

# Proposed MEAA Rule Changes

**NOVEMBER 2018**

## Summary of Proposed Amendments

### **RULE 2 – OBJECTS**

To remove any doubt that MEAA can enter into relationships with unions and other entities outside Australia, it is proposed that MEAA amend the objects at rules 2(u) and 2(v) in the sub-section entitled 'Co-operation with other bodies' by adding the words, 'whether in Australia or overseas' in the context of 'amalgamating, absorbing, affiliating, co-operating, providing financial assistance and participate in bodies with similar MEAA's objects.

### **RULE 3 – INDUSTRY**

The purpose of amending rule 3 is to update terminology for places where entertainment work is performed and clarify MEAA's coverage of musicians.

### **RULE 4 – ELIGIBILITY**

The purpose of amending rule 4 is to clarify MEAA's coverage of musicians by removing the exclusion of 'instrumental musicians other than variety artists'.

### **RULE 5 – DEFINITIONS**

MEAA's rules currently include two different definitions of 'officer'. This duplication may cause confusion should the question of who is an 'officer' have to be defined in the future. It is proposed that rule 5(i), which reflects the statutory definition in the Fair Work (Registered Organisations) Act 2009 – and which was the most recently added definition of 'officer' - be deleted on the grounds that rule 5(u) better reflects MEAA's governance and operations in so far as this definition of officer is concerned with elected officers only.

### **RULE 10 – SUBSCRIPTIONS**

MEAA needs to make clear that if union dues are paid through or by an employer, the arrangement must have the consent and knowledge of the member concerned.

**Rule 10(d)** contains an errant subclause 10(d), which refers to 'not certified'. The term 'not certified' has no recognised meaning within the rule. It is proposed that 10(d) 'not certified' be deleted from the rule and that the remaining sub-clauses be adjusted accordingly.

### **RULE 16 – RESIGNATION FROM MEMBERSHIP**

This amendment is to provide associate members with the same rights to resign membership as full members.

### **RULE 46 - CONTROL OF FEDERAL COUNCIL BY MEMBERS VIA PLEBISCITE**

Rule 46 provides that decisions of members voting by plebiscite shall bind the union unless overturned by a subsequent plebiscite or, once a period of 25 years has elapsed, by a decision of the Federal Council. It is proposed that the preservation of such decisions be reduced from 25 years to a more practical period of 5 years.

### **RULE 50 - CHIEF EXECUTIVE'S POWER OF DELEGATION**

Current rule 50(n)(ii) has been interpreted as potentially restricting the MEAA Chief Executive's ability to delegate his or her duties to senior MEAA employees, defined in MEAA rule 5 as a 'person appointed to the

position of Director'. For clarity's sake, it is proposed that rule 50(n)(ii) be amended and divided into two sub-clauses.

The first sub-part, proposed rule 50(n)(ii), states that the Chief Executive is duty-bound to 'act generally according to the direction of the Federal Council and the Board and to supervise and manage the work of *senior* employees and the industrial and office staff'.

The second sub-clause, proposed rule 50(n)(iii), would more clearly illustrate that the Chief Executive's discrete duties include the power 'to delegate any of these powers and duties, other than the power of delegation, to 'any senior employee'.

Consequential renumbering of sub-clauses 50(n)(iv) and following will then be required.

### **Section 8 - RULES 66 to 69 – JOURNALISTS CODE OF ETHICS**

A range of proposed alterations clarify the respective roles of the Ethics Committee, the Complaints Panel and the Appeals Panel, which consider and determine charges against MEAA's journalist members alleged to have breached the Australian Journalists Code of Ethics, as set out in MEAA rule 65.

Proposed amendments to Section 8, Journalists Code of Ethics, were considered and approved at a meeting of the union's National Media Section (NMS) in accordance with rule 75(d) – which requires amendments affecting one section of the union (in this case, the NMS) to be approved by that section *before* all federal councillors may deliberate on such amendments. All proposed alterations to rules 66, 67, 68 and 69 were considered and approved at NMS meetings held in December 2017 and 23 February 2018.

MEAA's rules currently use the names of the Ethics Committee, the Complaints Panel and the Appeals Panel interchangeably. This can generate confusion for complainants and those alleged to have breached the Code of Ethics. The proposed amendments remedy these errors. Further proposals concern time limits. These will aid the efficiency and overall consideration of ethics complaints.

#### **Rule 66**

Proposed alterations to **rule 66(a)(ii)** clarify that a journalist summoned to a meeting aimed at considering an alleged breach of the Code of Ethics without sufficient excuse commits an offence if they do not attend a meeting of the Complaints or Appeals Panel, not the Ethics Committee. The former two bodies exercise deliberative functions with respect to alleged breaches of the Code of Ethics; the Ethics Committee does not perform this function.

#### **Rule 67**

Proposed alterations to **rule 67** seek to amend erroneous references to the Ethics Panel in the title and body of this rule by changing references to Ethics Panel to Ethics Committee, which is the name of overarching body that determines the processes and operations of the Ethics complaints system. The current rules erroneously ascribe this function to the Ethics *Panel* in the **title** of the rule. Proposed changes from Ethics Panel to Ethics Committee are set out in the title to **rule 67, 67(a)(i), 67(a)(ii), 67(d), 67(e), 67(f) and 67(g)**.

Proposed alterations to **rule 67(a)(i)** use more direct and contemporary language to refer to the section committee which represents the interests of MEAA's journalist members. For example, the existing reference to 'Rule 4, Part C' is a reference to the union's journalist members, who are in turn members of the union's 'National Media Section'. Further proposed amendments to use 'National Media Section Committee' in place of 'Section Committee' are set out in **rules 67(c) and 67(d)**.

## Rule 68

Proposed alterations to **rule 68(a)** clarify that persons alleging a breach of the Code of Ethics lodge their complaint with the President of the National Media Section, not the Ethics Panel. MEAA also seek to reassemble the terms of rules 68(a) and 68(b) to aid clarity.

It is further proposed that **rule 68(a)** include a new six month time limit within which complaints must be lodged with the Ethics Committee. There is presently no time limit.

The proposed rule 68(a) states:

- (a) Any person may write to the President of the National Media Section alleging that a member of the Alliance employed or engaged in journalism has acted contrary to Rule 65. The complaint must be in writing and set out the allegations fully and clearly. Anonymous or oral complaints shall not be received or progressed. Any complaint must be lodged within six months of the first publication of the material that is the subject of a formal complaint.

Proposed amendments to rule 68(b) make clear that it is the Complaints Panel, not the Ethics Panel, that has the discretion to determine the path of an ethics complaint.

The proposed rule 68(b) states:

- (b) A Complaints Panel shall have the right to refuse to receive, investigate or make a decision upon any complaint which in the opinion of the majority of the Panel members considering a complaint does not come within the provisions of the Code of Ethics or is vexatious, frivolous or trivial. The Panel shall publish reasons for such a refusal.

Further changes from Ethics *Panel* to Ethics *Committee* are proposed for rules **68(c), 68(d), 68(e) and 68(k)**.

It is further proposed that the reference to 'Media Section' in rule **68(d)** be amended to 'National Media Section' for the reasons set out above.

MEAA also seeks to amend its rules to include a **new 68(f)(iv)**. This amendment seeks to impose a new time limit of 60 days within which further information requested by a Complaints Panel is to be provided. Where a complainant does not provide the further information, this enlivens the Complaints Panel's ability to potentially dispense with a complaint.

If the proposed inclusion of a new rule **68(f)(iv)** is approved, following sub-clauses in rule 68(f) will require renumbering.

MEAA seeks to correct an apparent grammatical error in line 5 of **rule 68(h)** by inserting a comma between the words 'observed' and 'that'.

## Rule 69

Proposed alterations to rule 69 include fixing typographical errors and correcting titles to internal bodies to ensure clarity and consistency.

The proposed changes to rules **69(b), 69(c) and 69(f)(i)** are typographical – using the term 'Appeals' instead of 'Appeal'.

The proposed change to rules **69(d)** and **69(e)** clarify that references to the union's 'Media Section' mean the union's '*National Media Section*'.

The proposed changes to rules **69(e)**, **69(f)**, **69(f)(i)** and **69(i)** clarify that certain rights and duties are exercisable by the *Ethics Committee*, not the Appeals Panel.

The proposed change to rule **69(f)(iv)** is editorial in nature.

#### **RULE 71 – OFFENCES AND COMPLAINTS**

The purpose of this proposed amendment is to clarify that associate members are subject to this rule.

#### **RULE 73 – CHARGES AGAINST MEMBERS**

The purpose of this proposed amendment is to clarify that associate members are subject to this rule.

Should proposed alterations to rule 73 be supported by the Fair Work Commission, MEAA seek to amend the title of rule from 'Charges against Members', to 'Charges Against Members *and Associate Members*'.

#### **RULE 75 - NEW RULES AND ALTERATIONS OF RULES**

MEAA's rules do not prescribe a numeric requirement for the approval or otherwise of proposed rule changes. It is proposed that the required majority for rule changes be a 'simple majority of eligible federal councillors'.

#### **RULE 79 – ELECTIONS**

The Australian Electoral Commission raised a question concerning the relevant voting constituencies when Section – as opposed to general – positions are to be determined through a ballot. Rule 79(g) presently requires a 'secret postal ballot of all<sup>1</sup> financial members of the Branch'. For example, if a ballot were to be conducted for a Media Section delegate for a MEAA Branch, the relevant voting constituency would be journalists and members from the Equity (actors) Section, Entertainment, Crew and Sport Section and the Musicians Section. It is proposed that Branch section positions be voted upon by the relevant Section members only.

##### **Rule 79(k) System of Voting**

This rule is internally contradictory. It states that the system of voting to apply to elections shall be the optional preferential system, but then requires members to vote for at least the number of vacancies to be filled in each position. Optional preferential voting cannot require an elector to vote for at least the number of vacancies in each position. It is proposed that the word 'optional' be deleted from the rule.

##### **Rule 79(u) Insufficient Nominations**

Sub-rule 79(u) mistakenly refers to sub-rule 79(u). This is a product of cross-referencing not keeping pace with past changes to MEAA's rules. It is proposed that the rule be amended to change the reference to sub-rule 79(w), which deals with casual vacancies.

##### **Rule 79(w) – Casual Vacancies**

MEAA's rules restrict the union's ability to fill casual vacancies in circumstances other than the departing officer 'dying, resigning or being removed from office'. It is proposed that MEAA broaden the range of circumstances to generally take account of all contingencies leading to an officer leaving a position, while preserving the requirements of section 146(2) of the *Fair Work (Registered Organisations) Act 2009*.

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<sup>1</sup> Emphasis added