

WAR PENSIONS APPROPRIATION.

No. 13 of 1922.

An Act to grant and apply out of the Consolidated Revenue Fund a sum for War Pensions.

[Assented to 25th September, 1922.]

Preamble.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, for the purpose of appropriating the grant originated in the House of Representatives, as follows :—

Short title.

1. This Act may be cited as the *War Pensions Appropriation Act 1922*.

Appropriation
of £10,000,000
for war
pensions.

2. There shall be payable out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, for the purposes of the Trust Account established under the *Audit Act 1901-1920*, and known as the War Pensions Fund, the sum of Ten million pounds for war pensions.

COMMONWEALTH ELECTORAL.

No. 14 of 1922.

An Act to amend the *Commonwealth Electoral Act 1918-1921*.

[Assented to 28th September, 1922.]

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 1922*.

(2.) The *Commonwealth Electoral Act 1918-1921* 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 1918-1922*.

Commence-
ment.

2. The several sections of this Act shall commence on such dates as are respectively fixed by Proclamation.

3. Section thirty-nine of the Principal Act is amended by adding at the end of sub-section (3.) the following provisos :—

Persons entitled to enrolment and to vote.

“Provided that an elector whose real place of living is not in the Division in respect of which he is enrolled shall not be entitled to vote as an elector of that Division if, since he secured that enrolment, he has at any time before the commencement of the period of twenty-one days before the issue of the writ for the election, become entitled to be enrolled in respect of another Division :

Provided further that nothing in this sub-section shall disentitle an elector from voting in respect of the Division for which he is enrolled if he is temporarily living elsewhere than within the Division in respect of which he claims to vote with a fixed intention of returning to his place of living in that Division for the purpose of continuing to live therein.”

4. After section seventy-two of the Principal Act the following section is inserted :—

“72A.—(1.) Candidates nominated for election to the Senate may claim to have their names grouped in the ballot-papers in the manner prescribed in this Act.

Grouping of candidates.

“(2.) A group shall include the names of those candidates only each of whom notifies the Commonwealth Electoral Officer for the State in the prescribed manner after he has been nominated, and not later than twelve o'clock noon on the day of nomination, that he desires to have his name included in that group with the names of the other candidates in that proposed group, and with those names only.

“(3.) A candidate shall not be entitled to have his name included in more than one group.

“(4.) A notification, pursuant to this section, shall not be rejected by reason of any formal defect or error therein if the Commonwealth Electoral Officer who receives the notification is satisfied that the provisions of this Act and the regulations have been substantially complied with.

“(5.) Upon the receipt of notifications in accordance with this section, from all the candidates in any proposed group, the Commonwealth Electoral Officer shall include the names of those candidates in a group, and shall notify each member of the group of the fact that he has included his name in a group, and of the names of the other candidates included in the group.”

5. Section seventy-six of the Principal Act is amended by omitting paragraph (a), and inserting in its stead the following paragraph :—

Deposit to be forfeited in certain cases.

“(a) in the case of a Senate election—

- (i) 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

- (ii) where the name of the candidate is included in a group in pursuance of section seventy-two A of this Act, if the average number of votes polled in favour of the candidates included in the group 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”.

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

6. Section eighty-five of the Principal Act is amended by adding at the end of sub-section (2.) the following proviso :—

“ Provided that the application shall not be deemed to have been duly made unless it reaches the Divisional Returning Officer to whom it is addressed before six o'clock in the afternoon of the day immediately preceding the polling day for the election.”.

Authorized
witnesses.

7. Section eighty-six of the Principal Act is amended by inserting therein, after the words “ Railway service of the Commonwealth or of a State ;”, the words “ all Permanent Way Inspectors and Roadmasters employed in the Railway service of the Commonwealth ;”.

Issue of
certificate and
ballot-papers.

8. Section eighty-eight of the Principal Act is amended by adding at the end of sub-section (1.) the following proviso :—

“ Provided that where the application is received after six o'clock in the afternoon of the day preceding polling day the Divisional Returning Officer shall not deliver or post to the elector a postal vote certificate or a postal ballot-paper.”.

9. After section ninety-one of the Principal Act the following section is inserted :—

Person claiming
to vote whose
name is noted
under s. 91.

“ 91A.—(1.) Notwithstanding anything contained in the last preceding section where a person, whose name has been noted on the certified list of voters used at a polling place prescribed for the subdivision for which he is enrolled, as an elector to whom a postal vote certificate and postal ballot-paper have been issued, claims to vote in an election at that polling place and states, when requested to deliver to the presiding officer for cancellation his postal vote certificate and postal ballot-paper, that he neither applied for nor received a postal vote certificate or a postal ballot-paper, he may, subject to sections thirty-nine and one hundred and fifteen and the regulations, be permitted to vote, if he makes a declaration in the prescribed form before the presiding officer at the polling place.

“ (2.) The ballot-paper of a voter voting under this section shall be dealt with as prescribed by the regulations :

Provided that no such ballot-paper shall be scrutinized unless the Divisional Returning Officer is satisfied that the voter is entitled to vote in the election, and that a postal vote certificate or postal ballot-paper has not been issued to him.”.

10. After section ninety-three of the Principal Act the following sections are inserted :—

“ 93A. No person other than—

- (a) the elector to whom the postal ballot-paper has been issued,
or
- (b) an authorized witness, acting in pursuance of paragraph (f) of section ninety-two of this Act, assisting an elector whose sight is so impaired that he cannot vote without assistance, shall mark a vote upon the ballot-paper.

Penalty for unlawfully marking postal ballot-paper.

Penalty : One hundred pounds or imprisonment for six months.

“ 93B. No person other than the Returning Officer for the Division in respect of which a postal ballot-paper has been issued or an officer acting under his directions shall open the envelope in which the postal ballot-paper has been placed pursuant to paragraph (e) of section ninety-two of this Act and which has been fastened by an authorized witness in accordance with the provisions of that paragraph.

Unlawfully opening postal ballot-paper.

Penalty : Fifty pounds.”

11. After section one hundred and five of the Principal Act the following section is inserted :—

“ 105A. In printing the ballot-papers to be used in a Senate election—

Printing of Senate ballot-papers.

- (a) the names of candidates included in groups in pursuance of section seventy-two A of this Act shall be printed in groups on the ballot-papers before the names of candidates not included in groups ;
- (b) the names in each group shall be printed in the alphabetical order of the surnames comprised in that group ;
- (c) the order of the several groups in the ballot-papers shall be determined as follows :—
 - (i) A number shall be placed against the name of each candidate in each group corresponding with the numerical order in which the initial letter of the surname of the candidate occurs in the alphabet ;
 - (ii) The numbers against the surnames of the candidates in each group shall be added together, and the sum thus obtained in respect of each group shall be divided by the number of candidates in the group, and the quotient thus obtained shall be the quotient of the group ;
 - (iii) The first group in the ballot-papers shall be the group having the smallest quotient, and the second shall be the group having the next larger quotient, and so on, until the order of each group is determined ;

- (iv) In the event of two or more groups having the same quotient, the order of those groups in the ballot-papers shall be in accordance with the relative alphabetical order of the surnames first occurring in each of those groups, and, if those surnames are the same, then in accordance with the relative alphabetical order of the surnames next occurring in each of those groups ; and
- (v) If the order of priority cannot be determined in the manner provided for under the preceding subparagraphs of this paragraph, it shall be determined by the Commonwealth Electoral Officer ;
- (d) before the square opposite the surname of each candidate in the first group in the ballot-papers there shall be printed the letter A ; before the square opposite the surname of each candidate in the second group in the ballot-papers there shall be printed the letter B and so on, as the case requires ;
- (e) if there are two or more candidates having the same surname in any group, their names shall, subject to the provisions of this section, be arranged according to the alphabetical order of their christian names, or, if their christian names are the same, then according to the alphabetical order of their residences, which shall in such cases be arranged and stated in the ballot-papers ;
- (f) the order of the names of the candidates whose names are not included in any group shall be determined in the same manner as the order in a group of the names of the candidates included in that group ;
- (g) where similarity in the names of two or more candidates is likely to cause confusion the names of those candidates may be arranged with such description or addition as will distinguish them from one another ; and
- (h) except as otherwise provided by the regulations, a square shall be printed opposite the name of each candidate.”.

Printing of
House of
Representatives
ballot-papers.

12. Section one hundred and six of the Principal Act is amended by inserting therein after the words “ In printing the ballot-papers ” the words “ to be used in a House of Representatives election ”.

13. Section one hundred and fifteen of the Principal Act is repealed and the following section inserted in its stead :—

Questions to be
put to voter.

“ 115.—(1.) The presiding officer—

- (a) shall put to every person claiming to vote the following questions :—
 - (i) Have you already voted either here or elsewhere in this election (or these elections, as the case requires) ?
 - (ii) Is your real place of living within the Division of (here state the name of the Division in respect of which the elector claims to vote) ?

(iii) (If the last preceding question is answered in the negative)—Are you temporarily living elsewhere than within the Division of (here state the name of the Division in respect of which the elector claims to vote) with a fixed intention of returning to your place of living in that Division for the purpose of continuing to live therein ?

(iv) (If the last preceding question is answered in the negative)—Did you at any time since securing the enrolment for the Division of (here state the name of the Division in respect of which the elector claims to vote) in respect of which you claim to vote and before (here state date of commencement of the period of twenty-one days before the issue of the writ for the election) become entitled to be enrolled in respect of another Division ? and

(b) may, and, at the request of any scrutineer shall, also put all or any of the following questions :—

(i) Are you the person whose name appears as (here state name under which the person claims to vote) on the certified list of voters for this polling place (or the roll for the Division of as the case requires) ?

(ii) Are you of the full age of twenty-one years ?

(iii) Are you a natural-born or naturalized subject of the King ?

(iv) Are you qualified to vote ?

“(2.) If any person refuses to answer fully any question put to him by the presiding officer under the authority of this section, his claim to vote shall be rejected.

“(3.) If from the answers of a person to the questions put to him by the presiding officer under this section, the presiding officer is of opinion that that person is not entitled to vote, the presiding officer shall inform him that in his opinion his claim to vote should be rejected, and shall thereupon reject his claim to vote, unless that person alleges that his claim to vote should not be rejected, and states the grounds of his allegation, and makes a declaration in the prescribed form before the presiding officer as to the grounds of his allegation.

“(4.) Where a person is permitted to vote under the provisions of the last preceding sub-section he shall mark and fold his ballot-paper in the manner prescribed in the Act and return it so folded to the presiding officer.

“(5.) The presiding officer shall thereupon, in the presence of the voter and of such scrutineers as are present, and without unfolding

the ballot-paper, enclose it in an envelope bearing the declaration of the voter as to his claim to vote and thereafter the same procedure shall be followed in relation to the envelope and ballot-paper as is provided by this Act in relation to persons voting under section one hundred and twenty-one of this Act.

“(6.) The voter’s answer to any question put to him by the presiding officer under the authority of this section shall be conclusive, and the matter shall not, subject to this section, be further inquired into during the polling.”.

Vote of person whose name is not on certified list, or has been struck out of certified list.

14. Section one hundred and twenty-one of the Principal Act is amended by adding at the end thereof the following sub-section :—

“(6.) Where the claim of any person to vote under this section is refused the presiding officer shall make a note in writing of the fact of the claim and the reasons for the refusal thereof, and the presiding officer and a poll clerk shall sign the note in the presence of such scrutineers as are present. Any of those scrutineers may also sign the note.”.

15. After section one hundred and twenty-one of the Principal Act the following section is inserted :—

Voter claiming to vote whose name on roll has been marked.

“121A.—(1.) Notwithstanding anything contained in this Act where a voter, against whose name on the certified list of voters used at a polling place prescribed for the subdivision for which he is enrolled a mark has been placed, in accordance with section one hundred and eighteen, claims to vote in an election at that polling place he may, subject to sections thirty-nine and one hundred and fifteen and the regulations, be permitted to vote if he makes a declaration in the prescribed form before the presiding officer at the polling place.

“(2.) The ballot-paper of a voter voting under this section shall be dealt with as prescribed by the regulations :

Provided that no such ballot-paper shall be scrutinized or counted unless the Divisional Returning Officer is satisfied that the voter is entitled to vote in the election.”.

16. Section one hundred and twenty-seven of the Principal Act is repealed and the following section inserted in its stead :—

Voting at adjourned polling.

“127. Where for any reason the polling is adjourned at any polling place, those electors only—

(a) who are enrolled for the Subdivision for which the polling place is prescribed ; or

(b) who are, by virtue of section one hundred and twenty-one of this Act entitled to vote as electors of that Subdivision,

and who have not already voted, shall be entitled to vote at the adjourned polling at that polling place.”.

17. Section one hundred and thirty-three of the Principal Act is amended by omitting from paragraph (c) of sub-section (1.) all words from and including the words " Provided further " to and including the words " that candidate ".

Informal
ballot-papers.

18. Section one hundred and thirty-five of the Principal Act is amended by omitting the words " one hundred and twenty-one " (wherever occurring) and inserting in their stead the words " ninety-one A, sub-section (3.) of section one hundred and fifteen, section one hundred and twenty-one and section one hundred and twenty-one A ".

Scrutiny of
votes in Senate
elections.

19. Section one hundred and thirty-six of the Principal Act is amended by omitting the words " one hundred and twenty-one " (wherever occurring) and inserting in their stead the words " ninety-one A, sub-section (3.) of section one hundred and fifteen, section one hundred and twenty-one and section one hundred and twenty-one A ".

Scrutiny of
votes in
House of
Representatives
elections.

20. Section one hundred and thirty-six A of the Principal Act is amended by inserting, after paragraph (b), the following paragraph:—

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

" or (c) on any ballot-papers used for voting in pursuance of section ninety-one A, sub-section (3.) of section one hundred and fifteen or section one hundred and twenty-one A and in relation to which the scrutiny by the Divisional Returning Officer has not been completed,".

21. Section one hundred and forty-one of the Principal Act is amended by omitting from paragraph (b) of sub-section (2.) thereof the words " one hundred and twenty-one " and inserting in their stead the words " ninety-one A, sub-section (3.) of section one hundred and fifteen, section one hundred and twenty-one or section one hundred and twenty-one A ".

Return of
writs for
election
of senators.

22. Section one hundred and forty-two of the Principal Act is amended by omitting from paragraph (b) of sub-section (2.) thereof the words " one hundred and twenty-one " and inserting in their stead the words " ninety-one A, sub-section (3.) of section one hundred and fifteen, section one hundred and twenty-one or section one hundred and twenty-one A ".

Return of writs
for House of
Representatives
elections.

23. Section one hundred and eighty-nine of the Principal Act is amended by inserting in sub-section (1.) after paragraph (ii) the following paragraph:—

Powers of
Court.

" (iia) to grant to any party to a petition leave to inspect in the presence of a prescribed officer the rolls and other documents (except ballot-papers) used at or in connexion with any election and to take, in the presence of the prescribed officer, extracts from those rolls and documents: ".

24. After section one hundred and eighty-nine of the Principal Act the following section is inserted :—

Production of
postal vote
Certificate, &c.

“189A.—(1.) Without limiting the powers conferred by the last preceding section—

(a) when it is proved that a ballot-paper issued under the regulations relating to absent voting or pursuant to section eighty-eight, section ninety-one A, sub-section (3.) of section one hundred and fifteen, section one hundred and twenty-one or section one hundred and twenty-one A has, in any election, been marked by a person who was not entitled to vote at the election, the Court may require the production of—

(i) the postal vote certificate delivered to or posted to that person ; or

(ii) the declaration made by that person under the regulations relating to absent voting or pursuant to section ninety-one A, sub-section (3.) of section one hundred and fifteen, section one hundred and twenty-one or section one hundred and twenty-one A,

as the case may be ; and

(b) the Court may reject the ballot-paper.

“(2.) The production from proper custody of a ballot-paper purporting to have been used in an election and bearing an official number, and of a postal vote certificate, or a declaration made under the regulations relating to absent voting or pursuant to section ninety-one A, sub-section (3.) of section one hundred and fifteen, section one hundred and twenty-one or section one hundred and twenty-one A, bearing an official number corresponding to the official number on the ballot-paper, shall be *prima facie* evidence that the person who marked the ballot-paper was the person to whom the postal vote certificate was delivered or posted or who made the declaration, as the case may be.

“(3) In the last preceding sub-section ‘official number’ means a number purporting to have been placed on the ballot-paper, postal vote certificate or declaration, as the case may be, in pursuance of the regulations.”.

Immaterial
errors not to
vitiating election.

25. Section one hundred and ninety-four of the Principal Act is amended—

(a) by inserting, after the words “error of”, the words “or omission by” ;

(b) by omitting the words “shall not be proved to have affected” and inserting in their stead the words “did not affect” ; and

(c) by adding at the end thereof the following proviso :—

“ Provided that where any elector was, on account of the absence or error of, or omission by, any officer, prevented from voting in any election, the Court shall not, for the purpose of determining whether the absence or error of, or omission by, the officer did or did not affect the result of the election, admit any evidence of the way in which the elector intended to vote in the election.”.

26. After section one hundred and ninety-four of the Principal Act the following section is inserted :—

“ 194A. On the trial of any petition the Court shall not admit the evidence of any witness that he was not permitted to vote in any election during the hours of polling on polling day unless the witness satisfies the Court—

Evidence that person not permitted to vote.

- (a) that he claimed to vote, in the election, pursuant to that provision of this Act under which he was entitled or might be permitted to vote ; and
- (b) that he complied with the requirements of this Act and the regulations made thereunder relative to voting by electors in so far as he was permitted so to do.”.

27. After section two hundred and eighteen of the Principal Act the following section is inserted :—

“ 218A. On the day appointed as polling day for an election of the Senate or a general election of the House of Representatives, or the day fixed for the taking of the votes of the electors for the purposes of a referendum held under the provisions of the *Referendum (Constitution Alteration) Act 1906-1919*, no election or referendum or vote of the electors of any State or part of a State shall, without the authority of the Governor-General, be held or taken under the law of a State.”.

No state referendum or vote to be held on polling day.

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

Form of ballot-paper for Senate election.

“ 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.

A ☐ Brown, Charles William Henry.

A ☐ King, Henry.

A ☐ Russell, Percy John.

B ☐ Brown, Samuel Wilson.

B ☐ Lovell, Edward Thomas.

B ☐ Quick, Richard James.

C ☐ Smith, John Edward.

C ☐ Thomas, Ian Alexander Jonnson.

☐ Johns, Roy William.

☐ Mahon, James Robert.

☐ Pearce, Charles.

NOTE.—The letter 'A' or 'B' or 'C' &c., appearing before the square opposite a candidate's surname indicates that that candidate and each other candidate who has the same letter appearing before the square opposite his surname have been grouped by mutual consent.

The fact that no letter appears before the square opposite a candidate's surname indicates that the name of that candidate has not been included in any group."