

7. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act. Regulations.

THE SCHEDULE.

Arbitration (Public Service) Act 1920, s. 6.
 Commonwealth Bank Act 1911-1927, ss. 16A, 35Q.
 Commonwealth Public Service Act 1922-1924, s. 11.
 Development and Migration Act 1926, ss. 11, 15.
 Income Tax Assessment Act 1922-1927, s. 42.
 Land Tax Assessment Act 1910-1927, ss. 5, 44A.
 Northern Australia Act 1926, ss. 13, 14, 39.
 Science and Industry Research Act 1920-1926, s. 14A.
 Seat of Government (Administration) Act 1924-1926, s. 12.
 Superannuation Act 1922-1924, s. 62.

COMMONWEALTH ELECTORAL.

No. 17 of 1928.

An Act to amend the *Commonwealth Electoral Act 1918-1925*.

[Assented to 22nd June, 1928.]

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

1.—(1.) This Act may be cited as the *Commonwealth Electoral Act 1928*. Short title and citation.

(2.) The *Commonwealth Electoral Act 1918-1925** 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 1918-1928*.

2. Section thirty-nine of the Principal Act is amended—

(a) by omitting sub-section (2.) thereof; and

Persons entitled to enrolment and to vote.

* Act No. 27, 1918, as amended by No. 31, 1919; No. 14, 1921; No. 14, 1922; No. 10, 1924; and No. 20, 1925.

- (b) by omitting the two provisos to sub-section (3.) and inserting in their stead the following proviso :—

“Provided that an elector shall not be entitled to vote as an elector of the Division in respect of which he is enrolled unless his real place of living was at some time within three months immediately preceding polling day within that Division. In this proviso the words ‘real place of living’ include the place of living to which a person temporarily living elsewhere has a fixed intention of returning for the purpose of continuing to live thereat.”.

Claims for enrolment or transfer of enrolment.

3. Section forty-one of the Principal Act is amended—

(a) by omitting from paragraph (a) of sub-section (4.) the word “and” (last occurring); and

(b) by adding at the end of paragraph (b) of sub-section (4.) the words—“and

(c) any Senator or Member of the House of Representatives whose name is enrolled in accordance with the provisions of this sub-section may vote as an elector of the Subdivision in respect of which he is so enrolled.”.

Place of nomination.

4. Section seventy-seven of the Principal Act is amended by omitting from sub-section (2.) the words “chief polling place” and inserting in their stead the words “office of the Divisional Returning Officer”.

Death of candidate after nomination.

5. Section eighty-three of the Principal Act is repealed, and the following section inserted in its stead :—

“83.—(1.) If after the nominations for an election for the Senate have been declared and before polling day any candidate dies and the candidates remaining are not greater in number than the candidates required to be elected, they shall forthwith be declared to be elected and the writ returned.

(2.) If after the nominations for an election for the House of Representatives have been declared, and before polling day, any candidate dies, the election shall be deemed to have wholly failed.”.

Failure of election.

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

“Provided that where the election has failed in consequence of the death of a candidate after the declaration of the nominations and before polling day, the supplementary election shall be held upon the roll which was prepared for the purpose of the election which failed”.

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

7. Section eighty-five of the Principal Act is amended—

(a) by omitting from paragraph (b) of sub-section (1.) the word “ten”, and inserting in its stead the word “five”;

- (b) by omitting from sub-section (2.) the word "elector" (wherever occurring) and inserting in its stead the word "applicant"; and
- (c) by omitting from sub-section (2.) the words "authorized witness" and inserting in their stead the word "elector".

8. Section eighty-six of the Principal Act is repealed.

Authorized witnesses.

9. Section eighty-seven of the Principal Act is amended—

Duty of elector witnessing application.

- (a) by omitting from sub-section (1.) the words "authorized witness" and inserting in their stead the word "elector";
- (b) by omitting from sub-section (2.) the words "authorized witness" (first occurring), and inserting in their stead the words "elector witnessing the application";
- (c) by omitting from sub-section (2.) the words "the title under which he acts as an authorized witness and"; and
- (d) by omitting from sub-section (3.) the words "An authorized witness", and inserting in their stead the words "Any such elector".

10. Section ninety-one A of the Principal Act is amended—

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

- (a) by omitting from sub-section (1.) the words "neither applied for nor received" and inserting in their stead the words "has not received"; and
- (b) by omitting from the proviso to sub-section (2.) the words "issued to", and inserting in their stead the words "received by".

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

"91B.—(1.) Subject to sub-section (2.) of this section the following persons are authorized witnesses within the meaning of this Act:—

Authorized witnesses.

- (a) all Commonwealth Divisional Returning Officers, Assistant Returning Officers, and Officers of the Public Service of the Commonwealth permanently employed in the office of any Commonwealth Electoral Officer of a State or Divisional Returning Officer; all Commonwealth Electoral Registrars; all Postmasters or Postmistresses or postal officials in charge of post offices; all Police or Stipendiary or Special Magistrates of the Commonwealth or of a State; all Justices of the Peace; all Commissioners for taking declarations or affidavits; all Adult Teachers of a State Education Department; all Officers of the Department of Trade and Customs; all members of the Police Force of the Commonwealth or of a State; all members of a Municipal Council, Shire Council, or Roads Board; all Town Clerks, Deputy Town Clerks, Shire Secretaries, Shire Engineers, Roads Board Secretaries, Roads Board Engineers; all Mining Wardens and Mining Wardens' Clerks in the Public Service of a State; all legally

qualified Medical Practitioners ; all Midwives and Nurses registered by the Midwives Board or Nurses Board of a State ; all Officers in charge of Quarantine Stations ; all Officers in charge of Lighthouses and all Assistant Lighthouse Keepers ; all Pilots in the service of the Commonwealth or of a State, or of any local governing body ; all Telegraph Line Repairers permanently employed in the Public Service of the Commonwealth, who are in charge of working parties ; all Overseers and Foremen of Group Settlements ; all Railway Station Masters and Night Officers in charge who are permanently employed in the Railway service of the Commonwealth or of a State ; all Permanent Way Inspectors and Roadmasters employed in the Railway service of the Commonwealth ; all Engineers engaged upon Railway or Road construction ; all Mail Contractors ; all Superintendents of Mercantile Marine and their deputies while permanently employed in the Public Service of the Commonwealth or of a State ; all Naval Commissioned Officers in the service of the Commonwealth while employed on a ship of war ; all Licensed Surveyors or Government Surveyors ; all Station Owners, Station Managers, and Station Overseers ; and

- (b) all persons or classes of persons, employed in the Public Service of the Commonwealth or of a State, who are declared by proclamation to be authorized witnesses within the meaning of this Act.

“(2.) No person who is a candidate at any election shall be an authorized witness at that election.”.

Directions for
postal voting.

12. Section ninety-two of the Principal Act is amended—

- (a) by omitting paragraph (f) and inserting in its stead the following paragraph :—

“(f) If the elector’s sight is so impaired that he cannot vote without assistance, a person appointed by the elector shall mark the elector’s vote on the ballot-paper in the presence of the authorized witness, and shall then and there fold the ballot-paper so that the vote cannot be seen, place it in the envelope addressed to the Divisional Returning Officer, fasten the envelope, and hand it to the voter, who shall forthwith post or deliver it, or cause it to be posted or delivered, to the Divisional Returning Officer :

Provided that if no person is appointed by the elector, the authorized witness, if so requested by the elector, shall take the action required by this paragraph to be taken by a person appointed by the elector ;” ;

(b) by inserting in paragraph (g), after the word "assistance", the words "and no person is appointed by the elector to mark his vote for him"; and

(c) by adding at the end thereof the following sub-section:—

"(2.) Notwithstanding anything contained in this section, in any case in which a postal ballot-paper, if posted or delivered as provided in paragraph (e) or paragraph (f) of the preceding sub-section, would not reach the Divisional Returning Officer for the Division in respect of which the elector claims to vote, before the close of the poll, the envelope in which the ballot-paper is enclosed may be addressed to, and posted or delivered to, any other Divisional Returning Officer or to an Assistant Returning Officer, or may be delivered on polling day to any presiding officer, and the Divisional Returning Officer, Assistant Returning Officer, or presiding officer, as the case may be, shall deal with it in the prescribed manner."

13. Section ninety-three A of the Principal Act is amended by inserting in paragraph (b), before the words "an authorized witness", the words "a person appointed by the elector or".

Penalty for unlawfully marking a postal ballot-paper.

14. Section ninety-four of the Principal Act is amended—

(a) by inserting, after the word "whom", the words "an application for a postal vote certificate and postal ballot-paper or";

(b) by inserting, after the words "Divisional Returning Officer", the words "or an Assistant Returning Officer or delivery to a presiding officer"; and

(c) by inserting, after the words "deliver the", the words "application or".

Penalty for failure to post or deliver application or postal ballot-paper.

15. Section ninety-five of the Principal Act is amended by omitting paragraphs (b), (c) and (d), and inserting in their stead the following paragraph:—

Duty of persons present when an elector votes by post.

"and (b) except as provided in paragraph (f) of section ninety-two in the case of persons whose sight is impaired—

(i) refrain from making any communication whatever to the elector in relation to his vote;

(ii) refrain from assisting the elector or in any manner interfering with him in relation to his vote; and

(iii) refrain from looking at the elector's vote or from doing anything whereby he may become acquainted with the elector's vote."

16. Section ninety-six of the Principal Act is amended by inserting after the words "close of the poll" the words "by him, or by any other Divisional Returning Officer or any Assistant Returning Officer or presiding officer in pursuance of sub-section (2.) of section ninety-two of this Act".

Preliminary scrutiny of postal ballot-papers.

The polling.

17. Section one hundred and eleven of the Principal Act is amended by adding at the end of the section the following proviso:—

“ Provided that, where the scrutiny is proceeded with immediately after the close of the poll at the polling booth at which the votes are taken, it shall not be necessary for the presiding officer to publicly close, fasten, or seal the ballot-box as required by paragraph (d) of this section.”.

Questions to be put to voter.

18. Section one hundred and fifteen of the Principal Act is amended—

(a) by omitting from paragraph (a) of sub-section (1.) sub-paragraphs (iii) and (iv) and inserting in their stead the following sub-paragraph:—

“(iii) (if the last preceding question is answered in the negative)—Was your real place of living at any time within the last three months within the Division of (here state the name of the Division in respect of which the elector claims to vote) ? and ”;

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

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

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

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

(vi) Are you qualified to vote ? and

“(c) may, and at the request of any scrutineer shall, also put to any person claiming to vote, whose name appears on the certified list of voters or on any Division roll the following question:—

(vii) 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) ? ”;

(c) by omitting sub-sections (2.) to (5.) inclusive, and inserting in their stead the following sub-section:—

“(2.) If any person claiming to vote to whom any of the foregoing questions are put—

(a) refuses to answer fully any question so put to him ;

(b) does not answer the question numbered (i) absolutely in the negative, when put to him ;

(c) does not answer the question numbered (ii) absolutely in the affirmative when put to him, or, if he answers that question in the negative, does not answer the question numbered (iii) absolutely in the affirmative when put to him ;

(d) does not answer the questions numbered (iv), (v), (vi) and (vii) absolutely in the affirmative, when put to him,

his claim to vote shall be rejected.”; and

(d) by adding at the end of the section the following sub-section:—

“(7.) In this section the words ‘real place of living’ include the place of living to which a person temporarily living elsewhere has a fixed intention of returning for the purpose of continuing to live thereat.”.

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

“120.—(1.) If any voter satisfies the presiding officer that his sight is so impaired or that he is so physically incapacitated that he is unable to vote without assistance, the presiding officer shall permit a person appointed by the voter to enter an unoccupied compartment of the booth with the voter, and mark, fold, and deposit the voter’s ballot-paper for him.

Assistance to certain voters.

“(2.) If any such voter fails to appoint a person in pursuance of the last preceding sub-section, or if any voter satisfies the presiding officer that he is so illiterate that he is unable to vote without assistance, the presiding officer, in the presence of such scrutineers as are present, or, if there be no scrutineers present, then in the presence of—

(a) the poll clerk; or

(b) if the voter so desires, in the presence of a person appointed by such voter, instead of the poll clerk,

shall mark, fold, and deposit his ballot-paper for him.”.

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

(a) by inserting in sub-section (1.) after the words “mistake of fact” the words “or when any person who is enrolled on the Roll for a Subdivision claims to vote at an election at a polling place prescribed for that Subdivision, and his name cannot be found by the presiding officer on the certified list of voters,”;

Vote of person whose name is not on certified list, has been struck out of certified list, or is on roll and cannot be found.

(b) by inserting in sub-section (1.), after paragraph (b), the following paragraph:—

“or (c) in the case of a person whose name is on the Roll for a Subdivision for which he claims to vote, but cannot be found by the presiding officer, he claims that his name appears or should appear on the Roll,”;

(c) by omitting from sub-section (5.) the words “paragraphs (a) or (b)” and inserting in their stead the words “paragraph (a), (b) or (c)”;

- (d) by omitting from sub-section (5.) the words "the necessary correction" and inserting in their stead the words "such correction (if any) as is necessary".

Compulsory
voting.

21. Section one hundred and twenty-eight A of the Principal Act is amended—

- (a) by omitting from sub-section (2.) the words "(in duplicate)";
- (b) by adding at the end of sub-section (4.) the following proviso:—
"Provided that the Divisional Returning Officer need not send a notification in any case where he is satisfied that the elector—
(a) is dead; or
(b) was absent from the Commonwealth on polling day; or
(c) is known to the Divisional Returning Officer to have been ineligible to vote at the election;";
- (c) by omitting from sub-section (8.) the words "both copies of";
- (d) by omitting from sub-section (9.) the words "both copies of";
- (e) by omitting sub-section (10.);
- (f) by omitting from sub-section (11.) the words "Each copy of"; and
- (g) by omitting from sub-section (12.) the words "Penalty: Two pounds.", and inserting in their stead the words—
"Penalty: Not less than Ten shillings and not more than Two pounds."

Scrutiny of
votes in Senate
elections.

22. Section one hundred and thirty-five of the Principal Act is amended by omitting the words "sub-section (3.) of section one hundred and fifteen," (wherever occurring).

Scrutiny of
votes in
House of
Representatives
elections.

23. Section one hundred and thirty-six of the Principal Act is amended by omitting the words "sub-section (3.) of section one hundred and fifteen," (wherever occurring).

Scrutiny prior
to receipt of
certain ballot-
papers, &c.

24. Section one hundred and thirty-six A of the Principal Act is amended—

- (a) by omitting the words "absent voters' ballot-papers" (first occurring), and inserting in their stead the words "ballot-papers issued at some remote polling place in connexion with the election";
- (b) by omitting from paragraph (c) the words ", sub-section (3.) of section one hundred and fifteen";
- (c) by omitting the words "absent voters'" (last occurring); and
- (d) by inserting after paragraph (c) the following paragraph:—
"or
(d) on any postal ballot-papers posted or delivered to any Divisional Returning Officer or any Assistant Returning Officer or presiding officer in pursuance of sub-section (2.) of section ninety-two of this Act,".

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

Return of writ
for election of
Senators.

- (a) by omitting the words "absent voters'" (wherever occurring);
- (b) by inserting in paragraph (a) of sub-section (2.) after the word "election" the words "or posted or delivered to any Divisional Returning Officer or any Assistant Returning Officer or presiding officer in pursuance of sub-section (2.) of section ninety-two of this Act"; and
- (c) by omitting from paragraph (b) of sub-section (2.) the words "sub-section (3.) of section one hundred and fifteen,".

26. Section one hundred and forty-two of the Principal Act is amended—

Return of writs
for House of
Representatives

- (a) by omitting the words "absent voters'" (wherever occurring);
- (b) by inserting in paragraph (a) of sub-section (2.) after the word "election" the words "or posted or delivered to any Divisional Returning Officer or any Assistant Returning Officer or presiding officer in pursuance of sub-section (2.) of section ninety-two of this Act"; and
- (c) by omitting from paragraph (b) of sub-section (2.) the words "sub-section (3.) of section one hundred and fifteen,".

27. Section one hundred and sixty-one of the Principal Act is amended by inserting after paragraph (e) the following paragraph:—

Illegal
practices.

"(f) wilfully informing any elector on polling day that he is not enrolled, or that he is not enrolled for a particular Subdivision, when as a fact he is enrolled, or is enrolled for that Subdivision, as the case may be:".

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

Articles to be
signed.

"(3.) This section shall not apply to the publication in a newspaper of—

- (a) a leading article; or
- (b) an article in a newspaper which consists solely of a report of a meeting and does not contain any comment (other than comment made by a speaker at the meeting) upon any candidate, or political party, or the issues being submitted to the electors."

29. Section one hundred and eighty-nine A of the Principal Act is amended by omitting the words "sub-section (3.) of section one hundred and fifteen," (wherever occurring).

Production of
postal vote
certificate, &c.

30. Section two hundred and fifteen of the Principal Act is amended by inserting after the word "enrolment" the words "or compulsory voting".

Averments
deemed to be
proved.