

NOTICE OF DECISION ON PARTY REGISTRATION DEREGISTERING A POLITICAL PARTY AND REMOVAL FROM THE REGISTER OF POLITICAL PARTIES SOCIALIST EQUALITY PARTY

Notice of decision under s 137(6) of the *Commonwealth Electoral Act 1918* (Electoral Act) and Statement of Reasons

1. I am writing in accordance with s 137(6)(b) of the Electoral Act to notify you of the review conducted under s 138A(1) of the Electoral Act and the determination to deregister Socialist Equality Party (the Party) and cancel the Party's particulars from the *Register of Political Parties* (the Register).
2. As a delegate of the Electoral Commission, I am authorised to deregister the Party under s 137(6)(a) of the Electoral Act, and to cancel the particulars of the Party on the Register under s 138 of the Electoral Act.
3. On 8 October 2021, the Electoral Commission issued a Notice to the Registered Officer of the Party, Ms Cheryl Crisp, under s 138A(3) of the Electoral Act (s 138A Notice). This Notice requested the Party provide the Australian Electoral Commission (AEC) with an electronic membership list of between 1,500 and 1,650 members in order for the AEC to determine the eligibility of the Party to remain registered. The due date for responding was 8 December 2021.
4. On 26 November 2021, I sent a reminder to the Party outlining the requirements of the s 138A Notice.
5. On 8 December 2021, the Party responded to the s 138A Notice providing a list of 700 members.
6. On 17 December 2021, the Party was issued with a notice under s 137(1) of the Electoral Act (the s 137 Notice), that I, as the delegate of the Electoral Commission, was satisfied on reasonable grounds that the Party does not have at least 1,500 members (s 137(1)(b) of the Electoral Act). Pursuant to s 137(2) of the Electoral Act, the Party was provided with one month to respond to the s 137 Notice (being 17 January 2022).
7. On 17 January 2022, the Registered Officer of the Party provided a statement in accordance with s 137(2) of the Electoral Act.
8. Section 137(5) of the Electoral Act prescribes that:

Where, in response to a notice given under s 137(1) in relation to a political party, a statement is lodged under s 137(2), the Electoral Commission shall consider that statement and determine whether the political party should be deregistered for the reason set out in that notice.

Decision

9. As a delegate of the Electoral Commission, I am satisfied on reasonable grounds that the Party does not have 1,500 members, and the Party should be deregistered.

10. I have determined that Socialist Equality Party be deregistered under s 137(1)(b) of the Electoral Act, for the reasons set out in this Notice, and that the particulars of the Party be cancelled from the Register under s 138 of the Electoral Act.

Materials I have taken into account

11. In making my decision, I have had regard to:
- the s 138A Notice;
 - the s 137 Notice;
 - the statement provided by the Party in response to the s 137 Notice on 17 January 2022;
 - Part XI of the Electoral Act; and
 - the AEC *Guide for maintaining party registration*.

Findings of Fact

12. On the material before me, I make the following findings.
13. The membership list lodged on 8 December 2021 contained the details of 700 members.
14. The Party was issued with a s 137 Notice on 17 December 2021, and provided a statement in relation to that notice on 17 January 2022.

Supporting statement

15. I have considered the statement lodged by the Party on 17 January 2022, setting out reasons why the Party should not be deregistered.
- a. “[The] anti-democratic nature of the legislation’s requirements has been magnified by the worst public health crisis in a century, which has made it highly unsafe, and a risk to public health, for our members to conduct normal political campaigns and public meetings, including to recruit the 1,000 extra members needed to submit to the AEC.”
 - b. “In fact, for a substantial part of the three-month period, it was illegal to campaign in person in the two most populous states, New South Wales and Victoria, due to safety stay-at-home restrictions, as well as being dangerous.”
 - c. “Between the December 2 deadline and the lodging of this objection, the COVID-19 disaster has worsened to an unprecedented degree, fuelled by both the Delta and Omicron mutations. This has vastly heightened the dangers to our members and the entire population, as well as having a dramatic impact on every facet of economic and social life, making political campaigning even more difficult.”
 - d. “[The] SEP not only objects to deregistration and to the legislation itself but calls on the AEC to suspend the deregistration of all parties until after the federal election can be held.”
 - e. “In light of all the foregoing matters we consider that deregistration of the party as notified would be highly inappropriate and indeed unlawful. The review process, pursuant to the legislation and regulations, has not concluded, and accordingly our rights should not be abridged prior to the review process. The matters raised and our request for review are matters of fundamental importance, clearly both to our party which has been a registered and active political party since 2007, and more broadly. We consider that deregistration of our party at this point would be an extremely unreasonable act by the

AEC considering the continuing review process, and conduct which would be actionable in law.”

16. I reject the reasons outlined by the Party in its statement provided on 17 January 2022. I consider the Party has been provided sufficient opportunities to be compliant with the increased membership requirements of the *Electoral Legislation Amendment (Party Registration Integrity) Act 2021*, even with the challenges presented by the COVID-19 pandemic.
17. Further, the Party did not provide evidence that it has at least 1,500 members.
18. Accordingly, I am satisfied that the Party does not have at least 1,500 members. In my capacity as a delegate of the Electoral Commission I have deregistered Socialist Equality Party under s 137(6) of the Electoral Act and the particulars of the Party have been cancelled from the Register under s 138 of the Electoral Act.

Review rights

19. Under s 141(2) of the Electoral Act, a person (including an organisation) affected by the decision who is dissatisfied with the decision may make a written application to the Electoral Commission for internal review of this decision within 28 days after the day on which the decision first comes to the notice of that person. There is no fee payable for requesting an internal review.
20. Requests for review of this decision should be addressed to Mr Tom Rogers, Australian Electoral Commissioner, and emailed to commission.secretariat@aec.gov.au or posted to Locked Bag 4007, Canberra City ACT 2601.
How do I request an internal review?
21. In accordance with ss 141(2) and 141(3) of the Electoral Act, an application for review must:
 - be in writing;
 - specify the name of the applicant;
 - specify an address of the applicant; and
 - set out the reasons for making the application.
22. If you wish to apply for additional time beyond the 28 days to make an application for review of the delegate’s decision, please also include the reasons for the application for additional time.

Who conducts an internal review?

23. The Electoral Commission, which is comprised of three members, the Australian Electoral Commissioner, a judicial member and a non-judicial member, conducts internal reviews. Under s 141(4) of the Electoral Act, the Electoral Commission shall review an application and make a decision to either:
 - affirm the decision under review;
 - vary the decision under review; or
 - set aside the decision under review and make a decision in substitution for the decision set aside.

What can I do if I disagree with the outcome of an internal review?

24. If an internal review decision has been made by the Electoral Commission a person whose interests are affected, and who is dissatisfied with the decision made by the Electoral Commission, may apply to the AAT for an external merits review of the decision. More information on how to apply to the AAT and any applicable fees can be found on its website: www.aat.gov.au/applying-for-a-review/how-to-apply.

Freedom of Information

25. Under the *Freedom of Information Act 1982* ('the FOI Act') any person has the right to request access to documents held by the AEC. For more information about access to documents under the FOI Act please visit the AEC's "Access to AEC information" webpage at: www.aec.gov.au/information-access/index.htm.
26. Should you have any queries regarding party registration, please contact the AEC on 02 6271 4552, visit www.aec.gov.au or email fad@aec.gov.au.

Yours sincerely



Joanne Reid
Assistant Commissioner
Delegate of the Electoral Commission

23 February 2022