



RULE BOOK

RULE 16 ELECTION OF EXECUTIVE COUNCIL MEMBERS AND THE GENERAL SECRETARY

Effective from Rules Conference 2023

(Amended March 2024)

RULE 16. ELECTION OF EXECUTIVE COUNCIL MEMBERS AND THE GENERAL SECRETARY

16.1 Subject to the provisions of these rules and the powers of the independent scrutineer, the election of members of the Executive Council and the General Secretary shall be organised and conducted in accordance with the directions of the Executive Council.

16.2 The Executive Council shall appoint an independent scrutineer to supervise the production, storage and distribution of voting papers, to receive and count the voting papers, to report on the election, to retain the voting papers for an appropriate period and to perform such other duties as the Executive Council may specify.

16.3 The Executive Council shall appoint a suitable, independent person to act as Election Commissioner to adjudicate on any complaints made under clause (24) of this rule relating to the conduct of the election. In the event that the Electoral Commissioner finds it necessary to carry out an investigation in the conduct of his or her duties under rule all members and employees of the Union are required to afford him or her every assistance in this regard.

- 16.4 The Executive Council shall appoint an independent Returning Officer to deal with the conduct of the election between the Executive Council meetings and may delegate to him/her its powers relating to the conduct of that election provided that the Returning Officer shall not act inconsistently with any decision of the Executive Council and shall report directly to the Executive Council all actions taken and decisions made in respect of that election.
- 16.5 A candidate in an election shall play no part in any deliberations of or decision by the Executive Council which relates specifically to the conduct of an election in the constituency in which an individual is a candidate.
- 16.6 Only for the purpose of the Executive Council Member elections and the General Secretary election any workplace with more than 50 members that is not constituted as a workplace branch will be classified as a workplace branch for the purpose of nominating candidates for the Executive Council election and General Secretary election.
- 16.7 Executive Council candidates for election to represent a Region shall be nominated by at least three Branches within that Region or that part of a Region as the case may be. A branch shall be entitled to make only such number of nominations as there are members to be elected from that Region or part thereof.
- 16.8 Executive Council candidates for election to represent a particular Industrial Sector constituency shall be nominated by branches which have members in the particular Industrial Sector constituency concerned.
- 16.9 In every case no nomination shall be valid unless a meeting of the Branch has been convened and that nomination has been endorsed by the meeting. The Executive Council guidance shall state whether and how a nomination may be made by a Branch.
- 16.10 For Executive Council elections a member is required to receive at least three nominations. On receipt of such nominations the candidate shall be invited to confirm in writing that she/he accepts the nomination. Each member who does so and who is otherwise eligible shall be a candidate in the election for that constituency.
- 16.11 Executive Council candidates for election to represent a constituency under any equalities provision of these rules shall be nominated by Branches.
- 16.12 Executive Council candidates must be a member of the electoral constituency they wish to represent.
- 16.13 Nominations of Candidates for election of General Secretary may be made by each branch. A candidate must be eligible to vote in the election; have at least 5 years continuous membership of the union; and have received nominations from at least 5% of the total number of branches subject to the total including nominations from more than two regions. In every case no nomination will be valid unless a meeting of the branch has been convened and that nomination has been endorsed by the meeting. The Executive Council guidance will state whether and how a nomination may be made by a branch.

- 16.14 Prospective nominees for the Executive Council and General Secretary elections will be covered and bound by the election directions of the Executive Council, from when the prospective nominee 150 word statement is released and circulated by the union with the letter inviting nominations.
- 16.15 All candidates in Executive Council and General Secretary elections receiving the required nominations will be provided an election webpage on Unite's website for campaign material which will be visible and open to all members to view and download campaign material. The election webpages will be governed by the directions provided by the Executive Council.
- 16.16 If the number of candidates does not exceed the number of vacancies to be filled by that constituency, the candidate(s) shall be declared elected. If there are more candidates than vacancies, the election shall be conducted by a secret postal ballot.
- 16.17 Executive Council constituencies to be based on paying membership allocations as reported at the September Executive Council in the year prior to the Executive Elections.
- 16.18 The election shall not be concluded until the Executive Council has received the independent scrutineer's report and declared which candidate(s) has been elected. This should take place as soon as reasonably practicable after the votes have been counted. If the Election Commissioner advises the Executive Council that it should not declare the outcome of an election until he/she has adjudicated on a complaint, it shall comply with that request.
- 16.19 The Executive Council may decide that members who have joined the Union after a prescribed date shall not be eligible to vote, provided the date shall not be more than 13 weeks before the first day on which voting is due to take place in that election.
- 16.20 Members of a territorial Region shall be accorded equally an entitlement to vote in the election for a representative from their own territorial Region (but no other territorial Region) to the Executive Council. A member's Region for the purposes of this rule shall be the Region to which their Branch is allocated by the Executive Council. In the case of Branches covering more than one Region the method of establishing a member's individual Region shall be determined by the Executive Council.
- 16.21 Members of a particular Industrial Sector shall be accorded equally an entitlement to vote in the election for a representative from their own Industrial Sector Constituency (but no other Industrial Sector Constituency) to the Executive Council.
- 16.22 In relation to the election of the National Representative(s) for Women Members; members who are women shall be accorded equally an entitlement to stand and vote.
- 16.23 In relation to the election of the National Representative(s) for Black and Asian ethnic minority Members; members who are Black and Asian ethnic minority members shall be accorded equally an entitlement to stand and vote.
- 16.24 In relation to the election of the National Retired Member Representative only members who contribute at the rate of Retired Member Plus shall be accorded equally an entitlement to stand and vote.

- 16.25 In relation to the election of the National LGBT+ and Disabled Member Representatives, from the electoral period 2022/2025, only members who are LGBT+ or Disabled shall be accorded equally an entitlement to stand and vote.
- 16.26 In relation to clauses 18 and 19 above, the Union shall rely on its membership records and shall endeavour to collect and record such relevant information, but shall be entitled to make a presumption of non-entitlement to vote in such election where there is an absence of the relevant qualification information.
- 16.27 A member who is eligible to vote in an election who does not receive a voting paper should contact the Union but the final decision on whether to issue a further voting paper to that member shall be a matter for the independent scrutineer.
- 16.28 Each candidate shall be entitled to attend as an observer the counting of the votes from the constituency in which he/she is a candidate.
- 16.29 If at any stage during an election or within 28 days of the declaration of the outcome a candidate in an election or the Executive Council considers that there has been a breach of these rules or of any other legal requirement relating to the conduct of the election or any other interference with the conduct of the election and that the breach or interference may materially affect or may have materially affected the outcome of the election, he/she or the Executive Council may submit a complaint to the Election Commissioner.
- 16.30 If the Returning Officer or a member who is not a candidate considers that there are grounds for a complaint to the Election Commissioner, he/she should refer the matter directly to the Executive Council.
- 16.31 A complaint to the Election Commissioner should be made as soon as is reasonably practicable. The Election Commissioner shall not consider any complaint made more than 28 days after the date on which the Executive Council declared the outcome of the election.
- 16.32 A complaint to the Election Commissioner shall be made in writing addressed to the Election Commissioner care of the Returning Officer and accompanied by all the supporting evidence which the complainant wishes to be taken into account.
- 16.33 If when the Election Commissioner receives a complaint the independent scrutineer has not yet reported on the election and the Election Commissioner considers that the complaint raises matters which fall within the jurisdiction of the independent scrutineer, he/she shall refer the complaint (or the part thereof which raise such matters) to the independent scrutineer unless it is not reasonably practicable to do so. When the Election Commissioner has referred a complaint (or part thereof) to the independent scrutineer he/she shall not adjudicate on the complaint until the independent scrutineer has expressed a view on that complaint.
- 16.34 The Election Commissioner may adjudicate on a complaint on the basis of written material submitted with the complaint or, at his/her complete discretion, call for such further information as he/she shall think fit and/or conduct a hearing of the complaint. Subject to the provisions of this rule, the Election Commissioner shall decide his/her own procedures for investigating and adjudicating upon the complaint provided that he/she shall endeavour to adjudicate on the complaint as quickly as is reasonably practicable.

- 16.35 If after considering a complaint the Election Commissioner considers; that there has been a material breach of these rules or of any other legal requirement relating to the conduct of the election or any other material interference with the conduct of the election; and that the breach or interference may materially affect or has or may have materially affected the outcome of the election; the Election Commissioner may recommend that the Executive Council should take one or more of the following measures:-
- 16.35.1 Declare the ballot and, if it has been declared, the outcome of the election void and call for a fresh ballot to be held;
 - 16.35.2 Disqualify a candidate or candidates and permit the remaining candidates to go forward in the ballot or in any fresh ballot that may be ordered; or
 - 16.35.3 Such other remedial measures as the Election Commissioner considers appropriate.
- 16.36 Subject always to any decision to the contrary by a court, the Certification Officer or any other lawful authority, the Executive Council shall give effect to any recommendation by the Election Commissioner made in accordance with clause (29) of this rule.
- 16.37 If an election is delayed as a result of action taken pursuant to a recommendation by the Election Commissioner, an order of a court, the Certification Officer or other lawful authority, a member who holds the office which is the subject of that election shall be entitled to continue in that office until the election is concluded.
- 16.38 Any casual vacancies on the Executive Council that occur within the first two years of the electoral term shall be filled by a by-election for a replacement delegate. If that casual vacancy occurs in the final year of the electoral term, there shall not be a by-election but that an observer may be elected to represent the section's interests from the relevant constituency, i.e. NISC, Regional Committee, National Equalities Committee.