

Order Entered

**IN THE FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY
GENERAL DIVISION**

No: **(P)VID459/2010**

HEALTH SERVICES UNION
Applicant

ORDER

JUDGE: Justice Jessup

DATE OF ORDER: 25 June 2010

WHERE MADE: Melbourne

THE COURT DECLARES THAT:

1. The Queensland Branch (“the Branch”) of the Health Services Union (“the Union”) has ceased to function effectively.
2. There are no effective means under the rules of the Union or the Branch by which the Branch can be enabled to function effectively.
3. The offices of Branch Senior Vice-President, Branch Junior Vice-President, Branch Assistant Secretary and 2 ordinary members of the Branch Committee in the Branch are vacant and there are no effective means under the rules of the Union or the Branch to fill those offices.

THE COURT ORDERS THAT:

4. The Scheme referred to in the Schedule to these orders be approved for the taking of action by the National Executive of the Union to enable the Branch to function effectively.
5. Pending the implementation of the scheme, no step be taken, otherwise than in accordance with the Scheme, to conduct an election for any office in the Branch.

6. The Union and the Administrator under the Scheme have liberty to apply on 72 hours' written notice.

Date that entry is stamped: 25 June 2010

Deputy District Registrar

SCHEDULE

SCHEME TO ENABLE THE QUEENSLAND BRANCH OF THE HEALTH SERVICES UNION TO FUNCTION EFFECTIVELY

1. On the making of the Order approving the Scheme the National Executive shall forthwith declare all elected offices in the Branch to be vacant as of the date of the appointment of the Administrator in paragraph 2 below and from that date such offices shall be vacant.
2. Ms Kathy Jackson, the National Secretary of the Union, is appointed as Administrator of the Branch from 29 June 2010 until the declaration of the results of the elections referred to in paragraphs 3 to 7 below.
3. The Administrator shall have all of the powers of the Officers of the Branch and the Branch Committee under the Rules of the Union provided that the Administrator shall not have power to repeal, add to or amend the Rules of the Branch.
4. The Administrator shall compile a Register of members of the Branch. When she is satisfied that the Register is of sufficient accuracy that it can be used for the purposes of establishing a roll of persons eligible to participate in an election for offices in the Branch, she shall in writing request the General Manager of Fair Work Australia to arrange for the conduct of an election of all offices in the Branch by the Australian Electoral Commission.
5. The Administrator must do all things necessary to facilitate the conduct of the election including all those things required to be done by a Committee of Management of an organisation under s 189 of the *Fair Work (Registered Organisations) Act 2009* (Cth).
6. For the purposes of the conduct of the election for the offices in the Branch the operation of the Union's Rules shall be modified to the following extent:

- (a) Notwithstanding rule 51, the Branch Committee of the Branch shall consist of a Branch President, a Branch Vice-President, a Branch Secretary and two Trustees.
 - (b) Notwithstanding any Rule of the Union each member of the Branch shall on and from the day on which the Returning Officer calls for nominations for election to each of the offices be deemed to be a financial member of the Union for the purposes of:
 - (i) being nominated for any such office; or
 - (ii) holding any such office; or
 - (iii) nominating any person for election to any such office; or
 - (iv) voting in the election for any such office.
 - (c) If at any time after the Returning Officer calls for nominations for an office any member of the Union has failed to pay any amount of contributions to the Union equivalent to an amount in excess of thirteen (13) weeks of such contributions due from that member, his or her financial status for the purposes of this Scheme shall be determined in accordance with the Union's Rules as though that member was financial at all times prior to the date of calling for nominations for that office.
 - (d) For the removal of doubt this Scheme does not operate retrospectively to confer any other right on any member to be treated as a financial member in respect of any event occurring prior to the date of calling for nominations for that office.
 - (e) The persons elected to any office shall, notwithstanding any Rule of the Union, commence to hold office from the date on which they are declared to be elected.
7. (a) The elections shall otherwise be conducted in accordance with the Rules of the Union insofar as it is practicable to apply them.
- (b) The elections shall be conducted as quickly as practicable.