

# Electoral Laws (Restoring Electoral Fairness) Amendment Bill 2025

## Explanatory Notes

### Short title

The short title of the Bill is the *Electoral Laws (Restoring Electoral Fairness) Amendment Bill 2025* (the Bill).

### Policy objectives and the reasons for them

#### Overview of the Bill

The overarching policy objectives of the Bill are to improve and restore fairness and equality to the regulation of elections in Queensland and increase public confidence in Queensland's electoral processes.

The Bill includes amendments:

- prohibiting persons serving a sentence of imprisonment or detention of one year or longer from voting at State elections and referendums and local government elections;
- applying existing caps on political donations for State elections to financial years, broadly aligning with the length of Commonwealth gift cap periods;
- removing the ban on political donations from property developers and related industry bodies for State elections, as well as refining and targeting the ban for local government electoral purposes (including through closing loopholes and anti-circumvention measures);
- allowing loans from financial institutions to be used for electoral expenditure for State elections, broadening electoral funding sources to include regulated lenders;
- enhancing the independence of registered political parties by enabling them to conduct preselection ballots without the oversight of the Electoral Commission of Queensland (ECQ); and
- changing authorisation requirements for election materials and how-to-vote cards for State elections to apply to the period 12 months before an ordinary general election (rather than the current period of 26 days) and to allow post office boxes or other prescribed addresses to be used.

#### **Increasing restrictions on voting by persons serving sentences of imprisonment or detention**

Currently, under the *Electoral Act 1992* (Electoral Act), the *Referendums Act 1997* (Referendums Act) and *Local Government Electoral Act 2011* (LGE Act), prisoners

who are serving a sentence of imprisonment of three years or more are not entitled to vote at State elections and referendums and local government elections.

The Bill will increase this restriction by prohibiting persons serving a sentence of imprisonment or detention of one year or longer from voting at State and local government elections (rather than the current prohibition of when serving a sentence of imprisonment of three years or longer).

The Bill clarifies that persons over 18 years who were sentenced to detention of one year or more as a child and are serving that sentence (in full-time detention or as a term of imprisonment in a corrective services facility) are not entitled to vote in State elections and referendums and local government elections.

The policy objectives of prohibiting voting by persons serving sentences of imprisonment or detention of one year or longer are to:

- refine the eligibility to vote to a narrower class of prisoners and persons serving sentences of detention, having regard to the culpability of their offending, to enhance civic responsibility; and
- increase public confidence in the integrity of electoral processes, by not allowing elections to be influenced by those who show disregard for the rule of law.

### **Applying existing caps on political donations for State elections to financial years**

Under the Electoral Act, caps on political donations limit the value of political donations that a single donor can make during the ‘donation cap period’ to a registered political party, candidates endorsed by a registered political party, or an independent candidate for a purpose relating to a State election.

The ‘donation cap period’ currently means the period between general elections (30 days after polling day for the last general election until 30 days after polling day for the next general election). The current period is from 26 November 2024 to 27 November 2028. If a candidate contests a by-election, the donation cap period ‘renews’ and will apply from 30 days after election day for the by-election until the next election contested by the candidate. During the donation cap period, donors must not make political donations of more than: \$4,800 to the same registered political party; \$7,200 to an independent candidate; or a total of \$7,200 to candidates endorsed by the same registered political party.

The Bill will amend ‘donation cap period’ to mean each financial year so that the current donation cap amounts instead apply to each financial year. The policy objective of applying the existing caps to financial years is to reduce the restriction on funding sources which may be applied to electoral expenditure at State elections, while continuing to limit potential risks of corruption and undue influence and ensure a level playing field between donors through the caps on political donations. The change will broadly align the length of donation cap periods under the Electoral Act with gift cap periods being included in the *Commonwealth Electoral Act 1918* (Cth) through recent amendments.

## **Removing the ban on political donations from property developers for State elections, and targeting the ban to local government elections only**

Currently, under the Electoral Act, political donations from property developers, or industry bodies which have property developers as the majority of their members, are banned (property developer donations ban).

The property developer donations ban was enacted by the *Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018* in response to certain recommendations of the Crime and Corruption Commission's (CCC) report *Operation Belcarra: A blueprint for integrity and addressing corruption risk in local government* (Belcarra Report).

Currently, under the LGE Act, there is a similar property developer donations ban. This ban, in part, applies to political donations to a 'political party', which is defined to mean any entity that has as its purpose, or that engages in, promoting or endorsing the election of a local government candidate.

The Bill includes amendments to remove the property developer donations ban from the Electoral Act so that it does not apply at the State level.

The Bill also includes amendments to the LGE Act to ensure that political donations to a political party will not be subject to the ban when made with the intention that the donation is not used for local government electoral purpose. However, the ban will continue to apply to political donations for a local government electoral purpose, to be more consistent with recommendation 20 of the CCC's Belcarra Report.

The policy objectives for removing the property developer donations ban at the State level, and limiting the scope of the ban as it applies to political parties at the local government level, are to:

- create more equal opportunities by allowing property developers to participate in State elections by making political donations in the same way as other donors;
- ensure the property developer donations ban is targeted at local government elections only, as contemplated by recommendation 20 of the Belcarra report;
- promote freedom of expression by allowing donations from property developers to be used for State electoral purposes including campaigning.

## **Allowing loans from financial institutions to be used for electoral expenditure for State elections**

Candidates, registered political parties and registered third parties are required to maintain State campaign accounts for State elections. All electoral expenditure for State elections must be paid from these accounts, and for candidates and registered political parties the amounts that can be paid into them are limited to certain types of funding.

Currently, under the Electoral Act, a loan from a financial institution cannot be paid into a candidate or registered political party's State campaign account, and therefore cannot be used to fund electoral expenditure of a candidate or registered political party for a State election. However, loans from other sources (such as individuals, private or

unregulated lenders) can be paid into State campaign accounts, provided that the required records are kept about them.

The policy objective of allowing loans from financial institutions to be used for electoral expenditure for State elections is to ensure that funding sources for campaigning are not unfairly restricted to private and unregulated lenders and other types of loans not provided by financial institutions; and to prevent candidates and registered political parties from being forced to borrow only from these sources to finance their electoral expenditure for State elections.

### **Enhancing independence of political parties in preselection ballots**

Currently, part 9 of the Electoral Act provides for the ECQ to oversee the conduct of preselection ballots by performing inquiries or audits. This includes requirements for registered political parties to adhere to model procedures for the conduct of a preselection ballot that are prescribed by regulation.

A preselection ballot means the process (or that part of the process) of selecting a candidate to be endorsed by a registered political party for a State or local government election, in which a member of the party votes in a ballot for the candidate.

The Bill omits part 9 of the Electoral Act to remove the oversight requirements for preselection ballots. The purposes of the amendments are to remove the administrative burden on the ECQ in undertaking audits and inquiries into preselection ballots and allow registered political parties to undertake preselection ballots in accordance with their constitution without having to adhere to other requirements. This will remove restrictions and burdensome regulations that do not apply equally to all political parties, given some parties do not require preselection ballot processes.

### **Enhancing electoral transparency by amending authorisation requirements for election materials and how-to-vote cards**

Currently, under section 181 of the Electoral Act, a person must not print, publish, distribute or broadcast (or permit or authorise) an advertisement, handbill, pamphlet or notice containing election matter, unless it contains the name and address of the person who authorised the material. Similarly, under section 182 of the Electoral Act, a person must not distribute (or permit or authorise) a how-to-vote card unless it contains the required authorisation details.

Both sections 181 and 182 of the Electoral Act apply during the ‘election period’, which means the period beginning on the day after the writ for the election is issued and ending at 6pm on the polling day for the election (i.e. 26 days). Both sections also prohibit a post office box being used as a person’s address in the authorisation details.

The policy objective of amending the definition of ‘election period’ so that for an ordinary general election the period will begin 12 months prior to polling day and end at 6pm on polling day, is to ensure greater transparency and awareness about who is authorising material that is provided to electors and the Queensland public more generally, and enable voting choices to be formed taking into account not only any information conveyed through such material but who is responsible for it.

The policy objective of allowing post office boxes or another address prescribed by regulation to be used to comply with the authorisation details is to address privacy and safety concerns, particularly for candidates who may be required to provide their personal residential address.

## **Achievement of policy objectives**

The Bill will achieve the key policy objectives of the Bill by amending the Electoral Act and LGE Act in the ways described.

## **Alternative ways of achieving policy objectives**

There are no alternative methods for achieving the policy objectives.

## **Estimated cost for government implementation**

The costs associated with the amendments will be met within existing resources.

## **Consistency with fundamental legislative principles**

The Bill is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below.

### **Rights and liberties of individuals**

The fundamental legislative principles include requiring that legislation has sufficient regard to rights and liberties of individuals (section 4(2)(a) of the *Legislative Standards Act 1992* (LS Act)).

#### *Retrospective operation - caps on political donations*

Whether legislation has sufficient regard to rights of liberties of individuals depends on whether, for example, the legislation does not adversely affect rights and liberties, or impose obligations, retrospectively (section 4(2)(g) of the LS Act).

The Bill provides for the retrospective operation of caps on political donations to 1 July 2025. This retrospective operation has two impacts: firstly, it will mean that, if the Bill commences in the 2025-26 financial year, political donations already made and received between 1 July 2025 and commencement will be taken into account in applying donations caps for the 2025-26 and future financial years; and secondly, it will mean that donors/recipients who had already made donations between 26 November 2024 and commencement will have the benefit of the donation caps effectively ‘renewing’ as at 1 July 2025.

In relation to the first impact, if the Bill commences before the end of the 2025-26 financial year, this will not be adverse, as the donation cap amounts remain the same, and there will be time remaining in the donation cap period in the 2025-26 financial year. Therefore, a person/entity who made or received political donations prior to

commencement will have the same opportunity to make or receive donations up to the cap amounts during the 2025-26 financial year as a person/entity that had not made or received donations before commencement.

In relation to the second impact, if the Bill commences before the end of the 2025-26 financial year, there is a potential adverse impact, as persons/entities who made and received political donations between 26 November 2024 and 30 June 2025 (i.e. in the 2024-25 financial year) may be considered to receive an advantage over persons/entities that did not. For example,

- if a person/entity had already exhausted their donation cap as it applies during 26 November 2024 to 27 November 2028 before commencement of the Bill, they will potentially receive an advantage, as the retrospective operation effectively ‘renews’ the caps as at 1 July 2025;
- if a person/entity had not yet made or received any political donations before 1 July 2025, they will effectively miss out on the opportunity to have exhausted their cap and receive the benefit of a new cap for the 2025-26 financial year.

The retrospective operation is considered necessary to achieve the policy objective of applying donations caps on a financial year basis as soon as possible, and the potential for any inequalities is as limited as possible as it will only apply to the period 26 November 2024 to commencement.

#### *Proportionate consequences –use of restricted donations*

Whether legislation has sufficient regard to rights and liberties of individuals (section 4(2)(a) of the LS Act) depends on whether consequences imposed by legislation are proportionate and relevant to the actions to which the consequences are applied.

The Bill makes it unlawful for a person to use a restricted donation (that is a political donation by a prohibited donor not for a local government electoral government purpose) for a local government electoral purpose. If a person does this, and the person knows or ought reasonably to know of the facts that result in this being unlawful, they will commit an offence with a maximum penalty of 400 penalty units or two years imprisonment. In addition, if a person uses a restricted donation for a local government electoral purpose, an amount equal to twice the amount or value of the restricted donation is payable by the person to the State.

Making the unlawful conduct an offence and subject to the recovery provision ensures that there is similar treatment for the unlawful use of a restricted donation with other unlawful conduct involving political donations from prohibited donors. This ensures the integrity of the ban on political donations from property developers and related industry bodies as it relates to local government electoral purposes.

In addition, the Bill prohibits paying a restricted donation into the dedicated account of a registered political party that endorses a candidate in a local government election, preventing restricted donations from being used to pay for electoral expenditure for local government elections. The registered political party must take all reasonable steps to ensure that this requirement is complied with, and failure to comply with this and other requirements relevant to requirements for the dedicated account is subject to a maximum penalty of 100 penalty units. This is intended to provide an additional

safeguard to preclude a restricted donation from being applied to a local government electoral purpose in the form of electoral expenditure, and provides for consistent treatment for all requirements related to this type of dedicated account.

### *Human rights*

Whether legislation has sufficient regard to rights and liberties of individuals (section 4(2)(a) of the LS Act) depends on whether legislation abrogates rights from any source without sufficient justification.

Limitations on human rights imposed by the Bill, and their justifications, are addressed in the Statement of Compatibility with Human Rights.

## **Consultation**

The Electoral Commission of Queensland were consulted on a draft of the Bill. Consultation with the community is anticipated to take place through the regular parliamentary inquiry process. Particular measures also align with Government pre-election statements and commitments.

## **Consistency with legislation of other jurisdictions**

The Bill is specific to the State of Queensland and is not uniform with or complementary to legislation of the Commonwealth or another State.

As noted above, applying existing caps on political donations for State elections to financial years will broadly align the length of donation cap periods under the Electoral Act with gift cap periods being included in the *Commonwealth Electoral Act 1918* (Cth) through recent amendments.

# Notes on provisions

## Part 1 – Preliminary

*Clause 1* provides that the Electoral Laws (Restoring Electoral Fairness) Amendment Bill 2025 (the Bill), when enacted, may be cited as the *Electoral Laws (Restoring Electoral Fairness) Amendment Act 2025* (the Act).

*Clause 2* provides that, when the Bill is enacted, the following sections, which relate to voting by persons serving sentences of imprisonment or detention, will commence on a day to be fixed by proclamation:

- sections 4 to 7;
- section 23 to the extent it inserts new section 452;
- sections 26 to 31;
- section 42;
- section 43 to the extent it inserts new section 239; and
- part 4.

The remaining provisions will commence on the day that is 28 days after the date of assent.

## Part 2 – Amendment of Electoral Act 1992

*Clause 3* provides that part 2 amends the Electoral Act.

*Clause 4* amends section 58 (Commission to keep electoral rolls) to allow the Electoral Commission of Queensland (commission) to ask the chief executive (youth justice) give the commission information about persons aged at least 18 years who are serving a sentence of detention, or were serving a sentence of detention of one year or longer and have been transferred to serve the detention as a term of imprisonment. The clause also amends section 58 to ensure that the chief executive (youth justice) must give the commission the information as soon as practicable after receiving the request.

*Clause 5* amends section 64 (Entitlement to enrolment) so that a person serving a sentence of detention is treated on the same basis as a person serving a sentence of detention for the purpose of entitlement to enrolment, including which electoral district that the person may be enrolled for.

*Clause 6* amends section 106 (Who may vote) to provide that a person who is serving a sentence of imprisonment or detention of one year or more is not entitled to vote at an election for an electoral district. This reduces the relevant sentence of imprisonment from the current position of three years or more, and also provides that persons serving a sentence of detention of one year or more are not entitled to vote.

The clause also provides that any part of a sentence of detention that a person is serving as a term of imprisonment is taken to be attributable to the sentence of detention. This ensures that entitlement to vote by a person who is transferred from detention to a corrective services facility is determined based on a person's sentence of detention and



not a shorter period of detention being served as a term of imprisonment in a corrective services facility.

*Clause 7* amends section 115 to provide that an elector who is serving a sentence of detention on the polling day must make a declaration vote. This provides for a consistent approach with an elector who is serving a sentence of imprisonment.

*Clause 8* omits part 9 (Commission oversight of preselection ballots). This will remove powers for the Electoral Commission of Queensland (commission) to inquire into a preselection ballot of a candidate for an election of a member of members of the Legislative Assembly (State election) or an election for a local government on its own initiative or receiving a complying complaint.

*Clause 9* inserts new section 180A (Definitions for division). This section provides new definitions for ‘address’ and ‘authorisation period’ which are used in sections 181 and 182.

‘Address’ includes a post office box and a form of address prescribed by regulation.

‘Authorisation period’, for an ordinary general election, means the period beginning on the day that is one year before the polling day for an ordinary general election and ending at 6pm on polling day. For any other election, it means the period beginning on the day after the writ for the election is issued and ending at 6pm on polling day.

*Clause 10* amends section 181 (Author of election matter must be named) to:

- provide that the offence in the section relating to including required particulars in an advertisement, handbill, pamphlet or notice containing election matters applies to the authorisation period as defined in new section 180A, inserted by clause 9; and
- no longer exclude post office boxes as a form of address that may be included as required particulars. The definition of address in new section 180A, inserted by clause 9, will be relevant to those required particulars.

*Clause 11* amends section 182 (Distribution of how-to-vote cards) to:

- provide that the offence relating to including required particulars in a how-to-vote card applies to the authorisation period as defined in new section 180A, inserted by clause 9; and
- no longer exclude post office boxes as a form of address that may be included as required particulars. The definition of address in new section 180A, inserted by clause 9, will be relevant to those required particulars.

*Clause 12* amends section 197 (Definitions) to omit the definition of ‘prohibited donor’; omit and replace the definition of ‘political donation’ to reflect the omission of division 8, subdivision 4; and amend the definition of ‘loan’ so that so that it no longer excludes a loan made by a financial institution. This will mean that loans made by a financial institution will, among other things, be able to be paid into a State campaign account of a registered political party or candidate under section 216(1)(e) of the unless it is a loan received in contravention part 11, division 8, subdivision 3 (Records to be kept about loans).

*Clause 13* amends section 216 (Payments into State campaign account) to no longer exclude amounts given to the spouse of candidate in a candidate that are given to the spouse by a prohibited donor from being paid into a State campaign account, and to remove the definition of ‘prohibited donor’ from the section. These amendments are consequential to the omission of part 11, division 8, subdivision 4 by clause 17.

*Clause 14* replaces section 247 (Meaning of donation cap period). New section 247 provides that the donation cap period, for a registered political party or candidate in an election, is each financial year. The donation cap for a candidate in an election will apply in relation to each election that person meets the definition of a candidate. For example, if a person is a candidate in a by-election and a general election in the same financial year, the donation cap will apply to that person in each capacity that they are a candidate.

*Clause 15* amends section 253 (Adjustment of donation cap) to:

- provide that the donation cap is adjusted on 1 July each year (rather than 30 days after the polling day for each general election;
- provide that the donation cap amount is rounded up to the nearest dollar;
- update CPI numbers used in the formula for the adjustment to reflect the adjustment occurring on 1 July each year; and
- require the commission to publish the amount before the start of each financial year.

*Clause 16* amends section 255 (Caps on political donations made to candidates) so that the prohibition on making a stated political donation to a candidate is expressed to apply during a donation cap period for a candidate in an election. This reflects the donation cap period in new section 247 inserted by clause 14.

*Clause 17* omits part 11, division 8, subdivision 4 (Political donations from property developers). Political donations from property developers to certain entities will continue to be unlawful under part 6, division 1A of the *Local Government Electoral Act 2011* (LGE Act).

*Clause 18* omits section 307A (Offence about prohibited donations). This section relates to an act or omission that is unlawful under section 275, which is omitted by clause 17.

*Clause 19* amends section 307B (Schemes to circumvent prohibition on particular political donations or electoral expenditure) to remove the reference to person participating in a scheme to circumvent a prohibition under part 11, division 8, subdivision 4, which is omitted to clause 17. The section’s heading is also amended to better reflect its content.

*Clause 20* omits section 307C (False or misleading information relating to determinations) which relates to a person giving the commissioner information under section 277 and proceedings against a person in an offence under section 307A. These sections are omitted by clauses 17 and 18 respectively.

*Clause 21* replaces the note under section 374 (Right of appeal) to omit references to section 277(4)(b) and 278(2) which are omitted by clause 17, and refer to sections 113D(4) and 113E(2) of the LGE Act.

*Clause 22* amends section 385 (Particular offences under this part are summary) to remove references to sections 307A and 307C, which are omitted by clauses 18 and 20 respectively.

*Clause 23* inserts new part 13, division 13 (Transitional provisions for Electoral Laws (Restoring Electoral Fairness) Amendment Act 2025), which contains new sections 451 to 459.

New section 451 (Definitions for division) provides definitions of ‘amending Act’, and ‘former’ and ‘new’ for the purposes of new part 13, division 13.

New section 452 (Prisoner voting in particular elections) provides that former section 64, 106 and 115 continue to apply to a person in relation to an election for which the writs were issued before the commencement.

New section 453 (Election matter etc. for particular elections) provides that former section 181 and 182 continue to apply in relation to election matter and how-to-vote cards for an election for which the election period started before the commencement.

New section 454 (Existing inquiry into preselection ballot) provides that an inquiry into a preselection ballot that started but was not completed before commencement may be completed if initiated by the commission, and must still be completed and reported on if initiated by a complaint. Former section 168 will apply in relation to such an inquiry.

New section 455 (Current audit of preselection ballot) provides that if the commission gave a notice under former section 172(1) before the commencement to the registered political party that a preselection ballot was to be audited, but had not given a report to the Minister, former section 172 continues to apply in relation to the audit and former section 173 applies in relation to a report to the Minister identifying the preselection ballot.

New section 456 (Transitional provision for donation cap period) provides that, for a candidate in an election (other than a candidate in a by-election held fewer than 30 days before the commencement), new part 11, division 6 (Political donations and caps on political donations) applies in relation to a candidate or party as if it had commenced on 1 July 2025, the candidate or party’s donation cap period is taken to have started on 1 July 2025 and the donation cap period under former section 247 is taken to have ended on 30 June 2025 for all purposes, including the offence provisions. For a candidate in a by-election held fewer than 30 days before the commencement, the donation cap under former section 247 continues to apply and former part 11, division 6 continues to apply in relation to the candidate until the end of the donation cap period.

New section 457 (Proceedings for particular offences) provides that a proceeding for an offence under former section 307A, 307B or 307C(1) may be continued or started, and the person may be convicted of and punished for the offence, as if the amending Act had not commenced.

New section 458 (Recovery of particular donations) provides that former section 276 continues to apply in relation a political donation that was unlawfully accepted under former section 275 before the commencement.

New section 459 (Register of determinations) provides that former section 279, which requires the commissioner to keep a register of determinations made under section 277 and revocations made under section 278, continues to apply until 1 July 2029.

*Clause 24* amends schedule 1 (Dictionary) to replace the definition of ‘political donation’ and omit the definition of ‘prohibited donor’.

### **Part 3 – Amendment of Local Government Electoral Act 2011**

*Clause 25* provides that part 3 amends the LGE Act.

*Clause 26* inserts new section 16A (Definitions for division) which provides a definition of ‘enrolled to vote’ which is used in section 17, as amended by clause 27, and section 64, as amended by clause 30.

*Clause 27* amends section 17 (Returning officer must compile voters roll) which provides that the returning officer must compile a roll of persons enrolled to vote at the election, with reference to the new definition in section 16A, as amended by clause 26. This ensures the voters roll consists of persons on the enrolled to vote at the time that the voters roll has been compiled in accordance with the requirement in section 18, and entitlement to vote may be determined under section 64 at the time that a person votes. The clause also amends the section to allow an electoral registrar under the Electoral Act to give the returning officer information the officer reasonably requires to compile the voters roll for an election.

*Clause 28* inserts new section 17A (Information about persons serving sentences of imprisonment or detention) which permits a returning officer to ask the chief executive (corrective services) and the chief executive (youth justice) for stated information to enable the returning officer to decide the persons who are not entitled to vote because of section 64(2). The chief executive must give the returning officer the information as soon as practicable after receiving the request. In addition, the section allows an electoral registrar who has received information under section 58(8) of the Electoral Act, to provide that information to the returning officer.

*Clause 29* amends section 19 (Requirements of voters roll) to provide that the voters roll must show the names of all persons enrolled to vote at the election. This ensures that the voters roll consists of persons on the enrolled to vote at the time that the voters roll has been compiled in accordance with the requirement in section 18, and entitlement to vote may be determined under section 64 at the time that a person votes.

*Clause 30* replaces section 64 (Who may vote). New section 64 provides that the only persons entitled to vote at an election are persons on the voters roll, persons who are not on the voters roll but are entitled under section 64(1)(a)(ii) of the Electoral Act to be enrolled to vote at the election; persons who are not on the roll because of an

official error; and persons who are not on the voters roll but are entitled to be enrolled on the electoral roll for the electoral district in which the area or division is situated and give the electoral commission a notice under section 65 of the Electoral Act after the cut-off day for the voters roll and no later than 6pm on the day before polling day. The section also provides that a person who is serving a sentence of imprisonment or detention of one year or longer is not entitled to vote at an election. Also, a person is not entitled to vote more than once at the same election or at two or more divisions of the same local government area.

*Clause 31* amends section 69 (Who must complete a declaration envelope) to provide that the following electors must complete a declaration envelope for an election, in addition to those already provided for:

- persons who are serving a sentence of detention on the cut-off day for the voters roll but is not serving a sentence of detention on the polling day for the election;
- persons who are not on the voters roll but are entitled under section under section 64(1)(a)(ii) of the Electoral Act to be enrolled to vote at the election; and
- persons who are not on the voters roll but are entitled to be enrolled on the electoral roll for the electoral district in which the area or division is situated and give the electoral commission a notice under section 65 of the Electoral Act after the cut-off day for the voters roll and no later than 6pm on the day before polling day.

*Clause 32* amends section 106 (Definitions for part) to insert a new definition of ‘restricted donation’. A restricted donation is made by a prohibited donor to a political party and is accompanied by a restricted donation statement, as defined in new section 113AB inserted by clause 34.

*Clause 33* amends section 113A (Meaning of *political donation*) to exclude a gift that is made to or for the benefit of a political party that is a restricted donation from the definition of ‘political donation’. This will mean that that conduct in section 113B involving a restricted donation will no longer be unlawful.

*Clause 34* inserts new section 113AB (Meaning of *restricted donation statement*) which provides a definition of restricted donation statement. A restricted donation statement about a gift or loan must: be in writing; be made by the donor, state the relevant particulars of the entity that is the donor of the gift or loan, state that the gift or loan is made with the intention that it is not used for an electoral purpose; and be given to the recipient when the gift or loan is made. The relevant particulars are those in section 197 of the Electoral Act.

*Clause 35* inserts new section 113BA (Use of restricted donations) which provides that it is unlawful for a person to use a restricted donation made by a prohibited donor for an electoral purpose.

*Clause 36* amends section 113C (Recovery of political donations) to provide that if a person uses a restricted donation for an electoral purpose, an amount equal to twice the

amount or value of the restricted donation is payable by the person to the State. The section's heading is also amended to better reflect its content.

*Clause 37* amends section 113D (Making of determination that entity is not a prohibited donor) to insert a note under section 113D(4) which alerts readers to the right to appeal against a decision of the electoral commissioner to not to make a determination that a person, or another entity, is not prohibited donor in section 113G, amended by clause 39.

*Clause 38* amends section 113E (Revocation of determination) to insert a note under section 113E(2) which alerts readers to the right to appeal against a decision of the electoral commissioner to revoke a determination that a person, or other entity, is not a prohibited donor in section 113G, amended by clause 39.

*Clause 39* amends section 113G (Review of decisions) to provide that a person who is given or is entitled to be given an information notice about a decision under part 6, division 1A has a right to appeal against the decision under part 11, division 20 of the Electoral Act as if the decision were a decision to which section 374 of that Act applied. The relevant decisions about which information notices are under section 114D(4) and 113E(2).

*Clause 40* amends section 127AA (Requirement for registered political party to operate dedicated account) to provide that a restricted donation received by registered political party that endorses a candidate in in election must not be paid into the dedicated account that the registered political party must operate if it, or someone acting with its authority, incurred electoral expenditure during the disclosure period for the election. The registered political party must take all reasonable steps to ensure that requirements for the account in the section, including this new requirement, are complied with and failure to so will be an offence with a maximum penalty of 100 penalty units.

*Clause 41* amends section 194A (Offence about prohibited donations) to make it an offence for a person doing an act or omission that is unlawful under new section 113BA (Use of restricted donations) if the person knows or ought reasonably to know of the facts that result in the act or omission being unlawful under that section. The offence has a maximum penalty of 400 penalty units or two years imprisonment.

*Clause 42* amends section 205 (Persons serving a sentence of imprisonment) to provide that a person is serving a sentence of detention if the person is in detention on a full-time basis for an offence against a law of the Commonwealth or a State or Territory and the detention is attributable to the sentence of detention concerned. The clause also provides that any part of a sentence of detention that a person is serving as a term of imprisonment is taken to be attributable to the sentence of detention. This ensures that entitlement to vote by a person who is transferred from detention to a corrective services facility is determined based on a person's sentence of detention and not a shorter period of detention being served as a term of imprisonment in a corrective services facility.

*Clause 43* inserts new part 11, division 7 (Transitional provisions for Electoral Laws (Restoring Electoral Fairness) Amendment Act 2025) which contains new sections 238 to 241.

New section 238 (Definitions for division) provides definitions of ‘amending Act’, and ‘former’ for the purposes of new part 11, division 7.

New section 239 (Prisoner voting in particular elections) provides that former sections 17, 19, 64 and 69 continue to apply to a person in relation to an election for which public notice was given under section 25(1) before the commencement.

New section 240 (Recovery of particular donations) provides that former section 113C continues to apply to a person who accepted a donation that was unlawfully accepted under former section 113B before commencement. Former part 6, division 1A continues to apply as if the amendments made to that division had not commenced.

New section 241 (Proceedings for particular offences) provides that a proceeding for an offence against former section 194A or 194B committed by a person before commencement may be continued or started, and the person may be convicted of and punished for the offence, as if the amending Act had not commenced.

*Clause 44* amends schedule 2 (Dictionary) to insert definitions of ‘restricted donation’ and ‘restricted donation statement’.

## **Part 4 – Amendment of Referendums Act 1997**

*Clause 45* provides that part 4 amends the Referendums Act.

*Clause 46* amends section 21 (Who may vote) to provide that a person who is serving a sentence of imprisonment or detention of one year or more is not entitled to vote at a referendum. This reduces the relevant sentence of imprisonment from the current position of three years, and also provides that persons serving a sentence of detention of one year or more are not entitled to vote.

The clause provides that any part of a sentence of detention that a person is serving as a term of imprisonment is taken to be attributable to the sentence of detention. This ensures that entitlement to vote by a person who is transferred from detention to a corrective services facility is determined based on a person’s sentence of detention and not a shorter period of detention being served as a term of imprisonment in a corrective services facility.

The clause also amends the section to allow the commission to ask the chief executive (youth justice) give the commission information about persons aged at least 18 years who are serving a sentence of detention, or were serving a sentence of detention of one year or longer and have been transferred to serve the detention as a term of imprisonment. The clause also amends the section to ensure that the chief executive (youth justice) must give the commission the information as soon as practicable after receiving the request.

*Clause 47* amends section 26 (Who must make a declaration vote) to provide that an elector who is serving a sentence of detention on the polling day for a referendum must make a declaration vote. This provides for a consistent approach with an elector who is serving a sentence of imprisonment.

*Clause 48* inserts new part 9, division 3 (Transitional provision for Electoral Laws (Restoring Electoral Fairness) Amendment Act 2025), which contains new section 103.

New section 103 (Voting in particular referendums) provides that former sections 21 and 26 continue to apply to a person in relation to a referendum for which the writ was issued before the commencement.

## **Part 5 – Other amendments**

*Clause 49* provides that Schedule 1 of the Bill amends the legislation it mentions.

Schedule 1 contains consequential amendments to:

- the *City of Brisbane Act 2010* and the *Local Government Act 2009* to update an entries Schedule 1 of each Act to align with the heading to section 307B of the Electoral Act, amended by clause 19, and omit references to sections 307A(1) and 307C(1) of the Electoral Act, omitted by clauses 18 and 20 respectively; and
- the *Electoral Regulation 2024* to omit sections 32 and Schedule 1, in view of the omission of section 166 of the Electoral Act by clause 8.