

NOTICE OF PARTY REGISTRATION DECISION OBJECTION TO CONTINUED USE OF A NAME AND ABBREVIATION

AUSTRALIAN LABOR PARTY (ALP)'S OBJECTION TO DEMOCRATIC LABOUR PARTY

Notice of decision under s 134A(2A)(b) of the *Commonwealth Electoral Act 1918* (Electoral Act)

1. I am writing in accordance with s 134A(2A)(b) of the Electoral Act, to publicise reasons of my decision to uphold the objection lodged with the Australian Electoral Commission (the AEC) on 18 October 2021 by the registered officer of "Australian Labor Party (ALP)" (ALP) to the continued use the name "Democratic Labour Party" (DLP) and the abbreviation "Labour DLP" (the Objection).
2. I am authorised to uphold the Objection under s 134A of the Electoral Act as a delegate of the Electoral Commission.

Decision

3. I have decided under s 134A(1)(d) of the Electoral Act to uphold the Objection in relation to the continued use of both the name "Democratic Labour Party" and the abbreviation "Labour DLP".

Materials I have taken into account

4. In making this decision, I had regard to:
 - an email dated 26 August 2021 from DLP to the AEC in relation to the *Electoral Legislation Amendment (Party Registration Integrity) Bill 2021* (the Bill);
 - the Objection;
 - the Register of Political Parties;
 - Part XI of the Electoral Act; and
 - the Explanatory Memorandum to the Bill.

Findings of Fact

5. On the material before me, I made the following findings:
Procedural requirements in s 134A(1)(aa) and (b)
6. I am satisfied that the Objection meets the procedural requirements of s 134A(1)(aa) and (b) of the Electoral Act, on the basis that:
 - ALP is the oldest party to be registered with "Labor" in its name or abbreviation (31 May 1984) and is the *parent party* (s 134A(1)(aa)). Of the eight other registered political parties besides ALP with the word "Labor" in their registered name and/or abbreviation (being the eight State and Territory branches of ALP), all eight were registered after ALP;
 - no registered political party besides DLP has the word "Labour" in its current registered name or abbreviation;
 - DLP was registered after ALP (20 July 1984) and is the *second party* (s 134A(1)(aa)); and

- the Objection was in writing from ALP's registered officer and objects to the continued registration of the DLP's name and abbreviation (s 134A(1)(b)).

Assessment of applicability of s 134A(1)(a)

7. The Objection refers to the name and abbreviation of the second party containing a word that is in the name, or abbreviation of the name, of the parent party (s 134A(1)(a)(iii) of the Electoral Act). The word in question is "Labor".
8. Section 129(6) of the Electoral Act states:

'In applying s 134A(1)(a)(iii), in relation to a word, other grammatical forms, and commonly accepted variants (including abbreviations, contractions and alternate forms), of the word are to be treated in the same way as the word.'
9. The Explanatory Memorandum to the Bill, which became the *Electoral Legislation Amendment (Party Registration Integrity) Act 2021*, explains at paragraph 17 of Schedule 1 that s 129(6) of the Electoral Act "is intended to cover pluralisation and commonly accepted spelling variants of a word, for example, "color" and "colours"". I am satisfied that a relevant analogy can be drawn between this example in the Explanatory Memorandum and the spelling variation of the words 'Labor' and 'Labour'.
10. Under s 129(5)(b) of the Electoral Act, s 134A(1)(a)(iii) of the Electoral Act does not apply to:

'a collective noun for people'.
11. The Explanatory Memorandum to the Bill provides at paragraphs 13 and 15 of Schedule 1 that "collective noun for people" in s 129(5)(b) of the Electoral Act is to be given its ordinary meaning and is intended to include words including (but not limited to) 'Party', 'Group', 'Alliance', 'Network' and 'Team'.
12. It is not within ordinary English to use 'labour' as a collective noun for people within the meaning of s 129(5)(b) of the Electoral Act, and therefore it is not a word covered by s 129(5)(b) of the Electoral Act.
13. The word 'labour' is also not a function word, the name of a country, the word "country", a recognised geographical place in Australia, or the word "democratic" within the meaning of s 129(5) of the Electoral Act.
14. Accordingly, on the basis of the materials before me, I am satisfied that under the Electoral Act, 'labour' is a commonly accepted variant of 'labor', and is not a word covered by s 129(5) of the Electoral Act.
15. As a delegate of the Electoral Commission for the purposes of s 134A of the Electoral Act, I uphold the Objection.

Review rights

16. 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.
17. 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?

18. 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.
19. 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?

20. The Electoral Commission, which is comprised of three members, the Australian Electoral Commissioner, a judicial member and a non-judicial member, conducts internal reviews.
21. 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?

22. 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

23. 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.
24. 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
19 November 2021