

# COMMONWEALTH ELECTORAL (WAR-TIME).

**No. 27 of 1943.**

## An Act to amend the *Commonwealth Electoral (War-time) Act 1940.*

[Assented to 2nd July, 1943.]

[Date of commencement, 30th July, 1943.]

**B**E 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 (War-time) Act 1943.*

Short title  
and citation.

(2.) The *Commonwealth Electoral (War-time) Act 1940\** 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 (War-time) Act 1940–1943.*

2. Section four of the Principal Act is repealed and the following section inserted in its stead :—

“ 4. This Act is divided into Parts as follows :—

Parts.

Part I.—Preliminary.

Part II.—Voting by Members of the Forces outside Australia and in the Northern Territory.

Part IIIA.—Voting by Members of the Forces within a State.

Part III.—Voting by Discharged Members of the Forces in Australia who are unenrolled.

Part IV.—Miscellaneous.”

3. Section five of the Principal Act is amended—

Definitions.

(a) by inserting in sub-section (1.) after the definition of “ Commanding Officer ” the following definition :—

“ “ discharged member of the Forces ’ includes an officer whose appointment has been terminated or who has been placed on reserve and any member who has been transferred to reserve or released from service ; ” ;

(b) by omitting from that sub-section the definition of “ member of the Forces ” and inserting in its stead the following definition :—

“ “ member of the Forces ’ means a person who is or has been a member of the Defence Force of the Commonwealth, and who is or has been on active service during the present war ; ” ; and

\* No. 48 of 1940.

(e) by omitting sub-section (2.) and inserting in its stead the following sub-section :—

“(2.) For the purposes of this Act, the Returning Officer for the Northern Territory shall be deemed to be a Divisional Returning Officer.”.

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 Section six of the Principal Act is repealed and the following section inserted in its stead :—

Members of the Forces entitled to vote.

“6.—(1.) Subject to sub-section (4.) of section thirty-nine of the *Commonwealth Electoral Act 1918–1940*, a qualified member of the Forces shall, during the present war and for a period of six months thereafter, be entitled to vote at any election as an elector of the Division in which, immediately prior to his appointment or enlistment as a member of the Forces, he was ordinarily resident, or, in the case of a member of the Forces appointed or enlisted prior to the third day of September, One thousand nine hundred and thirty-nine, of the Division in which he was ordinarily resident immediately prior to that date.

(2.) For the purposes of the last preceding sub-section a qualified member of the Forces means—

- (a) a member of the Forces who is not under the age of twenty-one years ;
- (b) a member of the Forces who is under the age of twenty-one years and is serving or has served outside Australia ; or
- (c) a discharged member of the Forces who is not enrolled as an elector of the Commonwealth and who—
  - (i) is not under the age of twenty-one years ; or
  - (ii) is under the age of twenty-one years and has served outside Australia.”.

Heading to Part II. of Principal Act.

5. The heading to Part II. of the Principal Act is amended by adding at the end thereof the words “ and in the Northern Territory ”.

Action by Chief Electoral Officer and Commonwealth Returning Officer.

6. Sections eight and nine of the Principal Act are amended by omitting the words “, addresses and occupations ” (wherever occurring) and inserting in their stead the words “ and party designations (if any) ”.

7. After section ten of the Principal Act the following section is inserted :—

List of candidates to be posted.

“10A. At each place where the votes of members of the Forces are to be taken, the officer in charge of the voting shall post in a conspicuous position a copy of the printed list showing the names of the candidates and their party designations (if any), and each officer before whom votes are being recorded shall, when handing the requisite ballot-paper to a voter, direct the attention of the voter to that list and to the fact that the parties represented by the respective candidates may be ascertained therefrom.”.

## 8. Section thirteen of the Principal Act is amended—

- (a) by inserting immediately before the word “ date ” the words “ third day after the ” ;
- (b) by inserting in paragraph (a), after the word “ order ”, the words “ and was made on or before the date fixed for the polling ” ; and
- (c) by omitting from that paragraph the words “ the closing of the poll ” and inserting in their stead the words “ that scrutiny ”.

Action by Commonwealth Returning Officer on receipt of envelopes.

9. Section fourteen of the Principal Act is amended by inserting immediately before the word “ date ” the words “ third day after the ”.

Scrutiny.

10. Section sixteen of the Principal Act is amended by omitting the words “ to Australia ”.

Inclusion of result of scrutiny in determining result of polling.

11. After Part II. of the Principal Act the following Part is inserted :—

“ PART IIA.—VOTING BY MEMBERS OF THE FORCES WITHIN A STATE.

18A. The provisions of Part II. of this Act shall, so far as applicable, apply, *mutatis mutandis*, in relation to voting by members of the Forces within a State :

Voting by members of the Forces within a State.

Provided that—

- (a) the functions of a Commonwealth Returning Officer, as set out in that Part, shall be performed by the Commonwealth Electoral Officer for the State ;
- (b) the functions of a Commanding Officer, as set out in that Part, shall, in respect of each unit in the area under his control, be performed by the Divisional Returning Officer for the Division concerned or by an Assistant Returning Officer appointed under section nine of the *Commonwealth Electoral Act 1918-1940* ;
- (c) the functions of a commissioned officer, as set out in that Part, shall, in respect of any unit, be performed by a Presiding Officer and any Assistant Presiding Officer thereto appointed by the Divisional Returning Officer or Assistant Returning Officer concerned ;
- (d) the Commonwealth Electoral Officer concerned shall appoint such special polling places as are necessary, and the day and hours during which members of the Forces may record their votes thereat before the duly appointed officers shall be the date fixed by the writ for the polling between eight o'clock in the morning and eight o'clock in the evening ; and

(e) the envelopes bearing the declarations and containing the ballot-papers of members of the Forces voting under this Part shall upon receipt be dealt with by the Commonwealth Electoral Officer concerned in accordance with the provisions of sections thirteen and fourteen of this Act as if those envelopes had been received prior to eight o'clock on the afternoon of the third day after the date fixed by the writ for the polling."

Heading to Part III. of Principal Act.

12. The heading to Part III. of the Principal Act is omitted and the following heading inserted in its stead :—

"PART III.—VOTING BY DISCHARGED MEMBERS OF THE FORCES IN AUSTRALIA WHO ARE UNENROLLED."

Members of Forces may apply for certificate and ballot-paper.

13. Section nineteen of the Principal Act is amended by inserting in sub-section (1.), before the word "member", the word "discharged".

Issue of certificate and ballot-paper.

14. Section twenty of the Principal Act is amended by inserting, before the words "in Australia", the words "a discharged member of the Forces".

Member of Forces may not vote more than once.

15. Section twenty-three of the Principal Act is amended by adding at the end thereof the following sub-sections :—

"(3.) Subject to this section a member of the Forces who is on authorized absence from his unit may, during the hours fixed for the polling at any place where arrangements have been made for members of the Forces to record their votes under the provisions of this Act, attend and vote at that place.

"(4.) Nothing in this Act shall be construed as preventing a member of the Forces, if duly qualified, from voting at an election under the provisions of the *Commonwealth Electoral Act 1918-1940*, the *Northern Territory Representation Act 1922-1936*, or the *Referendum (Constitution Alteration) Act 1906-1936*, as the case may be, instead of under the provisions of this Act."

16. After section twenty-three of the Principal Act the following sections are inserted :—

Members of Civil Constructional Corps and others may vote as if they were members of the Forces.

"23A. Notwithstanding anything contained in this or any other Act, a resident engineer, personnel officer, supervisor, foreman, member of the Civil Constructional Corps or other person employed under the authority or direction of the Allied Works Council on any project, undertaking or work outside Australia or in Australia north of the twenty-sixth parallel of South latitude, who is a British subject not under the age of twenty-one years and not subject to any of the disqualifications set out in section thirty-nine of the *Commonwealth Electoral Act 1918-1940*, may vote in accordance with the provisions of this Act, in so far as those provisions are applicable, as if he were a member of the Forces :

Provided that in the case of any project, undertaking or work outside Australia or in the Northern Territory the functions of a

commanding officer and of a commissioned officer as set out in Part II. of this Act may be performed respectively by the engineer or other person in charge of the project, undertaking or work and by any person designated by him.

“23B. A presiding officer or assistant presiding officer engaged in taking the votes of members of the Forces under the provisions of this Act on the date fixed by the writ for the polling and any scrutineer in attendance at the taking of those votes on that day may, if he is entitled to vote under the provisions of the *Commonwealth Electoral Act 1918-1940*, record his vote at the election in accordance with the provisions of this Act as if he were a member of the Forces.”

Officers and scrutineers may vote as if they were members of the Forces.

17. Section twenty-five of the Principal Act is amended by omitting the words “the Commonwealth Returning Officer or to Australia” and inserting in their stead the words “or from a Commonwealth Returning Officer”.

Validity of election not to be questioned.

18. Section twenty-six of the Principal Act is amended by adding at the end thereof the following sub-section :—

Scrutineers.

“(2.) Each candidate may, by notice in writing or by telegram addressed to the Returning Officer or Presiding Officer, appoint one scrutineer to represent him at the polling at any place at which the votes of members of the Forces are being taken under the provisions of this Act, and any scrutineer so appointed shall, subject to the provisions of section one hundred and nine of the *Commonwealth Electoral Act 1918-1940*, be entitled to be present at that polling.”

19. After section twenty-six of the Principal Act the following sections are inserted :—

“26A.—(1.) Where a Senator, or retiring Member of the House of Representatives, who is a member of the Forces, is nominated for election as a Senator or Member of the House of Representatives, the consent to act and declaration of qualification required by section seventy-three of the *Commonwealth Electoral Act 1918-1940* shall, in the absence of direct contrary advice from that Senator or Member, be deemed to have been given and made.

Nomination of Candidates.

“(2.) Where the name of a candidate nominated for election to the Senate, who is a member of the Forces, is included in the notification of a proposed group received from each of the other candidates whose names are included in the proposed group, any notification in relation to the group required, from the candidate who is a member of the Forces, by section seventy-two A or section seventy-two B of the *Commonwealth Electoral Act 1918-1940* in order that his name may be included in the group, shall be deemed to have been given and to have been given in general conformity with the notifications received from the other candidates in the group.

“26B. In addition to the authorized witnesses prescribed by section ninety-one B of the *Commonwealth Electoral Act 1918-1940* all officers of His Majesty’s Naval, Military and Air Forces shall be authorized witnesses for the purposes of Part XII. of that Act.”

Authorized witnesses.