

REFERENDUM (CONSTITUTION ALTERATION).

No. 14 of 1919.

An Act to amend the *Referendum (Constitution
Alteration) Act 1906-1915.*

[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:—

1.—(1.) This Act may be cited as the *Referendum (Constitution Alteration) Act 1919.*

Short title and citation.

(2.) The *Referendum (Constitution Alteration) Act 1906-1915* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Referendum (Constitution Alteration) Act 1906-1919.*

2. Section three of the Principal Act is amended by omitting therefrom the definitions of "Absent voter" and "Absent voting" and inserting in their stead the following definitions:—

Definitions relating to absent voting.

"Absent voter" means an elector voting or desiring to vote in pursuance of the regulations relating to absent voting made in pursuance of section one hundred and thirteen of the *Commonwealth Electoral Act 1918-1919* in connexion with a referendum;

"Absent voting" means voting in pursuance of the regulations relating to absent voting made in pursuance of section one hundred and thirteen of the *Commonwealth Electoral Act 1918-1919* in connexion with a referendum;

3. Section four of the Principal Act is amended—

Application of Electoral Act.

(a) by omitting from sub-section (1.) thereof the words "sixty-four of Part VI. of the *Commonwealth Electoral Act 1902-1911*, and the provisions of Parts XI. and XV.", and inserting in their stead the words "forty-five, sub-section (3.) of section forty-seven, and the proviso to sub-section (1.) of section fifty-seven of the *Commonwealth Electoral Act 1918-1919*, and the provisions of Parts XII., XIII., and XVII., and sub-section (2.) of section one hundred and forty-one";

(b) by omitting paragraph (f) of sub-section (2.) thereof and inserting in its stead the following paragraph :—

“(f) Sections one hundred and four, one hundred and five, one hundred and five A, one hundred and six, one hundred and eight, one hundred and twelve, one hundred and twenty-three, one hundred and twenty-four, one hundred and fifty-six, one hundred and fifty-seven, one hundred and fifty-eight, one hundred and fifty-nine, one hundred and sixty, one hundred and sixty-one, and one hundred and sixty-two, shall not apply to a referendum ;”;

(c) by omitting paragraph (g) of sub-section (2.) thereof and inserting in its stead the following paragraph :—

“(g) The ballot-papers to be used under Part XII. and section one hundred and thirteen and section one hundred and twenty-one, for the purposes of a referendum, shall be in accordance with the forms prescribed for use in connexion with a referendum ;” ; and

(d) by omitting from paragraph (i) of sub-section (2.) thereof the word “mark” and inserting in its stead the word “marked”.

Electors who may vote at referendum.

4. Section ten A of the Principal Act is amended by omitting sub-sections (1.) and (2.) thereof and inserting in their stead the following sub-section :—

“(1.) At a referendum only those electors who would be entitled to vote if the referendum were an election shall be admitted to vote.”.

Forms of ballot-paper.

5. Section fourteen A of the Principal Act is amended—

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

“(2.) For the purposes of voting under the regulations relating to absent voting made in pursuance of section one hundred and thirteen of the *Commonwealth Electoral Act 1918-1919* the ballot-papers to be used for the purposes of a referendum may be in accordance with the forms prescribed by the regulations relating to absent voting.

“(2A.) For the purposes of voting under Part XII. of the *Commonwealth Electoral Act 1918-1919* the ballot-papers and the postal vote certificates to be used for the purposes of a referendum may be in accordance with the forms prescribed by the regulations relating to postal voting.

“(2B.) For the purpose of voting in pursuance of section one hundred and twenty-one of the *Commonwealth Electoral Act 1918-1919* the ballot-papers to be used for the purposes of a referendum may be in accordance with the forms prescribed by the regulations in relation thereto.”;

- (b) by inserting in sub-section (3.) thereof, after the words “on one piece of paper” the words “in accordance with Form D in the Schedule” ;
- (c) by omitting from sub-section (3.) thereof the words “presiding officer or of the Electoral Registrar” and inserting in their stead the words “Divisional Returning Officer or of the presiding officer” ;
- (d) by omitting from sub-section (3.) thereof the word “might” and inserting in its stead the word “can”.

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

“15. Where the day fixed for the taking of the votes for the purposes of a referendum is the same as that fixed for the polling at an election—

Application of
absent and
postal voters
provisions.

- (a) a declaration which suffices to enable an elector to vote—
 - (i) under the provisions of section one hundred and twenty-one of the *Commonwealth Electoral Act 1918-1919*, or
 - (ii) as an absent voter for the purposes of the election

shall suffice to enable him to vote under the provisions of section one hundred and twenty-one of the *Commonwealth Electoral Act 1918-1919*, or as an absent voter, as the case requires, for the purposes of the referendum ;

- (b) any reference in the declaration to the election shall be deemed to include a reference to the referendum ;
- (c) an application for a postal vote certificate and postal ballot-paper for the purposes of the election shall be deemed to include an application for a postal vote certificate and postal ballot-paper for the purposes of the referendum ;
- (d) a postal vote certificate for the purposes of the election shall be deemed to have effect as a postal vote certificate for the purposes of the referendum ;
- (e) any reference in the application or the certificate to the election shall be deemed to include a reference to the referendum ; and
- (f) a postal ballot-paper containing the vote of an elector at the referendum may be enclosed in the same envelope as that in which the postal ballot-paper containing the vote of the elector at the election is enclosed.”.

Answers to questions.

7. Section fifteen A of the Principal Act is amended by omitting therefrom the words "one hundred and forty-one of the *Commonwealth Electoral Act 1902-1911*" and inserting in their stead the words "one hundred and fifteen of the *Commonwealth Electoral Act 1918-1919*".

8. Section nineteen of the Principal Act is repealed, and the following section inserted in its stead:—

Conduct of scrutiny.

"19. The scrutiny shall be conducted in accordance with the following provisions:—

- (a) It shall commence as soon as practicable after the closing of the poll ;
- (b) such scrutineers as have been duly appointed pursuant to the preceding section, and any persons approved by the officer conducting the scrutiny may be present ;
- (c) all the proceedings at the scrutiny shall be open to the inspection of the scrutineers ;
- (d) the scrutiny may be adjourned from time to time as may be necessary until the counting of the votes is complete ;
- (e) each Assistant Returning Officer shall, in the presence of an Assistant Returning Officer or a Poll Clerk, and of such authorized scrutineers as may attend, open all ballot-boxes received from polling places within or for that portion of the Division in which he exercises his powers ; and
- (f) the Divisional Returning Officer shall open all ballot-boxes not opened by an Assistant Returning Officer."

Action at scrutiny.

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

"(3.) All ballot-papers used for voting in pursuance of Part XII. of the *Commonwealth Electoral Act 1918-1919* shall be dealt with as prescribed by that Part and the regulations relating to voting by post.

"(4.) All ballot-papers used for voting in pursuance of section one hundred and twenty-one of the *Commonwealth Electoral Act 1918-1919* shall be dealt with as prescribed by the regulations."

Informal ballot-papers.

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

- (a) by inserting in sub-section (1.) thereof after the words "absent voter's ballot-paper" the words "or a postal ballot-paper or a ballot-paper used for voting in pursuance of section one hundred and twenty-one of the *Commonwealth Electoral Act 1918-1919*" ;
- (b) by omitting from paragraph (d) of sub-section (1.) thereof the words "which would in the opinion of the Divisional Returning Officer or Assistant Returning Officer enable the voter to be identified" and inserting in their stead the words "by which, in the opinion of the Divisional Returning Officer or Assistant Returning Officer, the voter can be identified" ; and

(c) by inserting therein, after sub-section (2.), the following sub-sections :—

“(2A.) A postal ballot-paper shall be informal only on the grounds prescribed by Part XII. of the *Commonwealth Electoral Act 1918-1919*, and the regulations relating to postal voting.

“(2B.) A ballot-paper used for voting in pursuance of section one hundred and twenty-one of the *Commonwealth Electoral Act 1918-1919* shall be informal only on the grounds prescribed by the regulations in relation thereto.

“(2C.) A ballot-paper shall not be informal for any reason other than the reasons specified in this section, or, in the case of an absent voter’s ballot-paper or a postal ballot-paper, or a ballot-paper used for voting in pursuance of section one hundred and twenty-one of the *Commonwealth Electoral Act 1918-1919*, the grounds prescribed by the regulations, but shall be given effect to according to the voter’s intention, so far as his intention is clear.”.

11. Section thirty-five of the Principal Act is amended—

(a) by omitting from sub-section (8.) thereof the word “any” (second occurring) and inserting in its stead the word “an”; and

(b) by omitting from sub-section (9.) thereof the words “Five hundred pounds and not less than”.

Untrue statements in relation to expenses.

12. Section thirty-six of the Principal Act is amended by omitting from the penalty at the foot of sub-section (1.) thereof the word “Five” and inserting in its stead the word “One”.

Returns by newspaper proprietors.

13. Section thirty-seven of the Principal Act is amended by omitting therefrom the words “the Second Part of the Second Schedule to the *Post and Telegraph Rates Act 1902-1910*” and inserting in their stead the words “column two of the Second Part of the Second Schedule to the *Post and Telegraph Rates Act 1902-1918*, if the telegrams are transmitted within any State, or in column four of the said Part of the said Schedule if the telegrams are transmitted from one State to any other State.”

Rates for Referendum telegrams.

14. Section forty of the Principal Act is amended by omitting therefrom the words “for a period of one year” and inserting in their stead the words “as prescribed, until the referendum can be no longer questioned, when they shall be destroyed :

Preservation of ballot-papers.

Provided that such ballot-papers, certified lists of voters and declarations shall be preserved for a period of at least six months from the date of the publication in the *Gazette* of a copy of the statement referred to in section twenty-five of this Act.”.

Alteration of
Forms.

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

- (a) by inserting in sub-section (1.) thereof, after the words “Form C”, the words “and Form D”; and
- (b) by inserting in sub-section (2.) thereof, after the words “If Form C”, the words “or Form D”.

Construction of
Part.

16. Section forty-two of the Principal Act is amended by omitting therefrom the words “Part XV. of the *Commonwealth Electoral Act 1902-1911*” and inserting in their stead the words “Part XVII. of the *Commonwealth Electoral Act 1918-1919*”.

Supply of meat
drink or
entertainment.

17. Section forty-three of the Principal Act is amended by omitting therefrom the word “Whoever” and inserting in its stead the words “Any person who”.

Bribery.

18. Section forty-four of the Principal Act is amended—

- (a) by omitting the word “Whoever” and inserting in its stead the words “Any person who”; and
- (b) by inserting, after paragraph (b), the following paragraph:—

“; or
(c) in order to induce the elector to support or oppose any proposed law for the alteration of the Constitution.”.

Receipt of bribe
by elector.

19. Section forty-five of the Principal Act is amended by inserting after the word “referendum” (second occurring) the words “or that he will support or oppose any proposed law for the alteration of the Constitution”.

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

“46. Any person who—

- (a) threatens, offers or suggests any violence, injury, punishment, damage, loss or disadvantage to an elector or any other person—
 - (i) in order to influence the elector in his vote in connexion with a referendum;
 - (ii) in order to induce the elector to refrain from voting at a referendum; or
 - (iii) in order to induce the elector to support or oppose any proposed law for the alteration of the Constitution: or
- (b) uses, causes, inflicts or procures any violence, injury, punishment, damage, loss or disadvantage towards, to or upon, any elector or any other person, for or on account of any such vote, refraining from voting, support or opposition,

shall be guilty of an offence.

Penalty: Two hundred pounds or imprisonment for one year.”.

Undue
influence.

21. The Schedule to the Principal Act is amended by omitting therefrom Form C and inserting in its stead the following Forms:—

Forms of ballot-paper.

Form C.

BALLOT-PAPER.

Commonwealth of Australia.

The Referendum (Constitution Alteration) Act.

State of [here insert name of State].

Directions to Voter.

The Voter should indicate his Vote as follows:—

If he approves of the proposed law he should **make a cross** in the square opposite the word "**Yes**";

If he does not approve of the proposed law he should **make a cross** in the square opposite the word "**No**".

Submission to the Electors of a Proposed Law for the Alteration of the Constitution.

Do you approve of the proposed law for the Alteration of the Constitution, entitled [here set out the title of the proposed law]?

Yes.

No.

Form D.

SPECIAL FORM OF BALLOT-PAPER.

Commonwealth of Australia.

The Referendum (Constitution Alteration) Act.

State of [here insert name of State.]

Directions to Voter.

The Voter should indicate his Vote **in relation to each proposed law** as follows:—

If he approves of the proposed law he should **make a cross** in the square opposite the word "**Yes**";

If he does not approve of the proposed law he should **make a cross** in the square opposite the word "**No**".

Submission to the Electors of Proposed Laws for the Alteration of the Constitution.

1. Do you approve of the proposed law for the Alteration of the Constitution entitled [here set out the title of the proposed law]?

Yes.

No.

2. Do you approve of the proposed law for the Alteration of the Constitution, entitled [here set out the title of the proposed law]?

Yes.

No.

(Additional ballot-papers (numbered consecutively) in similar form may be included in this form.)

22. Section six A of the Principal Act shall not apply in relation to any referendum held on the day fixed for the polling at the elections for the Senate and general elections for the House of Representatives next after the commencement of this Act.

Non-application
of s. 6A—
Pamphlets.