[128V-NSW: Incorporates alterations of 9 March 2023 in R2022/150]

(replaces rulebook dated 18 April 2019 [R2019/38])

I CERTIFY under section 161 of the Fair Work (Registered Organisations) Act 2009 that the pages herein numbered 1 to 43 both inclusive contain a true and correct copy of the registered rules of the New South Wales Divisional Branch of the Electrical Division of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia

GENERAL MANAGER

FAIR WORK COMMISSION

[IMPORTANT: Enquiries about these rules or other rules relating to this organisation which are currently in force may be directed to any registry of the Fair Work Commission.]

Rules of the NSW Divisional Branch of the Electrical, Energy and Services Division of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia

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## RULES OF THE "CEPU"

**Section "B" - Electrical, Energy and Services Division**

**B2- New South Wales Divisional Branch**

## 1 - NAME OF THE DIVISIONAL BRANCH

1. The name of this Divisional Branch shall be the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia Electrical, Energy and Services Division, New South Wales Divisional Branch (the "NSW Divisional Branch").

## 1A - INTERPRETATION

1A. Where a matter is specified in these NSW Divisional Branch Rules, it shall prevail over any inconsistent provision in Section B, Divisional Rules of the Electrical, Energy and Services Divisional Rules of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia.

## 2 - CONSTITUTION

2. The members of the Branch shall be those members of the Union described in Section A National Rules rule 2.1 and which members are attached to the New South Wales Divisional Branch in accordance with Section B Divisional Rules rule 4.2.5.

## 3 - OBJECTS

3.1 To advance the trade interests of members.

3.2 To obtain adequate pay for the members.

3.3 To cultivate feelings of friendship.

3.4 To promote the general welfare of the members of the Union and by such lawful means as may be hereinafter provided in these rules to uphold the status of the industry.

3.5 To advance the living and working conditions of workers and their families and to assist kindred unions and to support other bodies having these objects and such projects for the advancement of labour as the Union may determine.

3.6 To secure a proper classification of the workers in the industry.

3.7 The institution and maintenance of the apprenticeship system.

3.8 To afford legal protection to the members in industrial matters.

3.9 The abolition and prevention of contract or piecework schemes and the restriction and control of incentive and bonus system in industry.

3.10 To assist members in distress through sickness or accident or who are lawfully out of employment.

3.11 To make such provisions for superannuation payments or retiring allowances to full-time employees of the Union as the Union may determine.

3.12 To acquire or lease property for the carrying out of Union activities.

3.13 To secure preference of employment of unionists.

3.14 To establish a fund for assistance to members involved in industrial disputes.

3.15 To seek continued reduction of working hours.

3.16 To provide legal representation for a member in a compensation claim and/or action for damages arising out of injuries sustained in the course of his/her employment.

3.17 To provide legal representation for dependants of a deceased member at an inquest or inquiry in a compensation claim and/or action for damages arising from the death of a member.

3.18 To establish holiday and rest centres for members of the Union.

3.19 To amalgamate with kindred organisations.

3.20 To endeavour to ensure, by lawful means, that all persons (whether members of the Union or not) who receive the benefit of Union representation, including but not limited to the benefit of enterprise agreements negotiated by the Union, make an appropriate financial contribution to the Union for the cost of such representation.

3.21 To do all such acts and things as are conducive to bring the objects of the Union into effect.

## 4 - REGISTERED ADDRESS OF THE NSW DIVISIONAL BRANCH

4.1 The registered address of the NSW Divisional Branch shall be Level 5,370 Pitt Street, Sydney, New South Wales 2000, or such other place as may be determined by the NSW Divisional State Council.

## 5 - APPLICATION OF FUNDS

5.1 The funds of the NSW Divisional Branch shall be expended only in connection with the carrying out of the objects as set out in rule 3 and for necessary expenses of management.

5.2 Notwithstanding anything contained elsewhere in these rules, no loan, grant or donation shall be made by the NSW Divisional Branch unless the making of the loan, grant or donation has been approved by the NSW Divisional State Council and the State Council is satisfied:

5.2.1 That the making of the loan, grant and donation would be in accordance with the rules of the NSW Divisional Branch, and

5.2.2 In the case of a loan that in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangement for the repayment of the loan are satisfactory

5.3 The provision of sub-rule 5.2 of this Rule shall not prevent the NSW Divisional Branch President or NSW Divisional Branch Secretary from making a loan, grant or donation to a member of the Union provided that the loan, grant or donation:

5.3.1 Is for the purpose of relieving the member or any of the member’s dependants from severe financial hardship and

5.3.2 Is subject to a condition to the effect that if NSW Divisional State Council, at the next meeting of the State Council, does not approve the loan, grant or donation, it must be repaid as determined by the State Council and

5.3.3 The amount does not exceed the sum of $3000.00

5.4 The NSW Divisional Branch State Council shall develop and implement policies and procedures relating to the expenditure of the Branch Funds.

## 6 - INITIATION

6.1 An applicant for membership of the union may join the union by:

6.1.1 filling out an application form approved by the relevant committee of management for that purpose; or

6.1.2 applying for membership over the telephone; or

6.1.3 applying for membership electronically via the internet or by email.

6.2 Applicants for membership of the Union may be required to sign an application form.

6.3 Applicants for membership shall be informed in writing of the financial obligation arising from membership and the circumstances, and the manner, in which a member may resign from the organisation.

6.4 Membership shall date from the time of enrolment and all applications shall be referred to a Credentials Sub-Committee of the NSW Divisional Branch Executive.

6.5 The NSW Divisional Branch Executive shall have power to veto the application of any person who may be regarded as ineligible for membership; provided any rejected candidate may, within fourteen days of being notified by the NSW Divisional Branch Secretary, appeal to the NSW Divisional State Council against the finding of the NSW Divisional Branch Executive.

6.6 Any entrance fee or subscription paid by a rejected applicant for membership shall be refunded by the Union.

## 7 - ENTRANCE FEES AND CONTRIBUTIONS

**7.1** **Entrance Fees**

7.1.1 Applicants employed as tradespersons or in classifications receiving equal to or in excess of a tradesperson's rate of pay, shall pay an entrance fee of ten dollars ($10.00). Other applicants (excluding process workers) shall pay an entrance fee of two dollars ($2.00). Such payment shall not be a condition precedent to membership.

7.1.2 Any person seeking to join the Union for the first time shall be required to pay one-third of the appropriate quarterly contributions for each unexpired month or part of a month in the current quarter calculated to the nearest fifty cents (50c).

**7.2** **Contributions**

7.2.1 Members shall pay a contribution rate as determined by Divisional Council from time to time.

7.2.2 The NSW Divisional State Council may fix a higher rate of contributions for members of the NSW Divisional Branch subject to endorsement by the Divisional Executive or Divisional Council.

7.2.3 Provided that the quarterly contribution for each of the classifications of membership shall be calculated to the nearest fifty cents (50c).

7.2.4 Juniors receiving adult rates shall pay the adult rate of contributions.

7.2.5 All contributions shall be paid in advance.

7.2.6 Provided that any person who has paid contributions, subscriptions, fines or dues to the Electrical Trades Union of Australia, New South Wales Branch, an industrial organisation of employees registered under the Industrial Relations Act 1996 (NSW) whether before or after the registration, shall be exempted from payment of contributions, subscriptions, fines, levies, fees or dues under these rules to the extent of his/her payments to the said industrial organisation of employees in any year.

**7.3** **Annual Subscriptions**

7.3.1 A member who if financial for the preceding year, may, during the months of July and August, pay the subscription for the current year at an annual rate determined by multiplying the quarterly rate herein prescribed by four and deducting ten percent (10%) calculated to the nearest dollar.

7.3.2 The annual subscription rate shall only apply to the current financial year and all subscriptions paid, except as prescribed in the preceding paragraph, shall be at the quarterly rate.

**7.4** **Contributions Deducted from Wages, Direct Debit and Credit Cards**

7.4.1 The NSW Divisional Branch may make an arrangement with any employer of any member attached to the NSW Divisional Branch for the deduction of contributions payable by any member employed by that employer from the member's pay due to him/her from the employer. For the purposes of such an agreement or arrangement only, the employer shall be regarded as an authorised collector on behalf of the NSW Divisional Branch but shall not be permitted to issue receipts on behalf of the NSW Divisional Branch.

7.4.2 A member may, by giving suitable written authority, request the NSW Divisional Branch of the Union to which he/she is attached, to arrange for the payment of contributions by regular amounts deducted from the member's wage.

7.4.3 A member may, arrange for the payment of union contributions by regular amounts automatically deducted from his/her financial institution accounts by direct debit or credit card payment.

7.4.4 A member may also pay his or her union contributions over the telephone or by electronic means over the internet or by email in accordance with the procedures of the Branch.

7.4.5 The amounts to be deducted on behalf of a member shall be determined by multiplying the appropriate quarterly rate, as prescribed, by four and dividing the resultant by the usual number of complete pay periods, or agreed automatic deduction periods in any one financial year; any broken part of a cent in the result of the calculation shall be adjusted to the next highest cent, provided that any amounts paid in excess of the prescribed quarterly rate shall be carried forward as a credit on the member's account.

7.4.6 A member who has contributions deducted from wages or from financial institution accounts in the manner prescribed in this sub-rule, and continues to make regular payment by deduction of the amounts determined from time to time as herein prescribed in this sub-rule, shall be regarded as having paid subscriptions in advance and shall not be regarded as unfinancial in accordance with rule 13.

7.4.7 With respect to this sub-rule, the NSW Divisional Branch shall reserve the right to:

7.4.7.1 refuse or reject an application made by a member;

7.4.7.2 refuse, reject, cancel or modify any agreement or arrangement, or part of any agreement or arrangement.

7.4.8 No member shall be compelled to enter into any agreement or arrangement as prescribed in this sub-rule.

7.4.9 A member who is in arrears of contributions may by giving suitable written authority, request the NSW Divisional Branch to arrange for the payment of union contributions by regular amounts deducted from the member's wage, or financial institution accounts by direct debit or credit card payment. Upon payment of such arrears he/she shall be entitled to the provisions of sub-rule 7.4.6.

7.4.10 A member who as at the time of this rule coming into force has already authorised the NSW Divisional Branch to arrange for the payment of union contributions by regular amounts deducted from the members wage, or financial institution accounts by direct debit or credit card payment and who is in arrears of contributions shall upon payment of such arrears be entitled to the provisions of sub-rule 7.4.6.

**7.5** **Subscriptions Generally - All Sections**

7.5.1 All subscriptions are payable in advance and the rates set out in the preceding sub-clauses include members' "ETU News" subscriptions.

7.5.2 All subscriptions, fines, levies, fees or dues may be paid by any member, to any of the authorised collectors or to the NSW Divisional Branch Secretary but to no other person or member. No receipts shall be valid unless given under and on the form prescribed by the NSW Divisional Branch.

7.7 The NSW Divisional State Council reserves the right to review the credentials of any member who may be transferred from one section to another.

**7.8 Definition of Authorised Collectors**

7.8.1 For the purposes of collecting membership subscriptions, fees, dues, fines, levies, “authorised collectors” shall include the following:

7.8.1.1 the union;

7.8.1.2 a shop steward;

7.8.1.3 an organiser;

7.8.1.4 the employer;

7.8.1.5 banking and other financial institutions;

7.8.1.6 the Electrical Trades Union of Australia, New South Wales Branch, being an Industrial Organisation of employees registered under the Industrial Relations Act 1996, and

7.8.1.7 any other person or body corporate appointed by the NSW Divisional Branch Executive as an authorised collection agent.

## 8 - PAYMENT OF SUBSCRIPTION

8.1 The NSW Divisional Branch Secretary shall issue receipts in the form prescribed by the NSW Divisional Branch Executive from time to time for all moneys received under the heading of Entrance Fees, Contributions, Fines, Levies, etc.

## 9 - INTERCHANGE OF MEMBERSHIP

9.1 Financial members of kindred Unions may at the discretion of the NSW Divisional State Council and/or the State Divisional Branch Executive be admitted to membership without payment of entrance fees, upon production of a clearance, showing they are fully paid-up members of the Union to which they formerly belonged.

## 10 - EXEMPTION FROM PAYMENT OF SUBSCRIPTIONS

10.1 Should any financial member be prevented from following his/her vocation through unemployment or illness for a period of four weeks or more, the NSW Divisional Branch Executive shall have power to grant exemption from subscriptions in approved cases and may order a refund of any portion of a pre-paid subscription, provided that in all cases application for exemption shall be made to the NSW Divisional Branch Secretary in writing within fourteen days of ceasing work and applicable for exemption made within five weeks from the date of ceasing work. Such members shall also notify the NSW Divisional Branch Secretary in writing at the end of each quarterly period when out of work.

10.2 Exemption from payment of Union dues in the case of unemployment or illness may be granted in cases of hardship to members who have not fully complied with this rule.

10.3 Subject to the exceptions provided in these rules, when a member has ceased to be employed in an industry represented by the Union for a period of two years he/she shall, if following another occupation either draw a clearance or resign his/her membership. Provided that, subject to the approval of the NSW Divisional Branch Executive Committee, this subclause shall not apply to ex-officers of the Union or such members as may be appointed officers of a Labour Industrial Organisation or a Labour political body or elected to Parliament.

10.4 Subject to the preceding clause a member who has temporarily left the trade and has paid up all subscriptions, etc., due and furnishes satisfactory proof to the NSW Divisional Branch Executive that he/she is contributing to the funds of the recognised Union of the Trade at which he/she is for the time being employed, shall, at the discretion of the NSW Divisional Branch Executive, be entitled to exemption from payment of subscriptions. The NSW Divisional Branch Executive may also exempt any member who has ceased to be employed at the trade in a capacity recognised by the Union as coming within the sphere of operations of this or any other recognised trade union.

10.5 Honorary Membership - When a financial member reaches the age of fifty-five (55) years, and ceases work in industry or is forced to permanently retire through ill-health or accident before reaching fifty-five (55) years, he/she shall be eligible to apply to have his/her name retained on the records of the NSW Divisional Branch as an honorary member without payment of union dues. Upon honorary membership being granted, he/she shall be entitled to all rights of membership. Adult members who have honorary membership conferred upon them by the Union, may become beneficiaries of the Distress and Mortality Fund upon payment of the annual levy of $3.00 per member.

10.6 Exemption shall not be granted for any reasons other than those specially mentioned in these rules, unless authorised by a two-thirds majority vote of the members present at a specially summoned NSW Divisional State Council Meeting.

10.7 Any member who has obtained a clearance or has been granted exemption from payment of subscriptions who resumes work without reporting to the NSW Divisional Branch shall pay a fine not exceeding ten cents (10c) per week, in addition to his/her ordinary dues, for every week worked in contravention of this rule.

10.8 Any member who has been granted exemption from payment of contributions in accordance with this Rule shall be allowed to attend meetings of the NSW Divisional Branch for a period of not longer than twelve months from the commencement of the period of exemption but such member shall not be entitled to vote at meetings of the Union or participate in any ballot after the first three months of such exemption.

## 11 - RESIGNATION

**11.1** **Resignation from Membership**

11.1.1 A member may resign from membership if employed in an industry other than that represented by this Union or by giving three months notice. Notice shall be in writing and addressed to the Secretary of the NSW Divisional Branch to which the member is attached and delivered to that officer. The Secretary shall issue an official acknowledgement of receipt of such notice of resignation and the production of such acknowledgement shall be held to be proof that the member has tendered his/her resignation.

11.1.2 Provided that a member leaving his/her present employment to take up home duties shall not cease to be a member until he/she has given notice of resignation as required by this rule, such resignation to take effect immediately on receipt of this notice and on payment of all contributions due up to the date of resignation.

**11.2** **A notice of resignation takes effect:**

11.2.1 The member ceases to be eligible to become a member on the day which the notice is received or on the day specified in the notice, which is a day not earlier than that day when the member ceases to be eligible to become a member whichever is later; or

11.2.2 in any other case at the end of two weeks after the notice is received; or on the day specified in the notice whichever is the later.

**11.3** **Dues may be Recovered**

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

**11.4** **Delivery of Resignation Notice**

A notice delivered to the person mentioned in subrule 11.1.1 shall be taken to have been received by the Union when it was delivered. A notice of resignation that has been received by the Union is not invalid because it was not addressed and delivered in accordance with subrule 11.1.1. A resignation from membership is valid even if it is not effected in accordance with this rule if the member is informed in writing by or on behalf of the Union that the resignation has been accepted.

## 12 - FINES AND LEVIES

**12.1** **Fines**

12.1.1 The NSW Divisional State Council meeting by a majority vote of the members present, may decide to inflict any fine prescribed for an offence set out in these rules, provided that the member affected shall have the right to appeal against such fine (after having paid the fine). A two-thirds majority of the NSW Divisional State Councillors present at any regular meeting shall decide whether the resolution authorising the fine shall be rescinded or otherwise.

12.1.2 Where the NSW Divisional State Council, decides to deal with a member under this rule, the member concerned shall be informed in writing specifying the grounds on which the Council proposes to act against him/her. The Council shall, as soon as practicable and in any case within three months from the date of the notice deal with the matter affording to the member concerned the benefits of procedural fairness appropriate to the circumstances of the case.

**12.2** **Levies**

12.2.1 The NSW Divisional Branch Executive shall have power to make a levy upon its members for the purpose of augmenting its funds, or for the purpose of paying the costs of industrial and legal proceedings in which the NSW Divisional Branch may be involved or for the purpose of assisting members in distress through sickness or accident or who are lawfully out of employment. Provided that no levy shall be made upon the members except by summoned NSW Divisional State Council meeting called for that purpose. If the NSW Divisional State Council is in favour of the levy it shall be binding on all members in work (except as otherwise provided in these rules) but the amount of levy shall not exceed a weekly sum of two dollars ($2.00) per member.

12.2.2 Payment of such levy shall not be compulsory if made for any political object or on behalf of any business scheme, whether co-operative or otherwise.

12.2.3 Any member failing to pay any fine or compulsory levy shall be considered in arrears of contributions to the amount of the fine or levy due.

12.2.4 The amount of the levy proposed to be struck shall be stated on the notice summoning the meeting.

## 13 - UNFINANCIAL MEMBERS

**13.1** **Time from which a Member becomes Unfinancial**

Subject to rule 10 "Exemption and Payment of Subscriptions", a member shall be unfinancial if in arrears of fines, levies and contributions on the first day of September in the quarterly period ending the 30 September and on the first day of the quarterly period ending 31 December, 31 March, 30 June and shall not be entitled to take any part in the Union's business or attend any meetings unless specially invited to do so by the NSW Divisional Branch Executive. When invited by NSW Divisional Branch Executive such member will only be permitted to speak in relation to the business for which they have been summoned to attend and will retire from the meeting immediately such business has been concluded or when requested to do so by the Chairman.

**13.2** **Loss of Benefits for Unfinancial Members**

Unfinancial members, whilst not relieved of the obligations of membership, shall not be entitled to any of the benefits and privileges of membership.

**13.3** **Charge for Overdue Subscriptions**

Members in arrears of contributions shall be charged the quarterly rates for all overdue subscriptions.

**13.4** **Fines for Overdue Subscriptions**

The NSW Divisional Branch Executive shall have power to impose a fine, not exceeding one quarter's contribution for each offence where it is proved that a member owes a quarter's contributions or more and/or levies and/or fines equal to or greater than one quarter's contributions and does not, after fourteen (14) days' notice to pay, pay the same or make satisfactory arrangements with and acceptable to the NSW Divisional Branch Executive. Provided that it shall be at the discretion of the NSW Divisional Branch Executive to remit in part or whole such fine.

**13.5** **Unfinancial Members may be Sued**

Unfinancial members may be sued for the recovery of subscriptions and/or levies and/or fines.

**13.6** **Failure to pay Fines**

Any member failing to pay any fine and/or levy by its due date shall be considered as in arrears of subscriptions to the amount of such fine and/or levy due, and when fines are owing the first payment shall be for such fine.

**13.7** **Unfinancial Members may be Expelled**

The NSW Divisional Branch shall have power, on the recommendation of the NSW Divisional Branch Executive, to expel an unfinancial member in the event of a majority of the members present at a specially summoned NSW Divisional State Council meeting deciding that such course is expedient. Provided that before making any such recommendation the member concerned shall receive at least fourteen (14) days' notice of the steps proposed to be taken by letter sent to his/her last registered address or known place of employment.

## 14 - PENALTIES

14.1 The NSW Divisional Branch Executive may suspend or otherwise deal with any officer or member of the Union who is considered to have been guilty of serious misconduct or violated the rules of the NSW Divisional Branch. Such offences (without limiting the definition) shall include:

14.1.1 Attempting to dissuade qualified persons from joining the Union.

14.1.2 Committing a breach of any award or industrial agreement.

14.2 In all cases when a charge is made against a member, it shall be referred to the NSW Divisional Branch Executive for investigation and the member preferring a charge shall lodge a deposit of $100.00 with the Secretary as an evidence of good faith. In the event of the charge being found frivolous or vexatious such sum shall be forfeited but if the charge be proved to the satisfaction of the NSW Divisional Branch Executive, the deposit shall be refunded.

14.3 Any member charged with an offence shall immediately be furnished with an exact copy of the indictment.

14.4 Unless otherwise provided, the NSW Divisional Branch Executive shall hear all such cases, the parties shall be heard and may call evidence and the NSW Divisional Branch Executive shall decide in accordance with the evidence given.

14.5 Should the NSW Divisional Branch Executive decide that a charge has been proven and the offence sufficiently grave to merit suspension or expulsion, it shall summon a meeting of the NSW Divisional State Council to decide the matter and the terms of the charge shall be set out in the summons.

14.6 A two-thirds majority vote of the members present at such summoned meeting shall determine the matter.

14.7 Provided that the NSW Divisional Branch Executive may dismiss any case without having evidence if it considers that a prima facie case has not been made out by the person preferring the charge.

14.8 If a member, after having been tried in the manner prescribed in these rules, has been proved guilty of flagrantly violating the rules, the NSW Divisional Branch Executive may recommend his/her expulsion from the Union, and the matter shall be determined by a two-thirds majority of the members present at a NSW Divisional State Council meeting specially summoned to deal with the case. An appeal shall lie at the instance of the member charged from any decision under this rule from the NSW Divisional State Council to the Divisional Executive and from the Divisional Executive to the Divisional Council. Notice of appeal shall be given in writing within two weeks of any decision being communicated to the member and shall set forth in full all matters that the appellant desires to be considered. The appeal may be dealt with by the meeting or by postal vote. The notice of appeal shall be given to the Divisional Secretary.

14.9 Provided always that nothing in the foregoing provisions of this rule shall provide for or enable the dismissal from office of a person elected to an office within the NSW Divisional Branch unless he/she has been found guilty, in accordance with the rules of the NSW Divisional Branch, of misappropriation of the funds of the NSW Divisional Branch or gross misbehaviour or gross neglect of duty or has ceased according to the rules of the NSW Divisional Branch, to be eligible to hold the office.

## 15 - REGISTER OF MEMBERS

15.1 The NSW Divisional Branch Secretary shall keep a Register containing the names and addresses of all members of the NSW Divisional Branch. Any member changing his/her address must notify the NSW Divisional Branch Secretary within thirty days.

## 16 - INSPECTION OF BOOKS

16.1 A member of the NSW Divisional Branch shall be permitted to access the books of the NSW Divisional Branch in accordance with the provisions of the Fair Work (Registered Organisations) Act 2009.

## 17 - TIME AND PLACE OF MEETINGS

17.1 The NSW Divisional Branch Conference of the NSW Divisional Branch shall meet at least each alternate year at such time and place as may be decided by the NSW Divisional State Council.

17.1.1 The method of notification of delegates to the NSW Divisional Branch Conference shall be by written notice of the NSW Divisional Branch Secretary, sent by email, post or delivered at the private address or usual places employment of each member identifying the time, date, place and agenda of the NSW Divisional Branch Conference. Such notice should be issued not less than 30 calendar days prior to the NSW Divisional Branch Conference.

17.2.1. NSW Divisional State Councillors may participate in the scheduled meetings by telephone or video conferencing facilities.

17.2 The NSW Divisional State Council shall meet on the second Monday in the months of February, April, June, August, October and December at Level 5, 370 Pitt Street, Sydney, New South Wales 2000 at 6.00 pm or at such other time and place as may be decided at a specially summoned NSW Divisional State Council meeting. Should the scheduled meeting date fall on a NSW public holiday, that meeting shall be held on the following Monday.

17.3 The Branch Executive shall meet on the second Monday in each month at Level 5, 370 Pitt Street, Sydney, New South Wales, 2000 or at such other place as may be decided at a specially summoned State Council meeting. Should the scheduled meeting date fall on a NSW public holiday, that meeting shall be held on the following Monday.

17.3.1 Branch executive members may participate in the executive meetings by telephone or video conferencing facilities.

17.3.2 Out of Session Executive Decisions

17.3.2.1 When the executive is not in session, the Secretary will refer business to be decided to the members of the Executive by correspondence.

17.3.2.2 The matter will be forwarded by the Secretary or their nominee electronically (whether via electronic mail, sms, online or otherwise) to each Executive member in such a form as the Secretary decides. The Secretary may prescribe a time in which the vote shall be returned and/or a preferred method by which the Executive members should return their vote.

17.3.2.3 The Executive members shall record their vote on the matter referred to them and send it to the Secretary electronically (whether via electronic mail, sms, online or otherwise) within the prescribed time where relevant. Each vote must be signed by, or otherwise verifiably attributed to, the Executive member recording it. If a time is prescribed for the return of the vote, failure to vote within that time will mean the vote will not be recorded. Failure to lodge a vote in a prescribed time will not render the ballot invalid.

17.3.2.4. The Secretary shall ensure that details of any decision made pursuant to this rule are recorded in the executive minutes.

17.4 Sub-Branch meetings shall take place at such time and place as decided by the Sub-Branch subject to endorsement by the NSW Divisional State Council or NSW Divisional Branch Executive.

## 18 - SUMMONED MEETINGS

18.1 The method of calling summoned meetings shall be by notice published in the "ETU News" or “Live Wire” or sent by post, email, or delivered at the private addresses or usual places of employment of each NSW Divisional State Councillor or financial member of the NSW Divisional Branch stating the business to be transacted; the business for which the meeting has been specially summoned shall take precedence over all other matters.

18.2 In cases of urgency, meetings may be summoned by electronic means such as email, sms, ETU website or social media prior to the date of the meeting.

18.3 It shall be necessary to summon NSW Divisional State Council meetings as prescribed for the following purposes:

18.3.1 To impose a levy.

18.3.2 To determine any charge preferred against an officer or member of the NSW Divisional Branch. To remove a member from office or to expel a member of the NSW Divisional Branch.

18.3.3 To vote any sum of money for any purpose other than Management expenses exceeding $100,000.00. The amount to be voted must be stated on the notice summoning the meeting.

18.3.4 And for such purpose as may be otherwise specified in these rules.

## 19 - ATTENDANCE AT MEETINGS AND QUORUMS

19.1 Members shall before being admitted to a Union meeting room, produce their member's contribution book or otherwise furnish satisfactory proof of their financial membership.

**19.2** **Quorums**

19.2.1 For NSW Divisional Sub-Branches with a financial membership of up to and including 100 members, 5 members.

19.2.2 For NSW Divisional Sub-Branches with a financial membership of 101 to 1,000 members, 10 members.

19.2.3 For NSW Divisional Sub-Branches with a financial membership of over 1,000 members, 15 members.

19.2.4 A majority of the members elected to the NSW Divisional Branch Executive or NSW Divisional State Council or a NSW Divisional Branch Conference shall constitute a quorum of these bodies.

## 20 - GOVERNMENT

**20.1** **Government of the NSW Divisional Branch**

20.1.1 The NSW Divisional Branch shall be governed by:

20.1.1.1 NSW Divisional Branch Conference;

20.1.1.2 NSW Divisional State Council;

20.1.1.3 NSW Divisional Branch Executive.

20.1.2 The NSW Divisional Branch President, NSW Divisional Branch Vice-President, NSW Divisional Branch Secretary and NSW Divisional Branch Treasurer shall also be NSW Divisional Branch President, NSW Divisional Branch Vice-President, NSW Divisional Branch Secretary and NSW Divisional Branch Treasurer of NSW Divisional Branch Conference, NSW Divisional State Council and the NSW Divisional Branch Executive.

20.1.3 The NSW Divisional Branch President and NSW Divisional Branch Secretary shall be elected every four years, as prescribed by rule 22.

20.1.4 The NSW Divisional Branch Vice-President and NSW Divisional Branch Treasurer shall be elected every four years by the members of the NSW Divisional State Council from NSW Divisional Branch Executive members at the first summoned NSW Divisional State Council meeting following the quadrennial elections.

**20.2** **NSW Divisional Branch Conference**

20.2.1 The NSW Divisional Branch Conference shall have power to recommend alterations to rules and formulation of policy. NSW Divisional Branch Conference shall meet at least each alternate year at such time and place as may be decided by the NSW Divisional State Council.

20.2.2 The NSW Divisional Branch Conference shall consist of the members of NSW Divisional State Council and delegates representing the respective NSW Divisional Sub-Branches as provided by this rule.

20.2.3 Delegates to NSW Divisional Branch Conference shall be elected every four years as prescribed by rule 22.

20.2.4 The number of delegates to NSW Divisional Branch Conference to be elected by their respective NSW Divisional Sub-Branches shall be determined with regard to the financial memberships current at the date of the close of nominations in respect of each quadrennial election commencing in 1995 on the following basis:

NSW Divisional Branch

Conference Delegate/s

50 - 100 financial members 1

101 - 500 financial members 2

501 - 1000 financial members 3

1001 - 1500 financial members 4

1501 - 2000 financial members 5

2001 - 2500 financial members 6

2501 - 3500 financial members 7

3501 financial members and over 8

20.2.5 Delegates to NSW Divisional Branch Conference representing NSW Divisional Sub-Branches shall live in the area of the respective NSW Divisional Sub-Branch subject to powers reserved to NSW Divisional Branch Conference.

**20.3** NSW **Divisional State Council**

20.3.1 The government of the NSW Divisional Branch shall be vested in the NSW Divisional State Council.

20.3.2 NSW Divisional State Council shall hold regular meetings on the second Monday in the months of February, April, June, August, October and December and shall deal with any business submitted by NSW Divisional Sub-Branches of the NSW Divisional Branch Executive.

20.3.3 The NSW Divisional State Council shall consist of the NSW Divisional Branch President, NSW Divisional Branch Secretary, Affirmative Action (Women) Councillor and NSW Divisional State Councillors representing members of the respective Sections on the following basis:

20.3.3.1 Members employed in the General Trade.

20.3.3.2 Members employed by Supply Authorities.

20.3.3.3 Members employed by the Transport Authorities.

20.3.3.4 Members employed as Salaried Officers.

20.3.3.5 Members employed in the Manufacturing, radio, television and electronic/communications industry, business equipment.

20.3.3.6 Members employed in the Electrical Contracting Industry.

20.3.4 NSW Divisional State Councillors and the Affirmative Action (Women) Councillor shall be elected every four years as prescribed by rule 22.

20.3.5 The number of NSW Divisional State Councillors to be elected by their respective Sections shall be determined with regard to the financial membership current at the date of the close of nominations in respect of each quadrennial election commencing in 1995 on the following basis:

NSW Divisional State Councillors

50 - 100 financial members 1

101 - 500 financial members 2

501 - 1000 financial members 3

1001 - 1500 financial members 4

1501 - 2000 financial members 5

2001 - 2500 financial members 6

2501 - 3500 financial members 7

3501 financial members and over 8

20.3.6 Where a Section or NSW Divisional Sub-Branch neglects to elect officers or delegates by the prescribed method as set out in the rules, the NSW Divisional State Council may call for fresh nominations for the respective Section or NSW Divisional Sub-Branch to hold office until the next quadrennial elections.

20.3.7 Delegates to organisations to which the NSW Divisional Branch is affiliated who are not members of the NSW Divisional State Council may be required to furnish written reports and shall attend any meeting of the NSW Divisional State Council when summoned to do so to explain any matter relative to their delegation.

20.3.8 Special meetings of the NSW Divisional State Council may be convened by resolution of the NSW Divisional State Council when necessity arises; and notified in accordance with Rule 18. The NSW Divisional Branch Executive shall have power to summon a special meeting of the NSW Divisional State Council at any convenient time by circular sent in accordance with Rule 18. At least twenty-four hours' notice shall be given of any such meeting.

**20.4** **NSW Divisional Branch Executive**

20.4.1 The NSW Divisional Branch Executive shall conduct all business between NSW Divisional State Council meetings.

20.4.2 In the event of the NSW Divisional State Council lapsing for want of a quorum, the NSW Divisional Branch Executive shall have full power to finalise all business on the agenda and to give effect to any decision of the NSW Divisional Branch Executive in connection therewith.

20.4.3 The NSW Divisional Branch Executive may appoint persons qualified in accordance with these rules to act temporarily as NSW Divisional Branch Assistant Secretary, or NSW Divisional Branch Organiser, provided that the term of such appointment shall be no longer than a twelve month period. No new permanent position shall be created without the consent of a two-thirds majority of the members present at a specially summoned NSW Divisional State Council meeting and any member appointed to such new permanent position shall hold office until the next quadrennial ballot. The NSW Divisional Branch Executive may also appoint or authorise the NSW Divisional Branch Secretary to employ non-elective clerical or other employees to assist the NSW Divisional Branch Secretary in carrying out the administrative work of the NSW Divisional Branch.

20.4.4 The NSW Divisional Branch Executive shall consist of the NSW Divisional Branch President, NSW Divisional Branch Secretary, the NSW Divisional Branch Affirmative Action (Women) Councillor and one member from each of the Sections as represented on the NSW Divisional State Council or in the absence of a Section member such proxy Section member elected by the NSW Divisional State Council Delegates from the Section in accordance with sub-rule 20.4.5 of this rule.

20.4.5 The members of the NSW Divisional Branch Executive with the exception of the NSW Divisional Branch President, NSW Divisional Branch Secretary, and the NSW Divisional Branch Affirmative Action (Women) Councillor shall be elected by the NSW Divisional State Council in the following manner:

The Section representative shall be elected by the NSW Divisional State Council delegates of each respective Section present at the first summoned NSW Divisional State Council meeting after the declaration of the quadrennial ballot. Excepting the NSW Divisional Branch Secretary, and the NSW Divisional Branch Affirmative Action (Women) Councillor permanent or full-time officers shall not be eligible to be elected to the NSW Divisional Branch Executive.

20.4.6 Unless special leave be granted, members of the NSW Divisional Branch Executive shall be required to attend all NSW Divisional Branch Executive and NSW Divisional State Council meetings of the NSW Divisional Branch. No member shall fail to attend three consecutive meetings. A member may be charged for a breach of this sub-rule and dealt with in accordance with rule 14 hereof. A person found guilty of non-attendance without reasonable cause may have his or her seat declared vacant.

**20.5** **NSW Divisional Sub-Branches**

20.5.1 NSW Divisional Sub-Branches shall be formed on a geographical basis, which shall be determined from time to time by NSW Divisional State Council and any changes therein from time to time shall be published in the "ETU News" or “Live Wire”. The whole of the State of New South Wales and the Australian Capital Territory shall be covered by the totality of the NSW Divisional Sub-Branches.

20.5.2 The NSW Divisional State Council shall have power to frame By-Laws for the conduct of NSW Divisional Sub-Branches subject to these rules.

20.5.3 All decisions of NSW Divisional Sub-Branch meetings shall be considered as recommendations to NSW Divisional State Council, except that urgent matters may be referred to the NSW Divisional Branch Executive.

20.5.4 NSW Divisional Sub-Branches shall hold a meeting of members monthly, quarterly, or at other intervals as determined by NSW Divisional State Council, but no business shall be transacted at any meeting unless a quorum of financial members is present. Where the persons eligible to attend any NSW Divisional Sub-Branch meeting, held pursuant to these rules, are the same or substantially the same as the persons entitled to attend a corresponding Sub-Branch meeting held under the rules of the Electrical Trades Union of Australia New South Wales Branch, an organisation of employees registered under the Industrial Relations Act 1996 (NSW) or as amended, such NSW Divisional Sub-Branch meeting may be called for the same time and place and may be held concurrently. Provided that nothing in this rule shall be construed as entitling any person not otherwise entitled under these rules to be counted for the purpose of a quorum or to vote on any matter.

20.5.5 Officers of NSW Divisional Sub-Branches shall be the NSW Divisional Sub-Branch Chairman and the NSW Divisional Sub-Branch Secretary. The NSW Divisional Sub-Branch Chairman and NSW Divisional Sub-Branch Secretary shall be elected every four years as prescribed by rule 22.

20.5.6 NSW Divisional Sub-Branch Secretaries shall be paid an honorarium of an amount determined by the NSW Divisional State Council from time to time.

20.5.7 Minutes of NSW Divisional Sub-Branch meetings shall be submitted to the NSW Divisional Branch Secretary of the Electrical, Energy and Services Division of the Union by the NSW Divisional Sub-Branch Secretary within seven days of the date of the NSW Divisional Sub-Branch meeting.

20.5.8 No NSW Divisional State Councillor or Delegates to NSW Divisional Branch Conference shall fail to attend, at the time and place advertised, three consecutive meetings. A member may be charged for a breach of this sub-rule and dealt with in accordance with rule 14 hereof. A person found guilty of non-attendance without reasonable cause may have his/her seat declared vacant.

**20.6** **Aggregate Meetings**

The NSW Divisional Branch Executive may summon Aggregate Meetings of the whole of the members of the NSW Divisional Branch or any section thereof residing within convenient distance of the place of meeting, for the purpose of discussing any industrial matter or any business relative to the policy of the Union and the decision of such meeting shall be a recommendation to the NSW Divisional State Council.

## 21 - SECTIONS

21.1 NSW Divisional State Council may establish sections based on common occupational or trade interests for the purpose of arranging regular meetings of particular classes of members, including a Professional and Salaried Section.

21.2 The provisions of sub rules 20.5.2 to 20.5.7 relating to NSW Divisional Sub-Branches shall apply (with such adaptations as may be necessary to make them applicable) to such Sections, but not to the Sections referred to in sub-rule 20.3.3.

21.3 The NSW Divisional Branch President, upon the receipt of a written application signed by at least one-third of the members interested, may summon a meeting of any section of the membership forming a distinct branch of the trade for the purpose of discussing any industrial matter affecting such Branch. Should the NSW Divisional Branch President deem such application to be frivolous, or the proposed business not of sufficient importance to warrant calling a meeting, he/she may defer the matter until the NSW Divisional Branch Executive has had an opportunity of dealing with the same.

21.4 Members affected by proposed awards or agreements shall be called together, and make any recommendation to the NSW Divisional State Council regarding the award or agreement.

## 22 - ELECTIONS OF OFFICERS, DIVISIONAL STATE COUNCILLORS AND DELEGATES

**22.1** **Elections**

22.1.1 There shall be an election conducted every four years for the positions of NSW Divisional Branch President/National Councillor, NSW Divisional Branch Secretary/National Councillor, NSW Divisional Branch Assistant Secretary, NSW Divisional Branch Organiser, Delegates to Divisional Council, NSW Divisional State Councillors, NSW Affirmative Action (Women) Councillor, Delegates to NSW Divisional Branch Conference, Chairpersons of NSW Divisional Sub-Branches and Secretaries of NSW Divisional Sub-Branches. The election shall be by postal ballot by such members as are qualified to vote in accordance with this rule.

22.1.2 There shall be an election conducted at a specially summoned NSW Divisional State Council meeting to be convened at the earliest opportunity after the declaration of each quadrennial ballot or at such times as may be applicable to the circumstances, for the positions of delegates to organisations to which the NSW Divisional Branch is affiliated. The election shall be by those NSW Divisional State Councillors present at such meeting.

22.1.3 The NSW Divisional Branch President, NSW Divisional Branch Secretary, NSW Divisional Branch Assistant Secretary, NSW Divisional Branch Organiser and Delegates to Divisional Council shall be elected by a ballot of all members who are qualified to vote in accordance with this rule.

22.1.4 NSW Divisional State Councillors shall be elected by a ballot of those members of the respective Section to which they belong who are qualified to vote in accordance with this rule, provided however that permanent and/or full time officials of the Union may be elected as NSW Divisional State Councillors by any Section.

22.1.5 Delegates to NSW Divisional Branch Conference and Chairmen and Secretaries of NSW Divisional Sub-Branches shall be elected by a ballot of those members of the respective NSW Divisional Sub-Branches to which they belong who are qualified to vote in accordance with this rule.

22.1.6 The Divisional Branch Affirmative Action (Women) Councillor shall be elected by a ballot of all financial female members of the branch who are qualified to vote in accordance with rule 22.2. Permanent and/or full time female officials of the Branch, who are eligible to nominate in accordance with sub rule 22.3.2, may be elected as the NSW Divisional Branch Affirmative Action (Women) Councillor.

**22.2** **Qualifications of Voters - Quadrennial Elections**

All persons who, at the date 7 days before the opening of nominations, have been members of the NSW Divisional Branch for a period of not less than three months and are financial at that date shall be eligible to vote at any quadrennial ballot subject however to the provisions of rule 13, provided that in any ballot for NSW Divisional State Councillors or for Delegates to NSW Divisional Branch Conference or for NSW Divisional Sub-Branch Chairmen, or Sub-Branch Secretaries, a member shall be entitled to vote only in the Section or NSW Divisional Sub-Branch in which his/her name is recorded in the records of the Union 7 days before the opening date of nominations.

**22.3** **Qualifications for Office**

22.3.1 To be eligible for the executive positions of NSW Divisional Branch President, NSW Divisional Branch Secretary, NSW Divisional Branch Assistant Secretary and NSW Divisional Branch Organiser, a member must have been a financial member of the NSW Divisional Branch for each quarterly period as it fell due within two years immediately preceding the date of close of nominations or immediately preceding the date of appointment.

22.3.2 To be eligible for any other office a member must have been a financial member of the NSW Divisional Branch for each quarterly period as it fell due within one year immediately preceding the date of close of nominations or immediately preceding the date of appointment.

22.3.3 No member shall hold or nominate for more than one executive position.

**22.4** **Nominations - Quadrennial Elections**

22.4.1 Nominations for positions referred to in this rule, other than the positions of delegates to organisations to which the NSW Divisional Branch is affiliated and whose election is by NSW Divisional State Councillors present at a specially summoned NSW Divisional State Council meeting, shall be invited by notice under the hand of the Returning Officer in the "ETU News" or “Live Wire”. Nominations shall be lodged with the Returning Officer between the first and second Mondays (inclusive) in the month of July in the year in which elections are held. Nominations shall close at midday on the second Monday in July of such year.

22.4.2 All nominations shall be in writing and endorsed by two adult members who have been at least three months in the Union and are financial at the date 7 days before the opening of nominations. Each candidate shall signify in writing his/her acceptance of his/her nomination.

22.4.3 Delegates to NSW Divisional Branch Conference and Chairmen and Secretaries of NSW Divisional Sub-Branches shall be nominated only by members of the NSW Divisional Sub-Branch to which they belong and NSW Divisional State Councillors only by members of the Section to which they belong provided that permanent and/or full-time officials of the Union may be nominated as NSW Divisional State Councillors by members of any one Section.

22.4.4 The position of NSW Divisional Affirmative Action (Women) Branch Councillor shall be open to nomination of female members only, provided they are eligible to nominate in accordance with sub rule 22.3.2.

**22.5** **Returning Officer - Quadrennial Elections**

22.5.1 Subject to any provision of the Fair Work (Registered Organisations) Act 2009 and associated Regulations, or as amended, a Returning Officer, not being the holder of any other office in and not being an employee of the Communications, Electrical, Electronic, Plumbing & Allied Workers Union of Australia, Electrical, Energy and Services Division or any Divisional Branch of the Union shall be appointed by a duly summoned meeting of NSW Divisional State Council to conduct the quadrennial elections as prescribed by these rules.

22.5.2 The Returning Officer shall have complete control of the ballot including the determination of the validity of nominations and his/her decision in any disputed matter shall be final subject to the powers of the Fair Work (Registered Organisations) Act 2009 and associated Regulations, or as amended. Provided that if the Returning Officer finds a nomination as defective he/she shall, before rejecting the nomination as defective, notify the member concerned of the defect and, where it is practicable to do so, give such member the opportunity to remedy the defect within seven days after being so notified.

22.5.3 The preparation of the roll of eligible voters, in accordance with these rules shall be under the control of the Returning Officer. The Returning Officer shall make available, at the office of the Union, during office hours, a copy of the roll for inspection by all candidates in the election.

22.5.4 For the purpose of any ballot the roll shall close 7 days before the opening ofnominations.

22.5.5 The Returning Officer shall hire a postal box or container at a Post Office for the receipt of ballot papers.

22.5.6 For the information of the duly appointed scrutineers, the Returning Officer shall fix the times and place for counting the ballot prior to commencing such count.

22.5.7 The Returning Officer shall at the completion of the count, declare the ballot and submit a written report to the NSW Divisional Branch Secretary, which shall be announced at the next appropriate NSW Divisional State Council meeting.

22.5.8 Equal Voting

When the voting is equal in any election conducted under these rules, in the event of one of the candidates being the retiring office-holder, such candidate shall be declared elected. In other cases where the voting is equal the matter shall be decided by the drawing of a lot by the Returning Officer in the presence of so many of the official scrutineers as may be pleased to be present.

**22.6** **Scrutineers - Quadrennial Elections**

22.6.1 Two official Scrutineers and two deputy official Scrutineers shall be elected by NSW Divisional State Council at the July meeting in the year in which the elections are to be held for the purpose of assisting the Returning Officer as he/she may desire and to scrutinise the ballot papers.

22.6.2 Each candidate may, if he/she so desires, appoint a Scrutineer, who shall be a financial member of the Union to represent him/her at the ballot. Such Scrutineers shall have the right to inspect ballot papers, but shall not handle ballot papers unless given permission by the Returning Officer.

22.6.3 Scrutineers where appointed under sub-rule 22.6.1 or 22.6.2 shall accept responsibility for being present during the times fixed by the Returning Officer for the counting of the ballot, and counting of the ballot shall not be delayed by the absence of any or all of the scrutineers.

**22.7** **Ballot Paper - Quadrennial Elections**

22.7.1 The Returning Officer, in the presence of such scrutineers as may attend for such purpose at a time and place determined by the Returning Officer, shall decide by lot the order the candidates' names on the ballot paper.

22.7.2 An explanation of the method of voting shall appear on the ballot papers.

22.7.3 Ballot papers shall be designed and printed under the directions and supervision of the Returning Officer who shall authenticate each paper by placing his/her initials thereon.

22.7.4 The ballot papers shall be posted by prepaid post to the address shown in the Register of Members of all members eligible to vote in an envelope endorsed "if not claimed within seven days return to the Returning Officer" provided that the Returning Officer shall make reasonable arrangements for the recording of absentee votes.

22.7.5 Ballot papers shall be posted, together with a declaration envelope and a "Business Reply" pre-paid envelope marked with the number corresponding with that on the Returning Officer's list of members eligible to vote and addressed for the return of the ballot papers to a designated post office box. Both the declaration and the pre-paid envelopes must comply with the forms prescribed in the Fair Work (Registered Organisations) Act 2009 and associated Regulations, or as amended.

22.7.6 Any member may on request receive a duplicate ballot paper if he/she claims that he/she has not already received a ballot paper. If his/her original ballot paper is returned it shall not be counted, but the duplicate shall be counted in its stead. This duplicate ballot paper shall be of a different colour to the original and marked "Duplicate".

22.7.7 At the close of the issue of ballot papers, the number of papers issued by the Returning Officer shall be checked with the number of ballot papers obtained from the printer and the surplus shall be sealed in a separate parcel and marked "Unused ballot papers".

22.7.8 The postal box or post office container hired by the Returning Officer shall remain closed until opened by the Returning Officer as circumstances may require in the presence of official scrutineers. The ballot papers collected before the close of the ballot shall be sealed by the Returning Officer and the official scrutineers present.

22.7.9 A member whose ballot paper has been returned to the Returning Officer unclaimed shall, on request, be issued with a duplicate ballot paper by the Returning Officer.

22.7.10 At the close of the ballot, the Returning Officer shall, in the presence of the scrutineers, after first removing the flaps or labels from the declaration envelopes and then removing the ballot papers from the declaration envelopes, count all ballot papers.All ballot papers counted and uncounted shall be placed in the ballot box or boxes at the close of each day's counting and the box or boxes shall be sealed and the seals signed by the Returning Officer and the official scrutineers present.

22.7.11 All envelopes containing ballot papers received by the Returning Officer within seven days after the close of the ballot shall be opened by him/her in the presence of an official scrutineer following the completion of the ballot count.

22.7.12 Any ballot shall commence no later than four (4) weeks after the close of nominations and shall conclude no later than three (3) weeks after commencement.

**22.8** **Extraordinary Vacancies**

22.8.1 If the NSW Divisional Branch President/National Councillor, NSW Divisional Branch Secretary/National Councillor, NSW Divisional Branch Assistant Secretary, NSW Divisional Branch Organiser, Delegate of Divisional Council, Chairman or Secretary of a NSW Divisional Sub-Branch resigns, dies or is removed from office in accordance with the rules, the NSW Divisional State Council may appoint a member eligible to nominate for the office in accordance with the rules to the office. Provided that if the unexpired portion of the term exceeds three-quarters of the term of the office or if it is less but the NSW Divisional State Council so decides an election shall be held to fill the office.

Such elections shall be conducted within six (6) months of the vacancy occurring in accordance with rule 22 with such adaptions as may be necessary to make them applicable. The successful candidate shall hold office for the unexpired term of his/her predecessor unless he/she resigns, dies or is removed from office in accordance with the rules. Pending the declaration of such election the NSW Divisional State Council may appoint a member eligible to nominate for the office in accordance with the rules to the office.

22.8.2 Where the position of NSW Divisional Branch Vice-President or NSW Divisional Branch Treasurer becomes vacant between the dates of election following each quadrennial election, nominations shall be called and an election shall be conducted for the vacant position by a Returning Officer appointed by the NSW Divisional State Council at the NSW Divisional State Council meeting at which the vacancy is declared.

22.8.3 If a delegate to NSW Divisional Branch Conference, Affirmative Action (Women) Councillor, or a delegate to NSW Divisional State Council resigns, dies or is removed from office, NSW Divisional State Council may appoint a member of the NSW Divisional Sub-Branch as a NSW Divisional Branch Conference Delegate or a member of the Section as a NSW Divisional State Council Delegate, or a female member as the Affirmative Action (Women) Councillor, who is eligible to nominate for the office in accordance with the rules to the office. Provided that if the unexpired portion of the term exceeds three-quarters of the term of the office or if it is less but the NSW Divisional State Council so decides an election shall be held to fill the office.

Such elections shall be conducted within six (6) months of the vacancy occurring in accordance with rule 22 with such adoptions as may be necessary to make them applicable.

The successful candidate shall hold office for the unexpired term of his/her predecessor unless he/she resigns, dies or is removed from office in accordance with the rules. Pending the declaration of such election the NSW Divisional State Council may appoint a member of the said NSW Divisional Sub-Branch or Section, or female member who is eligible to nominate for the office in accordance with the rules to the office.

22.8.4 Where the position of a delegate to an organisation to which the NSW Divisional Branch is affiliated, becomes vacant between the dates of the elections following each quadrennial election or a new position is established nominations shall be called and an election shall be conducted as required at a specially summoned NSW Divisional State Council meeting by a Returning Officer appointed by NSW Divisional State Council.

22.8.5 Any election required to be held under sub-rules 22.8.1, 22.8.3 or 22.8.4 shall be conducted by a Returning Officer appointed for the purpose by the NSW Divisional State Council. Such Returning Officer shall not be the holder of any other office in, nor an employee of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing & Allied Services Union of Australia, Electrical, Energy and Services Division or any Divisional Branch of the Union. The Returning Officer shall call for nominations, summon any necessary meetings, conduct the ballot and subject to these rules and to the decision of NSW Divisional State Council, prescribe any matter which it may be necessary or convenient to prescribe for the purpose of the election.

22.8.6 In respect of any election conducted under this sub-rule, the provisions of sub-rules 22.2, 22.3, 22.4 and 22.6 hereof shall apply with such adaptations as may be necessary to make them applicable.

22.8.7 The Returning Officer shall declare the result of the ballot at the conclusion of the count and shall notify the NSW Divisional Branch Secretary by letter where applicable.

**22.9** **Election of Trustees, NSW Divisional Branch Vice-President and NSW Divisional Branch Treasurer**

22.9.1 Subject to the provisions of the Fair Work Act 2009 as amended, at the first NSW Divisional State Council meeting after the declaration of the quadrennial ballot, the NSW Divisional State Council shall appoint a returning officer being a person who is not the holder of any office in, nor an employee of, the Union.

22.9.2 The returning officer shall call for nominations from the NSW Divisional State Councillors present at such meeting for the positions of Trustees, NSW Divisional Branch Vice-President and NSW Divisional Branch Treasurer.

22.9.3 In the event of an election being necessary, the returning officer shall invite each candidate to appoint one scrutineer.

22.9.4 Such election shall be by secret ballot of the NSW Divisional State Councillors present at such meeting and each scrutineer shall be entitled to be present at the opening of such ballot papers and their counting.

22.9.5 The returning officer will then declare the result of such ballot.

22.9.6 In the event of a NSW Divisional State Councillor being absent from such meeting he/she may appoint a proxy who is also a member of NSW Divisional State Council to vote on his/her behalf.

**22.10 Joint Service**

22.10.1 Where during any period an elected official of the NSW Divisional Branch serves concurrently as an elected official of the Electrical Trades Union of Australia, New South Wales Branch (“the ETU”) (an organisation registered under the *Industrial Relations Act 1996* of NSW), the following provisions shall apply:-

(a) Such official shall in respect of any such period of service be entitled to receive one salary only, and any payment by way of salary (whether during leave or otherwise) made by the ETU shall to that extent satisfy any entitlement or obligation arising under the rules of the NSW Divisional Branch;

(b) Such official shall not in respect of any such period of service be entitled to retiring allowance or superannuation both under the rules of the ETU and of the NSW Divisional Branch, and any payment by way of retiring allowance or superannuation made under the rules of the ETU shall to that extent be a satisfaction of any entitlement or obligation arising under the rules of the NSW Divisional Branch;

(c) Such official shall not in respect of any such period of service be entitled to paid leave both under the rules of the ETU and of the NSW Divisional Branch, and any payment for leave made under the rules of the ETU shall to that extent be a satisfaction of any entitlement or obligation arising under the rules of the NSW Divisional Branch.

## 23 - METHOD OF VOTING IN UNION ELECTIONS

23.1 In the event of there being more candidates than there are positions to be filled, a ballot shall be conducted on the preferential system. In any case where two or more candidates are to be elected, the multiple system of preferential voting shall be used. The voter shall vote for all candidates in the order of his/her preference but no vote shall be informal if a less number is voted for, provided the voter votes for at least one more than twice the number of candidates to be elected in preferential order.

## 24 - NSW DIVISIONAL BRANCH PRESIDENT/NATIONAL COUNCILLOR

24.1 The NSW Divisional Branch President shall preside at the NSW Divisional Branch Executive meetings, NSW Divisional State Council meetings, the annual meetings, Branch Conferences and special meetings of the NSW Divisional Branch at which he/she is present, to preserve order and give an impartial decision on all questions submitted to him/her. Should he/she wish to take part in general debate, the NSW Divisional Branch Vice-President, or a member elected NSW Divisional Branch Vice-Chairman in the NSW Divisional Branch Vice-President's absence, shall temporarily assume control while the NSW Divisional Branch President is addressing the meeting.

24.2 The NSW Divisional Branch President shall be elected as a National Councillor concurrently with his/her election as Branch President.

## 25 - NSW DIVISIONAL BRANCH VICE-PRESIDENT

25.1 The NSW Divisional Branch Vice-President shall assist in maintaining order and attention. In the absence of the NSW Divisional Branch President, he/she shall take the chair, invested with full power and authority as presiding officer. If both the NSW Divisional Branch President and NSW Divisional Branch Vice-President are absent the meeting shall elect a temporary Chairperson from amongst the members.

## 26 - NSW DIVISIONAL BRANCH TREASURER

26.1 The NSW Divisional Branch Treasurer shall attend NSW Divisional Branch Executive and NSW Divisional State Council meetings, the annual meeting and NSW Divisional Branch Conference and shall examine accounts, rendered by the NSW Divisional Branch Secretary, and receive contributions paid in at meetings.

## 27 - NSW DIVISIONAL BRANCH SECRETARY/NATIONAL COUNCILLOR

27.1 The NSW Divisional Branch Secretary shall be the registered officer of the NSW Divisional Branch he/she shall be the officer to sue and be sued on behalf of the NSW Divisional Branch. Subject to the direction of the NSW Divisional Branch Executive, he/she shall be responsible for the administration of the NSW Divisional Branch and shall exercise control over and allocate the duties of all employees and full-time officers of the NSW Divisional Branch. The NSW Divisional Branch Assistant Secretary, NSW Divisional Branch Organiser(s) and the NSW Divisional Branch Industrial Officer shall carry out such duties as the NSW Divisional Branch Secretary may direct.

27.2 The NSW Divisional Branch Secretary shall be responsible for arranging representation of the NSW Divisional Branch in proceedings under the Industrial Relations Act 1996 (NSW), as amended, the Fair Work Act 2009, as amended, Fair Work (Registered Organisations) Act 2009, as amended, before Appeals Boards or any Court of Law or Industrial Tribunal, unless otherwise decided by the NSW Divisional Branch Executive. He/she shall prepare and forward to the relevant body all returns and notices required by law.

27.3 The NSW Divisional Branch Secretary shall, whenever practicable, attend all meetings of the NSW Divisional Branch Executive, NSW Divisional State Council and NSW Divisional Branch Conference. He/she shall submit annually a properly audited balance sheet and statement of receipts and payments, and also a half-yearly report of the transactions of the NSW Divisional Branch and shall perform such other duties under the instruction of the NSW Divisional Branch Executive as may be necessary to carry out the objects of the NSW Divisional Branch.

27.4 If the NSW Divisional Branch Secretary is unable to attend to his/her duties through any temporary cause, the NSW Divisional Branch Executive may appoint a NSW Divisional Branch Deputy Secretary to act during his/her absence. In these rules, any reference to the NSW Divisional Branch Secretary shall, unless the context otherwise requires, be deemed to include the NSW Divisional Branch Deputy Secretary while acting in the absence of the NSW Divisional Branch Secretary.

27.5 The NSW Divisional Branch Secretary shall be elected as a National Councillor concurrently with his/her election as Branch Secretary.

27.6 When retiring from office, he/she shall deliver all books, stationery, office furniture and the balance of funds connected with his/her position to his/her successor in the presence of one of the Trustees and the duly appointed Auditor. The Auditor shall make an appropriate certified report of the changeover to the NSW Divisional Branch Executive.

## 28 - NSW DIVISIONAL BRANCH MINUTE SECRETARY

28.1 In cases where the services of a paid official are not available, the NSW Divisional Branch Executive may appoint one of their number to act as NSW Divisional Branch Minute Secretary to take minutes of proceedings at all meetings.

## 29 - TRUSTEES

29.1 There shall be three Trustees who shall be elected quadrennially by NSW Divisional State Council from NSW Divisional State Councillors present at the first NSW Divisional State Council meeting after the declaration of the quadrennial ballot.

29.2 When a position of Trustee becomes vacant between dates of election following each quadrennial election, nominations shall be called and an election conducted for the vacant position by a Returning Officer appointed by the NSW Divisional State Council at the NSW Divisional State Council meeting at which the vacancy is declared. The successful candidate shall hold office for the unexpired term of his/her predecessor unless he/she resigns, dies or is removed from office in accordance with the rules.

29.3 They shall be held to claim, possess and assert formal and legal ownership of all property, of whatsoever description, belonging to the NSW Divisional Branch as trustee on behalf of and in the best interests of the NSW Divisional Branch.

29.4 They shall have general and special supervision of financial affairs and shall be empowered under the direction of the NSW Divisional Branch Executive in the name of the NSW Divisional Branch, to deposit money at interest in a bank, or invest funds for an approved term of months or years in any other institution or society to borrow and to mortgage. In every case of investment, appropriation or transfer, the consent and approval of the NSW Divisional Branch must first have been obtained. On the resignation, removal or demise of any individual trustee, full power or action shall be devolved upon the other surviving Trustees or Trustee until a new appointment or appointments are made.

## 30 - RESIGNATION FROM OFFICE

30.1 Resignation from Office by an Officer must be made by notice to the NSW Divisional Branch Executive in writing.

30.2 The Officer shall return all books, moneys and any other property of the NSW Divisional Branch in his/her possession to the NSW Divisional Branch Secretary within 7 days.

30.3 The Office will be filled in accordance with the process identified in Rule 22.8.

## 31 - BRANCH FINANCIAL REPORTS, AUDIT & REVIEW BY MEMBERS

**31.1 Branch Financial Reports & Audit**

31.1.1 The NSW Divisional Branch shall keep all books and accounts necessary for the carrying out of the work of the NSW Divisional Branch as provided in these rules and as prescribed by the Fair Work (Registered Organisations) Act 2009 and associated Regulations, or as amended.

31.1.2 The NSW Divisional Branch shall appoint a professional auditor who shall be a chartered accountant, or a firm of chartered accountants, or a registered public accountant, to audit the books and accounts of the NSW Divisional Branch and certify to their correctness and otherwise and be responsible for the annual auditor’s report, the general purpose financial report and the operating report of the Branch as prescribed by the Fair Work (Registered Organisations) Act 2009 and associated Regulations, or as amended. The auditor shall examine the books and documents of the NSW Divisional Branch and shall certify to the correctness or otherwise thereof. He/she shall be paid such sum for his/her services as the NSW Divisional Branch may determine.

31.1.3 The NSW Divisional Branch shall forward three duly audited and signed copies of the auditor’s report, the general purpose financial report and the operating report of the Branch for the preceding financial year to the Divisional Secretary not later than thirty (30) days prior to the Divisional Conference. Such reports shall be in the form prescribed by the Divisional Council and as prescribed by the Fair Work (Registered Organisations) Act 2009 and associated Regulations, or as amended.

**31.2 Circulation of Branch Auditor’s Report to Members**

31.2.1 Once the auditor has signed off on the reports for the financial year and those reports have been forwarded and presented to the Branch committee of management, they shall be circulated to the Branch members via the union magazine, by correspondence or email, on the union’s website or by some other method where all Branch members have access are able to view the financial reports.

**31.3 General Meeting of Branch Members to consider the Reports**

31.3.1 A general meeting of members of the Branch may be requested for the purpose of considering the auditor’s report, the general purpose financial report and the operating report of the Branch.

31.3.2 The request for the general meeting must be in writing, addressed and delivered to the Branch Secretary and must be signed by a number of members who comprise at least 5% of the membership of the Branch.

31.3.3 Upon receiving a valid request for a general meeting, the Branch Secretary must give all members of the Branch not less than 14 days notice of the date, time, place and reason for calling the general meeting of members.

31.3.4 The notice referred to in subrule 31.3.3 may be given by correspondence delivered to the member’s last known address, by email to the member’s email address or by publishing a note in the Branch’s magazine or by notification on the Branch’s website.

31.3.5 At the general meeting the Branch President shall preside. All members of the Branch shall be entitled to attend and vote. The Branch Secretary may use the occasion of the meeting to add matters to the agenda other than the auditor’s report, the general purpose financial report and the operating report of the Branch. However, these three reports must be the first order of business of the meeting.

31.3.6 Not less than 5% of the membership of the Branch shall form a quorum. The question of adoption or otherwise of each of the three reports shall be decided by a majority of those members present at the meeting. In the event of an even vote, the Chair shall have the casting vote.

31.3.7 For the convenience of facilitating member attendance, video conferencing may be used for meetings. Meetings may also be called on a geographic basis to facilitate the meetings.

## 32 - REGULARITY OF PROCEEDINGS

32.1 Any body constituted under these rules may continue to function notwithstanding any vacancy thereon, provided the requisite quorum be present.

32.2 No failure to give notice and no defect in any notice given calling any meeting of any body constituted under these rules shall invalidate the proceedings thereof unless such failure or defect results in the non-attendance of some member otherwise able and willing to attend. Any such failure or defect may be waived by the member entitled to the notice before, during or after the meeting.

32.3 All communications of whatsoever kind required to be sent to any member under these rules may be sent to such member at the last address notified by him/her to the Union. Except as elsewhere provided herein, any such communication may be sent by post or email and in such case shall be deemed to have been received by him/her in the ordinary course of post or email as the case may be.

32.4 No decision or proceeding of any body provided for under the rules shall be invalidated by the presence or participation of any person not entitled to be present or to participate if apart from such person the requisite quorum was present and the vote of such person did not determine the decision of the result of the proceeding and no objection to his/her presence or participation was taken at the time.

## 33 - SHOP STEWARDS

**33.1** **Election of Shop Stewards**

33.1.1 Appointment of Shop Stewards

The NSW Divisional Branch Executive may appoint Shop Stewards in various establishments. Where four or more members are employed, a Shop Steward may be elected by ballot of financial members in the establishment. Where desired by resolution each year of a majority of financial members of any establishment, the Shop Steward shall be elected annually.

33.1.2 Method of Election of Shop Stewards:

Nominations shall be called for by a meeting of members employed in the establishment or workshop or department of an establishment. If more than one nomination is received, a vote shall be taken and the successful candidate shall submit his/her name, roll number and postal address to the Union office for endorsement, together with details of the meeting, i.e. other nominations received, members present (if practicable).

**33.2** **Powers and Duties of Shop Stewards**

33.2.1 To recruit new members.

33.2.2 To receive members' contributions on behalf of the NSW Divisional Branch and ensure all members are financial.

33.2.3 To forward all money collected to the Union office as soon as possible and no later than twenty-eight days.

33.2.4 To act as representatives of the Union in accordance with award or agreement prescriptions.

33.2.5 To report on industrial conditions and the claims of members to the NSW Divisional Branch Secretary.

33.2.6 To notify the NSW Divisional Branch Secretary of any arrival or departure of members from the establishment and changes of address.

**33.3** **Resignation of Shop Stewards**

Where a Shop Steward resigns his/her position, he/she shall immediately notify the NSW Divisional Branch Secretary in writing and shall return all books and moneys in his/her possession to the NSW Divisional Branch Secretary. As soon as possible a meeting shall be called to recommend a successor who shall immediately forward his/her name, roll number, postal address to the NSW Divisional Branch Secretary, together with details of the meeting, i.e. other nominations, names of members present (if practicable). A Shop Steward may, at any time, be required to account for all books and Union money held by him/her and shall on demand deliver such books and money to the NSW Divisional Branch Secretary within seven days. A Shop Steward may be removed from his/her position at any time by resolution of the NSW Divisional Branch Executive provided that where the shop steward is elected, he/she shall not be removed without the benefit of procedural fairness appropriate to the circumstances of the case.

## 34 - CONTROL OF FUNDS

**34.1** **Deposits**

The NSW Divisional Branch Secretary of the NSW Divisional Branch or Officer-in-charge of a regional office shall, as directed by the Executive, deposit all moneys accruing to the NSW Divisional Branch in a bank to the credit of the NSW Divisional Branch at least weekly.

**34.2** **Withdrawals**

34.2.1 The Divisional Branch Executive may, on the recommendation of the Divisional Branch Secretary, approve a budget for the Divisional Branch expenditure.

34.2.2 The Divisional Branch Secretary may expend the funds of the Branch for purposes including but not limited to:

34.2.2.1 the ordinary expenses of managing the Branch;

34.2.2.2 recurrent expenditure of the Branch;

34.2.2.3 budgeted expenditure of the Branch;

34.2.2.4 purposes determined by resolution of the State Council or Executive;

provided that the Divisional Branch Secretary, following the expenditure, must report the expenditure to the next meeting of the monthly Divisional Branch Executive and the bi-monthly Divisional Branch State Council.

34.2.3 The Divisional Branch Secretary will not expend any funds other than those referred to in 34.2.2.1 to 34.2.2.4 without the authorisation of Divisional Branch Executive.

34.2.4 Except for any limited expenses paid through the use of credit card, any expenditure under 34.2.2.1 to 34.2.2.4 must be authorised by the Divisional Branch Secretary and the Divisional Branch Assistant Secretary or the Divisional Branch Secretary and any other officer authorised to do so by the Divisional Branch Executive.

34.2.5 Prior to a meeting where the Divisional Branch Secretary must report expenditure as required by this Rule, the Divisional Branch Secretary shall prior to holding the meeting, ensure that the following records are made available for inspection at the registered office of the Branch by the members of the Divisional Branch Executive:

34.2.5.1 invoices;

34.2.5.2 receipts;

34.2.5.3 financial returns;

34.2.5.4 taxation returns;

34.2.5.5 statements of accounts; and

34.2.5.6 documents, relating to, or supporting, the expenditure concerned.

34.2.6 The NSW Divisional Branch Executive may authorise the issuing and operation of credit cards to officials and employees for specific expense purposes.

34.2.6.1 Credit cards issued to officials or employees will be for such limited credit amount as is decided by the NSW Divisional Branch Executive from time to time.

34.2.6.2 The NSW Divisional Branch shall develop and implement policy and procedure relating to the issuing and use of credit cards.

**34.3** **New Expenditure Proposals**

Except in cases of urgency, all proposals to commit the NSW Divisional Branch to new expenditure shall be referred to the NSW Divisional Branch Executive Committee for report.

**34.4** **Management Expenses**

No sum of money in excess of $100,000.00 shall be voted for any purpose other than such expenditure as may be required to meet the expenses of management unless notice of motion has been referred to a NSW Divisional State Council meeting of the NSW Divisional Branch and the members notified by summons prior to the meeting setting forth the exact terms of the motions, which must include the amount of sum proposed to be expended.

**34.5** **Salaries**

34.5.1 Salaries of NSW Divisional Branch officers, delegates, stewards and non-elective employees (including commission and fees) shall be determined by the NSW Divisional State Council at a meeting specially summoned for that purpose. Provided that a Notice of Motion to increase or to reduce any salary must be given one month previously and the terms of such motion included in the notice summoning the meeting.

34.5.2 Any issue to be determined by a meeting summoned for the purposes outlined in 34.5.1 cannot be in conflict with rule 22.10.

34.5.3 Provided also that the NSW Divisional Branch shall pay any increase in salary payable arising by operation of law, award or industrial agreement on behalf of any employees by a NSW Divisional Branch or organisation registered under State or Commonwealth law as from the date of commencement fixed by such law, award or industrial agreement.

**34.6** **Misappropriation of Funds**

If it be proved that any officer (including Shop Stewards) of the NSW Divisional Branch has misappropriated or otherwise fraudulently or illegally dealt with the funds he/she shall be liable to prosecution at law and expulsion from the Union.

**34.7 Financial Duties Training**

34.7.1 The NSW Divisional Branch Secretary must ensure that each Officer of the Branch, whose duties include financial duties that relate to the financial management of the branch, (as the case may be) undertake relevant training as approved for the purposes of the Fair Work (Registered Organisations) Act 2009.

34.7.2 If at the time of taking up such financial duties the Officer is not able to evidence previous completion of such training, the Officer must undertake such training within 6 months of the date that the person begins such financial duties.

34.7.3 Training that is required under 34.7.2 will be paid for by the Branch.

34.7.4 Evidence of completion of such training by an Officer will be kept by the Branch.

## 35 - LEGAL ASSISTANCE

35.1 Legal assistance may be granted by the NSW Divisional Branch upon a recommendation of the NSW Divisional Branch Executive for the recovery of wages due, where the NSW Divisional Branch Executive is satisfied of the validity of the claim.

35.2 The NSW Divisional Branch Secretary may appear before Appeals Boards, etc., on behalf of financial members who have been fined or punished in connection with their employment. In cases of dismissal, however, the NSW Divisional Branch may retain counsel on behalf of a member, provided that the NSW Divisional Branch Executive is satisfied that he/she is being victimised for upholding the principles of trade unionism.

35.3 In the event of a financial member receiving injuries arising out of or in the course of his/her employment, the NSW Divisional Branch Executive shall be empowered to take such action (at law or otherwise) as they think advisable with a view of securing compensation for the injured member or to his/her relative in the case of death. Provided that guarantees be first obtained that the NSW Divisional Branch shall be reimbursed for any expenditure incurred in connection therewith if the action be successful.

35.4 No member, except by permission of a two-thirds majority of the members present at a NSW Divisional State Council meeting, shall be entitled to legal assistance unless he/she has been a financial member for at least three (3) months immediately preceding the date of application. Provided also that a new member must have been financial for a period of three months before he/she is entitled to legal or financial assistance from the Union.

35.5 Nothing in the foregoing shall limit the right of the NSW Divisional Branch Executive to seek legal advice and to instruct a solicitor or brief counsel to appear on behalf of the NSW Divisional Branch, in any legal proceedings in which the NSW Divisional Branch (as an organisation) may be concerned.

## 36 - INDEMNITY

36.1 Every present and former officer and employee of the NSW Divisional Branch and any person acting on behalf of the NSW Divisional Branch by and with proper authority of NSW Divisional State Council or other authorised body or officer of the NSW Divisional Branch shall be fully and effectually indemnified out of the funds of the NSW Divisional Branch in respect of any personal liability incurred in a proper exercise of that delegated authority or of the powers given by these rules or by law and shall not be liable to the NSW Divisional Branch or any of its members for any loss incurred in a proper exercise of such powers or properly delegated authority.

## 37 - CUSTODY OF SEAL

37.1 The NSW Divisional Branch Secretary shall have custody of the Seal, which may be used only when authorised by the NSW Divisional Branch Executive Committee.

## 38 - INDUSTRIAL AGREEMENTS

38.1 Industrial agreements and other instruments may be made by or endorsed on behalf of the CEPU by the NSW Divisional Branch Executive Committee after such agreement or instrument has been approved by a NSW Divisional State Council meeting or a Special Meeting of the members concerned. However in the circumstances of approval of Greenfield Agreements, the NSW Divisional Branch Executive Committee shall have power to make an agreement on behalf of the CEPU.

## 39 - BY-LAWS

39.1 The NSW Divisional State Council shall have power to frame by-laws pursuant to the rules.

## 40 - RULE BOOKS

40.1 Each member shall be entitled, upon application to the NSW Divisional Branch Secretary, to a copy of the rules, the first copy of which shall be supplied free of charge.

## 41 - ALTERATION OF RULES

41.1 The Rules of the NSW Divisional Branch may be made, amended or rescinded by the NSW Divisional State Council.

The NSW Divisional Branch Conference may recommend alterations to these rules or to the rules of a sub branch to the State Council. The decision of the State Council regarding any such referral shall be reported to the next NSW Branch Conference.

## 42 - DISTRESS AND MORTALITY FUND

**42.1** **Power to establish Fund**

The NSW Divisional Branch shall have power to establish a Distress and Mortality Fund for the purpose of assisting members in distress through sickness or accident or who are lawfully out of employment and also for the purpose of paying a mortality benefit to the representatives of deceased financial members.

**42.2** **Fund Levy**

42.2.1 Subject to sub rules 40.2.2 and 40.2.3, the Fund shall be maintained by a compulsory levy on all members. The amount of the levy shall be three dollars ($3.00) per member per annum payable on the first occasion in the year that the member pays his or her contributions. Members on payroll deductions or direct debit shall pay the levy proportionally throughout the year as determined by the NSW Divisional State Council each year. New members shall pay the annual levy irrespective of when they join the union.

42.2.2 New members who have attained the age of fifty (50) years at the date of joining shall not contribute to this Fund, nor participate in the benefits thereof.

**42.3** **Unfinancial members**

Any member who is unfinancial as the result of being in arrears by fines, levies or ordinary Union subscriptions and whose annual subscription to the Distress and Mortality Fund is not paid by the last day of August in each year, shall be declared out of benefit as regards, this Fund, except as qualified in sub-rule 42.10.

**42.4** **Fund to be Kept in a Separate Bank Account**

Except as provided in sub-rule 42.5 hereof, the Fund shall not form part of the general funds of the NSW Divisional Branch and shall always be kept in a separate and distinct bank account. The said levies forming the Fund are made by the NSW Divisional Branch and paid by its members on the clearly understood condition that all fund moneys shall be applied in accordance with this rule and not otherwise.

**42.5** **Amount may be paid into General Fund**

An amount representing twenty per cent (20%) of the amount levied each year may, with the approval of the NSW Divisional Branch Executive, be paid into the general funds of the NSW Divisional Branch in order to cover the Divisional Branch's cost of collecting and administering the Fund.

**42.6** **Control of the Fund**

42.6.1 The Fund shall be under the control of the NSW Divisional Branch Executive and no moneys shall be voted from the Fund to any member or for any purpose unless the NSW Divisional Branch Executive by a majority of the members of the NSW Divisional Branch Executive present at a regular or a special summoned meeting of the NSW Divisional Branch Executive carry a resolution authorising payment of such benefit.

42.6.2 No person shall be entitled as of right to any payment of account of either distress benefit or mortality benefit and all payments made from the Fund on either account shall be ex-gratia payments made at the unfettered discretion of the NSW Divisional Branch Executive. The NSW Divisional Branch Executive shall not be liable to make any payments out of the Fund either by way of distress benefit or by way of mortality benefit to any person. The NSW Divisional Branch Executive may refuse to make any payment without giving any reasons for its refusal.

42.6.3 The NSW Divisional Branch Executive shall have complete powers to invest any Fund moneys in such shares and/or other investments as it may think fit from time to time.

**42.7** **Distress Benefits**

42.7.1 No person shall be entitled to Distress Benefit from the Fund unless he/she has been a member of the Union for the twelve months preceding, the date of the application and has contributed not less than twelve months' subscriptions to the Union and shall have been financial for four (4) weeks at the date of ceasing work in consequence of the illness, accident or unemployment in respect of which disability assistance is claimed.

42.7.2 Assistance from the Distress Fund may be obtained on written application to the NSW Divisional Branch Executive, who shall fully investigate all claims, before authorising any payment.

42.7.3 Payment shall be made from the Fund at the discretion of the NSW Divisional Branch Executive, provided that the total amount payable to any one member in any one year shall not exceed five hundred dollars ($500).

42.7.4 If a member is proved to have obtained assistance from the Fund through false representation he/she shall be liable to be fined, suspended and/or expelled from the Union; and any officer or member knowingly assisting in such deception, or concealing material facts within his/her knowledge relative to an applicant's health, earning or financial position, shall be liable to be suspended, fined and/or expelled. Provided that the amount of a fine imposed under this sub-rule shall not exceed fifty dollars ($50).

42.7.5 Members shall only be entitled to assistance from the Distress Fund when the NSW Divisional Branch Executive is satisfied that such member is in distressed circumstances.

**42.8** **Mortality Benefits**

42.8.1 Upon notification of the death of a financial member who has been a member for at least 12 months, and has contributed not less than one year's subscription to the Union and who has been financial for four (4) weeks immediately preceding, the NSW Divisional Branch Executive may, on receipt of satisfactory proof of death, pay to the widow, widower, children, legal personal representative, next-of-kin or dependant of the deceased member or one or more of them, a mortality benefit, as follows:

Membership exceeding one (1) year and not exceeding twenty (20) years, a maximum of five hundred dollars ($500);

Membership exceeding twenty (20) years, a maximum of one thousand dollars ($1,000).

Any benefit paid will be at the discretion of the Executive.

42.8.2 The mortality benefit shall not be paid in cases where the deceased member has not complied with the above-named conditions. Provided that if the sum realised by the annual levy referred to in sub rule 42.2.1 is insufficient to pay a mortality benefit as stated in sub rule 42.8.1, the NSW Divisional Branch Executive shall have power to temporarily reduce the sum payable in case of death by such amount as it may deem necessary to maintain the Fund in a solvent condition.

42.8.4 Claims

Upon receipt of proof of death and particulars in connection therewith, the NSW Divisional Branch Executive at a NSW Divisional Branch Executive Meeting shall consider and resolve the question of payment.

42.8.5 Limitations of Claims:

In the event of no claim for benefit being made within a period of twelve months from the date of a member's death, the amount of benefit shall be forfeited and no payment shall be made.

**42.9** **Honorary Members**

Adult members who have had honorary membership conferred upon them by the Union, may become beneficiaries under this fund upon payment of the annual levy referred to in sub rule 42.2.1. Provided that any honorary members, not being gainfully employed, having been fully contributing to the Fund for not less than twenty years, shall be exempted from any further payment.

**42.10** **Exempt Members**

Adults who have been members of the Union for twelve months preceding the date of exemption and have contributed not less than one year's subscriptions to the Union and have been financial for four (4) weeks to the date of applying for exemption will be entitled to distress or mortality benefits while exempt from Union dues other than the "Distress and Mortality Annual Levy".

**42.11** **Officer to Make Payments**

The NSW Divisional Branch Secretary shall be the officer responsible for making all payments due under the rule governing the Distress and Mortality Fund.

## 43 – SUPERANNUATION FOR OFFICIALS

1. 43.1 The NSW Divisional Branch shall make employer superannuation contributions at the rate of 19% (comprising the Commonwealth Government Superannuation Guarantee Contribution (SGC) and additional employer superannuation contribution) for each officer of the NSW Divisional Branch, including Secretary, Assistant Secretary, and Organisers.

43.2 Each elected officer of the NSW Divisional Branch shall in addition to the provisions of 43.1, receive an additional employer superannuation contribution at the rate of 5.8%.

1. 43.3 Each Officer that is not elected shall in addition to the provisions of 43.1, receive, following 12 months continuous service, an additional employer superannuation contribution as follows:

43.3.1 More than 1 year but less than 3 years - 1%

43.3.2 More than 3 years but less than 5 years - 2%

43.3.3 More than 5 years but less than 7 years - 3%

43.3.4 More than 7 years but less than 9 years - 4%

43.3.5. More than 9 years but less than 10 years - 5%

43.3.6 More than 10 years - 5.8%

1. 43.4 Any increase to the SGC will be absorbed unless the superannuation guarantee rate exceeds 24.8%.
2. 43.5 An officer as referred to in 43.1, who has reached their concessional contributions cap, may elect to have additional Superannuation payments in excess of the concessional contributions cap paid as wages, into an industry redundancy fund or elect to continue to have it paid into the nominated Superannuation account. An officer cannot make such an election if it would result in a breach of the Superannuation Guarantee. Any election must be made in writing by the officer and authorised by the State Council Executive.

## 44 - ANNUAL, SICK AND LONG SERVICE LEAVE

**44.1** **Annual Leave for Officers & Staff**

Full-time officers and/or full-time employees of the NSW Divisional Branch shall be entitled to a minimum of five weeks' annual leave on full pay plus one extra week's pay. Such additional

payment to commence upon registration of the rule and to apply to the current year's leave and shall not apply to accumulated leave.

**44.2** **Sick Leave for Full Time Officials**

Each full-time official shall be entitled to eighteen (18) days' sick leave annually. Such leave if not taken is to accumulate. When an official has exhausted his/her credit of sick leave, the NSW Divisional State Council, on the recommendation of the NSW Divisional Branch Executive may authorise further sick leave with pay, provided satisfactory medical evidence is available.

**44.3** **Long Service Leave for Officers & Staff**

44.3.1 Full-time officials and/or employees of the Union shall be entitled to long service leave as hereunder.

Long service leave shall accrue and may be taken in periods of not less than 4 weeks at the discretion of the employee, subject to one month's notice of their intention, in accordance with the following table:

Length of Service On Full Salary

After 10 years' service 13 weeks (exclusive of public holidays therein)

For every further 6½ weeks additional

completed period of 5 (exclusive of public

years' service holidays therein)

44.3.2 Provided further that where the services of a full-time officer or a full-time employee with three years' service or more are terminated for other than serious and wilful misconduct or cease for any reason, he/she shall be entitled to be paid a proportionate amount calculated on the basis of thirteen weeks for ten years' of service.

44.3.3 Where the services of an officer or employee with 10 years or more service are terminated or cease for any reason, long service leave shall be deemed to have accrued for his/her total length of service and the cash equivalent in respect of such accrued long service leave computed in weekly periods, less such leave already taken, shall be paid to the employee. For the purpose of this sub-rule, the death of an officer or employee shall be deemed to constitute a termination of his/her services.

44.4 In the event of the death of an officer or employee, the NSW Divisional Branch at its discretion may, in discharge of its obligations under sub-rules 44.1 and 44.3 hereof, pay the cash equivalent of any accrued annual leave or long service leave less such leave already taken either:

44.4.1 to the spouse or partner of the deceased officer or employee or where the officer or employee does not leave a surviving spouse or partner, to such of the children of the deceased officer or employee of whose existence the Union becomes aware, on due enquiry, in equal shares or

44.4.2 to the legal representative of the deceased officer or employee.

44.4.3 Where a child of the deceased employee has not attained the age of twenty-one years, the Union may pay the share of such child to the legal representatives of the deceased officer or employee.

## 45 - EMPLOYEES' RETIRING ALLOWANCE AND LONG SERVICE LEAVE TRUST FUND

45.1 The NSW Divisional Branch shall establish a trust fund to be known as "The Employees' Retiring Allowance and Long Service Trust Fund" to meet the liability of the Union and/or the NSW Divisional Branch to pay full-time officers and/or employees of the NSW Divisional Branch long service leave and/or retirement or retiring allowances as prescribed by these rules.

45.2 Any moneys paid into such fund shall be kept separate and distinct from the general funds of the NSW Divisional Branch and the Union and such fund shall be administered by the NSW Divisional Branch Executive which shall have complete powers to invest such fund moneys in such shares, securities or investments as it may think fit from time to time.

## 46 - DISSOLUTION

**46.1** **Dissolution of the Union**

46.1.1 The Union shall not be dissolved unless a majority of the Divisional Branches of the Union demand in writing to the National Secretary that the question of dissolving the Union be submitted to a ballot of the members to be conducted in accordance with Section B rule 17.

46.1.2 If it is decided that the Union will be dissolved all the property of the Union shall be converted into money and all liabilities discharged and the net balance of money remaining be divided pro rata among the financial Branches of the Union for distribution as those Branches decide.

Provided that no part of such monies shall be distributed to members of a Divisional Branch. A Divisional Branch may determine to distribute such monies or part thereof to such body or bodies having similar restrictions upon distribution of assets to its members to an extent at least as great as herein imposed upon a Divisional Branch.

**46.2** **Dissolution of Division**

No Division can be dissolved or amalgamated without an affirmative ballot of the members of that Division.

## 47 - RULES OF DEBATE

**47.1** **Notice of Motion**

Notice of Motion for hearing at NSW Divisional State Council meetings shall be signed by the proposer and handed to the NSW Divisional Branch Secretary. The NSW Divisional Branch Secretary shall read it aloud to allow the Chairman to decide as to its being in order and if in order, it shall be entertained at a subsequent NSW Divisional State Council meeting within three months, when brought on by the proposer or some other person duly authorised in writing to take up the motion during his/her absence. If such motion is not heard within three months it shall be held to have lapsed.

**47.2** **Motions and Amendments**

47.2.1 No discussions shall take place on any motion unless such motion is duly proposed and seconded.

47.2.2 Any number of amendments may be proposed and discussed simultaneously with the original motion.

47.2.3 When a motion shall have been duly proposed and seconded, the Chairman shall at once proceed to take the vote thereon unless some member rises to oppose it or to propose an amendment.

47.2.4 No amendment shall be in order unless notice be given to move same before the proposer of the resolution has replied.

**47.3** **Mover and Seconder**

The mover or seconder merely of any motion or amendment shall be held to have spoken to the same in the discussion of either.

**47.4** **Must Address Chair**

Every member when about to speak must address the Chairman and conduct him/herself in a respectful manner towards the meeting.

**47.5** **May Only Speak Once**

No member shall be allowed to speak more than once except by permission of the Chairperson and then strictly only in personal explanation, except the mover of the original motion who shall have the right to reply. No speaker shall occupy a longer period than five minutes unless granted an extension of time by resolution of the meeting. The mover of the original motion shall be allowed five minutes in reply.

**47.6** **Direct Negative**

No amendment shall be received by the Chairperson which is a direct negative to the motion tabled or which does not relate to the substance of such motion.

**47.7** **Claiming Division**

Seven members may claim an open division on any question, if the majority as disclosed by a show of hands, is less than ten.

**47.8** **Dissent from Chairperson's Ruling**

47.8.1 Any member dissatisfied with the ruling of the Chairperson may move a motion of dissent as follows; "That the Chairperson's ruling be dissented from". The motion shall then be put to the meeting by the Vice-Chairperson, without discussion, in the following manner: "The question is: That the Chairperson's ruling be upheld. Those in favour of upholding the Chairperson's ruling say 'Aye'. Those against the Chairperson's ruling being upheld say 'No'."

47.8.2 The mover only shall speak to the motion provided that the Chairperson may explain his/her reasons for the ruling given.

47.8.3 The Vice-Chairperson shall not give a ruling on the question involved in the Chairperson's ruling.

47.8.4 The Chairperson's ruling shall only be dissented from by a direct appeal to the meeting, the question being put by the Vice-Chairperson without discussion.

**47.9** **Limiting Number of Speakers**

No more than two (2) members shall 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 amendments shall be put to the meeting after the mover has replied.

**47.10** **Limiting Time of Debate**

The time for debating any question shall be limited to thirty minutes, unless a resolution is passed by the meeting to extend such time of debate. Provided that no extension shall be for more than twenty minutes by any one motion.

**47.11** **Point of Order**

On any member rising to a point of order during the discussion, the speaker shall sit down and the person so rising shall state the point of order, when the Chairperson shall rule thereon, his/her ruling being final unless it be challenged by a formal motion submitted to the meeting.

**47.12** **That Question be now Put**

It shall be competent at any time (except while a member has obtained the call and is addressing the Chair) for a member to rise and move, without discussion. "That the question be now put", which on being seconded and carried by a majority of those present, shall entail the submission of a motion at once to the meeting after the mover has replied. No further discussion shall take place after the mover has replied.

**47.13** **When Voting is Equal**

The NSW Divisional Branch President or NSW Divisional Branch Chairperson of any meeting, including meetings of the NSW Divisional Branch Executive and all Sectional and committee meetings, shall have a deliberative vote only. Where the voting is equal the negative shall prevail.

**47.14** **Motion to Reconsider**

47.14.1 Motions discussed and voted upon shall not be reconsidered unless one month's notice has been given in writing at a subsequent meeting.

47.14.2 It shall be competent, subject to the approval of a two-thirds majority of the members present at a meeting, to re-commit motions previously decided at that meeting.

**47.15** **Suspension of Standing Orders**

No motion to suspend the standing orders shall be entertained unless by consent of a two-thirds majority of the members present. Provided that the suspension of the standing orders shall not be moved more than once at any meeting.

**47.16** **Disorderly Conduct**

Any member acting contrary to any of these standing orders shall be called to order and should he/she persist he/she shall be fined ten cents (10c) if he/she further persists, he/she shall be compelled to withdraw from the meeting room and fined again ten cents (10c).

**47.17** **New Business**

All meetings, except where otherwise provided in these rules, shall terminate two hours after the advertised commencing time. It shall be competent for any member to propose an extension shall not extend beyond one-half hour and that the motion proposing such extension shall be carried by a two-thirds majority of members present.

**47.18** **Retiring from Meeting**

No member shall be allowed to retire from the meeting room without the permission of the Chairperson.

**47.19** **Adjournment of Meetings and Special Meetings**

47.19.1 No motion for the adjournment of the business of any NSW Divisional Branch or NSW Divisional Sub-Branch meeting to a future date for the purpose of referring such business or any prospective business to a special meeting (other than the regular quarterly, half-yearly or annual meetings) shall be entertained unless supported by a two-thirds majority of the financial members present at such meeting or the number necessary to constitute a quorum, whichever is the greater.

47.19.2 A motion of adjournment having been moved shall be put without further discussion. Provided that if a time is specified in the motion of adjournment an amendment may be moved to alter the time specified.

**47.20** **Standing Orders for Guidance of Meetings**

47.20.1 Reading and confirmation of minutes of previous meetings.

47.20.2 Special Business - Motions of which notice has been given.

47.20.3 Executive and Credential Committee Minutes.

47.20.4 Apologies.

47.20.5 Correspondence.

47.20.6 Reports.

47.20.7 Discussion on Industrial Affairs (limited to 30 minutes).

47.20.8 Questions without discussion (limited to 10 minutes).

47.20.9 Submission of Notices of Motions.

47.20.10 General Business.

**47.21** **Suspension of Standing Orders**

47.21.1 Ordinary Meetings

At any time following the confirmation of minutes provided that there is no business before the Chair.

47.21.2 Summoned Meetings

At any time following the completion of business for which the meeting has been summoned.

47.21.3 Special Meetings

These meetings are called to deal with special business, therefore, no suspension of standing order can be moved.

## 48 - DISCLOSURE

The NSW Divisional Branch State Council shall develop and implement policies and procedures for the purposes of the disclosure requirements of the Fair Work Registered Organisations Act 2009.

48.1 Disclosure of Remuneration and Non-cash Benefits of Officers

48.1.1 Each Officer of the NSW Divisional branch shall disclose to the branch any remuneration paid to the Officer:

48.1.1.1 because the officer is a member of a board, if:

48.1.1.1.1 the officer is a member of the board only because the officer is an officer of the branch; or

48.1.1.1.2 the officer was nominated for the position as a member of the board by the Union, branch or a peak council; or

48.1.1.2 by any related party of the branch in connection with the performance of the officer’s duties as an officer.

48.1.2 The disclosure required by sub-rule 48.1.1 shall be made to the NSW Divisional Branch:

48.1.2.1 as soon as practicable after the remuneration is paid to the officer; and

48.1.2.2 in writing.

48.1.3 The NSW Divisional Branch shall disclose to the members of the branch:

48.1.3.1 the identity of the officers who are the two highest paid officers of the branch in terms of relevant remuneration for the disclosure period, and

48.1.3.2 for those officers:

48.1.3.2.1 the actual amount of the officers’ relevant remuneration for the disclosure period; and

48.1.3.2 .2 either the value of the officers relevant non-cash benefits, or the form of the officers’ relevant non-cash benefits, for the disclosure period.

48.1.4 For the purposes of sub-rule 48.1.3, the disclosure shall be made:

48.1.4.1 in relation to each financial year;

48.1.4.2 within six months after the end of the financial year; and

48.1.4.3 in writing.

48.2 Disclosure of Material Personal Interests of Officer or Relatives

48.2.1 Each officer of a NSW Divisional Branch shall disclose to the branch any material personal interest in a matter that:

48.2.1.1 the officer has or acquires; or

48.2.1.2 a relative of the officer has or acquires; that relates to the affairs of the branch.

48.2.2 The disclosure required by sub-rule 48.2.1 shall be made to the NSW Divisional Branch:

48.2.2.1 as soon as practicable after the interest is acquired; and

48.2.2.2 in writing.

48.2.3 The NSW Divisional Branch shall disclose to the members of the branch any interests disclosed to the branch pursuant to sub-rule 48.2.1.

48.2.4 For the purposes of sub-rule 48.2.3, the disclosures shall be made:

48.2.4.1 in relation to each financial year;

48.2.4.2 within six months after the end of the financial year; and

48.2.4.3 in writing.

48.3 Disclosure of Payments by the Branch

48.3.1 The NSW Divisional Branch shall disclose to the members of the branch either:

48.3.1.1 each payment made by the branch, during the disclosure period:

48.3.1.1 .1 to a related party of the branch; or

48.3.1.1.2 to a declared person or body of the branch; or

48.3.1.2 the total of the payments made by the branch, during the disclosure period:

48.3.1.2.1 to each related party of the branch; or

48.3.1.2.2 to each declared person or body of the branch.

48.3.2 Sub-rule 48.3.1 does not apply to a payment made to a related party if:

48.3.2.1 the payment consists of amounts deducted by the branch from remuneration payable to officers or employees of the branch or

48.3.2.2 the related party is an officer of the branch, and the payment:

48.3.2.2.1 consists of remuneration paid to the officer by the branch; or

48.3.2.2.2 is reimbursement for expenses reasonably incurred by the officer in performing the officer’s duties as an officer.

48.3.3 For the purposes of sub-rule 48.3.1, the disclosures shall be made:

48.3.3.1 in relation to each financial year;

48.3.3.2 within six months after the end of the financial year; and

48.3.3.2 in writing.

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