitional nature.

- (c) Commencing in 2023 the Quadrennial Election for the offices of the Executive Council are to be held under the Commencement Day Rules.
- (d) A Pre-commencement Day Officer who held office, on the day immediately preceding the Commencement Day, will continue to hold that office:
  - (i) under the Pre-commencement Day Rules; and
  - (ii) until the declaration of an office of the Executive Council at the 2023 Quadrennial Election under the Commencement Day Rules.
- (e) Despite the Commencement Day Rules, a Pre-commencement Day Officer will, whilst holding that office, exercise their powers and discharge their obligations under the Pre-commencement Day Rules.

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

**'KB5'**

**[Screenshot]**



# Alteration to the AMOU Rules

January 31, 2023

## Alteration To The AMOU Rules

The Australian Maritime Officers Union (AMOU) has lodged a notice of alteration to the AMOU rules (Notice) with the [Fair Work Commission](#).

You can download a copy of the Notice and attachments [here](#).

A copy of the current AMOU rules can be accessed at the [Fair Work Commission Website](#).