

Members present

Hon Andrew McGechan (President)
Chief Judge Joe Williams – *ex officio* (Maori Land Court)
Ms Belinda Clark – *ex officio* (Secretary for Justice)
Dr Helena Catt (Chief Executive)

Dated: 29 July 2008

Decision Number: 2008-20

Applicant

NZ AMALGAMATED ENGINEERING, PRINTING & MANUFACTURING UNION INC

Application

Application to list as a third party under section 15 of the Electoral Finance Act from NZ Amalgamated Engineering, Printing & Manufacturing Union Inc

Objection

That as the union is affiliated to the Labour Party it is 'involved in the administration of the affairs' of the party and therefore is not eligible to be a listed third party under section 13(2)(f) of the Electoral Finance Act.

Findings and Determination

The EPMU will be listed on Monday 4 August 2008 unless the Commission previously is restrained by court order.

This headnote does not form part of the decision.

Application

Application to list as a third party under section 15 of the Electoral Finance Act from NZ Amalgamated Engineering, Printing & Manufacturing Union Inc

Issues raised

The substance of the objection is that a union that is affiliated to the Labour Party is involved in the administration of the affairs of the Labour Party, in part because Andrew Little, Secretary of the Union is the Affiliates Vice President on the Council of the Labour Party.

Statutory provisions

Section 13(2)(b) of the Electoral Finance Act 2007, lists those person who are ineligible to be listed as a third party. This list includes at (f)(i) 'a person involved in the administration of the affairs of a party'. Section 17 lists grounds on which listing must be refused by the Electoral Commission which includes at (1)(c) the Electoral Commission is not satisfied, on the basis of the application, that the applicant is eligible to be listed as a third party'.

Electoral Commission's Determination

The Electoral Commission has considered the requirements of the Act along with the items listed as exhibits (below).

In the view of the Electoral Commission the EPMU is eligible unless disqualified under section 13 (2) (f) (i) as being "involved in the administration of.....the affairs of a party". The involvement must be in "administration of" the affairs, and not merely "in the affairs" of the party. The EPMU is an affiliate member of the NZ Labour Party. The EPMU has the voting and nomination rights of a member. The Commission does not regard the exercise of those rights as involvement in "the administration of the affairs" of the party. The EPMU is a member of a so-called Affiliates Council of the party, a body with uncertain formal status and functions. The Commission views that membership similarly. The present Secretary of the EPMU, Mr Andrew Little, is Affiliates Vice President of the NZ Labour Party and sits on its governing Council through being Affiliates Vice President. Affiliates Vice Presidents are elected by the Annual General Meeting of the party. He is not a representative of the EPMU. The Commission accepts he does not act on the Council under directions from the EPMU. If the possibility of influence from the EPMU may be relevant (a question of law which the Commission leaves open) the Commission finds no evidence of such influence or of the likelihood of such influence to the requisite degree. In these circumstances the Commission is satisfied the EPMU is not involved in the administration of the affairs of the party, and is eligible for listing. The EPMU will be listed on Monday 4 August 2008 unless the Commission previously is restrained by court order. Should credible evidence emerge in the future that the Affiliates Vice President is acting under EPMU direction the listing can be reassessed under section 20.

For the above reasons it is the view of the Electoral Commission that the EPMU will be listed on Monday 4 August 2008 unless the Commission previously is restrained by court order.

Signed for and on behalf of the Electoral Commission



Dr Helena Catt
Chief Executive and Commissioner
New Zealand Electoral Commission

1 August 2008

Exhibits

The following items were received and considered by the Electoral Commission when it determined this matter:

- 1 EPMU application for third party listing
- 2 7 February 2008 letter from Mr Farrar
- 3 13 February 2008 letter from the EPMU
- 4 29 February 2008 letter from the EPMU
- 5 20 March 2008 letter from Mike Smith
- 6 28 March 2008 letter from David Farrar
- 7 Crown Law opinion on meaning of 'involved in the administration of the affairs of a party' per Electoral Finance Act 2007 section 13 (2)(f)
- 8 22 May 2008 letter from Andrew Little
- 9 29 May 2008 letter from Andrew Little

- 10 10 June 2008 letter from Andrew Little
- 11 Labour Party Constitution