

### **Objections mechanism**

Section 132 of the *Commonwealth Electoral Act 1918* (the Electoral Act)

Section 132 of the Electoral Act outlines the procedure for dealing with an application under Part XI, including the grounds for making an objection.

Subsection 132(2) of the Electoral Act provides:

*A notice under subsection (1) in relation to an application shall:*

- (a) set out the particulars specified in the application in accordance with subsection 126(2); and*
- (b) invite any persons who believe that:*
  - (i) the application does not relate to an eligible political party; or*
  - (ii) the application is not in accordance with section 126 (including because subsection 126(2B) would be contravened); or*
  - (iii) the application should be refused under section 129; or*
  - (iv) the Electoral Commission should refuse to enter a logo of the party in the Register under section 129A;**to submit written particulars of the grounds for that belief to the Electoral Commission within 1 month after the date of the publication of the notice on the Electoral Commission's website.*

Subsections 132(4)-(6) outline the procedure for dealing with objections to an application that have been submitted under subsection 132(2). This includes requirements to make available to the applicant party and the public objections and any reply to the objections that are received.

### **Grounds for objection under subsection 132(2)**

**"Eligible political party"**

Subsection 123(1) of the Electoral Act provides:

- (1) In this Part, unless the contrary intention appears:*  
*eligible political party means a political party that:*
  - (a) either:*
    - (i) is a Parliamentary party; or*
    - (ii) has at least 500 members; and*
  - (b) is established on the basis of a written constitution (however described) that sets out the aims of the party.*

Subsection 4(1) of the Electoral Act defines "political party" as:

*"An organization the object or activity, or one of the objects or activities, of which is the promotion of the election to the Senate or to the House of Representatives of a candidate or candidates endorsed by it".*

Subsection 4(1) defines "organisation" as including:

- (a) a body corporate;*
- (b) an association or other body of persons;*
- (c) an association that consists of 2 or more organizations within the meaning of the preceding paragraphs; and*
- (d) a part of an organization within the meaning of a preceding paragraph.*

Subsection 123(1) of the Electoral Act defines "Parliamentary party" as *"a political party at least one member of which is a member of the Parliament of the Commonwealth"*.

Subsection 123(3) of the Electoral Act provides:

- (3) A reference in this Part to a member of a political party is a reference to a person who is both:*

- (a) a member of the political party or a related political party; and
- (b) an elector.

#### Section 126 of the Electoral Act

Section 126 of the Electoral Act outlines the requirements for an application for registration.

Section 126 of the Electoral Act provides:

(1) An application for the registration of an eligible political party may be made to the Electoral Commission by:

- (a) in the case of a Parliamentary party:
    - (i) the secretary of the party; or
    - (ii) the member, or all the members, of the Commonwealth Parliament who is a member, or who are members, of the party; or
  - (b) in the case of a political party other than a Parliamentary party—10 members of the party, of whom one is the secretary of the party.
- However, where a member of a Parliamentary party:
- (c) who is a member of the Commonwealth Parliament; and
  - (d) who has previously made an application for the registration of that Parliamentary party (the first party);
- makes an application for the registration of another party, the Commission must not proceed with the application for the registration of that other party unless the Commission is satisfied that the member is no longer a member of the first party. If the Commission is so satisfied, the Commission must take any action required by section 136 immediately.

#### Requirements for an application

(2) An application for the registration of an eligible political party shall be in writing, signed by the applicant or applicants and by the person who is to be the registered officer of the party, and shall:

- (a) set out the name of the party; and
- (b) if the party wishes to be able to use for the purposes of this Act an abbreviation of its name—set out that abbreviation; and
- (ba) if the party wishes a logo of the party to be entered in the Register—set out a copy of a logo; and
- (c) set out the name and address of the person who is to be the registered officer of the party for the purposes of this Act; and
- (ca) include a list of the names of the 500 members of the party to be relied on for the purposes of registration; and
- (d) state whether or not the party wishes to receive moneys under Division 3 of Part XX; and
- (e) set out the name and address of the applicant or the names and addresses of the applicants and particulars of the capacity in which the applicant or each applicant makes the application; and
- (f) be accompanied by a copy of the constitution of the party; and
- (g) be accompanied by a fee of \$500.

#### Requirements for logos

(2AA) For the purposes of paragraph (2)(ba), a logo set out in an application must:

- (a) be in black and white; and
- (b) meet any other requirements determined under subsection (2AB).

(2AB) For the purposes of paragraph (2AA)(b), the Electoral Commissioner may, by legislative instrument, determine requirements in relation to setting out a logo in an application.

## Attachment A – Legislative Framework

*A person must not be a member of more than one registered political party*

*(2A) Two or more parties cannot rely on the same member for the purpose of qualifying or continuing to qualify as an eligible political party. The following provisions apply accordingly:*

- (a) a member who is relied on by 2 or more parties may nominate the party entitled to rely on the member, but if a party is not nominated after the Electoral Commission has given the member at least 30 days to do so, the member is not entitled to be relied on by any of those parties;*
- (b) the members on whom a registered party relies may be changed at any time by an amendment of the Register of Political Parties;*
- (c) the registration of a party is not to be cancelled because of this subsection unless the Electoral Commission has taken action to determine whether the party should be deregistered because of paragraph 137(1)(a), (b) or (c).*

*A person must not be a registered officer etc. of more than one registered political party*

*(2B) A person must not, at a particular time, be:*

- (a) the registered officer of more than one registered political party; or*
- (b) a deputy registered officer of more than one registered political party; or*
- (c) the registered officer of one registered political party and a deputy registered officer of another registered political party.*

*...(legislative note not reproduced)*

*(2C) Subsection (2B) does not prevent a person from being both:*

- (a) the registered officer or a deputy registered officer of a registered political party for the purposes of this Act; and*
- (b) the registered officer or a deputy registered officer (however described), for the purposes of an Act of a State or Territory or an Ordinance of an external Territory, of a political party or a branch of a political party.*

*Electoral Commission to deal with application*

*(3) Upon receipt of an application for the registration of a political party, the Electoral Commission shall deal with the application in accordance with this Part and determine whether the party can be registered.*

*...(legislative note not reproduced)*

#### Section 129 of the Electoral Act

Section 129 of the Electoral Act outlines the requirements for registering party names and abbreviations.

Subsection 129(1) provides:

*The Electoral Commission shall refuse an application for the registration of a political party if, in its opinion, the name of the party or the abbreviation of its name that it wishes to be able to use for the purposes of this Act (if any):*

- (a) comprises more than 6 words;*
- (b) is obscene;*
- (c) is the name, or is an abbreviation or acronym of the name, of another political party (not being a political party that is related to the party to which the application relates) that is a recognised political party;*
- (d) so nearly resembles 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 to which the application relates) that is a recognised political party that it is likely to be confused with or mistaken for that name or that abbreviation or acronym, as the case may be; or*

- (da) *is one that a reasonable person would think suggests that a connection or relationship exists between the party and a registered party if that connection or relationship does not in fact exist; or*
- (e) *comprises the words "Independent Party" or comprises or contains the word "Independent" and:*
  - (i) *the name, or an abbreviation or acronym of the name, of a recognised political party; or*
  - (ii) *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, as the case may be.*

Subsection 129(2) of the Electoral Act defines “recognised political party” as a political party that is:

- (a) *a Parliamentary party; or*
- (b) *a registered party; or*
- (c) *registered or recognised for the purposes of the law of a State or a Territory relating to elections and that has endorsed a candidate, under the party’s current name, in an election for the Parliament of the State or Assembly of the Territory in the previous 5 years.*

Subsection 123(1) of the Electoral Act defines “Parliamentary party” as “*a political party at least one member of which is a member of the Parliament of the Commonwealth*”.

Subsection 4(1) of the Electoral Act defines “registered political party” as “*a political party that is registered under Part XI.*”

#### Section 129A of the Electoral Act

Section 129A of the Electoral Act outlines the requirements for registering party logos.

Section 129A provides:

*The Electoral Commission may refuse to enter in the Register a logo of a political party (the applicant), set out in an application to register the applicant, if, in its opinion, the applicant's logo:*

- (a) *is obscene; or*
- (b) *is the logo of any other person; or*
- (c) *so nearly resembles the logo of any other person that it is likely to be confused with or mistaken for that logo; or*
- (d) *is one that a reasonable person would think suggests that a connection or relationship exists between the applicant and a registered political party if that connection or relationship does not in fact exist; or*
- (e) *comprises the words "Independent Party" or comprises or contains the word "Independent" and:*
  - (i) *the name, or an abbreviation or acronym of the name, of a recognised political party (within the meaning of subsection 129(2)); or*
  - (ii) *matter that so nearly resembles the name, or an abbreviation or acronym of the name, of a recognised political party (within the meaning of subsection 129(2)) that the matter is likely to be confused with or mistaken for that name or that abbreviation or acronym, as the case may be.*

Subsection 129(2) (set out above) defines “recognised political party”.