

## SCHEDULE

### NOTICE TO UNITED FIREFIGHTERS' UNION OF AUSTRALIA QUEENSLAND BRANCH MEMBERS

An Application has been filed by the United Firefighters' Union of Australia (UFUA) in the New South Wales Registry of the Federal Court of Australia pursuant to Section 323 of the Fair Work (Registered Organisations) Act 2009. The Court file number is NSD987/2020. The Application seeks the following:

1. A declaration that the Queensland Branch of the UFUA has ceased to function effectively and there are no effective means under the rules of the UFUA of the United Firefighters' Union of Australia ("UFUA") by which it can function effectively.
2. An order under section 323(2) of the Fair Work (Registered Organisations) Act 2009 (Cth) that the scheme attached as Appendix A be approved in relation to the Queensland Branch of the UFUA (Scheme).
3. An order that Mr Gavin Marshall be appointed administrator of the Queensland Branch of the UFUA under the Scheme.
4. An order that, in the event of any difficulty arising in the course of the implementation of the Scheme, the Administrator, the Applicant or any person represented in the proceeding shall have liberty to apply on 48 hours written notice.
5. Such other ancillary or consequential orders or directions that the Court considers appropriate

A copy of the Scheme follows below.

The Application is listed for case management hearing and for the making of such interlocutory or final orders as the Court considers appropriate before the Federal Court of Australia at Law Courts Building, 184 Phillip Street Sydney, on **3 February 2021 at 9.30 am**.

Any member who has an interest in the Application and desires to be heard on the hearing of the Application should contact the District Registrar of the New South Wales District Registry of the Court on (02) 9230 8282 for further information. Copies of the Application and the supporting affidavits are available by contacting Tonia Sakkas, Davies Lawyers, on (03) 9597 0921.

### **APPENDIX A**

#### **SCHEME TO ENABLE THE QUEENSLAND BRANCH OF THE UNITED FIREFIGHTERS' UNION OF AUSTRALIA TO FUNCTION EFFECTIVELY**

##### *Appointment of Administrator*

1. Gavin Marshall shall be appointed as Administrator of the Queensland Branch of the United Firefighters' Union of Australia ("the Branch") from the date of the Order of the Court until the declaration of the results of the elections referred to in paragraph 13 below, or until further order of the Court.
2. The Administrator shall have all of the powers of the Branch Officers and the Branch Committee of Management under the Rules of the United Firefighters' Union of Australia ("UFUA").
3. Without limiting the foregoing, the Administrator shall have power to bring proceedings in the name of the UFUA, for the recovery of any funds of the UFUA or the Branch, and for the imposition of penalties and the awarding of compensation as may be available under the Fair Work (Registered Organisations) Act 2009 (Cth) ("**the RO Act**").
4. For the avoidance of doubt, the Administrator shall have full power to engage such employees and consultants as the Administrator deems necessary to enable the Administrator to carry out the duties and functions conferred on the Administrator under this Scheme.
5. For the further avoidance of doubt and notwithstanding any provisions of the Rules of the UFUA, the Administrator may appoint any person deemed suitable to him as a proxy to represent him at any meeting of the National Committee of Management or National Executive of the UFUA provided that a separate written appointment is made for each such meeting, and each such instrument may provide instructions to the proxy as to how the proxy should vote and must do so in the event of a vote being required on any matter that, in the opinion of the Administrator, may affect the interests of the members of the Branch. To avoid doubt any such instructions may include a direction to abstain from voting.
6. For the further avoidance of doubt, for the purposes of discharging the obligations under this Scheme, the Administrator shall have the powers of the Branch Secretary and the Branch Committee of Management under Chapter 7 and Chapter 8 of the RO Act.
7. The Administrator may alter the rules of the UFUA and/or the Branch as necessary to enable the Branch to function effectively and shall submit any alterations to the General Manager of Fair Work Commission for approval.
8. The Administrator may develop and implement policies, including by way of any Rule changes, to ensure the Branch will be representative of and accountable to its members, will be able to operate effectively, will encourage members to participate in the affairs of the Branch to which they belong, and will encourage the democratic functioning and control of the Branch.

##### *Roll of Members and Preparation of Accounts*

9. The Administrator shall as soon as is reasonably practicable after the date of the Order, prepare a list of members of the Branch as at the date of the Order, and shall state whether the member was financial or unfinancial as at the date of the Order.
10. Where any question of membership of the Branch is before the Court pursuant to inter alia ss.167 or 168 of the RO Act, the Administrator may participate in such proceedings to the extent he sees fit in order to represent the interests of the Branch, including to furnish such materials as in the possession of the Branch that may assist the Court in determining the matters before it.
11. Any person joining the Branch after the date of the Order shall be placed on the list that would be applicable had they been a member at the date of the Order, and shall for the purposes of the Scheme form part of the respective list.
12. The Administrator shall, as soon as is reasonably practicable after the date of the Order and unless otherwise completed, cause to be prepared financial accounts, including a general purpose financial report as specified by s.253(2) of the RO Act and an operating report as specified by s.254 of the RO Act, setting out the assets and liabilities of the Branch.

##### *Elections*

13. The Administrator shall, as soon as is practicable:
  - (a) on the completion of the steps set out in paragraphs 9 to 12; and
  - (b) when he is satisfied that any rule changes or policies referred to in paragraphs 7 and 8 respectively have been implemented, request the General Manager of the Fair Work Commission to arrange for the conduct of an election for all offices in the Branch by the Australian Electoral Commission.
14. 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 RO Act.
15. For the purposes of the conduct of the election for the offices in the Branch, the operation of the UFUA Rules shall be modified to the extent necessary to enable the Branch to function effectively.
16. Notwithstanding any Rule, each member of the Branch shall on and from the day on which the electoral official calls for nominations for election to each of the offices be deemed to be a financial member of the UFUA for the purposes of:
  - (a) being nominated for any such office;
  - (b) holding any such office;
  - (c) nominating any person for election to any such office; or
  - (d) voting in the election for any such office.
17. For the avoidance 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;
18. The elections are to be held to fill the vacant offices. The persons elected to any office shall, notwithstanding any UFUA Rule, commence to hold office from the date on which they are declared to be elected and shall hold office until the declaration of elections for Branch officers conducted in 2024, and the persons then elected shall be elected for three years thereafter.
19. During the period of administration, the Administrator shall not permit the use of the funds or resources of the Branch for campaigning or electioneering.

##### *Term and Payment of the Administrator*

20. The Administrator shall use his best endeavours to ensure the completion of the administration within 120 days of the date of the Order, or such further time as the Court may allow.
21. The Administrator shall cease to act under this Scheme on the declaration of the results of the elections provided for from paragraph 13.
22. The UFUA shall pay the fees and expenses of the Administrator of carrying out his functions under this scheme from the accounts of the Branch and, in the event those funds prove insufficient to cover such fees and expenses, from the accounts of the UFUA.