

**NOTICE OF DECISION ON PARTY REGISTRATION
APPLICATION TO REGISTER A NON-PARLIAMENTARY PARTY IN
THE REGISTER OF POLITICAL PARTIES REFUSED
THE SMSF & SELF-FUNDED RETIREES PARTY**

Notice of decision under s 133(3) of the *Commonwealth Electoral Act 1918* (Electoral Act) and Statement of Reasons

1. I am writing in accordance with s 133(3) of the Electoral Act to notify you of the determination of the application to register The SMSF & Self-Funded Retirees Party (the Party) as a non-Parliamentary party in the *Register of Political Parties* (the Register).
2. I am authorised to determine this application for party registration under s 133 of the Electoral Act as a delegate of the Electoral Commission.
3. On 6 February 2019, the Australian Electoral Commission (AEC) received the application to register the Party as a non-Parliamentary party (the Application) under s 126(1)(b) of the Electoral Act.
4. On 4 April 2019, a delegate of the Electoral Commission issued a Notice to the Party under s 131(1) of the Electoral Act. The s 131 Notice stated that the membership list lodged with the Application failed to demonstrate that the Party had at least 500 members¹.
5. On 8 April 2019, the Party responded to the s 131 Notice providing an updated membership list. Processing of the application was suspended from 12 April 2019 until 21 June 2019 under s 127 of the Electoral Act due to the issue of writs for the 2019 federal election.
6. On 7 July 2019, the Party submitted an updated membership list. The membership list contained deficiencies and was unable to be assessed by the AEC.
7. On 12 July 2019, the membership list of 7 July 2019 was returned to the Party to rectify the deficiencies. The Party did not lodge an updated membership list.
8. On 3 September 2021, the requirements of membership under ss 123 and 126(2)(ca) of the Electoral Act were amended by the Registration Amendment Act increasing the requirement for non-Parliamentary parties from 'at least 500 members' to 'at least 1,500 members'.
9. On 8 September 2021, the AEC wrote to the proposed secretary advising of the introduction of the Registration Amendment Act, and the increased requirement of 'at least 1,500 members'.
10. Processing of the application was suspended from 11 April 2022 until 23 June 2022 under s 127 of the Electoral Act due to the issue of writs for the 2022 federal election
11. On 15 July 2022, the AEC issued a notice in accordance with s 131(1) of the Electoral Act. The s 131 notice stated that the Party's membership list did not satisfy the legislative requirement of 'at least 1,500 members'. Furthermore, the Applicants were required to respond on or before 15 September 2022 in the following terms:
 - vary the Application, in relation to the membership list in a manner that meets the legislative requirements of s 123(a)(ii) of the Electoral Act;
 - proceed with the Application in the form in which it was lodged; or
 - withdraw the Application.

¹ At the time the application was lodged the membership requirement in ss 123 and 126(2)(ca) of the Electoral Act was at least 500 members

12. As at 5 October 2022, no response has been received by the AEC.
13. Accordingly, my determination is based on the Application, as varied on 7 July 2019.

Decision

14. I have determined that the application to register the Party as a non-Parliamentary party in the *Register of Political Parties* should be refused.

Materials I have taken into account

15. In making this decision, I had regard to:
 - the Application as varied, received by the AEC on 7 July 2019;
 - Part XI of the Electoral Act;
 - Section 4 of the Electoral Act;
 - the Registration Amendment Act;
 - the Register and the Register of Political Parties of each Australian State and Territory;
 - the AEC's *Guide for registering a party*.

Findings of Fact and Consideration

16. On the material before me, I make the following findings:

Procedural application requirements

17. I am satisfied that the Application met the following requirements of s 126 of the Electoral Act.

18. The Application:

- was in writing, signed by the applicants (s 126(2));
- set out the name of the Party (s 126(2)(a));
- set out an abbreviation of the name of the Party (s 126(2)(b));
- set out the name and address of the person who is to be the Registered Officer of the Party for the purposes of the Electoral Act (s 126(2)(c));
- stated that the Party wishes to receive moneys under Division 3 of Part XX of the Electoral Act (s 126(2)(d));
- set out the names and addresses of the applicants and particulars of the capacity in which each applicant makes the Application (s 126(2)(e));
- was accompanied by a copy of the constitution of the Party (s 126(2)(f)); and
- was accompanied by a fee of \$500 (s 126(2)(g)).

Party constitution

19. A copy of the constitution of the Party accompanied the Application as required by s 126(2)(f) of the Electoral Act. The constitution provided in the Application:
 - is in writing; and
 - sets out the aims of the Party, at least one of which being the promotion of the election of its candidates to the Senate and/or House of Representatives.

20. Accordingly, I am satisfied that the Party meets the requirements of having a written constitution in accordance with the definition of *eligible political party* at s 123(1) of the Electoral Act and the definition of *political party* at s 4 of the Electoral Act.

Party name and abbreviation

21. When undertaking an initial assessment of the Application, I considered the Party's proposed name and proposed abbreviation against the requirements of s 129 of the Electoral Act, and reviewed the Register and the registers for each State and Territory for parties with a similar name, abbreviation or acronym.

22. The Party name, The SMSF & Self-Funded Retirees Party, and abbreviation, The SMSF Party:

- do not comprise more than 6 words;
- are not obscene, frivolous or vexatious;
- are not the name, or an abbreviation or acronym of the name, of another political party (not being a political party that is related to the Party) that is a recognised political party;
- do not so nearly resemble the name, or an abbreviation or acronym of the name, of another political party (not being a political party that is related to the Party) that is a recognised political party that it is likely to be confused with or mistaken for that name or that abbreviation or acronym;
- are not one that a reasonable person would think suggests a connection or relationship exists between the Party and a registered party;
- do not comprise the words "Independent Party";
- do not comprise or contain the word "Independent" and the:
 - name, or abbreviation or acronym of the name, of a recognised political party; or
 - matter that so nearly resembles the name, or an abbreviation or acronym of the name, of a recognised political party that the matter is likely to be confused with or mistaken for that name or that abbreviation or acronym.
- do not contain a word that is in the name, or the abbreviation of the name, of a registered political party that requires consent from an existing registered political party.

23. The Registration Amendment Act amended the party naming provisions to restrict party names from containing words that are in the name, or in the abbreviation of a name, of a federally registered political party without the consent of the first registered party name that contains that word.

24. The Party's name and abbreviation do not contain a word that is in the name, or in the abbreviation of a name, of a registered political party that requires consent from an existing registered political party to use the word.

25. Accordingly, I am satisfied on the materials before me that there is no basis to refuse the name and abbreviation under s 129 of the Electoral Act.

Membership list

26. The membership list submitted with the Application as varied on 7 July 2019 contained 549 names of individuals that the Party considers to be current members (referred to as 'members' below).

27. After initial checks against the Commonwealth Electoral Roll (the electoral roll), deficiencies were identified in the membership list, including being unable to match over 100 members to the electoral roll.
28. On 12 July 2019, the membership list was returned to the Party to rectify the high number of unmatched members, and the Party has not since lodged an updated membership list.
29. On 3 September 2021, the Registration Amendment Act commenced and the membership threshold for non-Parliamentary parties under ss 123 and 126(2)(ca) of the Electoral Act increased from 'at least 500 members' to 'at least 1,500 members'.
30. The s 131 Notice advised that should the AEC not receive a response on or before 15 September 2022, a delegate would consider that the applicants wish to proceed with the Application in the form in which it was lodged.
31. As at 5 October 2022, no response from the Party has been received.
32. Accordingly, I am not satisfied that the application meets the requirements of s 126(2)(ca) of the Electoral Act as it does not include a list of the names of the 1,500 members of the Party to be relied on for the purposes of registration.

Conclusion

33. For the reasons outlined above, I refuse the application from The SMSF & Self-Funded Retirees Party for registration in the Register, as a delegate of the Electoral Commission for the purposes of ss 126(3) and 133(1) of the Electoral Act.

Your Review rights

34. Under s 141(1)(b) of the Electoral Act, my decision to refuse an application for registration of a political party is a reviewable decision.
35. 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.
36. 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?

37. 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.
38. 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?

39. The Electoral Commission, which is comprised of three members, the Electoral Commissioner, a judicial member and a non-judicial member, conducts internal reviews.
40. 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?

41. 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 Administrative Appeals Tribunal (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

42. 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.
43. 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.

(signed)

Joanne Reid
Assistant Commissioner
Delegate of the Electoral Commission
5 October 2022