



18 October 2021

Funding and Disclosure  
Australian Electoral Commission  
Locked Bag 4007  
CANBERRA ACT 2601

And by email: fad@aec.gov.au

Dear Commissioner

### **Objection under section 134A of the *Commonwealth Electoral Act 1918 (Cth)***

In accordance with recent amendments, I write to make an objection under section 134A of *Commonwealth Electoral Act 1918 (Cth)* (**CEA**) as set out below.

#### **Background**

- 1 The CEA was recently amended following the passage of the *Electoral Legislation Amendment (Party Registration Integrity) Act 2021 (Cth)* (**Amending Act**), which received Royal Assent on 2 September 2021. The amendments commenced the following day, 3 September 2021.
- 2 As amended, under section 134A of the CEA the registered officer of a political party (**parent party**) registered prior to another registered party (**second party**) may object in writing to the continued use of the name of the second party.<sup>1</sup> The term 'name' is defined in the CEA to include the name of the party, or the abbreviation of the name of the party, that is entered in the Register of Political Parties (the **Register**), or both.<sup>2</sup>
- 3 Where such an objection is made, and the Electoral Commission is satisfied that the name (i.e., the name, or the abbreviation of the name, as entered in the Register) of the second party contains a word that is in the name of the parent party<sup>3</sup> the Commission must uphold the objection<sup>4</sup> and notify the registered officer of the second party in accordance with section 134A(1)(e) of the CEA<sup>5</sup>.

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<sup>1</sup> *Commonwealth Electoral Act 1918 (Cth)* (**CEA**) ss 134A(1)(aa), 134A(1)(b).

<sup>2</sup> CEA s134A(3) (definition of 'Name').

<sup>3</sup> CEA s134A(1)(a)(iii).

<sup>4</sup> CEA s134A(1)(d).

<sup>5</sup> CEA s134A(1)(e).

## **Objection under section 134A(1)(b) of the CEA**

4 As the registered officer of the Australian Labor Party (**ALP**) this letter serves as my objection under section 134A(1)(b) of the CEA to the continued use of the name “Democratic Labour Party” entered in the Register, and the abbreviation “Labour DLP” entered in the Register, by that so named registered political party (the **DLP**). The basis of this objection is set out below.

### **Section 134A(1)(aa) of the CEA – parent party and second party**

5 The ALP was first registered under the CEA on 31 May 1984.<sup>6</sup> The DLP was first registered on 20 July 1984.<sup>7</sup> These registrations were in accordance with the provisions now set out at section 126 of the CEA.

6 Accordingly, for the purposes of section 134A(1)(aa) of the CEA, the ALP is the ‘parent party’ and the DLP is the ‘second party’.

### **Section 134A(1)(a)(iii) of the CEA – the name (i.e., the name, and abbreviation, entered in the Register) of the second party contains a word that is in the name of the parent party**

7 The name of the parent party (i.e. the ALP) that is entered in the Register is “Australian Labor Party (ALP)”.<sup>8</sup>

8 The name of the second party (i.e. the DLP) that is entered in the Register is “Democratic Labour Party”.<sup>9</sup> The abbreviation, entered in the Register, of the name of the second party is “Labour DLP”.<sup>10</sup>

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<sup>6</sup> Australian Electoral Commission, *Current Register of Political Parties* (Web Page, 21 September 2021) Australian Labor Party (ALP)

<[https://www.aec.gov.au/Parties\\_and\\_Representatives/party\\_registration/Registered\\_parties/](https://www.aec.gov.au/Parties_and_Representatives/party_registration/Registered_parties/)>

<sup>7</sup> Australian Electoral Commission, *Current Register of Political Parties* (Web Page, 21 September 2021) Democratic Labour Party

<[https://www.aec.gov.au/Parties\\_and\\_Representatives/party\\_registration/Registered\\_parties/](https://www.aec.gov.au/Parties_and_Representatives/party_registration/Registered_parties/)>

<sup>8</sup> Australian Electoral Commission, *Current Register of Political Parties* (Web Page, 21 September 2021) Australian Labor Party (ALP) - Name of party

<[https://www.aec.gov.au/Parties\\_and\\_Representatives/party\\_registration/Registered\\_parties/](https://www.aec.gov.au/Parties_and_Representatives/party_registration/Registered_parties/)>

<sup>9</sup> Australian Electoral Commission, *Current Register of Political Parties* (Web Page, 21 September 2021) Democratic Labour Party – Name of party

<[https://www.aec.gov.au/Parties\\_and\\_Representatives/party\\_registration/Registered\\_parties/](https://www.aec.gov.au/Parties_and_Representatives/party_registration/Registered_parties/)>

<sup>10</sup> Australian Electoral Commission, *Current Register of Political Parties* (Web Page, 21 September 2021) Democratic Labour Party – Registered abbreviation

<[https://www.aec.gov.au/Parties\\_and\\_Representatives/party\\_registration/Registered\\_parties/](https://www.aec.gov.au/Parties_and_Representatives/party_registration/Registered_parties/)>

- 9 As noted above, the definition of the term “name” for the purposes of section 134A of the CEA includes the name of the party, or the abbreviation of the name of the party, that is entered in the Register, or both.<sup>11</sup>
- 10 Applying the above, the parent party (the ALP) has in its name entered in the Register the word “Labor”. The second party (the DLP) also has in its name entered in the Register, and in the abbreviation of its name entered in the Register, that same word, entered with the spelling “Labour”.
- 11 With respect to the spelling of a word, in accordance with section 129(6) of the CEA, in applying section 134A(1)(a)(iii) of the CEA in relation to a word, other grammatical forms, and commonly accepted variants (including abbreviations, contractions or alternative forms), of the word are to be treated in the same way as the word.
- 12 Applying section 129(6) of the CEA in relation to the word “Labor”, instances of the word “Labor” being spelt with the addition of the letter “u” so as to be spelt “Labour” are to be treated in the same way as the word “Labor”. That is because “Labour” is a grammatical form or commonly accepted variant of the word “Labor”.
- 13 In support, I note that the Explanatory Memorandum to the Amending Act provides that section 129(6) of the CEA is intended to cover pluralisation and commonly accepted spelling variants of a word. The example given in the Explanatory Memorandum are the variations “color” and “colours”, which are relevantly similar to the variations of Labor and Labour.<sup>12</sup>
- 14 In further support, I note that the Macquarie Dictionary at the entry “Labor” states: “*noun* → *labour*.” with no further entry.<sup>13</sup> The entry “Labour” states “*noun* Also, labor. [...] -*verb* (*i*) Also, labor. [...] -*verb* (*t*) Also, labor. [...] -*adjective* Also, labor.”<sup>14</sup> Notably, the Macquarie Dictionary at the entry for “Labour” also provides that with respect to the spelling variant “-our”:

“a suffix of nouns denoting state or condition, a quality or property, etc., as in *ardour, colour, honour, labour*.”

Also, **-or**. [Middle English, from Anglo-French (= French *-eur*), from Latin *-or* -OR]

**Usage:**

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<sup>11</sup> CEA s134A(3) (definition of ‘Name’).

<sup>12</sup> Explanatory Memorandum, Electoral Legislation Amendment (Party Registration Integrity) Bill 2021, para 17.

<sup>13</sup> *Macquarie Dictionary* (online at 28 September 2021) ‘Labor’.

<sup>14</sup> *Macquarie Dictionary* (online at 28 September 2021) ‘Labour’ (def 1 – 15).

Many words ending in **-our**, such as *colour*, *honour* and *vigour*, can also be spelt with *-or*. This variation arose in England in the 17th century, when some theorists believed words ought to be spelt according to their origins. The words from French were supposed, in this case, to be spelt with *-our* and those directly from Latin with *-or*. As people were not always sure from which language a word came, there was some confusion, and more and more people felt it best to use *-or* for all of them. The trend ran its full course in the US where *-or* is always used. However, it was halted in England by Samuel Johnson's dictionary of 1755. He allowed some of these words, such as *error*, *horror* and *terror*, to go to *-or*, but the rest were fixed with *-our*.

In Australia, as in Britain, the most common spelling of these words is with *-our*, although *-or* is often used and certainly occurs consistently in a large number of magazines and newspapers."<sup>15</sup>

- 15 Accordingly, the name of the second party (the DLP) (that is, both the name, and the abbreviation of the name, entered in the Register for the second party), contains a word that is in the name of the parent party (the ALP), meeting the test set out at section 134A(1)(a)(iii) of the CEA.
- 16 Further, and for completeness, the word "Labor" and the spelling variant "Labour" is not a 'function word', a 'collective noun for people', the name of a country or other recognised geographical place in Australia or the word 'democratic'. Accordingly, section 129(5) of the CEA is not engaged.

## Conclusion

- 17 On the basis of the above, it is my submission that:
- (a) in accordance with section 134A(1)(aa) of the CEA, the ALP was registered under the provisions now set out at section 126 of the CEA before the DLP, making the ALP the parent party and the DLP the second party;
  - (b) the Electoral Commission should be satisfied that in accordance with section 134A(1)(a)(iii) of the CEA, the name of the second party (that is, both the name "Democratic Labour Party", and the abbreviation "Labour DLP", entered in the Register for that second party) contains a word that is in the of the name of the parent party (that is, in the name "Australian Labor Party" that is entered in the Register); and
  - (c) in accordance with section 134A(1)(b) of the CEA, by virtue of this letter, the registered officer of the parent party (the ALP) objects in writing to the continued use of the name (including both the name as entered in the Register, and the abbreviation of that name as entered in the Register) of the second party (the DLP).

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<sup>15</sup> *Macquarie Dictionary* (online at 28 September 2021) 'Labour' (usage: for spelling various see *-our*)

18 As a result, the Commission must, in my submission, uphold this objection in accordance with section 134A(1)(d) of the CEA and notify the registered officer of the second party (the DLP) in the manner contemplated by section 134A(1)(e) of the CEA and as otherwise required in accordance with the CEA.

If you require further information or wish to clarify any part of this objection, please contact me by email at [REDACTED] or by telephone on [REDACTED].

Regards,

[REDACTED]

Paul Erickson  
National Secretary  
Australian Labor Party