

Local Government Electoral Regulation 2023

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019* (HR Act), I, Steven Miles MP, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning and Minister Assisting the Premier on Olympic and Paralympic Games Infrastructure provide this human rights certificate with respect to the *Local Government Electoral Regulation 2023* (LGER 2023) made under the *Local Government Electoral Act 2011* (LGEA).

In my opinion, the LGER 2023, as tabled in the Legislative Assembly, is compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The *Local Government Electoral Regulation 2012* (LGER 2012) is due to expire on 31 August 2023 under section 54(2) of the *Statutory Instruments Act 1992*, following an exemption from expiry for a period of one year under the *Statutory Instruments Regulation 2022* on the ground it was being replaced.

The Department of State Development, Infrastructure, Local Government and Planning has undertaken a sunset review of the LGER 2012, in accordance with the *Queensland Government Guide to Better Regulation*.

The policy objectives of the LGER 2023 are to repeal and replace the LGER 2012, providing for the following key changes:

- fixing a different day for the 2024 local government quadrennial election to prevent it coinciding with the Easter holiday period
- supporting implementation of the new electoral expenditure caps scheme for local government elections established by the *Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Act 2023* (the Amendment Act), including approving an updated procedure for electronic lodgement of returns
- clarifying that electronically assisted voting (EAV) is not available to special postal voters who are detained in lawful custody
- expanding eligibility for EAV to electors who are overseas or interstate during the voting period
- approving an updated procedure for EAV in local government elections, consistent with the above
- making minor and technical changes to update section references and terminology
- applying transitional provisions.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 HR Act)

In my opinion, the human rights under the HR Act that are relevant to the LGER 2023 are:

- freedom of expression (section 21 of the HR Act)
- freedom of association (section 22 of the HR Act)
- right to take part in public life (section 23 of the HR Act)
- privacy and reputation (section 25 of the HR Act)

The following measures promote human rights.

Measure 1: Change to 2024 local government quadrennial election date

Section 23 of the LGEA provides that a quadrennial election must be held on the last Saturday in March in every fourth year after 2012 but that a different Saturday for a quadrennial election for a particular year may be fixed by regulation.

The last Saturday in March 2024 is 30 March 2024. Easter Saturday falls on this date, which also coincides with the school holiday period. On 21 April 2023, a Ministerial Media Statement was issued advising that, on the advice of the Electoral Commission of Queensland (ECQ), Cabinet had approved bringing forward the date of the local government election. The statement noted that during school holiday periods, many Queenslanders take holidays to other parts of Queensland, interstate and overseas. This would likely see a significant increase in postal and telephone votes, potentially creating delays to declaring election results. The statement also noted that a similar situation arose in 2016, and the date was moved by one week (refer to the *Local Government Legislation Amendment Regulation (No. 1) 2014*).

Section 3 of the LGER 2023 fixes Saturday 16 March 2024 as the new date for the 2024 local government quadrennial election.

This measure promotes the right to take part in public life. The *right to take part in public life* protects the right and opportunity, without discrimination, to participate in the conduct of public affairs, directly or through freely chosen representatives. Every eligible person has the right, and is to have the opportunity, without discrimination, to vote and be elected at State and local government elections that guarantee the free expression of the will of the electors, and to have access, on general terms of equality, to public office.

The United Nations Human Rights Committee (UNHRC) considers that the right imposes positive obligations on the State regarding the conduct of elections, including to preserve the impartiality of the electoral process and the right of citizens to choose their representatives freely.

The measure promotes the right to take part in public life by moving the 2024 local government quadrennial election date to a day when there are fewer obstacles to electors voting.

Measure 2: Prescribing disclosure deadline for new returns

Disclosure deadline for gift and loan returns by associated entities of candidates and groups

Section 106 of the LGEA defines ‘disclosure deadline’ for a return as the day or time prescribed by regulation for the giving of the return. Repealed sections 5 to 9A of the LGER 2012 prescribed the disclosure deadline for various return requirements under the LGEA.

Sections 118AA and 120A of the LGEA (inserted by the Amendment Act) provide for new requirements for gift and loan returns by associated entities of candidates or groups of candidates, aligning with section 294(1), (2) and (3) of the *Electoral Act 1992* (EA). Returns must be provided on or before the disclosure deadline.

Section 20 of the LGER 2023 prescribes the disclosure deadline for returns by associated entities of candidates and groups for gifts and loans received. The disclosure deadline is consistent with section 10A of the *Electoral Regulation 2013* (ER) for returns under section 294 of the EA and with the disclosure deadline for returns by candidates or groups of candidates for gifts or loans received (sections 18, 19 and 23 of the LGER 2023), as follows:

- if the gift or loan is received 7 business days or less before the polling day for the election—24 hours after the gift/loan is received; or
- otherwise—the seventh business day after the gift or loan is received.

Disclosure deadline for returns by relevant third parties for electoral expenditure incurred

Section 25 of the LGER 2023 prescribes the disclosure deadline for returns for electoral expenditure incurred by relevant third parties for section 125B(3)(b) of the LGEA.

Former section 125A of the LGEA (omitted by the Amendment Act) provided for political expenditure returns by third parties. New section 125B of the LGEA provides for electoral expenditure returns by relevant third parties (registered third parties and third parties required to be registered, refer to section 106 of the LGEA) to be provided on or before the disclosure deadline for the return.

Under section 106A of the LGEA, the disclosure period for relevant third parties for section 125B starts on the day the capped expenditure period for the election starts and ends 30 days after the polling day for the election.

Under section 127D of the LGEA, a third party may become a relevant third party after the capped expenditure period has begun (and therefore after the disclosure period has begun), and after the third party has already incurred expenditure required to be disclosed under new section 125B. Therefore, the disclosure deadline must take into account the fact that a third party may have incurred expenditure more than seven business days before the third party becomes a relevant third party and is consequently required to disclose the expenditure.

Accordingly, section 25 of the LGER 2023 prescribes for section 125B(3)(b) the disclosure deadline for electoral expenditure returns for relevant third parties as follows:

- if the amount is incurred before the day the third party is registered for the election, or is required to be registered for the election under section 127D of the LGEA, seven business days after the third party registers or is required to be registered, but not less than 24 hours before polling day;

- otherwise, the seventh business day after the amount is incurred.

This measure promotes the right to take part in public life and the right to freedom of expression.

The nature of the *right to take part in public life* is outlined under measure ‘1’, above.

The *right to freedom of expression* protects the right of all persons to hold an opinion without interference, and the right of all persons to seek, receive and impart information and ideas of all kinds (including verbal and non-verbal communication). The forms of protected expression are broad, and include almost all forms of expression, including verbal (oral, writing and print), or through art or conduct. The right to freedom of expression and the free flow of information and ideas between people and through the media, particularly about public and political issues, is considered to be a foundation stone of a free and democratic society.

The underlying values and interests represented by a right to the freedom of expression have been described as ‘freedom, self-actualisation and democratic participation for individuals personally; and freedom, democracy under the rule of law and ensuring governmental transparency and accountability for society generally’. The right includes a concept of freedom of expression as a political right, aimed at integrating the individual in society with the focus on the political, collectivising function.

The ability for an individual (including candidates themselves, and third parties who are individuals) to make public statements during an election period promoting or opposing a political party or candidate, or to otherwise influence voting at an election is an important part of the democratic participation process and ensuring government accountability.

The measure ensures electors receive information related to election participants’ financing and expenditure promptly, and before polling day. This promotes the right to take part in public life and the right to freedom of expression by increasing the transparency and accountability of election participants’ financing and expenditure, including the transparency of relationships between donors and election participants before polling day. This in turn promotes a voter’s ability to make a more informed decision about a candidate when they exercise their right to vote on polling day.

Measure 3: Electronically assisted voting (EAV) - eligibility and procedure

Section 67 of the LGEA provides for ways in which votes can be cast, including EAV. Section 68 of the LGEA provides for who may cast votes in particular ways, including electors who may cast an electronically assisted vote. Section 68(5B) provides that if a procedure about how an elector may cast an electronically assisted vote has been made under section 75A of the LGEA an elector may cast an electronically assisted vote. Under section 75A of the LGEA, the ECQ may make procedures about how an elector may cast an electronically assisted vote. The procedure must be approved by regulation, tabled with the regulation and published on the ECQ’s website.

Repealed section 3 of the LGER 2012 prescribed ‘special postal voters’ and ‘distance voters’ for the purposes of section 68(5B) of the LGEA.

The LGER 2023 retains these classes of electors (with minor, technical amendments), while making two changes to eligibility for EAV. First, it clarifies that EAV is not available to special postal voters who are detained in lawful custody. Section 69 of the LGEA provides that the

categories of persons who must complete a declaration envelope for an election include electors who are serving a sentence of imprisonment or are otherwise detained on polling day. The EA includes a similar provision (section 115(f)). This is reflected in the ER (section 4AA(1)(a)) which prescribes ‘special postal voters who are not detained in lawful custody’ as a class of electors who may make an electronically assisted vote. To ensure consistency with the LGEA and the ER, section 7(1)(a) of the LGER 2023 prescribes special postal voters who are not detained in lawful custody as a class of electors who may make an electronically assisted vote.

Second, section 7(1)(c) of the LGER 2023 prescribes ‘out-of-State voters’ as an additional class of elector who may use EAV. The definition of ‘out-of-State voter’, for an election, is provided in section 7(2) as an ‘elector who is not in Queensland at any time during the voting period’. This amendment enables electors who are enrolled in an electoral district in Queensland, but who are overseas or interstate at any time during the voting period for a quadrennial election or a by-election, to use EAV. The voting period is defined as the period starting on the first day that a pre-poll vote may be made for an election and ending on the close of the poll for the election.

Section 8 of the LGER 2023 approves the ‘Procedure for electronically assisted voting for local government elections’, version 3.0, made by the ECQ on 22 May 2023.

This measure promotes the right to take part in public life (section 23 of the HR Act). The nature of the right is outlined under measure ‘1’, above.

Being interstate or overseas can be a significant obstacle to participating in elections. Although postal voting is an option, providing EAV as an additional voting method promotes the ability for interstate or overseas electors to accessibly and equitably exercise their right to vote.

Measure 4: Prescribed information for publishing copy of return or document

Section 128 of the LGEA provides that the ECQ must publish on its website certain returns and other documents, including returns provided by election participants to disclose gifts, loans and electoral expenditure. Section 128(3) provides for certain information which must not be published, including information prescribed by regulation.

Repealed section 9B of the LGER 2012 prescribed the information for section 128(3) of the LGEA. Section 26 of the LGER 2023 prescribes the same information, being the name and business address of the person who supplied the goods or service to which electoral expenditure in an election participant’s electoral expenditure return relates. (Section 26 of the LGER 2023 includes minor consequential changes to section references, arising from the Amendment Act.)

This measure promotes the right to privacy and reputation.

The *right to privacy and reputation* protects the individual from unlawful or arbitrary interferences with their privacy, family, home, correspondence (written and verbal) and reputation. It also protects a person from having their reputation unlawfully attacked.

The right protects privacy in the sense of personal information, data collection and correspondence but also extends to an individual’s private life more generally.

Only lawful and non-arbitrary intrusions may occur upon privacy, family, home, correspondence and reputation. Arbitrary interference includes when something is lawful, but also unreasonable, unnecessary or disproportionate.

The European Court of Human Rights has also said that an interference will be lawful if it is authorised by a law that is adequately accessible and formulated with sufficient precision to enable a person to regulate his or her conduct by it.¹

The measure promotes the right to privacy and reputation by not requiring publication of certain information about a person who supplies goods or a service related to electoral expenditure. This ensures businesses are not publicly taken to be promoting a particular candidate, group of candidates, party or issue in the election merely by the provision of goods and services.

Consideration of reasonable limitations on human rights (section 13 HR Act)

Measure 5: Change to start date of the capped expenditure scheme

Section 123A(1)(a) of the LGEA provides for when a capped expenditure period starts for a quadrennial election. Under this section, the start date for the capped expenditure period for the 2024 quadrennial election would be 28 August 2023, in the event the election was to be held on 30 March 2024.

However, section 123A(2) of the LGEA provides that where a regulation fixes a day for a quadrennial election under section 23(3) of the LGEA, the capped expenditure period for the quadrennial election starts on a day prescribed by regulation. As the LGER 2023 prescribes the new election date as 16 March 2024 (two weeks earlier), it also prescribes a new start date for the capped expenditure period as 14 August 2023 (two weeks earlier).

The amendment limits the following human rights:

- freedom of expression
- freedom of association
- right to take part in public life

(a) the nature of the right

The nature of the *right to freedom of expression* is outlined under measure ‘2’, above.

Freedom of expression is limited by the electoral expenditure caps scheme generally because the caps limit the amount that may be spent by a candidate, including a candidate who is a member of a group of candidates or endorsed by a registered political party, and by groups, registered political parties that endorse a candidate in an election, and unregistered and registered third parties on campaigning in respect of a local government election. This limits the level of information that can be conveyed by participants in an election and the level of information that citizens can receive from participants in an election concerning the election, thereby limiting the freedom of expression for participants in an election who are individuals and citizens wishing to receive information concerning the election.

¹ *Sunday Times v United Kingdom* [1979] European Court of Human Rights 1, [49]

The *right to freedom of association* protects the rights of individuals to freely associate with others. This includes the right to join together with others to formally pursue a common interest, such as political groups, non-government organisations and trade unions. It includes the freedom to choose between existing organisations or to form new ones.

By protecting the right for individuals to join together as a political group, the right to freedom of association is fundamental to a free and democratic society. In addition, the right to freedom of association is closely linked to the right to freedom of expression and the right to take part in public life.

Freedom of association is limited by the expenditure caps scheme applicable to members of groups of candidates and candidates endorsed by registered political parties because, by associating with a group of candidates or a registered political party, these candidates' ability to incur electoral expenditure is limited by the level of expenditure incurred by the group or political party and the level of expenditure incurred by other members of the group or other candidates endorsed by the same political party. This could disincentivise individuals from joining groups of candidates or accepting a registered political party's endorsement, which is a burden on the right to freedom of association.

The *right to take part in public life* is outlined under measure 1, above.

The right of participants in an election who are individuals to take part in public life is limited by the electoral expenditure caps scheme because the expenditure caps limit their ability to contribute to and exercise their voices in relation to the public life of the State.

Noting there is an intrinsic connection between the right to participate in public affairs and the right to freedom of expression and that the UNHRC has noted that citizens' participation in the conduct of public affairs 'is supported by ensuring freedom of expression, assembly and association', the electoral expenditure caps also limit the ability of citizens to participate in public affairs to the extent that the information regarding an election conveyed to them by participants in an election is limited by the expenditure caps.

The adjustment to the start of the capped expenditure period limits the above three rights because it means that election participants are subject to the caps for two weeks more than they would have been had the start date remained unchanged despite the change to the election date. However, the adjustment means that the capped expenditure period will remain as approximately seven months prior to the 2024 quadrennial election, in line with the policy objectives of the Amendment Act.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The Amendment Act and the LGER 2023 support the equitable conduct of Queensland local government elections, including by minimising the risk of unequal participation in the electoral process and ensuring a fair opportunity to participate. The purpose of the limitation is to ensure the capped expenditure period remains as approximately seven months prior to the 2024 quadrennial election, notwithstanding the change to the election date. A capped expenditure period of seven months is in line with the policy objectives of the Amendment Act, including alignment with the EA. In addition, in its Report No. 37, 57th Parliament, on the Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill 2022 (the

Bill), the State Development and Regional Industries Committee (the Committee) noted it was satisfied that alignment with the EA and a capped expenditure period of seven months was appropriate.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

The caps on electoral expenditure will restrict the ability of participants in an election to significantly outspend other participants in an election. This will level the playing field for electoral campaigning by preventing uneven financial competition between candidates. The caps will ensure that an individual or entity has a reasonable opportunity to communicate to influence voting in an election during the capped expenditure period without ‘drowning out’ the communication of others.

In effect, this will promote the right to freedom of expression and the right to participate in public life for participants in an election who are individuals who would otherwise be significantly financially disadvantaged. This in turn will promote the right to freedom of expression and the right to participate in public life for members of the community because they will be able to receive a more equal level of information in relation to public life (in this case, local government elections) from all participants in an election.

Adjusting the capped expenditure period will achieve its purpose of ensuring the caps apply for seven months prior to a quadrennial election, in line with the policy objectives of the Amending Act.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

There are no less restrictive and reasonably available ways to achieve the purpose of ensuring the caps apply for seven months prior to a quadrennial election, in line with the policy objectives of the Amending Act and with the capped expenditure period applying to State general elections.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

The expenditure caps scheme ensures a fairer opportunity for participants in an election to participate in local government elections. By providing a more equal footing for all participants in an election, the risk of democratic processes being distorted by uneven levels of electoral expenditure is decreased. By ensuring the caps apply as intended for a period of seven months prior to a quadrennial election, the measure strikes the right balance.

The ECQ, Local Government Association of Queensland (LGAQ) and Local Government Managers Australia Queensland (LGMA Queensland) were consulted on the proposed amendments contained in the LGER 2023, including this measure, and raised no issues.

The Committee report on the Bill included consideration of the compatibility of the Bill with the HR Act. The Committee reviewed the Bill's Statement of Compatibility and considered the potential limitations to human rights imposed by the Bill, including how the electoral expenditure caps limit the right to the freedom of expression, the right to take part in public life and the right to freedom of association. The Committee was satisfied that the Bill was

compatible with human rights and that the limitations were reasonable and demonstrably justified in all cases.

(f) any other relevant factors

Not applicable.

Measure 6: Registration of third parties

The LGEA provides for a new system of third party registration modelled on part 11 division 12 of the EA. Section 127F of the LGEA aligns with section 299 of the EA, providing that where a third party intends to incur electoral expenditure for an election, the third party may apply to the electoral commission for registration for the election. The application must be in the approved form and include the details prescribed by regulation for the application.

The relevant threshold is \$6,000 to ensure there is consistency between the arrangements that apply at State elections and local government elections.

Section 11A of the ER prescribes the details for section 299 of the EA for an application for registration of a third party for an election. Section 10 of the LGER 2023 prescribes the details for an application for registration of a third party for new section 127F of the LGEA, aligning with section 11A of the ER.

Section 10 of the LGER 2023 prescribes the following details:

- the election to which the application relates
- in relation to the third party, if the third party is an individual:
 - date of birth and address as shown on the electoral roll
- in relation to the third party, if the third party is not an individual:
 - ABN or ACN; business address; telephone number; and email address.

Section 10 of the LGER 2023 limits the right to privacy and reputation.

(a) the nature of the right

Right to privacy and reputation

The nature of the *right to privacy and reputation* is outlined under measure ‘4’, above.

For third parties who are individuals wishing to be registered, the right to privacy is limited because they will be required to release personal information as part of their application. The ECQ is required to publish a register of third parties on its website (refer section 135B of the LGEA).

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the limitation is to provide transparency and inform the public, including voters, about those third parties that incur electoral expenditure with a view to influencing voting in an election, and to support compliance with the expenditure caps applicable to registered third parties.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

Prescribing the requirements for third party registration will help achieve the purpose of the limitation. The register of third parties being published on the ECQ's website will allow voters to access information about third parties that spend more significant amounts on electoral campaigning and, if desired, conduct further inquiries about those engaging in electoral communication with them prior to exercising their right to vote.

It should be noted that section 135B(3) of the LGEA provides safeguards by restricting the information the ECQ may make available for public inspection, for example the address of a silent elector, an individual's date of birth, and contact details such as telephone numbers or email addresses where there is no consent to publication.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose

There are no less restrictive and reasonably available ways to achieve the purpose of providing transparency to voters and supporting compliance with the expenditure caps.

Not requiring the details for registration of third parties would fail to achieve the purpose of the proposal. It would mean the public would have less access to information about those third parties that incur electoral expenditure with a view to influencing voting in an election. It would also hamper the ECQ's ability to support compliance with the expenditure caps applicable to registered third parties.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human rights, taking into account the nature and extent of the limitation

The purposes of the limitation are consistent with a free and democratic society as they are intended to provide transparency and allow voters to be better informed in exercising their right to vote, and to prevent electoral unfairness arising from electoral communication being dominated by certain participants in an election and preventing others from having a reasonable opportunity to communicate with voters about a local government election.

The ECQ, LGAQ and LGMA Queensland were consulted on the proposed amendments contained in the LGER 2023, including this measure, and raised no issues.

The Committee's report on the Bill included a comment that the committee was satisfied the third party registration process was appropriate. In addition, the Committee's review of the Bill's Statement of Compatibility included considering how the registration of third parties limits the right to privacy and reputation. The Committee was satisfied that the Bill was compatible with human rights and that the limitations were reasonable and demonstrably justified in all cases.

The importance of providing transparency regarding third party campaigners for voters and ensuring compliance with expenditure caps (and, in turn, levelling the playing field for electoral campaigning) outweighs the negative impact that the third party registration requirements have on the right to privacy, particularly taking into account the safeguards identified above.

(f) any other relevant factors

Not applicable.

Measure 7: Record keeping

The Amendment Act amends the record keeping requirements in the LGEA, generally aligning with part 11, division 12A of the EA. Section 127N of the LGEA generally aligns with section 305AB of the EA by providing that a ‘relevant entity’ for an election must ensure a record about each ‘prescribed matter’ is made that includes the information required by regulation.

Part 5AA of the ER prescribes for section 305AB(1)(b) of the EA information to be included in records required to be kept about particular prescribed matters under section 305AB of the EA. Division 2 of the LGER 2023 prescribes for section 127N(1)(b) of the LGEA information that is required to be included in a record for a prescribed matter under section 127N of the LGEA.

Section 11 of the LGER 2023 provides for the purpose of the Division, in alignment with section 12A of the ER.

Section 12 of the LGER 2023 provides for records about gifts or loans made to or for the benefit of relevant entities and aligns generally with section 12C of the ER (Other gifts or loans made to or for the benefit of particular election participants).

Section 13 of the LGER 2023 provides for records about gifts or loans made by particular relevant entities to other relevant entities and aligns generally with section 12D of the ER (Political donations or other gifts or loans made by particular election participants to other election participants).

Section 14 of the LGER 2023 provides for records about gifts to third parties to enable political expenditure and aligns generally with section 12E of the ER (Gifts made to or for the benefit of a third party).

Section 15 of the LGER 2023 provides for records about electoral expenditure incurred and aligns generally with section 12F of the ER (Electoral expenditure incurred).

Section 16 of the LGER 2023 provides for records about amounts paid into the dedicated account of a candidate or group of candidates and aligns generally with section 12G of the ER (Amounts paid into State campaign account) in relation to candidates.

Section 17 of the LGER 2023 provides for records about amounts paid from the dedicated account of a candidate, group of candidates, registered political party that endorses a candidate in an election, and a relevant third party and aligns generally with section 12H of the ER (Amounts paid from State campaign account) in relation to candidates and registered political parties.

The amendments limit the right to privacy and reputation.

(a) the nature of the right

The nature of the *right to privacy and reputation* is outlined under measure ‘4’, above.

Specifying information to be kept as records limits the right to privacy as it may make personal information available to an auditor or authorised officer undertaking compliance activity and potentially subject the information to inclusion in an auditor's report to the ECQ.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purposes of the limitation to be imposed by the scheme as a whole are to level the playing field for electoral campaigning and ensure that an individual or entity has a reasonable opportunity to communicate to influence voting in an election without 'drowning out' the communication of others. The record keeping requirements are essential elements of the new electoral expenditure caps scheme, as they will support compliance and enforcement by the ECQ.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

The restrictions on electoral expenditure imposed by the electoral expenditure caps will limit the ability for participants in an election to significantly outspend other participants in an election. This will level the playing field for electoral campaigning by preventing uneven financial competition between candidates. The caps will ensure that an individual or entity has a reasonable opportunity to communicate to influence voting in an election during the capped expenditure period without 'drowning out' the communication of others. The limitations on human rights imposed by the record keeping requirements will achieve their purpose and the purpose of the scheme generally by providing for an appropriate level of compliance.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

There are no less restrictive and reasonably available ways to achieve the purpose. The new expenditure caps scheme, including proposed amendments to record keeping requirements, has been subject to extensive consultation. In its report on the Bill, the Committee noted a widespread, rigorous and comprehensive consultation process, with regular engagement with key stakeholders throughout the development of the Bill to implement the expenditure caps scheme.

Reducing the requirements of this measure would ultimately reduce the deterrent effect of the enforcement measures and may result in electoral unfairness, as the caps will not be effectively enforced. Safeguards include the tailoring of the provisions to align as closely as possible with existing provisions of the ER, in addition to extensive consultation with stakeholders during development of the new scheme, as referred to below.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

It is considered that there are strong links between the record keeping provisions and the overall purpose of the expenditure caps scheme. On balance, taking into account the nature and extent of the limitations on the rights listed above, the importance of ensuring that the scheme cannot be circumvented outweighs the negative impact the amendments will have on the relevant rights.

The ECQ, LGAQ and LGMA Queensland were consulted on the proposed amendments contained in the LGER 2023, including this measure, and raised no issues.

The Committee's review of the Bill's Statement of Compatibility included considering how the Bill's record keeping requirements limit the right to privacy and reputation. The Committee was satisfied that the Bill was compatible with human rights and that the limitations were reasonable and demonstrably justified in all cases.

(f) any other relevant factors

Not applicable.

Measure 8: Prescribed information for nomination

Section 32 of the LGEA provides that when the nomination of a person for a local government election is certified, the returning officer must publish prescribed information for the nomination on the ECQ's website and in other ways the returning officer considers appropriate. The definition of 'prescribed information' is 'information or a statement contained in the nomination prescribed by regulation'.

Repealed section 2A of the LGER 2012 prescribed the information for section 32 of the LGEA. Section 6 of the LGER 2023 prescribes the same information (with a minor wording change), being:

- the candidate's name, address, and occupation
- for a candidate nominated by the registered officer of a registered political party, the name of the registered officer, the name of the political party and a statement that the candidate is endorsed by the party
- for candidates nominated by electors in the relevant local government area or division, the name of each elector who nominated the candidate
- the information or a statement required to be contained in the candidate's nomination under schedule 1 of the LGEA, other than the address of a close associate of the candidate (for example, membership of political party or trade or professional organisation, undecided development applications and certain relevant contractual arrangements with the relevant local government).

Section 6 of the LGER 2023 limits the right to privacy and reputation.

(a) the nature of the right

Right to privacy and reputation

The nature of the *right to privacy and reputation* is outlined under measure '4', above.

The measure limits the right to privacy and reputation of any individual who nominates to be a candidate for a local government election, or any individual who is a close associate of the nominee, because information about these individuals is required to be provided to the ECQ and published.

The measure also limits the right to privacy and reputation of any individual who wishes to nominate a candidate in an election because the name of each individual who nominates a candidate is required to be provided to the ECQ and published.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purposes of requiring the prescribed information to be published is to ensure information is formally available to voters in relation to candidates' affiliations and interests and to provide transparency that a candidate's nomination is valid, in accordance with the law. These purposes promote the transparency, integrity and accountability of Queensland local government elections.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

Requiring the prescribed information to be published will help achieve the limitation's purposes.

The requirements provide transparency to electors regarding candidates' affiliations and interests, allowing electors to assess certain claims candidates may make in an election, for example, a claim to be an 'independent candidate'.

The publication of information such as political party endorsement or the names of nominators also provides transparency to the public and other electoral participants that a nomination is valid, in accordance with the law.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose

There are no less restrictive and reasonably available ways to achieve the purpose of providing transparency to voters.

Not requiring the details for publication would fail to achieve the measure's purposes. It would mean the public would not have sufficient access to information about nominations to provide transparency regarding candidates' affiliations and interests or that a nomination is valid, in accordance with the law.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human rights, taking into account the nature and extent of the limitation

The purposes of the limitation are consistent with a free and democratic society as they are intended to provide transparency and allow voters to be better informed in exercising their right to vote.

The ECQ, LGAQ and LGMA Queensland were consulted on the proposed amendments contained in the LGER 2023, including this measure, and raised no issues.

The importance of providing transparency regarding candidate nominations outweighs the negative impact that the publication requirements have on the right to privacy.

(f) any other relevant factors

The information prescribed in section 6 of the LGER 2023 is the same information prescribed in repealed section 2A of the LGER 2012 (with a minor change in wording).

Conclusion

I consider that the LGER 2023 is compatible with the HR Act because it limits human rights only to the extent that is reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

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