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# ***Industrial Relations Act 1996***

*Industrial Relations (CFMEU Construction and General Division) Administration Order  
2024*

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I, Sophie Cotsis, MP, Minister for Industrial Relations, pursuant to clause 3 of Schedule 6 to the *Industrial Relations Act 1996*, make the following administration order.

Dated:

Sophie Cotsis, MP  
Minister for Industrial Relations

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## 1 Name

This order is the *Industrial Relations (CFMEU Construction and General Division) Administration Order 2024*.

## 2 Commencement

- (1) This order commences on the day it is published in the Gazette.

## 3 Authority

This order is made under clause 3 of Schedule 6 to the *Industrial Relations Act 1996 (IR Act)*.

## 4 Order

On the basis that I am satisfied that, having regard to the objects of the *IR Act*, the determination of a scheme under the *Fair Work (Registered Organisations) Act 2009 (Cth)* for the administration of the Construction and General Division of the registered organisation named Construction, Forestry and Maritime Employees Union, it is in the public interest for the Construction and General Division of the State organisation registered under chapter 5 of the *IR Act* named the Construction, Forestry, Mining and Energy Union (New South Wales Branch), and with the registration number EE70, to be placed under administration, I hereby establish the scheme for administration set out in Annexures A and B.

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# Annexure A—Scheme of Administration

## 1 Definitions

In this order:

**Administered Division** means the Construction and General Division

**Administrator** means the person appointed by the Minister in accordance with clause 3(1)(b) of Schedule 6 to the *IR Act*

**CFMEU, C & G Division** has the same meaning as in the *IR Act* and means the Construction and General Division of the CFMEU (NSW) as established under the rules of the CFMEU (NSW) at the commencement of clause 2(1) of Schedule 6 to the *IR Act*

**CFMEU (NSW)** has the meaning given by clause 1 of Schedule 6 to the *IR Act*

**Divisional Council** means the Divisional Council constituted under rule 15 of the Divisional Rules

**Divisional Management Committee** means the Committee of Management (also known as the Executive) as defined in the Divisional Rules and includes the Divisional Management Committee constituted under rule 17 of the Divisional Rules

**Divisional Rules** means the rules of the CFMEU, C & G Division

**IR Act** means the *Industrial Relations Act 1996*

**Minister** means the Minister for Industrial Relations

**Order** means the *Industrial Relations (CFMEU Construction and General Division Administration) Administration Order 2024*.

**State Collegiate** has the same meaning as in the State Rules

**State Rules** means the rules of the CFMEU (NSW)

**Scheme** means the scheme provided for at Annexures A, B and C

**Special Purpose Auditor** means any independent auditor appointed by the Administrator pursuant to clause 13 of this Order

Except where otherwise provided, words in this Scheme have the same meaning as in the *IR Act*.

## 2 Appointment of administrator

- (1) The person who is appointed as the administrator of the scheme under clause 3(1)(b) of Schedule 6 to the *IR Act* is Mark Irving KC with effect on and from the publication of this order in the Gazette.

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### 3 Declaration that offices are vacant

- (1) On the appointment of the Administrator pursuant to clause 3(1)(b) of Schedule 6 to the *IR Act*:
  - (a) the office of Secretary of the CFMEU (NSW), and all offices in the Administered Division, including the offices of members of the Divisional Committee of Management and Divisional Council, are vacated and will remain vacated for the duration of the administration.
  - (b) to the extent that any person is an employee or paid official of the CFMEU (NSW) by reason of that person holding an office vacated as a result of subclause (3)(1)(a), that employment or paid position is terminated with effect from the date of commencement of the Administration by operation of this Scheme.
  - (c) subclause (3)(1)(a) does not affect the continued employment of a person (including organisers) who is not employed or a paid official by reason of that person holding an office vacated as a result of subclause (3)(1)(a).
  - (d) during the period of the administration as it relates to the Administered Division, the Divisional Council of the Administered Division must not meet or exercise any powers under the State Rules or the Divisional Rules.
  - (e) during the period of administration as it relates to the Administered Division, the holder(s) of any office within the Administered Division not declared vacant under subclause (3)(1)(a) shall be temporarily divested of each of their powers under the State Rules and the Divisional Rules while the administration is continuing in respect of that part of the CFMEU or until otherwise agreed by the Administrator.
- (2) As soon as reasonably practicable, the Administrator will write to vacated office-holders listed in Annexure B to inform them of the vacation of their office and their obligations under this Scheme.
- (3) As soon as reasonably practicable, the Administrator will write to persons whose offices are not vacated in accordance with subclause (3)(1)(a) and notify them of the effect of this Scheme on their office.

### 4 Rules and Resolutions

- (1) For the avoidance of doubt, and in accordance with clause 12 of Schedule 6 to the *IR Act*, this Scheme and any action or power exercised by the Administrator under this Scheme operates notwithstanding anything in the State Rules or Divisional Rules, and prevails to the extent of any inconsistency with the State Rules or Divisional Rules.
- (2) Where an alteration of the Divisional Rules cannot be made in accordance with the *FWRO Act* (other than Schedule 6) because of the administration, the Administrator may alter the Divisional Rules, including to make new Divisional Rules or delete Divisional Rules, and must consult with the committee of management of any part of the CFMEU (NSW), that is not the Administered Division, if it is affected by that alteration. The Administrator must undertake

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any alterations to the rules in accordance with clause 15 of Schedule 6 to the *IR Act*.

- (3) During the period of the administration of the Administered Division, any resolution made prior to the commencement of the Administration, by the Divisional Management Committee, or the Divisional Council of the Administered Division, empowering any person to exercise powers, functions or duties of an officer of the Administered Division, does not have effect.

## **5 Return of property**

- (1) Within seven days of the appointment of the Administrator pursuant to clause 3(1)(b) of Schedule 6 to the *IR Act*, those persons whose offices are vacated as a result of subclause 3(1)(a) must:
- (a) return to the Administrator, or person nominated by the Administrator, all property (including without limitation cars, building/security passes, credit cards, devices such as mobile phones and laptops, passwords or other access requirements for email accounts, social media accounts or other communication channels) of the CFMEU (NSW) or the Administered Division, in their possession, custody, power or control;
  - (b) effect to have transferred into the name of the Administrator any property held by that person on trust for or on behalf of the CFMEU (NSW) or the Administered Division; and
  - (c) deliver up to the Administrator, or person nominated by the Administrator, any documents, whether hard copy, electronic or otherwise, relating to the affairs of the CFMEU (NSW), Administered Division, as are in their possession, custody, power or control.
- (2) Within seven days of the commencement of the Administration, the Divisional Secretary of the Administered Division is required to provide to the Administrator, or person nominated by the Administrator, a list of all members and delegates of their Administered Division including current residential and postal addresses, telephone and mobile numbers, and email addresses in their possession, custody, power or control.

## **6 Powers, functions and duties of the Administrator**

- (1) The Administrator:
- (a) has and may exercise all of the powers and duties of the Divisional Management Committee as are conferred under the State Rules and the Divisional Rules, and the *IR Act*;
  - (b) has and may exercise all of the powers and duties of the Divisional Council as are conferred under the State Rules and the Divisional Rules, and the *IR Act*;
  - (c) has all of the powers and duties of all offices declared vacant under subclause 3(1)(a), under the State Rules and the Divisional Rules, and the *IR Act*, including the power to exercise voting rights attaching to such offices in decision-making bodies of the CFMEU (NSW) and the Administered Division;

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- (d) has the power, without limiting anything in this Scheme, to reconstitute the CFMEU, C & G Division.
  - (e) has the power, without limiting anything in this Scheme, to terminate the appointment of an auditor of the Administered Division, and appoint another person as auditor of the Administered Division;
  - (f) has the power, without limiting anything else in this Scheme, to suspend officers or delegates, including persons whose offices were not vacated as a result of subclause 3(1)(a), of the Administered Division from office or positions respectively, in accordance with clause 12;
  - (g) has the power, without limiting anything else in this Scheme, to terminate the employment of employees of the CFMEU (NSW) who work in the Administered Division, in accordance with clause 12;
  - (h) has the power to refer the conduct of current or former officers, officials, shop-stewards, delegates or employees (howsoever described) of the Administered Division, to any body established, or officeholder appointed, by or under any law of the Commonwealth or of a State or Territory. Nothing in this Scheme limits the Administrator from also referring allegations or other information about unlawful conduct, or conduct requiring further investigation, of any other person, business, entity, organisation, to appropriate law enforcement agencies, regulators or decision-makers;
  - (i) has the power to commence and discontinue (including by way of settlement) proceedings in the name of the CFMEU (NSW) or the Administered Division, including for the recovery of any funds and/or property of the CFMEU (NSW), the Administered Division, to make rule changes, and for the imposition of penalties and the awarding of compensation or any other remedy as may be available under the *IR Act* or any other law; and
  - (j) may request the Minister exercise their power to vary or revoke this Scheme.
- (3) The Administrator may, in writing, delegate to a person nominated by the Administrator, any of the powers, functions or duties of the Administrator under this Scheme or any powers or functions the Administrator may exercise under the *IR Act*.

## **7 Offices that are not vacated by this Scheme**

- (1) Where a person continues to hold office or employment in the Administered Division, the Administrator may exercise all the powers and functions afforded to the person by the State Rules, the *IR Act*, and this Scheme, in respect of that person, including (but not limited to) directing that person—
- (a) to take any leave to which that person is entitled, subject to that direction being made in accordance with the *IR Act* or any instrument made under the *IR Act*; and / or
  - (b) to perform no, or different, work; and / or
  - (c) not to attend the premises, or to access any property, information or system, of the Administered Division; and / or



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- (d) to return any property or information of the Administered Division; and /  
or
  - (e) not to hold themselves out as acting or speaking for or on behalf of the Administered Division

—for such time as the Administrator considers appropriate (but no later than the date upon which the Administrator ceases to act under this Scheme in respect of the Administered Division).

- (2) The term of any unvacated office that ends during the period of Administration may be extended, for a period of time set by the Administrator.
- (3) An election may not be held in respect of any office that is not vacated by virtue of subclause 3(1)(a) without the written authorisation of the Administrator.
- (4) For the avoidance of doubt, any exercise of power or function by the Administrator, as provided for under the *IR Act* or this Scheme, will prevail to the extent of any inconsistency with the State Rules, the Divisional Rules or actions taken by a person who continues to hold office or employment in the Administered Division.
- (5) For the avoidance of doubt, and whilst the Administration continues in respect of the Administered Division, and notwithstanding any provisions of the State Rules or the Divisional Rules, the Administrator may appoint any person deemed suitable to them as a proxy to represent them at any meeting of the State Conference, State Executive, State Executive Committee or State Collegiate of the CFMEU (NSW), any State Conference constituted under rule 12 of the State Rules, any State Executive constituted under rule 13 of the State Rules, and any other decision-making body of the CFMEU (NSW) or one of its Divisions under the State Rules or the Divisional Rules, and exercise the deliberative vote of such of the Administered Division (and their respective offices) provided that a separate written appointment is made for each such meeting. 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 adversely affect the interests of the members of the Administered Division. To avoid doubt, any such instructions may include a direction to abstain from voting.

## **8 Engagements by the Administrator**

- (1) The Administrator has the power to employ or otherwise engage persons, at the expense of the Administered Division, to assist in performing the Administrator's functions.
- (2) The Administrator may, by written notice, appoint a person to undertake one or more duties of the Administrator. The Administrator may provide for their roles, responsibilities and functions in their appointment notice.

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## 9 Responsibilities of the Administrator

- (1) The Administrator:
  - (a) may undertake investigations into past and/or current practices of the Administered Division ;
  - (b) may make any changes to the Divisional Rules the Administrator considers necessary and appropriate to:
    - (i) ensure the lawful and effective operation of the Administered Division;
    - (ii) encourage members to participate in the affairs of the Administered Division;
    - (iii) encourage the democratic functioning and control of the Administered Division
  - (c) may establish and implement policies to ensure the Administered Division will:
    - (i) be representative of and accountable to its members;
    - (ii) be able to operate lawfully and effectively;
    - (iii) encourage members to participate in the affairs of the Administered Division; and
    - (iv) encourage the democratic functioning and control of the Administered Division;
  - (d) may cause to be kept and maintained, a copy of the register of members of the CFMEU (NSW) as it relates to the Administered Division, including to record any person joining or resigning after the commencement of the administration and their financial status;
  - (e) must comply with any obligations for the Administrator to cooperate with any inquiry into conduct of the CFMEU (NSW), or officers or employees or former officers or employees of the CFMEU (NSW) or any of its divisions, being undertaken by any law enforcement agency or regulator (including an inspector appointed for the purposes of the *IR Act*).

## 10 Written report to Minister

- (1) The Administrator must give the Minister reports about the administration of the Scheme as and when required.
- (2) Nothing in this Scheme prevents the Administrator from including in a report to the Minister any additional information or observations the Administrator considers appropriate.

## 11 Complaints handling

The Administrator must, as soon as practicable:

- (a) establish, in writing, a complaints procedure that complies with clause 7A of Schedule 6 to the *IR Act*; and
- (b) publicise and make publicly available the procedure in a manner that complies with clause 7A of Schedule 6 to the *IR Act*.

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## 12 Disciplinary action

Notwithstanding anything in the State Rules or Divisional Rules:

- (a) the Administrator has the power to suspend, remove, expel or disqualify—
  - (i) a member
  - (ii) an office holder of the Administered Division whom the administrator is satisfied is of bad character or for misconduct.
- (b) the Administrator has the power to suspend or terminate the employment of any employee or suspend or remove any delegate of the Administered Division;
- (c) the power in subclause 12(a) may be exercised in relation to conduct that occurred before or after the commencement of this Scheme;
- (d) the process governing the exercise of the power in subclause 12(a) may be determined by the Administrator, provided the process affords procedural fairness;
- (e) any member expelled from membership by the Administrator, in accordance with subclause 12(a), is not entitled to apply for re-admission as a member of the CFMEU (NSW) or the Administered Division for a period determined in expelling the member so long as the period is not greater than a period of 5 years.

## 13 Appointment of Special Purpose Auditor

- (1) The Administrator may, at any time during the administration of the Administered Division, appoint a Special Purpose Auditor to undertake a special purpose audit and prepare such independent reports into the affairs of the Administered Division.
- (2) If the Administrator intends to make a request to the Minister to vary or revoke this Scheme, the Administrator may appoint a Special Purpose Auditor to provide reports to the Minister as to:
  - (a) the financial position of the Administered Division; and
  - (a) any significant financial risk identified by the Special Purpose Auditor relating to the Administered Division.
- (3) If the Administrator appoints a Special Purpose Auditor under subclause 13(1), the Administrator may require the Special Purpose Auditor to prepare and provide to the Administrator, as soon as practicable and within a period determined in writing by the Administrator, an independent report into the financial position and governance of the Administered Division. For the purposes of any such request, the Administrator may require the report to:
  - (a) set out the financial position of the Administered Division; and / or
  - (b) advise on any significant financial risk(s) identified by the Special Purpose Auditor relating to the Administered Division.
- (4) The Administrator, and all office holders and employees of the CFMEU (NSW) in the Administered Division must cooperate fully with the conduct of the audits and preparation of reports.

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- (5) The Administered Division must pay the fees and expenses of any Special Purpose Auditor in relation to the preparation of reports.
  - (6) For the avoidance of doubt, the appointment of the Special Purpose Auditor will not disturb or vacate the appointment of any other person as an auditor of the Administered Division under the State Rules or the Divisional Rules, or this Scheme.

#### **14 Timing of elections of officers**

- (1) The Administrator has the power, without limiting anything in this Scheme, to arrange for the conduct of elections for offices in respect of the Administered Divisions that are vacant.
- (2) The Administrator must ensure that elections for offices in respect of the Administered Division that are vacant are conducted before the administration of the Administered Division ends in accordance with the *IR Act*.

#### **15 Obligation to cooperate**

Without limiting any other obligation (including in this Scheme and the *IR Act*), the Administrator, and all office holders and employees of the CFMEU (NSW) in the Administered Division, must cooperate fully with the conduct of audits and preparation of reports referred to in this Scheme.

#### **16 Indemnification of Administrator**

- (1) The CFMEU (NSW) shall indemnify the Administrator in respect of any and all claims, proceedings, or complaints made in connection with the Administrator's exercise or non-exercise of any of the functions, powers and duties under this Scheme, including in relation to the cost of defending such claims, proceedings or complaints, and in relation to the payment of any compensation, penalties or other amounts awarded or paid in the determination, settlement, or other resolution, of such compensation, penalties or other amounts.
- (2) For the avoidance of doubt, the indemnification provided for in subclause 16(1) above will continue after the Administrator ceases to act as Administrator under this Scheme, as long as the relevant exercise or non-exercise of functions, powers and duties occurred at a date when the Administrator still had functions, powers and duties under this Scheme.

#### **17 Fees of the Administrator**

The fees payable to the Administrator shall be fixed at the rate of 15% of the remuneration payable to a Vice President of the Fair Work Commission under s 637(1) of the *Fair Work Act 2009* (Cth), any travel allowance and any applicable allowances payable to a Vice President of the Fair Work Commission under s 637(2) of the *Fair Work Act 2009* (Cth), as fixed by the Remuneration Tribunal from time to time. For the avoidance of doubt, the office of the Administrator is not a public office within the meaning of the *Remuneration Tribunal Act 1973* (Cth) or the *Statutory and Other Offices Remuneration Act*

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*1975 (NSW). The fees and allowances are to be paid from the funds of the CFMEU (NSW).*

## Annexure B

POSITION		NAME OF INCUMBENT
<b>CFMEU (NSW)</b>		
1.	Secretary	Darren Greenfield

POSITION		NAME OF INCUMBENT
<b>CFMEU, C &amp; G Division Division</b>		
2.	Divisional Secretary	Darren Greenfield
3.	Divisional Assistant Secretary	(Vacant)
4.	Divisional Assistant Secretary	Robert Kera
5.	Divisional President	Rita Mallia
6.	Divisional Management Committee Member  ( <i>position 1</i> )	Yusuf Mhaiche
7.	Divisional Management Committee Member  ( <i>position 2</i> )	Scott Andrew
8.	Divisional Management Committee Member  ( <i>position 3</i> )	Howard Byrnes
9.	Divisional Management Committee Member  ( <i>position 4</i> )	Denis McNamara

POSITION		NAME OF INCUMBENT
10.	Divisional Management Committee Member  <i>(position 5)</i>	Simon Curtis
11.	Divisional Management Committee Member  <i>(position 6)</i>	Simon Gutierrez
12.	Divisional Br Management Committee Member  <i>(position 7)</i>	Zachary Latief
13.	Divisional Branch Management Committee Member  <i>(position 8)</i>	Luke Allen
14.	Divisional Branch Management Committee Member  <i>(position 9)</i>	Yannis Sievas
15.	Divisional Branch Management Committee Member  <i>(position 10)</i>	Steven Parker
16.	Divisional Branch Management Committee Member  <i>(position 11)</i>	Pierre Boumelham
17.	Divisional Branch Management Committee Member  <i>(position 12)</i>	(Vacant)

POSITION		NAME OF INCUMBENT
18.	Divisional Branch Management Committee Member  <i>(position 13)</i>	Elmedin Begic
19.	Divisional Branch Management Committee Member  <i>(position 14)</i>	(Vacant)
20.	Divisional Branch Management Committee Member  <i>(position 15)</i>	Dean Hackett
21.	Divisional Branch Management Committee Member  <i>(position 16)</i>	Munro Jones
22.	Divisional Branch Management Committee Member  <i>(position 17)</i>	Rocco Ianni
23.	Divisional Branch Management Committee Member  <i>(position 18)</i>	Michael Restuccia
24.	Divisional Branch Management Committee Member  <i>(position 19)</i>	Timur Rasih
25.	Divisional Branch Management Committee Member  <i>(position 20)</i>	Sime Buterin



POSITION		NAME OF INCUMBENT
26.	Divisional Branch Management Committee Member  <i>(position 21)</i>	Bruce Cartwright
27.	Divisional Branch Management Committee Member  <i>(position 22)</i>	Dario Damjanovic
28.	Divisional Branch Management Committee Member  <i>(position 23)</i>	Michael Lynch
29.	Divisional Branch Management Committee Member  <i>(position 24)</i>	(Vacant)
30.	Divisional Branch Management Committee Member  <i>(position 25)</i>	Anthony Vecchio
31.	Divisional Branch Management Committee Member  <i>(position 26)</i>	Darren Wick
32.	Divisional Branch Council Member  <i>(Cumberland Zone position 1)</i>	Nur Begg
33.	Divisional Branch Council Member  <i>(Cumberland Zone position 2)</i>	(Vacant)

POSITION		NAME OF INCUMBENT
34.	Divisional Branch Council Member  <i>(Cumberland Zone position 3)</i>	Kahon Alkozai
35.	Divisional Branch Council Member  <i>(Cumberland Zone position 4)</i>	John Hughes
36.	Divisional Branch Council Member  <i>(Cumberland Zone position 5)</i>	Michael Bailey
37.	Divisional Branch Council Member  <i>(Cumberland Zone position 6)</i>	Mario Battistini
38.	Divisional Branch Council Member  <i>(Cumberland Zone position 7)</i>	Derek Gallagher
39.	Divisional Branch Council Member  <i>(Cumberland Zone position 8)</i>	Jack Bosden
40.	Divisional Branch Council Member  <i>(Cumberland Zone position 9)</i>	Craig Bremner
41.	Divisional Branch Council Member  <i>(Cumberland Zone position 10)</i>	Geoff Bates
42.	Divisional Branch Council Member  <i>(Cumberland Zone position 11)</i>	Robert Burland

POSITION		NAME OF INCUMBENT
43.	Divisional Branch Council Member  <i>(Cumberland Zone position 12)</i>	(Vacant)
44.	Divisional Branch Council Member  <i>(Cumberland Zone position 13)</i>	James Ponisi
45.	Divisional Branch Council Member  <i>(Cumberland Zone position 14)</i>	Mohamed Gabr
46.	Divisional Branch Council Member  <i>(Cumberland Zone position 15)</i>	Mohamed Hammoud
47.	Divisional Branch Council Member  <i>(Cumberland Zone position 16)</i>	Colin Lamond
48.	Divisional Branch Council Member  <i>(Cumberland Zone position 17)</i>	(Vacant)
49.	Divisional Branch Council Member  <i>(Cumberland Zone position 18)</i>	Ian McKinnon
50.	Divisional Branch Council Member  <i>(Cumberland Zone position 19)</i>	Russell Munro
51.	Divisional Branch Council Member  <i>(Cumberland Zone position 20)</i>	Jason Williams
52.	Divisional Branch Council Member  <i>(Cumberland Zone position 21)</i>	Geoffrey Vaughan

POSITION		NAME OF INCUMBENT
53.	Divisional Branch Council Member <i>(Cumberland Zone position 22)</i>	James Wall
54.	Divisional Branch Council Member <i>(Northumberland Zone position 1)</i>	Neal Attwood
55.	Divisional Branch Council Member <i>(Northumberland Zone position 2)</i>	Mitchell Deas
56.	Divisional Branch Council Member <i>(Northumberland Zone position 3)</i>	Mark Kelly
57.	Divisional Branch Council Member <i>(Camden Zone position 1)</i>	David Mackay
58.	Divisional Branch Council Member <i>(Camden Zone position 2)</i>	Paul Fisher
59.	Divisional Branch Council Member <i>(Camden Zone position 3)</i>	Sallie Oxborough
60.	Divisional Branch Council Member <i>(Country Zone position 1)</i>	Gary McCarthy
61.	Divisional Branch Council Member <i>(Country Zone position 1)</i>	(Vacant)

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POSITION		NAME OF INCUMBENT
62.	Divisional Branch Council Member  <i>(Country Zone position 1)</i>	Paul Wright