

**ORDER PURSUANT TO S.66
WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

CITATION : 2020 WAIRC 00857

CORAM : CHIEF COMMISSIONER P E SCOTT

HEARD ON THE PAPERS : MONDAY, 19 OCTOBER 2020

DELIVERED : WEDNESDAY, 21 OCTOBER 2020

FILE NO. : PRES 6 OF 2020

BETWEEN : NAOMI MCCRAE
Applicant

AND

(NOT APPLICABLE)
Respondent

CatchWords : Industrial law (WA) – Elections for registered industrial organisation
– Delay in conducting election – Order regarding non-observance of
Rules of the organisation

Legislation : *Electoral Act 1987* (WA)
Industrial Relations Act 1979 (WA) s 66, s 69(4)

Result : Order issued

Representation:

Applicant : Ms N McCrae on her own behalf

Reasons for Decision

- 1 According to Rule 7 - Returning Officer, sub-rule (3) of the Rules of the Health Services Union of Western Australia (Union of Workers) (HSUWA) nominations for positions of members of the Committee of Management are required to be posted to the Returning Officer so as to be in the hands of the Returning Officer not later than 5.00 pm on 31 October 2020.
- 2 The applicant, Naomi McCrae, seeks an order to extend that time to no later than 5.00 pm on 11 November 2020. Ms McCrae has sworn an affidavit in which she says that she is a member of the HSUWA and is also its Secretary. She has set out circumstances in which she wrote to the Registrar of the Western Australian Industrial Relations Commission requesting the conduct of an election for the vacant positions in the Committee of Management. By decision dated 30 September 2020, Susan Bastian, the Registrar, recorded that the request had been received for the conduct of the election, declared that the request had been duly made and that she would make arrangements with the Electoral Commissioner appointed under the *Electoral Act 1987* (WA), for an election to be held as prescribed in s 69(4) of the *Industrial Relations Act 1979* (WA).
- 3 However, on 12 October 2020, the Western Australian Electoral Commission informed the HSUWA that it was not able to meet the deadline of nominations being received no later than 31 October 2020 as there would need to be at least 14 days between the advertising and nominations opening. On that basis, the HSUWA would not be able to conduct the elections in accordance with the timeframe set out in the Rule.
- 4 Having considered Ms McCrae's affidavit and the documents attached to it, I am satisfied that in accordance with s 66 of the *Industrial Relations Act 1979* (WA) it is appropriate for me to make an order relating to the observance of the Rules of the organisation to enable the proper conduct of elections in the manner contemplated by the Rules and in accordance with the democratic control of the union. The issue preventing that to occur is the practicability of the Western Australian Electoral Commission to meet the timeframes required by the HSUWA's Rules. Nonetheless, the elections must take place and must take place in accordance with proper procedure.
- 5 Therefore, I am persuaded to issue an order relating to the observance of the HSUWA's Rules to enable the nominations to be posted to the Returning Officer so as to be in the Returning Officer's hands no later than 5.00 pm on 11 November 2020. An order will issue accordingly.