



DECISION

Fair Work (Registered Organisations) Act 2009
s.44(1) RO Act—Amalgamation of organisations

National Union of Workers
and
United Voice
(D2019/9)

DEPUTY PRESIDENT GOSTENCNIK

MELBOURNE, 7 JUNE 2019

Application for approval for submission of amalgamation to ballot – application granted

[1] This is an edited version of the decision delivered *ex tempore* and recorded in transcript on 5 June 2019.

[2] United Voice and the National Union of Workers (NUW) (together “the Applicants”) are employee organisations registered under the *Fair Work (Registered Organisations) Act 2009* (RO Act) and they are concerned in a proposed amalgamation. They have, by their joint application lodged on 8 May, applied under s.44(1) of the RO Act for the approval for submission of amalgamation to ballot. Accompanying the application is a copy of a scheme of amalgamation, which I have had the opportunity to review, and I am satisfied that it complies with the requirements of the RO Act, and a written outline of the scheme of amalgamation, which I also have had the opportunity to review and I am also satisfied complies with the requirements of the RO Act. In particular that the written outline of the scheme provides sufficient information about the scheme to enable members of each of the Applicants to make an informed decision in relation to the scheme of amalgamation.

[3] I also note that a “yes” case pursuant to s.48 of the RO Act has been jointly lodged. Notices of a ballot paper chosen by the Applicants, as well as signed statements by each of the authorised officers of the Applicants, were lodged at the time that the Applicants lodged their application under s.44, and I can confirm, as I have advised the Applicants during the course of the hearing today, that the President has exercised his power under reg 60(4) of the *Fair Work (Registered Organisations) Regulations 2009* to approve the form of ballot that has been proposed in each case.

[4] I also note that the Committees of Management of each of the Applicants, which in the case of United Voice is its National Executive, and in the case of the NUW is its National Committee of Management, have by resolutions passed on 1 May 2019 approved the scheme of amalgamation, the outline, the “yes” case, and have also authorised the giving of notices of a ballot paper chosen by each of the Applicants.

[5] In brief compass, the proposed amalgamation will involve the following: United Voice will continue as a registered organisation under the RO Act. The name of the amalgamated organisation will be the United Workers' Union. As a consequence of the amalgamation, the National Union of Workers will be deregistered. All of the existing members of the Applicants whose industrial interests the Applicants are currently entitled to represent, will on amalgamation, become members of the United Workers' Union. Persons who are not eligible for membership of either of the Applicants will not be eligible for membership of the United Workers' Union. The existing combined eligibility for membership of the Applicants will be reflected in the eligibility rule of the United Workers' Union by altering in effect the eligibility rules of the United Voice to, amongst other things, including the eligibility rules of the National Union of Workers. I note that accompanying the scheme is a new form of rules that will regulate the amalgamated union. There will be corresponding alterations to the industry rules, and as a consequence of the proposed amalgamation, there will not be an extension of the existing eligibility rules of the two Applicants. The proposed amalgamation does not involve the registration of an association as an organisation.

[6] On the basis of the material before me, including the submissions today made, and noting that there are no objectors to the amalgamation (also noting that notice of the hearing was given to each registered organisation and a number of other persons as well as being published on the dedicated part of the Commission's website), I am satisfied of the following: the amalgamation does not involve registration of an association as an organisation; a person who is not eligible for membership of either Applicant concerned in the amalgamation will not be eligible for membership of the proposed amalgamated organisation, the United Workers' Union, immediately after the amalgamation takes effect; the proposed alteration of the name of the existing organisation concerned in the amalgamation, that is, United Voice to the United Workers' Union, will not result in the organisation having a name that is the same as the name of any other organisation, or similar to the name of any other organisation, to the extent that it's likely to cause any confusion.

[7] I am also satisfied that the proposed alteration of the rules of the existing organisation as set out in the proposed form of rules to be adopted is not, in my view, contrary to this RO Act or to the *Fair Work Act 2009*, or to any modern award or enterprise agreement, and is not contrary to the law. The proposed deregistration of the NUW complies or will comply with the RO Act and is not otherwise contrary to the law. It follows, given my satisfaction about those matters, that I must approve the submission of the amalgamation to a ballot.

[8] I therefore determine pursuant to s.55 of the RO Act to approve the submission of the proposed amalgamation to a ballot, and pursuant to s.58 of the RO Act I fix 3 July 2019 as the commencing day of the ballot, and I fix 7 August 2019 as the closing day of the ballot.

DEPUTY PRESIDENT

Appearances:

Mr W Friend QC with *Mr Y Bakri* of Counsel for the Applicants.

Hearing details:

2019.

Sydney:

5 June

Written submissions:

4 June 2019.

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