

THE SECOND SCHEDULE—*continued*.

WAR PRECAUTIONS (SUPPLEMENTARY) REGULATION No. 8.

(Statutory Rules 1916, No. 122).

Proceedings for refusal to employ or work with persons alleged to be enemy subjects, &c.

8. No person shall, without the written consent of the Attorney-General, bring any action or take any step in an action brought—

(a) against any employer, or

(b) against any association or body of persons, or any member or officer of any such association or body,

for relief in respect of any matter (not being a matter of contract) arising out of the refusal or failure of the employer to employ or continue to employ the person, or the refusal or failure of any or all of the members of the association or body to work or associate with the person, on the ground that he is an enemy subject or a person who has been a subject of a country with which the King is now at war :

Provided that if the Attorney-General is satisfied that the person—

(a) is neither an enemy subject nor a person who has been a subject of a country with which the King is now at war, and

(b) is not disloyal,

he shall not withhold his consent.

COMMONWEALTH ELECTORAL.

No. 31 of 1919.

AN ACT

To amend the *Commonwealth Electoral Act* 1918.

[Assented to 28th October, 1919.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

Short title and citation.

1. (1.) This Act may be cited as the *Commonwealth Electoral Act* 1919.

(2.) The *Commonwealth Electoral Act* 1918 is in this Act referred to as the Principal Act.

(3.) The Principal Act as amended by this Act may be cited as the *Commonwealth Electoral Act* 1918-1919.

Assistant Returning Officers.

2. Section nine of the Principal Act is amended by inserting in sub-section (1.) thereof after the words "postal voting" the words "or, in the case of an Assistant Returning Officer in a Territory of the Commonwealth, such powers as are prescribed".

3. Section seventy-six of the Principal Act is repealed and the following section inserted in its stead:—

"76. The deposit made by or on behalf of a candidate at a Senate election or at a House of Representatives election shall be

Deposit to be forfeited in certain cases.

retained pending the election, and after the election shall be returned to the candidate, or to some person authorized by him in writing to receive it, if he is elected, or—

(a) in the case of a Senate election, if the total number of votes polled in his favour as first preferences is more than one-tenth of the average number of first preference votes polled by the successful candidates in the election ;
or

(b) in the case of a House of Representatives election, if the total number of votes polled in his favour as first preferences is more than one-fifth of the total number of first preference votes polled by the successful candidate in the election,

otherwise it shall be forfeited to the King.”.

4. Section eighty-five of the Principal Act is amended by omitting paragraphs (a) and (b) of sub-section (1.) thereof and inserting in their stead the following paragraphs :—

Application for
a postal vote
certificate and
postal ballot-
paper.

“(a) will not throughout the hours of polling on polling day be within the State for which he is enrolled ;

(b) will not throughout the hours of polling on polling day be within ten miles by the nearest practicable route of any polling booth open in the State for which he is enrolled for the purposes of an election ;

(bb) will throughout the hours of polling on polling day be travelling under conditions which will preclude him from voting at any polling booth in the State for which he is enrolled ; or”.

5. Section eighty-six of the Principal Act is amended by inserting in paragraph (a) of sub-section (1.) thereof after the word “State” (last occurring) the words “all Naval Commissioned Officers in the service of the Commonwealth while employed on a ship of war ;”.

Authorized
witnesses.

6. Section one hundred and thirteen of the Principal Act is amended by omitting from sub-section (1.) thereof the word “Commonwealth” and inserting in its stead the words “State for which he is enrolled”.

Where electors
may vote.

7. Section one hundred and twenty-three of the Principal Act is amended—

Marking of
votes in a
Senate election.

(a) by omitting paragraph (a) of sub-section (1.) thereof and inserting in its stead the following paragraph :—

“(a) where his ballot-paper is a ballot-paper in accordance with Form E in the Schedule—he shall vote for not less than the prescribed number of candidates by placing the number 1 in the square opposite the name of the candidate for whom he votes as his first preference, and by placing the numbers 2, 3, 4 (and so on, as the case requires) in the squares respectively opposite the names of so

many other candidates as will, with the candidate for whom he votes as his first preference, complete the prescribed number. The voter may, in addition, where there are more candidates than the prescribed number, indicate the order of his preference for as many more candidates as he pleases by placing in the squares respectively opposite their names other numbers next in numerical order after the numbers already placed by him on the ballot-paper. In this paragraph 'the prescribed number of candidates' means twice the number of the candidates to be elected, plus one, or, if there are fewer candidates than that number, the total number of candidates;" ; and

(b) by omitting sub-section (2.) thereof.

Informal
ballot-papers.

8. Section one hundred and thirty-three of the Principal Act is amended—

(a) by omitting paragraph (b) of sub-section (1.) thereof and inserting in its stead the following paragraph :—

“(b) in a Senate election it has no vote indicated on it, or it does not indicate the voter's first preference for one candidate, and his consecutive preferences for so many other candidates as will, with the candidate for whom he votes as his first preference, be equal in number to the prescribed number of candidates as defined in paragraph (a) of sub-section (1.) of section one hundred and twenty-three of this Act ;” ; and

(b) by omitting from paragraph (c) of sub-section (1.) thereof the words “in elections for the House of Representatives” (wherever occurring) and inserting in their stead the words “in a House of Representatives election”.

9. Section one hundred and thirty-five of the Principal Act is repealed and the following section inserted in its stead :—

Scrutiny of
votes in
Senate
elections.

“135. In a Senate election the scrutiny shall, subject to the provisions of section one hundred and twenty-one of this Act and of the regulations relating to absent voting and to voting by post, be conducted in the manner following :—

(1.) Each Assistant Returning Officer shall, in the presence of an Assistant Presiding Officer or a Poll Clerk, and of such authorized scrutineers as may attend—

(a) open all ballot-boxes received from polling places within or for that portion of the Division in which he exercises his powers ;

(b) reject all informal ballot-papers, and arrange the unrejected ballot-papers under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate ;

- (c) count the first preference votes given for each candidate on all unrejected ballot-papers ;
 - (d) make out and sign a statement (which may be countersigned by an Assistant Presiding Officer or a Poll Clerk, and, if they so desire, by such scrutineers as are present) setting out the number of first preference votes given for each candidate, and the number of informal ballot-papers, and certify by indorsement on the copy of the writ received by him the like particulars ;
 - (e) place in a separate parcel all the ballot-papers which have been rejected as informal ;
 - (f) transmit the following information, by telegram or in some other expeditious manner, to the Divisional Returning Officer :—
 - (i) the number of first preference votes given for each candidate ; and
 - (ii) the total number of ballot-papers rejected as informal ;
 - (g) seal up the parcels and indorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the indorsement ; and
 - (h) transmit the parcels to the Divisional Returning Officer with the least possible delay, together with the statement specified in paragraph (d) of this sub-section, and the copy of the writ indorsed in accordance with that paragraph.
- (2.) The Divisional Returning Officer shall open all ballot-boxes not opened by an Assistant Returning Officer, and shall conduct the scrutiny of the ballot-papers contained therein in the manner aforesaid as far as applicable.
- (3.) The Divisional Returning Officer shall, in the manner prescribed by this Act or the Regulations, examine, count, and deal with all ballot-papers used for voting in pursuance of—
- (a) Part XII. of this Act ;
 - (b) the regulations relating to absent voting on polling day ; or
 - (c) section one hundred and twenty-one of this Act.
- (4.) The Divisional Returning Officer shall—
- (a) open the sealed parcels of ballot-papers received from the Assistant Returning Officers in or for the Division for which he is Divisional Returning Officer, and shall make a fresh scrutiny of the ballot-papers contained in the parcels, and for this purpose he shall have the same powers as if the fresh scrutiny were the original scrutiny, and may reverse any decision given by an Assistant Returning Officer in relation to the original scrutiny ;

- (b) arrange the unrejected ballot-papers so scrutinized by him, together with the ballot-papers scrutinized by him pursuant to sub-sections (2.) and (3.) of this section, under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate ; and
 - (c) count the first preference votes given for each candidate on such ballot-papers, and transmit the following information, by telegram or in some other expeditious manner, to the Commonwealth Electoral Officer for the State :—
 - (i) the number of first preference votes given for each candidate ; and
 - (ii) the total number of ballot-papers rejected as informal.
- (5.) The first vacancy shall be filled in the following manner :—
- (a) The Commonwealth Electoral Officer shall, from the information received from all the Divisional Returning Officers for the Divisions of the State, ascertain the total number of first preference votes given for each candidate.
 - (b) The candidate who has received the largest number of first preference votes shall, if that number constitutes an absolute majority of votes, be elected.
 - (c) If no candidate has received an absolute majority of first preference votes, a second count shall be made by the Divisional Returning Officers under the directions of the Commonwealth Electoral Officer, who, for the purposes of the second count, shall notify each Divisional Returning Officer, by telegram or in some other expeditious manner, of the name of the candidate who has received the fewest first preference votes.
 - (d) On the second count, the candidate who has received the fewest first preference votes shall be excluded, and each ballot-paper counted to him shall be counted to the candidate next in the order of the voter's preference, and the result communicated to the Commonwealth Electoral Officer in the manner directed by that officer.
 - (e) If a candidate then has an absolute majority of votes he shall be elected, but if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes and counting each of his unexhausted ballot-papers to the continuing candidate next in the order of the voter's preference shall be repeated by the Divisional Returning Officers under the directions of the Commonwealth Electoral Officer until one candidate has received an absolute majority of votes.
 - (f) The candidate who has received an absolute majority of votes shall be elected.

(6.) The second vacancy shall be filled in the following manner :—

- (a) The Divisional Returning Officers, acting under the directions of the Commonwealth Electoral Officer, shall re-arrange all the ballot-papers under the names of the respective candidates in accordance with the first preference indicated thereon, except that each ballot-paper on which a first preference for the elected candidate is indicated, shall, if unexhausted, be placed in the parcel of the candidate next in order of the voter's preference.
- (b) Each Divisional Returning Officer shall then count the ballot-papers in the parcel of each candidate and transmit the result of the count to the Commonwealth Electoral Officer in accordance with the directions given by that officer.
- (c) The Commonwealth Electoral Officer shall, from the information received from the Divisional Returning Officers, ascertain the total number of votes given for each candidate.
- (d) If a candidate then has an absolute majority of votes he shall be elected, but if no candidate then has an absolute majority of votes, the scrutiny shall proceed as provided in paragraphs (c), (d), and (e) of the last preceding sub-section until one candidate has received an absolute majority of votes :

Provided that, in the application of paragraphs (c) and (d) of the last preceding sub-section, any reference to first preference votes shall be read as a reference to all the votes counted to a candidate in pursuance of this sub-section.

- (e) The candidate who has received an absolute majority of votes shall be elected.

7.) Further vacancies shall be filled one by one in the manner provided in the last preceding sub-section as regards the filling of the second vacancy :

Provided that a ballot-paper on which a first preference for any elected candidate is marked shall, if unexhausted, be placed in the parcel of the continuing candidate next in order of the voter's preference.

(8.) In the process of filling any vacancy, exhausted ballot-papers shall be set aside as finally dealt with, and shall thenceforth not be taken into account in the filling of that vacancy.

- (9.) (a) When a candidate is elected or excluded, each ballot-paper counted to him shall be deemed to be exhausted if there is not indicated upon it a next preference for one continuing candidate.

- (b) 'Next preference' in the last preceding sub-paragraph includes the first of the subsequent preferences marked on the ballot-paper which is not given to an elected or excluded candidate :

Provided that where there is a break in the consecutive numbering of preferences marked on a ballot-paper (other than a break necessitating the rejection of the ballot-paper as informal in pursuance of paragraph (b) of sub-section (1.) of section one hundred and thirty-three of this Act), only those preferences preceding the break shall be taken into account.

(10.) In this section 'continuing candidate' means a candidate not already elected or excluded from the count.

(11.) If on any count two or more candidates have an equal number of votes, and one of them has to be excluded, the Commonwealth Electoral Officer shall decide which shall be excluded; and if, in the final count for filling any vacancy, two candidates have an equal number of votes, the Commonwealth Electoral Officer shall decide by his casting vote which shall be elected; but, except as provided in this sub-section, he shall not vote at the election.

(12.) In this section 'an absolute majority of votes' means a greater number than one-half of the whole number of ballot-papers other than informal and exhausted ballot-papers. The casting vote of the Commonwealth Electoral Officer, given in pursuance of the last preceding sub-section, shall be included in reckoning an absolute majority of votes.

(13.) Notwithstanding anything contained in the preceding provisions of this section two or more candidates lowest on the poll may be excluded in any count in the one operation, provided—

- (a) that the total number of votes of those lowest candidates does not in the aggregate exceed in number the votes of the candidate next higher on the poll;
- (b) that the number of continuing candidates is not thereby reduced below the number to be elected; and
- (c) that in the filling of a second or any subsequent vacancy the votes of the elected candidate or candidates have been first dealt with as provided in this section.

(14.) The Divisional Returning Officer shall—

- (a) make out and sign a statement setting out, in respect of the Division for which he is Divisional Returning Officer, the number of votes counted to each candidate at each count, and the number of informal ballot-papers, and forward the statement, together with the copy of the writ (indorsed in the prescribed manner) to the Commonwealth Electoral Officer for the State;
- (b) place in a separate parcel all the ballot-papers which have been rejected as informal;
- (c) place in a separate parcel all the unrejected ballot-papers; and
- (d) seal up the parcels and indorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the indorsement."

10. Section one hundred and thirty-six of the Principal Act is repealed and the following sections are inserted in its stead :—

“ 136. In a House of Representatives election the scrutiny shall, subject to the provisions of section one hundred and twenty-one of this Act and of the regulations relating to absent voting and to voting by post, be conducted in the manner following :—

Scrutiny
votes in House
of Repre-
sentatives
elections.

(1.) Each Assistant Returning Officer shall, in the presence of an Assistant Presiding Officer or a Poll Clerk, and of such authorized scrutineers as may attend—

- (a) open all ballot-boxes received from polling places within or for that portion of the Division in which he exercises his powers ;
- (b) reject all informal ballot-papers, and arrange the unrejected ballot-papers under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate ;
- (c) count the first preference votes given for each candidate on all unrejected ballot-papers ;
- (d) make out and sign a statement (which may be countersigned by an Assistant Presiding Officer or a Poll Clerk, and, if they so desire, by such scrutineers as are present) setting out the number of first preference votes given for each candidate, and the number of informal ballot-papers, and certify, by indorsement on the copy of the writ received by him, the like particulars ;
- (e) place in a separate parcel all the ballot-papers which have been rejected as informal ;
- (f) transmit the following information, by telegram or in some other expeditious manner, to the Divisional Returning Officer :—
 - (i) the number of first preference votes given for each candidate ; and
 - (ii) the total number of ballot-papers rejected as informal ;
- (g) seal up the parcels and indorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the indorsement ; and
- (h) transmit the parcels to the Divisional Returning Officer with the least possible delay, together with the statement specified in paragraph (d) of this sub-section, and the copy of the writ indorsed in accordance with that paragraph.

(2.) The Divisional Returning Officer shall open all ballot-boxes not opened by an Assistant Returning Officer, and shall conduct the scrutiny of the ballot-papers contained therein in the manner aforesaid as far as applicable.

- (3.) The Divisional Returning Officer shall, in the manner prescribed by this Act or the Regulations, examine, count, and deal with all ballot-papers used for voting in pursuance of—
- (a) Part XII. of this Act ;
 - (b) the regulations relating to absent voting on polling day ; or
 - (c) section one hundred and twenty-one of this Act.
- (4.) From the copies of the writs forwarded to the Divisional Returning Officer by the Assistant Returning Officers in or for the Division, and the result of the scrutiny of the votes counted by him, the Divisional Returning Officer shall ascertain the total number of first preference votes given for each candidate for the Division.
- (5.) The candidate who has received the largest number of first preference votes shall, if that number constitutes an absolute majority of votes, be elected.
- (6.) If no candidate has received an absolute majority of first preference votes, the Divisional Returning Officer—
- (a) shall open the sealed parcels of ballot-papers received from the Assistant Returning Officers in or for the Division ;
 - (b) shall make a fresh scrutiny of the ballot-papers contained in the parcels, and, for the purpose of that scrutiny, shall have the same powers as if it were the original scrutiny, and may reverse any decision given by an Assistant Returning Officer in relation to the original scrutiny ;
 - (c) from the result of the scrutiny of the votes counted by him under the provisions of sub-sections (2.) and (3.) of this section, and the fresh scrutiny conducted by him under the provisions of this sub-section, shall ascertain the total number of first preference votes given for each candidate and the number of informal ballot-papers ; and
 - (d) shall proceed with the scrutiny and the counting of the votes as follows :—
 - (i) the candidate who has received the fewest first preference votes shall be excluded, and each ballot-paper counted to him shall be counted to the candidate next in the order of the voter's preference ;
 - (ii) if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes, and counting each of his ballot-papers to the unexcluded candidate next in the order of the

voter's preference, shall be repeated until one candidate has received an absolute majority of votes ; and

- (iii) the candidate who has received an absolute majority of votes shall be elected.

(7.) If on any count two or more candidates have an equal number of votes, and one of them has to be excluded, the Divisional Returning Officer shall decide which shall be excluded ; and if in the final count two candidates have an equal number of votes, the Divisional Returning Officer shall decide by his casting vote which shall be elected, but, except as provided in this sub-section, he shall not vote at the election.

(8.) In this section an absolute majority of votes means a greater number than one-half of the whole number of ballot-papers other than informal ballot-papers. The casting vote of the Divisional Returning Officer, given in pursuance of the last preceding sub-section, shall be included in reckoning an absolute majority of votes.

(9.) The Divisional Returning Officer shall—

- (a) place in a separate parcel all the ballot-papers which have been rejected as informal ;
- (b) place in a separate parcel all the unrejected ballot-papers ; and
- (c) seal up the parcels and indorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the indorsement.

“136A. Where the Commonwealth Electoral Officer for a State, in the case of a Senate election, or the Divisional Returning Officer, in the case of a House of Representatives election, is satisfied that the votes—

Scrutiny prior to receipt of absent voters' ballot-papers, &c.

- (a) on any absent voters' ballot-papers which have not been received by the Divisional Returning Officer ; or
- (b) on any ballot-papers, used for voting in pursuance of section one hundred and twenty-one of this Act, and in relation to which the Divisional Returning Officer has not completed the action specified by sub-section (5.) of that section,

cannot, having regard to the number of those ballot-papers, possibly affect the result of the election, the Commonwealth Electoral Officer, in the case of a Senate election, or the Divisional Returning Officer, in the case of a House of Representatives election, may, subject to the concurrence of the Chief Electoral Officer, proceed with the scrutiny without awaiting the receipt of the absent voters' ballot-papers, or completing the action, as the case may be.”

Form of
ballot-paper for
Senate election.

11. The Schedule to the Principal Act is amended by omitting therefrom Form E and inserting in its stead the following form:—

“FORM E.

COMMONWEALTH OF AUSTRALIA.

Ballot-paper.

State of [*here insert name of State*].

Election of [*here insert number*] Senators.

Directions.—In marking his vote on this ballot-paper the voter must place in the squares respectively opposite the names of at least (*here insert the number which represents twice the number of Senators to be elected plus one, or, if the number of candidates is less than that number, the total number of candidates*) candidates the numbers 1, 2, 3, 4, and so on, up to and inclusive of the number (*here insert the number which represents twice the number of Senators to be elected plus one, or, if the number of candidates is less than that number, the total number of candidates*), so as to indicate the order of his preference for such candidates, and, if there are any more candidates, may in addition indicate the order of his preference for as many of them as he pleases by placing in the squares respectively opposite their names other numbers next in numerical order after those already used by him.

Candidates.

- | | |
|--------------------------|---------------------------------|
| <input type="checkbox"/> | Brown, Charles William Henry. |
| <input type="checkbox"/> | Brown, Samuel Wilson. |
| <input type="checkbox"/> | Johns, Roy William. |
| <input type="checkbox"/> | King, Henry. |
| <input type="checkbox"/> | Lovell, Edward Thomas. |
| <input type="checkbox"/> | Mahon, James Robert. |
| <input type="checkbox"/> | Quick, Richard James. |
| <input type="checkbox"/> | Russell, Percy John. |
| <input type="checkbox"/> | Smith, John Edward. |
| <input type="checkbox"/> | Thomas, Ian Alexander Johnson.” |
-