

NOTICE OF DECISION ON PARTY REGISTRATION DEREGISTERING A POLITICAL PARTY AND REMOVAL FROM THE REGISTER OF POLITICAL PARTIES AUSTRALIAN PROGRESSIVES

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 Australian Progressives (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 former Registered Officer of the Party, Mr Robert Knight, under s 138A(3) of the Electoral Act (s 138A Notice). The s 138A 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 1,532 individuals the Party considers to be members of the Party.
6. On 11 January 2022, 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 did not have at least 1,500 members. Pursuant to s 137(2) of the Electoral Act, the Party was provided with one month to respond to the s 137 Notice (being 11 February 2022).
7. On 11 February 2022, the Registered Officer, Mr Edward Carroll, provided a statement in accordance with s 137(2) of the Electoral Act, and a list of 1,576 individuals the Party considers to be members.
8. The review of eligibility was impacted by the 2022 federal election. On 11 April 2022, writs for the 2022 federal election were issued. Pursuant to s 138A(2) of the Electoral Act, work relating to review the Party's eligibility would be suspended until the writs were returned.
9. On 23 June 2022, the writs for the 2022 federal election were returned and on 24 June 2022 the AEC advised the Party that the eligibility review could recommence.
10. On 27 June 2022, the Party was provided with an opportunity to be assessed on its most current membership list, and as such, the Party had until 11 July 2022 to provide an updated membership list.
11. On 11 July 2022, the Party provided an updated membership list containing the names of 1,591 individuals the Party considers to be members.

12. 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

13. As a delegate of the Electoral Commission, I am satisfied on reasonable grounds that the Party does not have at least 1,500 members, and the Party should be deregistered.
14. I have determined that Australian Progressives 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

15. In making my decision, I have had regard to:
- the s 138A Notice;
 - the reminder letter sent to the Party on 26 November 2021;
 - the response to the s 138A notice, being a list of individuals the Party considers to be members of the Party, lodged on 8 December 2021;
 - the s 137 Notice;
 - the statement provided by the Party in response to the s 137 Notice on 11 February 2022;
 - the membership list lodged on 11 July 2022 of 1,591 individuals the Party considers to be members of the Party;
 - the membership testing methodology and formula provided by the Australian Bureau of Statistics (ABS);
 - Part XI of the Electoral Act; and
 - the AEC *Guide for maintaining party registration*.

Findings of Fact

16. On the material before me, I make the following findings.
17. No member of the Party is a member of the Parliament of the Commonwealth.
18. The membership list lodged on 8 December 2021 contained the details of 1,532 individuals.
19. The membership list lodged on 11 July 2022 contained the details of 1,591 individuals.

Membership list of 8 December 2021

20. The membership list submitted by the Party on 8 December 2021 contained 1,532 names of individuals that the Party considers to be current members (referred to as 'members' below). The following results were found after membership testing against the Commonwealth Electoral Roll (the electoral roll).

Submitted membership list	1,532
Automatically matched to the electoral roll	819
Manually matched to the electoral roll	656
Unable to match or not enrolled on the electoral roll	(44)
Deceased	(13)
Total	1,475

27. As the total number of members dropped below the requisite 1,500 members, no further membership testing was undertaken on the list provided by the Party.
28. Accordingly, there were reasonable grounds on which I, as a delegate of the Electoral Commission, was satisfied that the Party did not have at least 1,500 members (s 137(1)(b) of the Electoral Act).
29. As such, the Party was issued with a s 137 Notice on 11 January 2022.
30. On 11 February 2022, in response to the s 137 Notice, the Party lodged a statement with the Electoral Commission setting out reasons why the Party should not be deregistered, and provided a list of 1,576 individuals the Party considers to be members.
31. On 11 April 2022, the writs for the 2022 federal election were issued and the eligibility review was suspended under s 138A(2) of the Electoral Act.
32. On 24 June 2022, the writs for the 2022 federal election were returned and on 27 June 2022 the Party was provided an opportunity to lodge an updated membership list by 11 July 2022.
33. On 11 July 2022, the Party provided an updated membership list of 1,591 individuals the Party considers to be members.

Membership list of 11 July 2022

34. The membership list submitted by the Party on 11 July 2022 contained 1,591 names of individuals that the Party considers to be current members (referred to as 'members' below). The following results were found after initial membership testing against the electoral roll.

Submitted membership list	1,591
Automatically matched to the electoral roll	1,294
Manually matched to the electoral roll	250
Unable to match or not enrolled on the electoral roll	(34)
Deceased	(13)
Total	1,544

35. Of the 1,544 members matched to the electoral roll, the following results identified duplicates within the membership list or duplicate members who have previously supported the registration of a registered political party (or parties):

Total matched to the electoral roll	1,544
Under 18-year-old members	(0)
Duplicates identified in the membership list provided by the Party	(1)
Members identified as also supporting the registration of another party	(12)
Total	1,531

36. In accordance with the random sampling formula provided by the ABS, a list of 1,531 members requires a random sample of 33 contactable members to confirm they are

members of the Party, with up to two denials of membership permitted. The Electoral Commission’s view is that, absent of any relevant factors to the contrary, a failure to satisfy the test provided by the ABS constitutes reasonable grounds upon which a delegate of the Electoral Commission can be satisfied that a non-Parliamentary political party does not have at least 1,500 members

37. For this review, the AEC attempted contact with 51 individuals and the sample of 33 contacts was achieved on 5 September 2022. Contact was achieved with 33 members, consisting of 30 confirmations of membership and three denials.
38. However, on 9 September 2022, a previously attempted contact subsequently confirmed membership of the Party by return phone call. The sample outcome was achieved on 5 September 2022 and the additional confirmation was not required. However, this confirmation of membership is reflected in the table below, noting that its inclusion in the sample size would not alter the maximum number of two denials permitted for a sample size of 33 or 34 contacts.

The relevant numbers for this membership test were:	Members
The random sample size	34
Maximum number of denials permitted	2
Contact attempts made*	51
Responses received:	
- Confirmed Membership	31
- Denied Membership	3
PASS/FAIL	FAIL

* as some members were uncontactable, or provided a neutral response

Supporting statement

39. I have considered the statement lodged by the Party on 11 February 2022, setting out reasons why the Party should not be deregistered.
- a) “When the number of required members for registration was tripled, we immediately requested that all members verify their details and assigned volunteers to conduct a series of checks on the electoral roll database at AEC offices. However we were prevented from completing this action before submitting our initial list in 2021 due to a scheduled conference closing all AEC offices in NSW and the ACT in the 48 hours before the list was due. You will note how very close to 1500 members we were at your count, and it does seem unreasonable to deregister the party when we had no prior knowledge or control of the AEC’s intent to close at a crucial moment. The time frame allowed for attaining the required membership was small by any consideration, but in the middle of a pandemic it seemed particularly draconian.”
- b) “The Australian Progressives do now have more than the new legislative requirement of 1500 members as our membership list has continued to grow in the intervening time. Our revised list is provided for your reference.”
- c) “The Australian Progressives request that we be given an extension to continue to clean the membership details of members and ensure that any future lists exactly match the electoral roll. In considering this request, we ask that you take into consideration the impact of the COVID-19 pandemic, in particular the Omicron surge, which has impacted the ability of the party to contact members and engage them in this process. Please also consider the very small number by which we failed the initial audit.”

- d) “[We] met the previous legislative requirements then to remain registered, and we are complying now with the new regulations currently in place to the best of our ability in trying circumstances.”
- e) “In the event that these arguments do not satisfy you, we request that you refrain from actioning the deregistration of the party until we have had the chance to appeal your decision to the Administrative Appeals Tribunal.”
40. I reject the reasons outlined by the Party in its statement provided on 11 February 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* (Registration Amendment Act).
41. I did not grant an extension of time to provide a final membership list, however, the issue of the writs for the 2022 federal election provided ample time for the Party to refine its membership list and submit a list of between 1,500 to 1,650 members for membership testing.
42. When the Registration Amendment Act was introduced, the Parliament was satisfied that three months was a reasonable period of time in which to meet the new membership requirements. The Party was advised on 8 September 2021 of the requirement to be able to demonstrate 1,500 members within three months of the Bill receiving Royal Assent.
43. I acknowledge the Party’s claims with regard to the difficulties caused by the COVID-19 pandemic, however, many organisations have adapted and changed the ways they communicate with their customers/members due to the limitations brought about by restriction of movement.
44. The Party requested that I ‘refrain from actioning the deregistration’. Under s 137(5) of the Electoral Act, I am required to consider the Party’s statement and determine whether the party should be deregistered for the reason set out in the s 137(1) notice.
45. The s 137 notice was issued as I was satisfied on reasonable grounds that the party did not have at least 1,500 members. This is the question in issue. Section 141 of the Electoral Act is clear in setting out the process the Party should follow should it be dissatisfied with my decision (see review rights below).
46. Further, the Party indicates ‘*how very close to 1500 members we were*’. However close, the membership list did not, and still does not, satisfy the requirement to have at least 1,500 members.
47. I remain satisfied that the Party does not have at least 1,500 members despite the Party’s contention that that it ‘*met the previous legislative requirements*’ and ‘*complying now with the new regulations currently in place to the best of our ability in trying circumstances.*’
48. I consider that the membership testing results outlined above provides a more robust method for ascertaining whether a party has satisfied the requirements of the Electoral Act than a statement provided by the Party.
49. 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 Australian Progressives 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

50. 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.
51. 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?

52. 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.
53. 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?

54. 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?

55. 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

56. 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.

57. 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

(signed)

Joanne Reid
Assistant Commissioner
Delegate of the Electoral Commission

12 October 2022