

Application for Consent to the Alteration of Rules of an Organisation (Non-Eligibility)

IN FAIR WORK AUSTRALIA

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FWA Matter No.:

APPLICATION FOR CONSENT TO THE ALTERATION OF RULES OF AN ORGANISATION (Non-Eligibility)

Fair Work (Registered Organisations) Act 2009 – s 159

Fair Work (Registered Organisations) Regulations 2009 - Reg 126

Applicant Organisation

Name:	National Electrical Contractors Association		
		ABN:	78 319 016 742
Address:	Level 4, 30 Atchinson Street		
Suburb:	St Leonards	State: NSW	Postcode: 2065
Contact person:	Mr James Tinslay		
	Title	Chief Executive Officer	
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The Applicant applies for consent to the alteration of the rules of the organisation (non-eligibility) to the following:

1. Particulars of Alteration

Amend the National Electrical Contractors Association (NECA), Queensland Chapter Rules as follows:

- (a) New definition of “License Holder” under Clause 2 – Definitions – as per annexed Schedule 1; and
- (b) Amend the existing Rule 5 – Management – as per annexed Schedule 1.

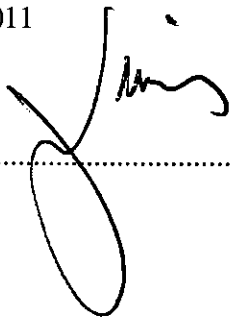
2. Reason for Proposed Alteration

- (a) The proposed alteration seeks to provide that there should always be one Councillor on the NECA Queensland Chapter Council that is the holder of a valid Class 2 licence issued pursuant to and in accordance with the *Security Providers Act 1993 (QLD)* (as remade or amended) and the *Security Providers Regulation 2008 (QLD)* (as remade or amended) (ie a “License Holder”).
- (b) Currently, Mr John Blake of Electrasec Industries Pty Ltd, is a member of the NECA Queensland Chapter Council and a License Holder.
- (c) If, for whatever reason, there is not a Councillor on the NECA Queensland Chapter Executive who is a License Holder, the proposed alteration provides that the NECA Queensland Chapter Council will still be validly constituted for the purposes of the NECA Queensland Chapter Rules, and the NECA Queensland Chapter Council may still be validly convened and conduct business.

- (d) The remainder of the proposed alterations (at Rule 5(j)) simply seek to insert a preferential mechanism that attempts to ensure that a License Holder is elected to the NECA Queensland Chapter Council, and the process to follow should a vacancy occur in the Councillor position held by a License Holder.

3. Effect of Proposed Alteration

- (a) The effect of the proposed alteration is to seek to provide that there should always be one Councillor on the NECA Queensland Chapter Council that is the holder of a valid Class 2 licence issued pursuant to and in accordance with the *Security Providers Act 1993 (QLD)* (as remade or amended) and the *Security Providers Regulation 2008 (QLD)* (as remade or amended).
- (b) This is an obligation now required of NECA as a result of its registration as a Security Industry Association under the *Security Providers Act 1993 (QLD)* and the *Security Providers Regulation 2008 (QLD)*. Specifically, see s 25B of the *Security Providers Act 1993 (QLD)* and Schedule 1A, Item 4(3) of the *Security Providers Regulation 2008 (QLD)*.

Date:	4 November 2011
James Tinslay Chief Executive Officer National Secretary Authorised Person per Regulation 13 of the <i>Fair Work (Registered Organisations) Regulations 2009</i> – see Rule 19(d) of the National Electrical Contractors Association Rules	

Schedule 1

Proposed amendments to the Rules of the National Electrical Contractors' Association, Queensland Chapter

Amendment 1

Insert a new definition under Clause 2 - Definition:

2 - DEFINITION

- (g) "Licence Holder" means a Member of the Chapter that is the holder of, or the appointed representative of a Member of the Chapter that is the holder of, a valid Class 2 licence issued pursuant to and in accordance with the Security Providers Act 1993 (QLD) (as remade or amended) and the Security Providers Regulation 2008 (QLD) (as remade or amended).

Amendment 2

Amend the existing Rule 5 - Management as follows (underlines show additions to existing Rule 5):

5 - MANAGEMENT

- (a) The management of the Chapter shall be vested in:
- (i) the Chapter Council, and
 - (ii) the Executive.
- (b) The Council shall consist of 10 Members and the Chapter Secretary, provided that:
- (i) no more than 6 Councillors holding office at the same time shall represent members who pay the maximum subscription determined by the Executive in accordance with rule 18; and
 - (ii) from June 2011 and thereafter, at least one Councillor holding office at any time is a Licence Holder (or an appointed representative of a Member of the Chapter who is a License Holder).
- (c) Notwithstanding Rule 5(b)(ii), if, for whatever reason, the Council at any time does not include a Licence Holder (or an appointed representative of a Member of the Chapter who is a License Holder), during such interim period the Council

shall still be validly constituted for the purposes of these Rules and may still be validly convened and conduct business.

- (d) Subject to Rule 5(j), with the exception of the Chapter Secretary, all members of the Council shall be elected by and from Members of the Chapter in accordance with Rule 23 of the National Rules.
- (e) A nomination for the office of Councillor shall specify the amount of subscription paid by the candidate or the Member represented by the candidate for the current year and whether the candidate is a Licence Holder (or an appointed representative of a Member of the Chapter who is a License Holder).
- (f) The Executive shall consist of:
 - (i) the office bearers;
 - (ii) the Chapter Secretary; and
 - (iii) four of the Members of the Council, where possible, one of whom is a Licence Holder (or an appointed representative of a Member of the Chapter who is a License Holder).
- (g) For clarity, notwithstanding Rule 5(f)(iii), if, for whatever reason, the Executive does not include a Member of the Council who is a Licence Holder (or an appointed representative of a Member of the Chapter who is a License Holder), the Executive shall still be validly constituted for the purposes of these Rules and may still be validly convened and conduct business.
- (h) With the exception of the Secretary, all members of the Executive shall be elected by and from members of the Council in accordance with rule 25 of the National Rules. The Chapter Secretary shall be elected in accordance with rule 26 of the National Rules.
- (i) Save for the Secretary, all Councillors or members of the Executive shall hold office for a term of one year commencing from the declaration of their election and terminating at the date of the meeting at which the next Executive is elected. Retiring members shall be eligible for re-election.
- (j) So as to comply with Rule 5(b)(ii):
 - (i) if only one Member of the Chapter who is a Licence Holder (or an appointed representative of a Member of the Chapter who is a License Holder) nominates for Council, then that candidate shall be automatically elected;
 - (ii) if more than one Member of the Chapter who is a Licence Holder (or an appointed representative of a Member of the Chapter who is a License Holder) nominates for Council, then the candidate that is a Licence Holder (or an appointed representative of a Member of the Chapter who is a License Holder) with the largest number of votes shall be automatically

elected. Rule 23 of the National Rules will then apply to the remaining positions;

- (iii) if a casual vacancy (however occurring) arises and the vacancy concerns the only member of the Council who is a Licence Holder (or an appointed representative of a Member of the Chapter who is a License Holder), the casual vacancy shall be filled in accordance with Rule 28 of the National Rules, subject to the requirement that any such casual vacancy shall only be filled, whether by appointment or election, with a Licence Holder (or an appointed representative of a Member of the Chapter who is a License Holder); and
- (iv) if, for whatever reason, the only Licence Holder (or an appointed representative of a Member of the Chapter who is a License Holder) on the Council ceases to be a Licence Holder (or an appointed representative of a Member of the Chapter who is a License Holder), that office shall thereupon automatically become vacant and Rule 5(j)(iii) shall apply.

For comparison purposes only (not part of amendment)

Please note: current Rule 5 – Management to be deleted and replaced:

~~5 – MANAGEMENT~~

~~(a) The management of the Chapter shall be vested in:~~

~~—(i)— The Chapter Council, and~~

~~—(ii)— The Executive~~

~~(b) The Council shall consist of 10 members and the Chapter Secretary, provided that no more than 6 Councillors holding office at the same time shall represent members who pay the maximum subscription determined by the Executive in accordance with rule 18. With the exception of the Chapter Secretary all Members of the Council shall be elected by and from members of the Chapter in accordance with rule 23 of the National Rules. A nomination for the office of Councillor shall specify the amount of subscription paid by the candidate or the member represented by the candidate for the current year.~~

~~(c) The Executive shall consist of the office bearers, the Chapter Secretary and four of the members of the Council. With the exception of the Secretary all members of the Executive shall be elected by and from members of the Council in accordance with rule 25 of the National Rules. The Chapter Secretary shall be elected in accordance with rule 26 of the National Rules.~~

~~(d) Save for the Secretary all Councillors or members of the Executive shall hold office for a term of one year commencing from the declaration of their election and terminating at the date of the meeting at which the next Executive is elected. Retiring members shall be eligible for re-election.~~