



ORDER

Fair Work (Registered Organisations) Act 2009
s.94(1) RO Act—Withdrawal from amalgamation

Grahame Patrick Kelly
(D2022/10)

JUSTICE HATCHER, PRESIDENT
DEPUTY PRESIDENT GOSTENCNIK
DEPUTY PRESIDENT MASSON

SYDNEY, 3 APRIL 2023

Application by Grahame Patrick Kelly – ballot regarding withdrawal from amalgamated organisation – Mining and Energy Division – Construction, Forestry, Maritime, Mining and Energy Union.

Further to our decision issued today in the above matter, we order as follows:

1. Pursuant to s 100 of the *Fair Work (Registered Organisations) Act 2009* (Cth) (**RO Act**):
 - a. A vote shall be taken by secret ballot (**Ballot**) to decide whether, in relation to the amalgamated organisation known as the Construction, Forestry, Maritime, Mining and Energy Union (**CFMMEU**), the Mining and Energy Division established under the rules of the CFMMEU (**Constituent Part**) should withdraw from the CFMMEU.
 - b. The persons to be balloted are the members of the Constituent Part (**Constituent Members**).
 - c. The question to be put in the Ballot is:

Do you approve the proposed withdrawal of the constituent part currently known as the Mining and Energy Division from the Construction, Forestry, Maritime, Mining and Energy Union, and its registration as a separate organisation under the Fair Work (Registered Organisations) Act 2009 (Cth)?
 - d. The commencing day of the Ballot shall be 17 May 2023 and the closing day of the ballot shall be 19 June 2023.
 - e. The Ballot is to be conducted by Shane Russell Thompson (**Designated Official**), with the expenses of the Ballot to be borne by the Constituent Part.
 - f. The Ballot is to be conducted in part as an attendance ballot and in part as a postal ballot. The Designated Official may elect to conduct a postal ballot in respect of any Constituent Members for whom he considers it is not practical or appropriate

to conduct an attendance ballot. The Designated Official must conduct a postal ballot of any Constituent Members unable to participate in an attendance ballot.

- g. The ballot paper to be used for the attendance ballot shall be in the form annexed to this Order as “**Annexure 1**”.
 - h. The ballot paper to be used for the postal ballot shall be in the form annexed to this Order as “**Annexure 2**”.
 - i. Despite sections 102(2)(a) and 102(2)(aa) of the RO Act, when conducting any postal ballot, instead of including with the ballot paper sent to the Constituent Members hard copies of the outline of proposed withdrawal, the rules of the proposed Mining and Energy Union and the altered rules for the CFMMEU when the proposed withdrawal of the Constituent Part takes effect, the ballot paper may be accompanied by a document which provides a URL link(s) to the said documents.
 - j. Despite Regulation 94B(2) of the *Fair Work (Registered Organisations) Regulations 2009*, when conducting any attendance ballot, instead of the Constituent Members being sent hard copies of the outline of proposed withdrawal, the rules of the proposed Mining and Energy Union and the altered rules for the CFMMEU when the proposed withdrawal of the Constituent Part takes effect, they may be sent a document which provides a URL link(s) to the said documents.
2. Pursuant to s 96(2)(b) of the RO Act the Applicant is granted leave to file the “yes” case in the form provided to the Fair Work Commission on 17 March 2023.
 3. Pursuant to s 98(2) of the RO Act the Applicant is granted leave to file an amended outline of proposed withdrawal in the form provided to the Fair Work Commission on 17 March 2023.
 4. Pursuant to s 95A(10) of the RO Act the Applicant is granted leave to amend the altered rules for the CFMMEU in the form provided to the Fair Work Commission on 1 March 2023.
 5. Pursuant to s 95A(10) of the RO Act the Applicant is granted leave to amend the rules of the proposed Mining and Energy Union in the form provided to the Fair Work Commission on 17 March 2023.

PRESIDENT

Annexure 1**Form 3 – Ballot Paper under Part 3 of Chapter 3****(Regulation 90A)****Fair Work (Registered Organisations) Act 2009, section 102****BALLOT OF MEMBERS OF:**

The constituent part formerly constituting the United Mineworkers Federation of Australia, which was deregistered on 10 February 1992 in connection with the formation of the Construction, Forestry, Maritime, Mining and Energy Union (CFMMEU), and remaining separately identifiable under the rules of the CFMMEU as the Mining and Energy Division.

**BALLOT PAPER IN RESPECT OF PROPOSED WITHDRAWAL FROM
AMALGAMATED ORGANISATION**

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*Initials of the Designated Official**Initials of the Assisting Official*

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CLOSING DATE OF BALLOT: 5pm Monday 19 June 2023

Directions to Voter

1. Record your vote on the ballot paper as follows:
 - ★ if you approve the withdrawal of the constituent part from the amalgamated organisation referred to in the question set out below, write “YES” in the space provided opposite the question;
 - ★ if you do not approve the withdrawal of the constituent part from the amalgamated organisation referred to in the question set out below, write “NO” in the space provided opposite the question.
2. Do not place on this paper any mark or writing by which you may be identified.

QUESTION FOR VOTERS:

Do you approve the proposed withdrawal of the constituent part currently known as the Mining and Energy Division from the Construction, Forestry, Maritime, Mining and Energy Union, and its registration as a separate organisation under the *Fair Work (Registered Organisations) Act 2009* (Cth)?



Write YES or NO in the box above.

Annexure 2**Form 3 – Ballot Paper under Part 3 of Chapter 3****(Regulation 90A)****Fair Work (Registered Organisations) Act 2009, section 102****BALLOT OF MEMBERS OF:**

The constituent part formerly constituting the United Mineworkers Federation of Australia, which was deregistered on 10 February 1992 in connection with the formation of the Construction, Forestry, Maritime, Mining and Energy Union (CFMMEU), and remaining separately identifiable under the rules of the CFMMEU as the Mining and Energy Division.

**BALLOT PAPER IN RESPECT OF PROPOSED WITHDRAWAL FROM
AMALGAMATED ORGANISATION**

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Initials of the Designated Official

CLOSING DATE OF BALLOT: 5:00 pm, Monday, 19 June 2023

Directions to Voter

3. Record your vote on the ballot paper as follows:
 - ★ if you approve the withdrawal of the constituent part from the amalgamated organisation referred to in the question set out below, write “YES” in the space provided opposite the question;
 - ★ if you do not approve the withdrawal of the constituent part from the amalgamated organisation referred to in the question set out below, write “NO” in the space provided opposite the question.
 4. Do not place on this paper any mark or writing by which you may be identified.
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QUESTION FOR VOTERS:

Do you approve the proposed withdrawal of the constituent part currently known as the Mining and Energy Division from the Construction, Forestry, Maritime, Mining and Energy Union, and its registration as a separate organisation under the *Fair Work (Registered Organisations) Act 2009* (Cth)?



Write YES or NO in the box above.

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