

FACT SHEET

Electoral Amendment Bill 2024

The purpose of this Bill is to amend section 196 of the *Electoral Act 2004*.

Section 196 of the *Electoral Act 2004* provides:

(1) A person must not between the issue of the writ for an election and the close of poll at that election print, publish or distribute any advertisement, "how to vote" card, handbill, pamphlet, poster or notice which contains the name, photograph or a likeness of a candidate or intending candidate at that election without the written consent of the candidate.

During the public consultation process as part of the *Electoral Act Review*, there was general consensus in the submissions that subsection 196(1) is problematic for various reasons including that:

- There is uncertainty about whether the provision applies to material published online prior to the election period but accessible during that period;
- The provision does not appear to be consistent with freedom of speech – a guiding principle of the *electoral act Review*;
- The provision is not consistent with requirements in other Australian jurisdictions; and
- The provision is outdated and inconsistent with the principle of holding politicians and candidates to account.

Recommendation 1 of the *Final Report Electoral Act Review* included amending this clause.

In line with the *Final Report*, an attempt was made to amend section 196 as part of the *Electoral Matters (Miscellaneous Amendments) Bill 2022*. In addition to limiting section 196 to how-to-vote cards, the Bill also prohibited keeping an offending how to vote card on display, as well as the initial publication or distribution.

This clause amending section 196 was voted down in the *Legislative Council* in November 2023.

As part of the 2030 Strong Plan, the Government has committed to “Amend section 196 of the *Electoral Act (2004)* to remove the prohibition on the use of names and images of candidates in advertising.”

This Bill would fulfil this commitment.