

Legislative Council—No 136

As received from the House of Assembly and read a first time, 7 February 2024

South Australia

**Electoral (Control of Corflutes) Amendment
Bill 2023**

A BILL FOR

An Act to amend the *Electoral Act 1985* and to make a related amendment to the *Local Government Act 1999*.

Contents

Part 1—Preliminary

1 Short title

Part 2—Amendment of *Electoral Act 1985*

2 Amendment of section 115—Limitations on display of electoral advertisements

3 Amendment of section 125—Prohibition of canvassing near polling booths

Schedule 1—Related amendment to *Local Government Act 1999*

1 Amendment of section 226—Moveable signs

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Electoral (Control of Corflutes) Amendment Act 2023*.

Part 2—Amendment of *Electoral Act 1985*

2—Amendment of section 115—Limitations on display of electoral advertisements

(1) Section 115—after subsection (2) insert:

(2a) A person must not exhibit an electoral advertising poster on a public road or road-related area (including any structure, fixture or vegetation on a public road or road-related area).

Maximum penalty: \$5 000.

(2) Section 115(3)—delete "This section" and substitute:

Subsection (1)

(3) Section 115—after subsection (3) insert:

(4) In this section—

electoral advertising poster means a poster displaying an electoral advertisement made of—

(a) corflute; or

(b) plastic; or

(c) any other material, or kind of material, prescribed by the regulations;

public road means a road within the meaning of the *Road Traffic Act 1961*;

road-related area has the same meaning as in the *Road Traffic Act 1961*.

3—Amendment of section 125—Prohibition of canvassing near polling booths

(1) Section 125—after subsection (1) insert:

- 5 (1a) Without limiting subsection (1)(e) but subject to subsection (1b), the following provisions apply to the exhibition of electoral advertising posters within 50 metres of an entrance to a polling booth open for polling:
- 10 (a) in relation to a House of Assembly election—an electoral advertising poster may only be exhibited within 50 metres of an entrance to a polling booth for a district open for polling if—
- (i) it is exhibited by or on behalf of a candidate for election as the member returned for a district; and
- 15 (ii) no more than 6 electoral advertising posters are exhibited by or on behalf of the candidate within 50 metres of an entrance to the polling booth;
- (b) in relation to a Legislative Council election—an electoral advertising poster may only be exhibited within 50 metres of an entrance to a polling booth open for polling if—
- 20 (i) it is exhibited by or on behalf of a candidate or group of candidates for election to the Legislative Council; and
- (ii) —
- 25 (A) in the case of a group of candidates—no more than 6 electoral advertising posters are exhibited by or on behalf of the group within 50 metres of an entrance to the polling booth; or
- 30 (B) in the case of any other candidate—no more than 6 electoral advertising posters are exhibited by or on behalf of the candidate within 50 metres of an entrance to the polling booth.
- 35 (1b) An electoral advertising poster exhibited under subsection (1a) must comply with any requirements prescribed by the regulations.
- (1c) If an electoral advertising poster is exhibited by or on behalf of a candidate in contravention of subsection (1a) or (1b), the candidate is guilty of an offence.
- 40 Maximum penalty: \$5 000.

(1d) If an electoral advertising poster is exhibited by or on behalf of a group in contravention of subsection (1a) or (1b), the candidate whose name on the ballot paper is at the top of the group is guilty of an offence.

5 Maximum penalty: \$5 000.

(1e) A person who, within 50 metres of an entrance to a polling booth open for polling, exhibits an electoral advertising poster that is not exhibited by or on behalf of a candidate or group in accordance with subsection (1a) is guilty of an offence.

10 Maximum penalty: \$5 000.

(1f) If the presiding officer at a polling booth is satisfied that an electoral advertising poster is exhibited in contravention of this section, the presiding officer may direct any of the following persons to remove the poster or cause it to be removed within a period specified by the presiding officer (which must be reasonable):

15 (a) the person who exhibited the poster;

 (b) in the case of a poster exhibited by or on behalf of—

 (i) a candidate endorsed by a registered political party—the candidate or the registered officer of the party; or

 (ii) any other candidate—the candidate;

 (c) in the case of a poster exhibited by or on behalf of—

 (i) a group endorsed by a registered political party—a member of the group or the registered officer of the party; or

 (ii) any other group—a member of the group;

 (d) any other person the presiding officer considers appropriate to be directed to remove the poster.

(1g) If a direction of a presiding officer is not complied with within the specified period of time, the presiding officer may cause the electoral advertising poster to which the direction relates to be removed.

(1h) Section 115(2a) does not apply to the exhibition of an electoral advertising poster on a public road or road-related area (including any structure, fixture or vegetation on a public road or road-related area) in accordance with subsection (1a) and (1b).

(2) Section 125(2)(b)—delete "subsection (1)" and substitute:

 subsections (1) and (1a)

(3) Section 125(2)—delete "that subsection" and substitute:

 those subsections

(4) Section 125(3)—delete "subsection (1)" and substitute:

 subsections (1) and (1a)

(5) Section 125—after subsection (3) insert:

(4) In this section—

electoral advertising poster, *public road* and *road-related area* have the same respective meanings as they have in section 115.

5 **Schedule 1—Related amendment to *Local Government Act 1999***

1—Amendment of section 226—Moveable signs

(1) Section 226(3)(c)—delete "State or"

(2) Section 226(3)—after paragraph (c) insert:

10 (caa) the sign relates to a State election, is an electoral advertising poster that is not prohibited from exhibition under section 115(2a) of the *Electoral Act 1985* (or is a poster exhibited in accordance with section 125(1a) and (1b) of that Act) and is displayed during an election period under that Act; or