

UNDERTAKING TO THE ELECTORAL COMMISSIONER

Undertaking to the Electoral Commissioner given for the purposes of section 114 of the *Regulatory Powers (Standard Provisions) Act 2014* in relation to an enforceable provision under the *Commonwealth Electoral Act 1918*

by
Marijanna Smith

1. Glossary

- 1.1 In this Undertaking, unless the contrary intention appears, the definitions in section 4 of the Act and this clause apply:

Act means the *Commonwealth Electoral Act 1918*.

AEC means the Australian Electoral Commission.

Business day means that is not a Saturday, a Sunday or a declared public holiday in the Australian Capital Territory.

Electoral Expenditure has the meaning given in s 287AB of the Act.

Regulatory Powers Act means the *Regulatory Powers (Standard Provisions) Act 2014*.

Undertaking means this undertaking to the Electoral Commissioner by Marijanna Smith.

- 1.2 Terms used in this Undertaking that are defined in the Act or Regulatory Powers Act will have the same meaning given to those terms in those acts.

2. Background

Person giving undertaking

- 2.1 This Undertaking is given to the Electoral Commissioner by Marijanna Smith, for the purposes of section 114 of the Regulatory Powers Act.
- 2.2 Marijanna Smith was a candidate for the House of Representatives in the 2022 Federal Election.

Obligation to make disclosures

- 2.3 Under the Act, Marijanna Smith was required to make disclosures using the approved form to the AEC in respect of the 2022 Federal Election for:
- 2.3.1 donations received (s 304(2));
 - 2.3.2 Electoral Expenditure incurred (s 309(2)); and
 - 2.3.3 discretionary benefits (s 309(4)).
- 2.4 If Marijanna Smith received no donations or incurred no Electoral Expenditure in relation to an election, sections 307 and 313 of the Act still require a nil return to be lodged with the AEC.

2.5 Under the Act the relevant returns above were required to be made by 5 September 2022.

Failure to make disclosures

2.6 Marijanna Smith did not return the necessary disclosures outlined above to the AEC despite the AEC notifying Marijanna Smith of their obligations to do so prior to the due date and subsequently on numerous occasions.

2.7 The failure to make the required disclosures contravenes the civil penalty provisions in sections 304 and 309 of the Act.

2.8 Under section 384A of the Act, each civil penalty provision of the Act is enforceable under Part 6 of the Regulatory Powers Act.

3. Undertaking

3.1 Under section 114 of the Regulatory Powers Act, the Electoral Commissioner as the authorised person for that Act may accept any of the following Undertakings in respect of contravention of sections 304 and 309 of the Act:

3.1.1 a written undertaking given by a person that the person will, in order to comply with a provision enforceable under this Part, take specified action;

3.1.2 a written undertaking given by a person that the person will, in order to comply with a provision enforceable under this Part, refrain from taking specified action;

3.1.3 a written undertaking given by a person that the person will take specified action directed towards ensuring that the person does not contravene a provision enforceable under this Part, or is unlikely to contravene such a provision, in the future.

Disclosures to be made to the AEC

3.2 Marijanna Smith must within five (5) Business days of acceptance of this Undertaking have lodged the disclosures set out at clause 2.3 with the AEC using the online eReturns portal at: <https://ereturns.aec.gov.au>.

Future disclosures to be made to the AEC

3.3 Should she nominate as a candidate in any future federal election, Marijanna Smith will ensure that she meets her obligations to make the disclosures set out at clause 2.3.1, 2.3.2, 2.3.3 or 2.4 by the required statutory timeframes.

4. Acknowledgements

4.1 Marijanna Smith acknowledges that:

4.1.1 she admits that the conduct contravened her obligations under sections 304 and 309 of the Act;

4.1.2 she offers this Undertaking to the Electoral Commissioner accordingly;

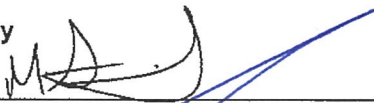
4.1.3 the AEC will make this Undertaking publicly available on the Transparency Register as set out in s 384A(2A) of the Act;

- 4.1.4 the Electoral Commissioner and Officials of the AEC may, from time to time, make public reference to this Undertaking and the circumstances giving rise to this Undertaking;
- 4.1.5 she will bear all costs associated in complying with this Undertaking;
- 4.1.6 where an event or issue occurs that may prevent the fulfillment of clause 3 of the Undertaking, the Electoral Commissioner will not consent to vary the dates specified unless a request that outlines the event or issue and reasons why the variation is required is submitted in writing as soon as reasonably practicable after the event or issue occurs, but no later than three calendar days prior to the specified date;
- 4.1.7 breaching the Undertaking may result in the Electoral Commissioner enforcing the Undertaking through the Federal Court; and
- 4.1.8 this Undertaking is given freely.

5. Duration of Undertaking

- 5.1. This Undertaking comes into effect when:
 - 5.1.1 the Undertaking is executed by Marijanna Smith; and
 - 5.1.2 the Electoral Commissioner accepts the Undertaking so executed by Marijanna Smith.
- 5.2 This Undertaking ceases to have effect once the requirements of clause 3 have been completed.

Executed by

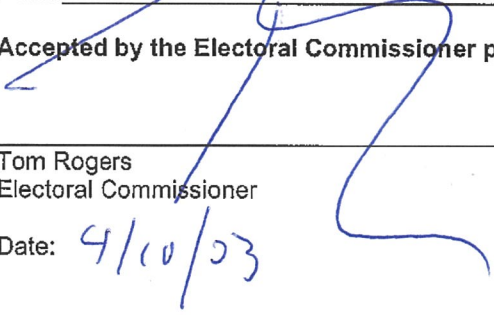


Marijanna Smith

Date:

2/10/23

Accepted by the Electoral Commissioner pursuant to section 114 of the Regulatory Powers Act



Tom Rogers
Electoral Commissioner

Date:

4/10/23