



DETERMINATION

Member verification for political party registration

Electoral Act 2002, sections 52 and 58A

Determination 002/2023

Keywords

By-election, election, failed election, first preference votes, general election, member, re-election, registered political party, registration review, statutory declaration, supplementary election

Preamble

The *Electoral Act 2002* (Vic) (Electoral Act) establishes the Victorian Electoral Commission (VEC) and requires it to administer the Electoral Act, including the registration and re-registration of political parties.

The VEC conducts member verification:

- when it receives an application to register a political party (section 45 of the Electoral Act)
- as soon as practicable after an election, for those registered political parties that did not obtain an average of at least 4% of first preference votes across all electorates each registered political party contested (section 52(1)(b) of the Electoral Act)
- when it receives an application during the prescribed 2-month period for re-registration, being between 27 months and 25 months before each scheduled general election (section 58A(1)(b) of the Electoral Act)
- from time to time, at the VEC's discretion (section 52(1)(a) of the Electoral Act).

This Determination sets out how the VEC conducts member verification when an application for registration, a post-election review, a discretionary review or an application for re-registration occur more than once in a 6-month period.

This Determination is relevant to registered political parties that may be subject to a post-election review or a discretionary review under section 52 of the Electoral Act, or apply for re-registration under section 58A of the Electoral Act.

Audience

The principal audience for this Determination is registered political parties.

Determination

I, Sven Bluemmel, Electoral Commissioner for the State of Victoria, by delegation of the Victorian Electoral Commission pursuant to section 16(1)(b) of the Electoral Act, make the following determination in accordance with section 9(3) of the Electoral Act.

1. *Political party registration*

- 1.1. Section 43 of the Electoral Act requires the VEC to establish and maintain a register of political parties containing a list of the political parties registered under Part 4 of the Electoral Act.
- 1.2. Section 45 of the Electoral Act sets out the application requirements for a political party to be registered. Section 45(2) of the Electoral Act specifies the information that a political party must include in its application to be registered. For this Determination, 'application for registration' is the application for the registration of a political party.
- 1.3. Section 52(1)(a) of the Electoral Act provides that the VEC may review the registration of a political party from time to time. For this Determination, 'discretionary review' is a review which may be conducted under section 52(1)(a).
- 1.4. Section 52(1)(b) of the Electoral Act provides that the VEC must review the registration of a registered political party as soon as practicable after an election if the registered political party obtained an average of less than 4% of the first preference votes over all electorates it contested at the election. Section 3 of the Electoral Act provides that an "election" means:
 - a general election
 - a by-election
 - a supplementary election, or
 - a re-election.

For this Determination, 'post-election review' is the review which must be conducted under section 52(1)(b) of the Electoral Act.

- 1.5. Section 58A(1)(b) of the Electoral Act requires registered political parties to apply for re-registration within the 2-month period that begins 27 months before a scheduled general election and ends 25 months before a scheduled general election. For this Determination, 'application for re-registration' is the application for the re-registration of a registered political party.
- 1.6. Section 3 of the Electoral Act defines an 'eligible political party' as a political party that (inter alia) has at least 500 eligible members who are:
 - 1.6.1. electors, and
 - 1.6.2. members in accordance with the rules of the political party, and
 - 1.6.3. not members of another registered political party OR another political party applying for registration.

For this Determination, 'eligible members' are those who satisfy Items 1.6.1 to 1.6.3.

2. *Member verification*

- 2.1. The VEC adopts a process of independently verifying the information provided by the political party to identify eligible members. For this Determination, 'member verification' is the process conducted by the VEC in accordance with this Determination.
- 2.2. To verify that a political party has at least 500 eligible members, the VEC may contact those listed on the membership list provided by the political party and/or independently confirm their eligibility, including their enrolment as an elector. A response from an eligible member that satisfies Items 1.6.1 to 1.6.3 during member verification is a 'positive response'. The VEC may provide guidance to a political party about how member verification is conducted.
- 2.3. In relation to a political party, member verification may be required proximate to member verification conducted for an application for registration, a post-election review, a discretionary review or an application for re-registration. Further member verification could occur within a period of 6 months, for example when:
 - 2.3.1. an election occurs shortly after another election
 - 2.3.2. the prescribed period for receiving an application for re-registration before a scheduled general election, occurs shortly before or after another election, or
 - 2.3.3. the Court of Disputed Returns orders a re-election after a tied election (pursuant to section 117(4) of the Electoral Act).
- 2.4. The VEC will adopt the processes described in Items 3, 4, 5 and 6, where they apply, where member verification is required more than once in a 6-month period.
3. ***If an application for registration, a post-election review, a discretionary review or an application for re-registration has not concluded when the writ for an election is issued***
 - 3.1. Each election, including a by-election, supplementary election, re-election and general election, is a separate election for the purpose of a post-election review.
 - 3.2. If an application for registration, a post-election review, a discretionary review or an application for re-registration has not concluded before the period that starts on the day of the issue of the writ for an election and ends on the day on which the writ is returned, and a registered political party achieves less than an average of 4% of the first preference votes in all electorates it contested at that election, the results of the member verification for the application for registration, the discretionary review, or the application for re-registration (as the case may be) will also apply to the post-election review.
4. ***If an application for registration, a post-election review, a discretionary review or an application for re-registration was concluded shortly before an election***
 - 4.1. If a political party obtained registration, underwent a post-election review or discretionary review, or was re-registered within 6 months of the writ being issued for an election, the VEC will require a statutory declaration and current member list of at least 500 eligible members from the registered officer of the registered political party for any post-election review or discretionary review.
 - 4.2. The VEC will cross-check the current member list of at least 500 eligible members against the positive responses received during member verification for the

application for registration, the post-election review, discretionary review or the application for re-registration. The VEC will sample-check a proportion of the eligible members to confirm if they are still enrolled on the register of electors.

- 4.3. Depending on the result of the member verification process described at Item 4.2, the VEC can:

- 4.3.1. be satisfied that the political party should remain registered
- 4.3.2. expand its member verification, or
- 4.3.3. conduct a discretionary review under section 52(1)(a) of the Electoral Act.

5. *If an application for registration, a post-election review, or a discretionary review occurred shortly before an application for re-registration*

- 5.1. Re-registration must occur in accordance with sections 58A and 58B of the Electoral Act. The VEC will not alter member verification for re-registration where an application for registration, a post-election review, or a discretionary review occurred shortly before an application for re-registration.

6. *Member verification for discretionary review*

- 6.1. The member verification process for a discretionary review is at the VEC's discretion and may take the form of the member verification process described at Item 4.2 or may take the form of member verification conducted for registration.

Revocation of previous instrument

Not applicable.

Commencement of this Determination

This Determination commences on 24 August 2023 and remains in effect until such time as it is amended, revoked, superseded, or otherwise replaced.

Sven Bluemmel
Electoral Commissioner
Victorian Electoral Commission

23 August 2023

Document details

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