[267V: Incorporates alterations certified on 31/12/2018 in matter R2018/292]

(replaces version of 01/01/2014 [R2013/109])

 I CERTIFY under section 161 of the Fair Work (Registered Organisations) Act 2009 that the pages herein numbered 1 to 23 both inclusive contain a true and correct copy of the registered rules of the Civil Contractors Federation

 DELEGATE OF THE GENERAL MANAGER

 FAIR WORK COMMISSION

Rules of the Civil Contractors Federation

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**RULES
The Civil** **Contractors Federation**

## 1 – Name of Federation

(a) The Federation will be known as the "Civil Contractors Federation".

## 2 – Registered office

(a) The registered office of the Federation shall be at Unit 13, Level 3, 11 National Circuit BARTON ACT 2600, or at such place from time to time determined by the National Board with any change to be notified to the Fair Work Commission.

## 3 – Definitions and interpretation

**3.1 Definitions**

| **Term** | **Definition** |
| --- | --- |
| **Contractor Member** | means a person or company undertaking work as a civil construction contractor in the Industry, admitted to membership of the Federation under rule 6 (ii)(a) or (d)  |
| **(A) FW (RO) Act** | means the *Fair Work (Registered Organisations) Act 2009* (Cth).  |
| **(B) Federation** | means the Civil Contractors Federation. |
| **(C) Federation Office** | means the registered office of the Federation (as determined by the Board from time to time) referred to in rule 2. |
| **(D) Financial Year** | means the year commencing on 1 July and ending 30 June in the year following.  |
| **(E) Member** | means a Member of the Federation listed in the Register as a current Member.   |
| **(F) National Board** | means the Board of the Federation constituted in accordance with rule 18. |
| **(G) Register** | means the Register of Members kept pursuant to the FW (RO) Act.  |
| **(H) Registered Auditor** | means an auditor qualified under section 256(2) of the FW(RO) Act |
| **(I) Representative of a Member** | means a person appointed by a Member to be its representative at meetings and to vote on behalf of the Member in the Federation |
| **(J) Seal** | means the common seal of the Federation. |
| **(K) Voting Member** | means a Contractor Member who has paid their annual fees and all other monies due to the Federation by the due date specified by the Federation. |

**3.2 Interpretation**

(a) In the interpretation of these Rules the following words and expressions have the meanings specified unless the context requires otherwise:

(b) Month means calendar month.

(c) Words importing the singular number include the plural and vice versa.

(d) Person includes firm, partnership, association, corporation, incorporated or unincorporated bodies, trustees companies, or any body duly registered under the *Corporations Act 2001* (Cth) as amended from time to time, societies, agencies, or other organisations, or combinations thereof.

## 4 – Objects

(a) The objects of the Federation are to:

 (i) be the representative body under the FW (RO) Act of employers engaged in the Civil Construction Industry; and

 (ii) promote, protect and advance the interests of Members engaged in the Civil Construction Industry.

(b) To achieve these objects, the Federation may, without limitation:

 (i) harness the resources of the community in support of the objects in rule 4(a)

 (ii) establish and maintain affiliations and information exchange with other organisations having similar objects to those in rule 4(a)

 (iii) act as trustee of any trust the purpose of which relates to the objects in rule 4(a)

 (iv) promote the objects in rule 4(a)

 (v) do all other things incidental or conducive to the attainment of the objects in rule 4(a).

## 5 – Industry

The industry in or in connection with which the Federation is formed is the civil construction industry, which, without limiting the generality of the foregoing includes:

(a) foundation construction;

(b) preparatory site works for engineering and construction of power houses, industrial complexes and capital plants;

(c) demolition;

(d) construction, alteration and maintenance including excavation and earthmoving for irrigation, drainage, canals, dredging, reclamation, land clearing and levelling, land filling and earth compaction, site development and trench digging;

(e) reticulation and storage associated with construction, alteration, and maintenance of primary treatment and reticulation works for electricity, water sewerage, petroleum, gases, liquids, chemicals, wastes, communications and other pipe tracks and conduits;

(f) construction, alteration and maintenance of railways, bridges, culverts, viaducts, highways, causeways, expressways, overpasses, underpasses, roads, road surfacing, road foundations, tunnels, shafts, towers, parking areas and pavements;

(g) construction, alteration and maintenance of dams, spillways, weirs, outfalls, tanks, reservoirs, storage areas, breakwaters, artificial harbours, marinas;

(h) site works, including dredging, for construction, alteration and maintenance of wharves, jetties and lighthouses, navigation aids, radio telescopes, communication facilities, and silos;

(i) site works associated with construction, alteration and maintenance of chemical mining and ore treatment plants;

(j) construction and installation of temporary accommodation for workers engaged in or in connection with the industry as defined herein;

(k) site works associated with installation of materials handling equipment, treatment plants, milling and smelting plants, furnaces and industrial ovens;

(l) asphalting, concreting, paving, kerbing, concrete formwork and concrete pumping;

(m) quarrying, crushing and processing of road/metal, gravel, screenings, stone aggregates, crushed rock (for the purposes of the industry as defined elsewhere in Rule 5) and the application of plant mixed, concrete bituminous concrete, bitumen and asphalt;

(n) the hiring, leasing and operation of plant and equipment of the following description - bulldozers, crawler and wheeled tractors, tracked and wheeled loaders, graders, elevating and standard scrapers, backhoes, hydraulic excavators, road rollers, vibrating rollers, compressors, road crushers, drotts, front end loaders, power shovels, tip trucks, off- highway trucks, ditchers, trench diggers, draglines, tandem tippers, semi-tippers, drills, mobile cranes, earth rammers, concrete mixers, post hole diggers, dumpers, log skidders and all other earthmoving plant and attachments and equipment.

## 6 – Eligiblity - Membership

(i) The Federation shall consist of an unlimited number of:

 (a) employers who undertake work as civil construction contractors in the civil construction industry;

 and

(b) companies and persons (other than employers and other than employees) who carry on a business as civil construction contractors in or in connection with the Industry.

(ii) The Federation shall comprise the following grades of membership:

 (a) CONTRACTOR MEMBERS – being a person or company undertaking work as civil construction contractors in the civil construction industry.

 (b) ASSOCIATE MEMBER – being a person or company engaged in the manufacture, sale or dry hire (without operator) of plant, equipment and materials used by *CONTRACTOR MEMBERS* or are engaged in any undertaking directly related to or in the supply of services to those *CONTRACTOR MEMBERS*.

 (c) HONORARY MEMBER – being a person invited by the Board to accept Honorary Membership because of exceptional service to the Federation or the civil construction industry, who accepts such membership.

 (d) LIFE MEMBER – being a Contractor Member who is an individual or an individual representing a Contractor Member which is a company invited by the Board to accept Life Membership because of exceptional service to the Federation or the Industry, who accepts such membership.

(iii) The membership of an Associate may be terminated by the Board at will.

(iv) No Associate Member shall:

 (a) be eligible for election to the National Board; or

 (b) nominate or second the nomination of any candidate for membership (other than a candidate for associate membership); or

 (c) nominate any candidate for election to the National Board; or

 (d) have power to vote on any matter;

(v) No Honorary Members shall:

 (a) be eligible for election to the National Board;

 (b) be eligible for any other form of membership or to be a Representative of a Member; or

 (c) have power to vote on any matter.

(vi) No Life Member or Honorary Member shall be required to pay any annual subscription in respect of their membership of the Federation.

(vii) Any individual Member or Representative of a Member may be an employee, consultant or person engaged in a paid position of, or for, the Federation.

## 7 – Powers

(a) In furtherance of its objects, the Federation may exercise any power, take any action or engage in any conduct which the FW (RO) Act permits a body registered under that Act to exercise, take or engage in.

(b) A power conferred on a person to do a particular act or thing under these Rules includes, unless the contrary intention appears, a power (exercisable in the same way and subject to the same conditions) to repeal, rescind, revoke, amend or vary that act or thing and the power to delegate that function to another.

## 8 – Admission of Members

(a) An application for membership must be made in writing in a form approved by the National Board supported by such evidence and any application and subscription fee as determined by the Board from time to time.

(b) Upon receipt of the application for membership the Chief Executive Officer must inform the applicant of:

 (i) the financial obligations arising from membership;

 (ii) the circumstances, and the manner, in which a Member may resign from the Federation.

(c) Subject to the FW (RO) Act, the National Board may accept or reject an application for membership at its discretion without being required to give a reason for its decision.

(d) Where an application for membership of the Federation is approved by the Board,the Chief Executive Officer (National) must:

 (i) notify the applicant:

 (A) that they have become a Member of the Federation; and

 (B) of their right to obtain a copy of this Rules as amended from time to time;

 (ii) enter the details of the Member in the Register.

(e) Where an application for membership is rejected, the Chief Executive Officer (National) must give written notice to the applicant and refund any subscription fee paid.

(f) Where the National Board has rejected an application, the applicant may (within 30 days of notice of such rejection) by notice in writing addressed to the Chief Executive Officer (National) at the Federation Office appeal to the next General Meeting of Members. Such meeting may accept or reject the application. The applicant must be informed of the result of such appeal by notice in writing signed by the Chief Executive Officer (National).

(g) A Member must notify in writing the Chief Executive Officer (National) within 14 days after:

 (i) any change of address or contact details; or

 (ii) the business, or part of the business, of a Member is assigned or transferred to a person who is not a Member of the Federation.

## 9 – Representative of a Member

(a) A Member (other than an individual person) must have one individual (**Representative**) to represent them in the Federation at all times. The Representative must be a member, director, trustee or executive of the Member.

(b) A Representative is:

 (i) responsible to the Federation for their acts and omissions under these Rules, insofar as such acts or omissions are directly or indirectly related to or incidental to the business and operations of the Member; and

 (ii) personally responsible for and liable for the acts and omissions to the Federation and these Rules of the Member that they represent, insofar as such acts and omissions are directly or indirectly related to or incidental to the business and operations of the Member.

(c) The Member is liable for the acts and omissions to the Federation of its Representative, insofar as such acts or omissions are directly related to or incidental to the business and operations of the Member.

(d) A Member may appoint and remove its Representative at its discretion. A Member must advise the Chief Executive Officer (National) in writing within 14 days of any change to its Representative.

## 10 – Resignation of Members

(a) A Member may resign from the Federation by written notice addressed and delivered to the Chief Executive Officer (National).

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

 (i) at the end of 14 days after the notice is received by the Federation; or

 (ii) on the day specified in the notice;

 whichever is later.

(c) Subject to section 178 of the FW (RO) Act, any fees, levies or other dues payable but not paid by a former Member for a period prior to the Member's resignation, may be sued for and recovered in the name of the Federation, in a court of competent jurisdiction, as a debt due to the Federation.

(d) A notice delivered to Chief Executive Officer or the registered office of the Federation is taken be received on the day it is delivered.

(e) A notice of resignation that has been received by the Federation is not invalid because it was not addressed and delivered in accordance with sub rule (a) of Rule 10.

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

## 11 – Termination of membership

(a) The membership of any Member will cease upon the Member:

(i) resigning as a Member;

 (ii) being an individual, dying or being declared incapable of conducting his or her own affairs;

 (iii) being expelled from membership under these Rules;

 (iv) being an incorporated or unincorporated body, being dissolved or wound up or otherwise ceasing to exist.

(b) The National Board may terminate a Member’s Membership if the Member:

 (i) being an individual person, is bankrupted or assigns their estate for the benefit of their creditors generally;

 (ii) being a firm or partnership, its estate or the estate of each of its Members is sequestrated in bankruptcy or it or its Members assign their estate for the benefit of the creditors generally of such firm or partnership;

 (iii) being a body corporate, is placed in liquidation or a resolution is passed or an order made for its winding up;

 (iv) has a receiver or a receiver and manager appointed to control or manage its business;

 (v) subject to s. 166 of the FW (RO) Act, has been convicted of a felony or of any misdemeanour or offence under any Act by law ordinance or other law arising out of or in the course of the conduct of their business;

 (vi) has knowingly refused, or is continuing to refuse, to abide by a resolution of the National Board;

 (vii) has committed or is committing a breach of this Rules or the Rules of the Federation; or

 (viii) has engaged in or published or has knowingly been a party to or permitted or supported any untrue or misleading communication on behalf of or as or purporting to be on behalf of or as an officer or Representative or Member of the Federation;

 (ix) has Membership fees in arrears for three months.

(c) The National Board must give a Member written notice (Notice) of:

 (i) its intention to terminate their membership and the reason for the proposed termination;

 (ii) the Member’s right to respond to the Notice, in writing, by setting out the reasons why the Member maintains their membership ought not be terminated; and

 (iii) the date, not less than 14 days after the date of the notice, by which the Member is required to provide such response, if any.

(d) If, after considering any response from the Member, the Board determines that the reason set out in the notice under rule 11(c) remains unresolved, then at a Board meeting not less than, 28 days after the date of the Notice, the Board may terminate the Member’s membership.

## 12 – Register & records to be kept

(a) The Federation must keep a Register of Members setting out the names and postal addresses, trade or occupation of all Members of the Federation, and any other information required by the FW (RO) Act or Regulations.

(b) The Chief Executive Officer (National) must also cause to be kept at the Federation Office the following records:

 (i) a list of the names, postal addresses and occupations of the National Board Members and of every person holding, whether as trustee or otherwise, property of the Federation or property in which the Federation has any beneficial interest; and

 (ii) a copy of these Rules of the Federation together with any amendments.

## 13 – Fees subscriptions and levies

(a) The National Board must determine:

 (i) any application fee payable for membership in the Federation;

 (ii) the annual subscription fee for membership in the Federation;

 (iii) any levy payable by a Member to the Federation; and

 (iv) the dates upon which any fee or levy shall become due and payable.

(b) Any levy imposed upon any Member in a Financial Year under rule 13(a)(iii) must not be oppressive, unreasonable or unjust and in any event must not exceed fifty per centum (50%) of the annual subscriptions payable by such Member in respect of that Financial Year.

(c) The National Board may arrange for Civil Contractors Federation Australia Ltd ABN 89 618 345 261 (CCFA), to collect any fees or levies on behalf of the Federation, provided that CCFA is bound to and does pass all of those fees or levies on to the Federation, without any deduction whatsoever. A sum payable to the Federation by a Member is deemed to be made to the Federation on the date it is paid to CCFA.

## 14 – Annual general meeting

(a) The Annual General Meeting of the Members must be held during the months of September to December, within 15 months of the previous Annual General Meeting at such times and places within Australia or its Territories as may be determined by the National Board.

(b) At least twenty one days' notice of the Annual General Meeting and of the business to be transacted at the meeting must be given by the Chief Executive Officer (National) to all Members.

(c) The business at the AGM is to:

 (i) table the audited financial statements and the other reports required by the FW (RO) Act or these Rules;

 (ii) as applicable, elect the National Board;

 (iii) transact any other business which is under these Rules or the FW (RO) Act required to be transacted at an AGM.

(d) Rules 16 and 17 relating to the conduct of a General Meeting apply to the AGM.

## 15 – Special general meeting

(a) A Special General Meeting of Members must be convened by the Chief Executive Officer (National) at such place and time as the National Board determines within 21 days of the following:

 (i) the direction of the National Board;

 (ii) the written requisition signed by ten Voting Members of the Federation clearly setting out the business to be transacted at the meeting; or

 (iii) the requirement for a General Meeting to be called under these Rules arises.

(b) At least twenty-one days’ notice must be given to each Member of a Special General Meeting (Notice of Meeting). Such notice must clearly set out the special business to be transacted at the meeting.

(c) A Special General Meeting must deal only with the special business referred to in the Notice of Meeting.

## 16 – Chairperson at general meetings

(a) The President or in his/her absence the Vice President or in the absence of both of them, the Treasurer will take the chair at all meetings of the Federation and in the event of the absence of the President, Vice President and Treasurer those present must elect a Chairperson from amongst the Members of the National Board present at the meeting.

(b) In the case of an equality of votes the Chairperson will have a casting vote in addition to the vote to which he or she may be entitled as a Voting Member.

## 17 – Voting at general meetings

(a) Every Voting Member is entitled to one vote in relation to any business to be determined by Members.

(b) The quorum at any General Meeting is ten Voting Members present in person or by Representative or by proxy.

(c) At any General Meeting unless a poll or ballot is demanded by twenty-five per centum of the Voting Members a declaration by the Chairperson that a resolution has been carried or carried by a particular majority and an entry to that effect in the Minute Book of the Federation will be conclusive evidence of the fact.

(d) If a poll or ballot is demanded it must be taken in such manner and at such time and place as the meeting must declare or in default of such declaration as the President may appoint either at once or after an interval or adjournment or otherwise and the result of the poll or ballot will be deemed to be the resolution of those entitled to vote, in person, by proxy or by post, at which the poll or ballot was demanded. The demand for a poll or ballot may be withdrawn.

(e) Only votes cast by Voting Members are valid votes.

## 18 – National Board

(a) There must be a National Board of the Federation which must consist of nine National Board Members, including President, Vice President and Treasurer.

(b) To be eligible to be on the National Board a person must:

 (i) be a Member or a Representative of a Member; and

 (ii) not be of unsound mind or a patient under laws about mental health, or whose estate is administered under laws about mental health;

 (iii) not be disqualified as a Director under the Corporations Act or otherwise be prohibited from being a Director by reason of the operation of law;

 (iv) not be excluded from holding office in an organisation under the FW(RO) Act.

(c) As far as is practicable the Board should include:

 (i) one person from each State or Territory of Australia;

 (ii) no more than two persons from any one State or Territory.

(d) Each National Board Member will have one vote on matters before the Board.

(e) In the case of an equality of votes at a Board meeting, the President will not have a casting vote and any motion will be taken to be lost.

## 19 – Powers and duties of the National Board

(a) Subject to a decision of the Members at a General Meeting, the National Board may exercise all powers and do all things that are within the Federation’s power and which are not expressly required by the FW (RO) Act or these Rules to be exercised by the Federation in a General Meeting.

(b) Without limiting the generality of the provisions of this rule 19, the National Board, in furtherance of its objects may:

 (i) engage or employ such persons as in its opinion are necessary to carry out the business and affairs of the Federation and must determine the wages, salaries, honorariums, payments and allowances to be paid to such persons;

 (ii) appoint annually a competent person as the auditor of the Federation and shall make provision for that auditor to have full and complete access to all the books and documents of the Federation and shall ensure that the accounts of the Federation are audited yearly;

 (iii) appoint delegates and delegate power to them (which powers must be exercised in accordance with any directions of the National Board);

 (iv) appoint sub-committees to inquire and report in respect of any matter that may involve the interests of the Federation or any Member;

 (v) insofar as it may lawfully do so, initiate any proceedings of the Federation or its interest or affecting a Member of the Federation or their interest;

 (vi) have the control of any proceedings in which the Federation is a part or an intervener or appears or is represented and to appoint agents, solicitors or counsel to represent the Federation in such proceedings;

 (vii) appoint agents or lawyers to represent the Federation, any Member of the Federation or the interest of any Member of the Federation in any proceedings;

 (viii) initiate and control all steps taken to submit industrial disputes or other matters to conciliation or arbitration under Fair Work Act 2009 or the FW (RO) Act;

 (ix) undertake or facilitate the settlement of disputes between Members arising out of commercial or industrial transactions under such by laws as the National Board may from time to time make;

 (x) determine that any questions arising for determination by the Members be determined by a postal ballot held in conformity with these Rules and make by laws for the conduct of that procedure.

(c) The National Board may delegate powers to a committee of the Board which must exercise the powers delegated to it in accordance with any directions of the Board. The Board must make by laws setting out the function powers duties and role of any committee. The provisions of these Rules applying to meetings and resolutions of the Board apply, so far as they can and with any necessary changes, to meetings and resolutions of a committee, except to the extent they are contrary to any direction given under this rule.

## 20 – Returning Officers

(a) If required by the FW (RO) Act, elections for officer holders of the Federation must be conducted by a Returning Officer appointed by the Australian Electoral Commission (AEC) through arrangements with the Registered Organisations Commissioner.

(b) An Honorary Returning Officer who need not necessarily be a Member of the Federation, is to be appointed at each Annual General Meeting to monitor voting not required to be monitored by a Returning Officer appointed by the AEC.

(c) An Honorary Returning Officer must not be:

(i) the holder of any office in the Federation;

(ii) an employee of the Federation;

(iii) a candidate at any election within the Federation other than an election for the appointment of Honorary Returning Officer for the following term.

(d) The decision of a Returning Officer is final and binding regarding any matter touching the validity or formality of any nomination or vote or any matter touching or concerning such vote and the conduct of the voting process.

(e) The Returning Officer may take such actions and give such directions as are reasonably necessary to ensure that no irregularities occur in or in connection with an election or to rectify any procedural defects and no person may refuse or fail to comply with any such directions or obstruct or hinder a Returning Officer or any other person in the conduct of such an election or in the taking of any such action.

(f) In any election, each candidate is entitled to appoint any Member or Representative to act as scrutineer at the election. All scrutineers, in the case of a ballot, will be entitled to observe the admission and the counting of votes, the conduct of and the determination of the election and the declaration of the poll. In every case a scrutineer must observe the directions of the Returning Officer who must take all reasonable steps to enable each scrutineer to exercise their rights. Notwithstanding this rule 20(f) the failure of a scrutineer to exercise the scrutineer’s rights will not vitiate the election.

(g) Notwithstanding any other provision of these Rules, in respect of any matter pertaining to the conduct of an election, the Returning Officer has complete discretion to take such action and give such directions as the Returning Officer considers necessary to prevent or remedy any irregularity during an election.

## 21 – Election of National Board Members

(a) Not less than 42 days before the AGM the Returning Officer or delegate must by pre-paid post:

 (i) invite nominations for vacant positions on the National Board; and

 (ii) notify all Contractor Members or their Representatives as to the closing time for nominations which must be not less than 14 days after the notice.

(b) Nominations for candidates for vacant positions on the National Board must be in a form prescribed by the National Board.

(c) Any ten Voting Members may nominate an eligible person as a candidate for election.

(d) Upon receipt of nominations the Returning Officer must determine whether and if so which of such nominations are in order. If the Returning Officer finds any nomination to be defective they must, before rejecting it, notify the nominator of the defect and where it is practicable to do so, give the nominator not less than seven days to remedy the defect.

(e) If only the required number of nominations to fill any vacancy is received, the Returning Officer must by notice addressed to the Chief Executive Officer (National) forthwith declare the person or persons so nominated elected unopposed.

(f) If more than the number of nominations required to fill any vacancy is received an election must be held by a secret postal ballot of all Voting Members.

(g) The Returning Officer must:

 (i) advise all Contractor Members or their Representatives of the closing date and hour for the receipt of returned ballot papers;

 (ii) provide to each Contractor Member or their Representative not less than twenty-one days prior to the closing date of the ballot a ballot paper, a declaration envelope and another envelope in a form consistent with the Fair Work (Registered Organisations) Regulations 2009 enabling a Member to (without charge) return the ballot paper to the Returning Officer;

 (iii) have a process to allow for absent voting to enable a person to receive the ballot paper at an address different to that on the Register.

(h) The roll of voters for any ballot will close seven days before the day on which nominations for the election open.

(i) If the Returning Officer is satisfied that a ballot paper has been destroyed, lost, damaged, or misused they may supply to the person to whom the original ballot paper was supplied a substitute ballot paper.

(j) Immediately after the closing time for the receipt of returned ballot papers the Returning Officer must, in the presence of any scrutineers in such manner as to preserve the secrecy of the ballot, count the votes.

(k) Any vote in respect of the election of a person to an office will be informal and have no effect if:

 (i) A ballot paper gives the identity of the voter.

 (ii) The ballot paper is not contained in an envelope.

 (iii) A consecutive number has not been placed in each square commencing with the number ‘1’.

 (iv) It has been received after the notified closing date and hour.

 (v) The ballot paper does not comply with the instructions printed on it.

 (vi) It is by a person who is not a Voting Member.

(l) The voting system used to elect a National Board Member will be a preferential voting system, as follows:

 (i) A voter must record their vote on a ballot paper by placing the figures 1 2 3 4 (and so on) against the names of each and every candidate so as to indicate by such numerical sequence the order of their preference.

 (ii) in relation to any vacant position on the Board, a candidate who receives an absolute majority of first preference votes will be eligible to be declared elected.

 (iii) in relation to each vacant position on the Board, if no candidate receives an absolute majority of first preference votes, the Returning Officer must proceed as follows:

 (A) if one only of the candidates receives fewer first preference votes than any other candidate, that candidate’s preferences must be distributed between the other candidates.

 (B) if such distribution results in a candidate receiving an absolute majority of votes that candidate will be eligible to be declared elected.

 (C) if after such distribution, no candidate has an absolute majority of votes, the process must be repeated until one candidate has received an absolute majority of votes and is then eligible to be declared elected.

 (iv) In the case of a tie between candidates for election, the Returning Officer must draw lots.

(m) The result of the ballot must be declared during the Annual General Meeting in an election year by the Returning Officer.

(n) Each person elected to the Board will take up that office immediately their appointment has been declared by the Returning Officer.

(o) The Chief Executive Officer must retain all documents used in connection with an election and keep them in safe custody at the Federation Office for a period of one year after the date of the election.

**22 – Casual vacancies– National Board Members**

(a) Where a vacancy occurs within the first ¼ of the term of the office an election shall be held as soon as practicable in accordance with these Rules with the necessary changes being made. The Returning Officer shall declare the successful candidate duly elected immediately following the completion of the election and the person elected shall hold office for the remainder of the term. For the purposes of this rule the unexpired portion of the term of office is measured from the date the vacancy arises.

 (i) **President, Vice President, Treasurer** – an election under Rule 25 with the necessary changes being made is to be held to fill the position of President, Vice President or Treasurer;

 (ii) **National Board Member** - an election under Rule 21 with the necessary changes being made is to be held to fill the position of National Board Member.

(b) Any casual vacancies in the membership of the National Board for a period less than ¾ of the term of office shall be filled as follows:

 (i) **President, Vice President, Treasurer** – shall be filled by the appointment of a National Board Member chosen by the National Board;

 (ii) **National Board Member** – the National Board may appoint a qualified member to fill a vacant position of National Board Member.

(c) In every case, the person filling the vacancy shall hold office until the Annual General Meeting of the Members of the Federation in the next election year when they shall be eligible for re-election.

## 23 – Term of National Board Member

Each National Board Member must retire from office at the fourth AGM following his or her appointment as a Board Member and if eligible and nominated may be re-elected. The term of office of each National Board Member shall cease upon their successor being declared elected in the fourth AGM following their election.

## 24 – End of office of National Board Member

(a) A National Board Member may resign from the Board by giving one months written notice to the Chief Executive Officer (National).

(b) The office of a National Board Member is vacated:

(i) upon the National Board Member resigning office by written to the Chief Executive Officer;

(ii) upon the person’s term of office expiring;

(iii) upon the person’s removal as a National Board Member by the Members under rule 24(c) of these Rules;

(iv) upon the person ceasing to be eligible for office under the criteria set out in rule 18(b) of these Rules.

(c) A person may be removed from the National Board only on the grounds set out in section 141 (1) (c) of the FW (RO) Act, by a special resolution of Voting Members at a General Meeting of which the Contractor Members have been given 21 days' notice of the meeting and of the resolution to be passed and at which the National Board Member has been given the opportunity of being heard.

## 25 – President, Vice President and Treasurer

(a) The term of office of the President, Vice President and Treasurer is up to one year ending immediately upon the declaration of the election conducted pursuant to this Rule 25.

(b) Immediately after the conclusion of each AGM, the National Board shall hold a meeting to elect the President, Vice President and Treasurer by and from the National Board Members for the next term.

(c) The election shall be conducted by a Returning Officer appointed by the AEC.

(d) No person may hold simultaneously more than one office of President, Vice President and Treasurer.

(e) The offices will be elected sequentially. The returning officer shall conduct the election for the President first. The election of the Vice President shall be conducted immediately afterwards, followed by the election of the Treasurer. A person elected to one office shall not be eligible to nominate for any remaining office.

(f) The Returning Officer shall commence the election by calling for nominations for the office of president. This shall occur immediately after the meeting’s formalities have concluded

(g) Subject to sub-rule (e), each Board Member is entitled to nominate a Board Member (including himself or herself) the office of President, Vice President or Treasurer.

(h) Where the Returning Officer finds that a nomination is or may be defective, the Returning Officer shall, before rejecting the nomination, notify the person concerned of the defect and give the person a reasonable amount of time to remedy the defect.

(i) If the number of valid nominations for any of the offices of President, Vice President and Treasurer does not exceed the number of positions to be filled, the Returning Officer shall forthwith declare the person so nominated elected unopposed.

(j) If no nominations are received for any of the offices of President, Vice President or Treasurer, the Returning Officer shall call for nominations for the particular office a second time.

(k) If more than one valid nomination is received for an office, the Returning Officer shall conduct a secret ballot of the members of the National Board.

(l) The voting system shall be a first-past-the-post system.

(m) each ballot paper, initialled by the Returning Officer, shall set out-

 (i) the title of the office to be elected;

 (ii) the names of all candidates for election in alphabetical order;

 (iii) instructions that the system of voting shall be known as "first past the post", that no voter shall mark their ballot paper so as to vote for more than one candidates and that any ballot paper marked contrary to this provision shall be invalid and the votes cast thereon shall be informal

(n) The Returning Officer shall provide for the use of absentee voting so that any member of the National Board who expects to be absent from the meeting shall be entitled to exercise their secret ballot, where practicable, in such manner as the Returning Officer determines is practicable.

(o) Each candidate shall have the right to appoint, before the close of the ballot, a scrutineer to represent them at the ballot and shall give notice of any such appointment to the Returning Officer.

(p) Every scrutineer shall, so far as is possible have the right:

 (i) to be present when the ballot papers are being forwarded, to be present when the ballot papers are opened and when the votes are counted and to watch the interests of the person whom they represent; and

 (ii) to question the inclusion or exclusion of any ballot paper but the decision of the Returning Officer shall be final and determinative.

 but no election shall be vitiated by reason of the fact that a scrutineer does not exercise any or all of their rights or duties if they have a reasonable opportunity to do so.

(q) Scrutineers must not remove, mark, alter or deface any ballot paper or other documents used in the ballot.

(r) If two or more candidates each receive the same number of votes, the Returning Officer shall decide by lot which candidate is to be elected.

(s) The Returning Officer shall declare the result of the election after the conclusion of the ballot.

(t) Each person will commence their term of office immediately upon being declared elected and shall hold office until their successor is declared elected.

(u) The role of the President includes:

(i) presiding as Chairperson at all General Committee meetings, Sub-Committee meetings and general meetings of financial members;

(ii) upon the confirmation of the minutes sign the minute book;

(iii) direct the calling of any meeting;

(iv) be responsible for ensuring, as far as is practicable, the observance and performance of these rules.

(v) The role of the Vice President includes:

(i) assisting the President in coordinating the activities of the organisation;

(ii) in the absence of the President, the Vice President will exercise the powers, and carry out the duties, of the President.

(w) The role of the Treasurer includes:

(i) ensure that all monies received on behalf of the Federation are deposited, in accordance with these rules, as soon as practicable in the bank accounts of the Federation;

(ii) prepare an annual budget for presentation to, and approval by, the National Board;

(iii) liaise with the auditor; and

(iv) ensure that the requirements of the Act for financial reporting by the Federation are complied with.

## 26 – Meetings of National Board

(a) The National Board must meet at least three times each year and may regulate its meetings as it thinks fit.

(b) Meetings of the National Board may be held at the call of the President, or, in the President’s absence, the Vice President, or at the request of at least two other National Board Members.

(c) At every meeting of the National Board:

(i) a simple majority of the National Board Members will constitute a quorum;

(ii) the National President will be the Chair or in the President’s absence such other Board Member as the Board determine;

(iii) each National Board Member has one vote;

(iv) questions arising are to be decided by a majority of votes;

(v) the Chairperson will not have a casting vote, so in the event of an equality of votes the motion will be taken to be lost.

(d) Wherever possible, at least ten days' written notice must be given of a National Board meeting and the nature of the business to be discussed at the meeting, provided, however, that the National Board may consider additional matters if a majority of the National Board Members agree.

(e) A resolution in writing of which notice has been given to all National Board Members and which is signed or consented to by all of the National Board Members entitled to vote on the resolution is as valid and effectual as if it had been passed at a meeting of the National Board Members duly called and constituted and may consist of several documents in the same form, each signed or consented to be one or more of the National Board Members. A National Board Member may consent to a written resolution by:

(i) signing the document containing the resolution (or a copy of that document);

(ii) giving written notice (including by electronic means) to the Chief Executive Officer or to the President assenting to the resolution and either setting out its terms or otherwise clearly identifying them.

(f) The National Board may hold a Board meeting by the contemporaneous linking together by telephone or other electronic means and all the provisions in this constitution relating to meetings of the directors apply, as far as they can and with any necessary changes, to meetings of the directors by telephone or other electronic means.

## 27 – Disclosure by the Federation and Officers

(a) Part 2A of Chapter 9 of the FW (RO) Act applies to the Federation and its officers, as applicable.

(b) In so far as Part 2A of Chapter 9 of the FW (RO) Act imposes an obligation upon an officer of the Federation that obligation is also owed by an officer under these rules.

(c) A breach of Part 2A of Chapter 9 of the Act by any officer, is taken to be a serious breach of these rules for the purposes of rule 141(i)(c) of the FW(RO) Act.

## 28 – Minutes of meetings

The National Board must cause proper minute books to be made in which are recorded proceedings and resolutions of meetings of the Federation and the National Board. Any minute signed by the Chairperson of such meeting or by the Chairperson of a succeeding meeting must be conclusive evidence without further proof of the facts therein stated. The minutes of the general meetings of the Federation must be open to the inspection of any Member without charge.

## 29 – Financial records

(a) Proper books and financial records must be kept recording the financial affairs of the Federation.

(b) The Board must appoint a Registered Auditor for the Federation and allow the auditor to have full and complete access to all the books and documents of the Federation to enable the annual financial statements for each Financial Year to be audited.

(c) The Federation must comply with the relevant accounting, financial reporting and audit requirements of the FW (RO) Act or other applicable law which replaces it.

(d) Each Officer of the Federation whose duties include financial duties must undertake training as referred to in Division 4 of Chapter 9 of the FW (RO) Act.

(e) The National Board must have by- laws or a policy relating to the expenditure of the organisation in

 accordance with the FW (RO) Act to ensure all payments by the Federation are in accordance with

 sound business practice.

## 30 – Examining books, records and accounts by Members

The Register, annual audited accounts, annual report, and a copy of the Rules of the Federation must be made available for inspection by a Member of the Federation upon reasonable notice to the Chief Executive Officer.

## 31 – Application and control of funds, property

(a) The funds of the Federation must only be applied in furtherance of its objects.

(b) All property acquired by the Federation vests in the Federation.

(c) No Member has any transmissible or assignable interest in the property or income of the Federation.

(d) The funds of the Federation shall be applied to the maintenance of the Federation and the furtherance of its aims and objects. However, the National Board by a three-fourths majority may apply a portion of the funds to charity or to the recognition of special services rendered to the Federation.

(e) The National Board may also invite Members to voluntarily subscribe to a fund for charitable or special purposes and in such cases shall apply such funds in full to the purpose for which they were subscribed. In the event of any such fund officially closing prior to all such subscribed moneys being received by the Federation, or in the case of a special purpose ceasing to exist suddenly, then the National Board shall determine whether such late receipts or any surplus shall be deposited in a special account to be used for a similar purpose to the one for which such funds were collected or be distributed as the National Board deems advisable.

(f) The current funds of the Federation shall be deposited in such a bank as the National Board shall from time to time direct in the name of the Federation. All moneys received shall be deposited in such bank. Provided than an amount as may be determined from time to time by the National Board shall be retained in cash in the Federation's registered office for the purpose of petty cash.

(g) All payments shall be certified by the Treasurer and approved or confirmed by the National Board. All cheques shall be signed by the Treasurer, or in their absence the President or a Vice President, and countersigned by the Chief Executive Officer (National) or such additional countersigning officer, being an employee of the Federation as the National Board may authorise by resolution.

(h) Any portion of the Federation's current funds may by resolution of the National Board be invested for the benefit of the Federation and on behalf of the Federation.

(i) All property which may be acquired or be purchased with the moneys of the Federation or be donated to the Federation shall be vested in the Federation and the National Board shall have power to control and invest the same in the name of the Federation.

## 32 – Loans, grants and donations

(a) No loan, grant or donation exceeding $1,000 must be made by the Federation unless the National Board:

 (i) has satisfied itself:

 (A) that the making of the loan, grant or donation would be in accordance with the Rules of the Federation; and

 (B) in case of a loan - that, in the circumstances, the arrangements for security and repayment of the loan are satisfactory; and

 (ii) has approved the making of the loan, grant or donation;

(b) Paragraph (a) does not apply to payments made by the Federation by way of provision for, or reimbursement of, out of pocket expenses incurred by persons for the benefit of the Federation.

## 33 – Seal

(a) The Federation must have a Seal which must:

(i) only be used with the authority of the National Board;

(ii) be in the custody of the Chief Executive Officer (National).

(b) Every document to which the Seal is affixed must be signed by at least two National Board Members or other persons appointed by the Board for the purpose.

(c) The Board may affix a signature by mechanical means.

(d) The use of the Seal must be recorded in a Seal Register.

(e) Any other document not required by law to be under Seal must be executed by such person or persons as the National Board may from time to time appoint, or in the case of an emergency or an urgent need by such person or persons as the Chief Executive Officer (National) may appoint.

## 34 – Federation Emblem

(a) The Federation Emblem must be:

(i) in a form determined by the National Board; and

(ii) used on Federation Stationery and all Federation Publications.

(b) Members are prohibited from using or reproducing the Federation Emblem.

## 35 – Membership Emblem

(a) The Federation Membership Emblem shall be in a form determined by the National Board.

(b) The production or use of the Federation Membership Emblem may only be permitted by a signed agreement entered into by the Member and the Chief Executive Officer (National) on behalf of the Federation, and only for a purpose set out in a by law of the National Board by law.

## 36 – Agreements and industrial disputes

(a) The National Board may:

(i) make, enter into, and execute any industrial agreements within the meaning of the *Fair Work Act 2009* or the FW (RO) Act or any other law for the time being in force;

(ii) alter, vary, amend, modify, or cancel from time to time any industrial agreement as aforesaid;

(iii) do all acts and things necessary to give effect to any such industrial agreement.

(b) All industrial agreement made or entered into and any alternations, variations, amendments, modifications and cancellations must be signed by the National President (or in the President’s absence the Vice President) and the Chief Executive Officer or in his or her absence some other person appointed by the National Board and must be sealed with the seal of the Federation.

(c) If there is an industrial dispute, in more than one State, affecting any of the members of the Federation, the National Board must take all necessary steps to notify the appropriate authorities specified by law, and will also endeavour to settle such dispute by means of conciliation and arbitration.

(d) The National Board may do or authorise to be done all such acts and things as are deemed necessary in connection with the submission of any interstate industrial dispute to arbitration.

## 37 – Indemnification of members, office bearers and employees

Every Office-Bearer, Board Member, Member or employee of the Federation must be indemnified against (and it must be the Federation's duty out of its funds to pay) all costs, losses, charges and expenses which any such Office-Bearer, Board Member, Member or employee of the Federation may incur or become liable for by reason of any contract entered into, or act or deed done by them in the discharge of any duty in accordance with these Rules, unless the same shall be due to:

(a) the dishonesty of the person; or

(b) the gross negligence or recklessness of the person.

## 38 – Notices

(a) The Federation may give a notice to a Member by:

(i) delivering it personally;

(ii) sending it by prepaid post to the Member’s address in the Register or any other address the Member gives the Federation for notices; or

(iii) sending it by electronic means to the electronic address the Member gives the Federation for notices.

(b) Where a Member does not have a registered address or where the Federation believes that Member is not known at the Member’s registered address, all notices are taken to be:

(i) given to the Member if the notice is exhibited in the Federation’s Office for a period of 48 hours; and

(ii) served at the commencement of that period,

unless and until the Member informs the Federation of the Member’s address.

(c) A notice from the Federation properly addressed and posted is taken to be given and received on the fourth day after the day of its posting.

(d) A notice sent or given by electronic transmission is taken to:

(i) be effected by properly addressing and transmitting the electronic transmission; and

(ii) have been given and received on the day of its transmission.

(e) Where a given number of days notice or notice extending over any other period must be given, the day of service is not to be counted in the number of days or other period.

(f) The Federation may give a Member any information it is required to provide to the Member under these Rules by publishing the information on its information system (website) and giving the Member notice by electronic means that the information is available if the Member consents to the Federation providing that information in that way and the Federation leaves that information on its website for at least 28 days. To clarify this rule does not apply to the documents required to be provided to the Members by the returning officer under rule 21(g).

## 39 – Alteration to Rules

(a) These Rules may be amended or repealed by special resolution at a General Meeting of Members, provided that such amendment must be in accordance with any law under which the Federation is registered (the Law).

(b) If the adopted amendment does not comply with the said Law then the National Board may reframe the proposed amendment to comply with the said Law.

(c) Any amendment to the Constitution, upon registration, must be advised to all Members in writing by the Chief Executive Officer (National).

(d) If following the submission of these Rules for registration under the FW (RO) Act an objector or the Fair Work Commission raises an objection to any of the rules in the rules and such objection requires amendment to the Rules the National Board may make the necessary alterations subject to any conditions which may be prescribed under the FW (RO) Act.

## 40 – Dissolution of the Federation

(a) The Members may at a General Meeting by special resolution determine to dissolve the Federation.

(b) Upon the dissolution, the debts and the liabilities of the Federation must be discharged out of the property of the Federation.

(c) Upon the dissolution, any surplus property must be given or transferred to some other association or institution having objects similar to the objects of the Federation which association or institution is to be determined by the Members of the Federation at or before the time of dissolution and if and so far as effect cannot be given to the aforesaid provisions then to some association or institution with charitable objects.

## 41 – Irregularities

(a) Subject to any order of a Court:

(i) no act or omission done or omitted in good faith in or in connection with the summoning of any meeting under these Rules will invalidate the proceedings at the meeting unless a later meeting of the body in question is satisfied that there was irregularity in or in connection with the summoning of the earlier meeting and resolves that the proceedings at the earlier meeting are to be treated as invalid;

(ii) all acts done in good faith by all concerned by any meeting of the National Board or by an Officer of the Federation must, notwithstanding that it is afterwards discovered that there was some defect in the appointment or election of any member of the body in question or of any such Officer, be as valid as if every such member of the body or Officer had been duly appointed or elected;

(iii) any irregularity in any election or appointment of or any act or thing done by any body or officer within the Federation will be rendered regular if approved by a two thirds majority of Voting Members of the Federation voting in a ballot conducted in good faith.

(b) A meeting summoned to consider a specified question or specified questions will not be irregular if it considers and deals with other questions or business of which notice is not required under this Constitution.

(c) Notwithstanding the provisions of this rule no penalty may be imposed by the National Board on a Member unless the meeting of the National Board was summoned in accordance with these Rules and unless the persons voting for the resolution imposing the penalty and participating in the debate upon the resolution were regularly elected or appointed National Board Members.

## 42 – Transition

Upon the adoption and certification of this amended Constitution:

(a) all of the existing Branches of the Federation will be automatically disbanded and the office of each of the State Branch Boards Members will automatically cease; and

(b) all Branch Funds and property will remain vested in the Federation.

(c) For the avoidance of doubt, the holders of the office of National Board Member immediately before the adoption and certification of this amended Constitution will continue to hold office until their terms of office expire upon the Returning Officer issuing the declaration of the elections held during the AGM in 2019 referred to in rule 21.

(d) For the avoidance of doubt, the holders of the offices of:

 (i) National President;

 (ii) National Vice-President; and

 (iii) National Honorary Treasurer

immediately before the adoption and certification of this amended Constitution will continue to hold office until their terms of office expire upon the Returning Officer issuing the declaration of the elections for the offices of President, Vice President and Treasurer held immediately after the AGM in 2019 referred to in rule 25.

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