



ANNO VICESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1976

No. 114 of 1976

An Act to amend the Electoral Act, 1929-1973.

[Assented to 16th December, 1976]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Electoral Act Amendment Act (No. 4), 1976". Short titles.
- (2) The Electoral Act, 1929-1973, as amended by all other amendments, if any, amending the same prior to the commencement of this Act, is hereinafter referred to as "the principal Act".
- (3) The principal Act, as amended by this Act, may be cited as the "Electoral Act, 1929-1976".
2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.
3. Section 4 of the principal Act is amended by inserting immediately after the item "PART X—Voting by Post." the item "PART XA—Electoral Visitor Voting." Amendment of principal Act, s. 4—Parts.
4. Section 5 of the principal Act is amended— Amendment of principal Act, s. 5—Interpretation.
 - (a) by inserting after the definition of "officer" the following definition:—
"prescribed postal elector" means an elector who satisfies the Electoral Commissioner—
 - (a) that if he were resident, on a polling day, at his usual place of living, he would be entitled to have delivered or posted to him a postal vote certificate and a postal ballot-paper pursuant to section 75 of this Act;
 - and
 - (b) that, by reason of the infrequency of the mail service available to him at that place of living, it would not be reasonably practical for him to exercise the right to vote provided for by that section on that polling day;
 - and
 - (b) by striking out the definition of "the Electoral Commissioner" and inserting in lieu thereof the following definition:—

“the Electoral Commissioner” means the person for the time being holding or acting in the office of Electoral Commissioner under this Act:.

Amendment of principal Act, s. 6—
Appointment of Electoral Commissioner and Deputy Electoral Commissioner.

5. Section 6 of the principal Act is amended—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsections:—

(1) For the purposes of this Act, there shall be—

(a) an Electoral Commissioner;

and

(b) a Deputy Electoral Commissioner.

(1a) The Electoral Commissioner and the Deputy Electoral Commissioner shall each be appointed by the Governor.;

(b) by inserting immediately after subsection (2) the following subsection:—

(2a) The Deputy Electoral Commissioner shall under the direction of the Electoral Commissioner perform such duties as the Electoral Commissioner directs.;

(c) by inserting in subsection (3) immediately after the passage “Electoral Commissioner”, firstly occurring, the passage “and the Deputy Electoral Commissioner”;

(d) by striking out from subsection (3) the passage “his salary” and inserting in lieu thereof the passage “their salaries”;

(e) by inserting in subsection (3) immediately after the passage “Electoral Commissioner”, secondly occurring, the passage “or the Deputy Electoral Commissioner”;

(f) by striking out from subsection (4) the passage “salary and allowances” and inserting in lieu thereof the passage “salaries and allowances”;

and

(g) by inserting in subsection (4) immediately after the passage “Electoral Commissioner” the passage “and the Deputy Electoral Commissioner”.

Amendment of principal Act, s. 6a—
Electoral Commissioner and Deputy Electoral Commissioner not to engage in certain remunerative employment.

6. Section 6a of the principal Act is amended by inserting immediately after the passage “Electoral Commissioner” the passage “or the Deputy Electoral Commissioner”.

Amendment of principal Act, s. 6b—
Acting Electoral Commissioner.

7. Section 6b of the principal Act is amended—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsections:—

(1) If the office of Electoral Commissioner is vacant or the Electoral Commissioner is for any reason unable to discharge the duties of his office—

(a) the Deputy Electoral Commissioner;

or

(b) if the office of Deputy Electoral Commissioner is vacant, or he is for any reason unable to discharge the duties of his office—a person appointed by the Governor,

shall act in the office of Electoral Commissioner.

(1a) If for any reason—

(a) the Deputy Electoral Commissioner is temporarily unable to perform the duties of his office;

or

(b) the office of the Deputy Electoral Commissioner is temporarily vacant,

the Governor may by notice published in the *Gazette* appoint a person to act in the office of the Deputy Electoral Commissioner and while so acting that person shall have and may exercise and perform all the powers, functions and duties of the Deputy Electoral Commissioner in all respects as if he were the Deputy Electoral Commissioner.;

(b) by striking out from subsections (2) and (3) the passage “the person appointed under subsection (1)” and inserting in lieu thereof in each case the passage “a person appointed under subsection (1) or subsection (1a)”;

and

(c) by inserting in subsection (4) immediately after the passage “subsection (1)” the passage “or subsection (1a)”.

8. Section 6d of the principal Act is amended—

(a) by inserting in subsection (1) immediately after the passage “Electoral Commissioner”, firstly occurring, the passage “and the Deputy Electoral Commissioner”;

(b) by striking out from subsection (1) the passage “a term expiring on the day on which he attains” and inserting in lieu thereof the passage “terms expiring on the days on which they respectively attain”;

(c) by inserting in subsection (1) immediately after the passage “Electoral Commissioner”, secondly occurring, the passage “or the Deputy Electoral Commissioner”;

(d) by inserting in subsection (2) immediately after the passage “Electoral Commissioner” the passage “or the Deputy Electoral Commissioner”;

(e) by inserting in subsection (3) immediately after the passage “Electoral Commissioner”, firstly occurring, the passage “or the Deputy Electoral Commissioner”;

(f) by inserting in paragraph (b) of subsection (3) immediately after the passage “Electoral Commissioner” the passage “or the Deputy Electoral Commissioner as the case may be”;

(g) by inserting in subsection (4) immediately after the passage “Electoral Commissioner” the passage “or the Deputy Electoral Commissioner”;

and

(h) by inserting in subsection (5) immediately after the passage “Electoral Commissioner”, twice occurring, in each case, the passage “or the Deputy Electoral Commissioner”.

9. Section 6e of the principal Act is amended—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) Neither the Electoral Commissioner nor the Deputy Electoral Commissioner shall hold office under the Public Service Act, 1967-1975.;

Amendment of
principal Act,
s. 6d—
Term of office.

Amendment of
principal Act,
s. 6e—
Offices of
Electoral
Commissioner
and Deputy
Electoral
Commissioner.

- (b) by inserting in subsection (2) immediately after the passage “Electoral Commissioner”, twice occurring, in each case, the passage “or the Deputy Electoral Commissioner”;
- (c) by striking out from subsection (2) the figures “1973” and inserting in lieu thereof the figures “1975”;
- (d) by inserting immediately after subsection (2) the following subsection:—

(2a) If a person appointed as the Electoral Commissioner was, immediately before that appointment, the Deputy Electoral Commissioner, and pursuant to subsection (2) of this section the service of that person as Deputy Electoral Commissioner was regarded for the purposes specified in that section as service under the Public Service Act, 1967-1975, then the service of that person as Electoral Commissioner shall for those purposes be regarded as service under that Act.

and

- (e) by striking out subsection (3) and inserting in lieu thereof the following subsection:—

(3) The Electoral Commissioner and the Deputy Electoral Commissioner shall each be an employee as defined for the purposes of the Superannuation Act, 1974-1976.

10. Section 6g of the principal Act is repealed and the following section is enacted and inserted in its place:—

6g. (1) The occupant, if any, of the office of principal returning officer under the Public Service Act, 1967-1975, immediately before the commencement of the Electoral Act Amendment Act (No. 4), 1976, shall upon that commencement be deemed to have been appointed Deputy Electoral Commissioner.

(2) Where in any other Act or in any document, rule or regulation, a reference is made to—

(a) the assistant returning officer for the State;

or

(b) the principal returning officer,
that reference shall be read as a reference to the Deputy Electoral Commissioner.

11. Section 41 of the principal Act is repealed.

12. Section 42 of the principal Act is amended by striking out the passage “either of the last two sections” and inserting in lieu thereof the passage “section 40 of this Act”.

13. Section 73 of the principal Act is amended—

- (a) by striking out from paragraph (d) of subsection (1) the passage “approaching maternity” and inserting in lieu thereof the passage “reason of advanced pregnancy”;

Repeal of
s. 6g of
principal Act
and enactment
of section in its
place—
Transitional.

Repeal of
s. 41 of
principal Act.

Amendment of
principal Act,
s. 42—
Duty of
Electoral
Commissioner
on receipt of
information.

Amendment of
principal Act,
s. 73—
Application for
a postal vote
certificate and
postal ballot-
paper.

- (b) by striking out from subsection (1) the word "or" occurring immediately after paragraph (d);
- (c) by inserting immediately after paragraph (e) of subsection (1) the following word and paragraph:—
- or
- (f) is an inmate of an institution and for any reason precluded from leaving the institution and attending at any polling booth to vote,;
- and
- (d) by inserting in paragraph (c) of subsection (2) immediately after the word "illiteracy" the passage "or physical disability".

14. The following section is enacted and inserted in the principal Act immediately after section 73 thereof:—

Enactment of
s. 73a of
principal Act—

73a. (1) A prescribed postal elector may apply for registration as a general postal voter.

Application for
registration as
a general
postal voter.

(2) The application—

- (a) must be in the prescribed form;
- (b) must be signed by the applicant in his own hand writing in the presence of an authorized witness or, if the applicant is, by reason of illiteracy or physical disability unable to sign the application, must be authenticated in the prescribed manner;

and

(c) must be made to the Electoral Commissioner.

(3) No elector shall make, and no person shall induce an elector to make, any false statement in an application for registration as a general postal voter.

Penalty: Two hundred dollars, or imprisonment for one month.

15. Section 74 of the principal Act is amended—

Amendment of
principal Act,
s. 74—
Duty of
witnesses.

- (a) by striking out from subsection (1) the passage "the signature of any elector to";
- (b) by inserting in subsection (1) immediately after the passage "postal ballot-paper" the passage "or for registration as a general postal voter";
- (c) by inserting in paragraph (b) of subsection (1) immediately after the word "illiteracy" the passage "or physical disability";
- and
- (d) by inserting in subsection (3) immediately after the passage "postal ballot-paper" the passage "or for registration as a general postal voter".

Amendment of
principal Act,
s. 75—
Issue of
certificates
and ballot-
papers.

16. Section 75 of the principal Act is amended—

- (a) by striking out from subsection (1) the passage “the application”, firstly occurring, and inserting in lieu thereof the passage “an application for a postal vote certificate and postal ballot-paper”;
- and
- (b) by striking out from subsection (2) the word “may” and inserting in lieu thereof the word “shall”.

Enactment of
s. 76a of
principal Act—

17. The following section is enacted and inserted in the principal Act immediately after section 76 thereof:—

Registration
of general
postal voters
and issue of
certificate
and ballot-
papers
thereon.

76a. (1) Where the Electoral Commissioner receives an application for registration as a general postal voter and is satisfied that—

- (a) the applicant is a prescribed postal elector;
- (b) the application is—
- (i) properly signed by the applicant;
- or
- (ii) authenticated in the prescribed manner,
- as the case requires;

and

- (c) the application is witnessed and that in relation to the witness an occupation and address have been set out in the application,

he shall register the applicant as a general postal voter.

(2) The Electoral Commissioner shall in respect of any election deliver or post to each elector who immediately before the issue of the writ for the election was registered by him as a general postal voter and is entitled to vote at that election a postal vote certificate printed on an envelope addressed to the returning officer for the district for which the elector is enrolled, and a postal ballot-paper for that election.

(3) The postal vote certificates and postal ballot-papers issued by the Electoral Commissioner under this section for a Council election and for an Assembly election respectively, shall be in the prescribed form.

(4) The Electoral Commissioner shall cause a register to be kept of the electors for the time being registered as general postal voters and the register shall be open to public inspection at all convenient times during office hours.

(5) The register shall set out for each district the surname, Christian names, place of living, postal address, occupation and other prescribed particulars of each elector who is registered as a general postal voter and is enrolled for that district.

- (6) The Electoral Commissioner may at any time, other than during the period between the issue of the writs for an election and the return of the writs, by notice in writing to an elector, cancel the registration of that elector as a general postal voter.
18. Section 79 of the principal Act is amended by inserting immediately after the passage "section 75", twice occurring, in each case, the passage "or section 76a". Amendment of principal Act, s. 79—
Lost postal ballot-papers.
19. Section 80 of the principal Act is amended by inserting in subsection (2) immediately after the passage "postal ballot-paper" the passage "or for registration as a general postal voter". Amendment of principal Act, s. 80—
Authorized witnesses.
20. Section 81 of the principal Act is amended by inserting in subsection (2) after the word "illiteracy" the passage "or physical disability". Amendment of principal Act, s. 81—
Directions for postal voting.
21. Section 84 of the principal Act is amended by inserting in subsection (1) immediately after the passage "postal ballot-paper", firstly occurring, the passage "or for registration as a general postal voter". Amendment of principal Act, s. 84—
Penalty for failure to post or deliver postal ballot-paper, and for unlawfully opening ballot-paper.
22. Section 86 of the principal Act is amended—
- (a) by inserting immediately after the passage "applications for postal vote certificates and postal ballot-papers" the passage "and the applications of all the general postal voters registered for that district or photocopies thereof";
- and
- (b) by striking out from paragraph (a) the passage "for that certificate". Amendment of principal Act, s. 86—
Preliminary scrutiny of postal ballot-papers.
23. The following Part and heading thereto are enacted and inserted in the principal Act immediately after section 87 thereof:— Enactment of Part XA of principal Act—

PART XA

ELECTORAL VISITOR VOTING

- 87a. In this Part, unless the contrary intention appears— Interpretation.
- "declared institution" means an institution for the time being declared by proclamation to be a declared institution for the purposes of this Part:
- "electoral visitor" means a person appointed to be an electoral visitor under this Part.
- 87b. (1) The Governor may, by proclamation, declare— Declared institutions.
- (a) any hospital;
- (b) any nursing home;
- or

- (c) any other institution (whether or not of the same kind as those referred to in paragraphs (a) or (b) of this subsection) that has or may have inmates who are electors and for any reason precluded from leaving the institution and attending at any polling booth to vote,

to be a declared institution for the purposes of this Part.

(2) The Governor may, by proclamation, amend, vary or revoke a declaration under this section.

Electoral
Commissioner
to arrange
electoral visitor
voting.

87c. The Electoral Commissioner shall in respect of each election—

- (a) appoint a sufficient number of persons to be electoral visitors;
(b) cause declared institutions to be visited by electoral visitors;
and
(c) make all other necessary arrangements,

for the purpose of receiving the votes of those persons qualified to vote under this Part.

Qualification
to vote with
electoral visitor.

87d. A person is qualified to vote under this Part if—

- (a) he is an inmate of a declared institution;
and
(b) he is for any reason precluded from leaving the institution and attending at any polling booth to vote.

Powers of
electoral visitor.

87e. (1) An electoral visitor may enter into a declared institution or any part of a declared institution for the purposes of receiving the votes of persons qualified to vote under this Part.

(2) An electoral visitor may require a person apparently in charge of the declared institution to furnish him with—

- (a) a complete list of the names and addresses of all inmates of the institution who are over the age of eighteen years;
and
(b) any other information reasonably necessary to enable the electoral visitor to form an opinion as to whether that inmate is qualified to vote under this Part.

(3) A person shall not hinder or obstruct an electoral visitor in the exercise of his powers under this section.

Penalty: Two hundred dollars.

(4) A person required by an electoral visitor to furnish information under this section shall not refuse or fail to furnish that information or furnish information that is, to his knowledge, false or misleading in a material particular.

Penalty: Two hundred dollars.

Issue of
certificates and
ballot-papers by
electoral visitor.

87f. (1) Subject to this section, an electoral visitor may, within the period commencing at the time of nomination and expiring at five o'clock in the afternoon of the day preceding polling day, subject to the regulations, issue a vote certificate and ballot-paper to any elector who is in the opinion of the electoral visitor qualified to vote under this Part.

(2) An electoral visitor shall not issue a vote certificate and ballot-paper to any elector to whom a postal vote certificate has been issued or whose name is noted on the certified list of voters as an elector to whom a postal vote certificate and postal ballot-paper have been issued unless the elector first delivers his postal vote certificate and postal ballot-paper to the electoral visitor for cancellation.

(3) The vote certificate shall be printed on an envelope addressed to the returning officer for the district in respect of which the elector is enrolled and the ballot-paper shall be a ballot-paper for the election for which the elector is entitled to vote.

(4) The vote certificate and ballot-paper shall be in the prescribed form.

(5) The electoral visitor shall place his initials on the back of every ballot-paper that he issues under this section in such a position that the initials may be easily seen when the ballot-paper is folded so as to conceal the vote.

87g. (1) An elector to whom an electoral visitor has issued a vote certificate and ballot-paper shall forthwith— Electoral
visitor voting.

(a) exhibit the ballot-paper to another electoral visitor and satisfy that other electoral visitor that at the time the ballot-paper was so exhibited no vote was recorded on that ballot-paper;

(b) except as provided in subsection (2) of this section, sign his name in his own handwriting on the vote certificate in the space provided for the signature of the voter;

and

(c) except as provided in subsection (2) of this section, in the presence of that other electoral visitor but so that that other electoral visitor cannot see the vote, mark his vote on the ballot-paper in the prescribed manner and then place the ballot-paper in the envelope bearing the vote certificate and fasten the envelope or cause it to be fastened.

(2) Where by reason of his illiteracy or physical disability the elector is unable to sign his name it shall be sufficient compliance with paragraph (b) of subsection (1) of this section if the vote certificate is authenticated in the prescribed manner and it shall be sufficient compliance with paragraph (c) of that subsection if the other electoral visitor referred to in that subsection marks the ballot paper in accordance with the directions of the elector and places the ballot-paper so marked in the envelope referred to in that subsection.

(3) If the other electoral visitor referred to in subsection (1) of this section is satisfied that the requirements of that subsection have been complied with he shall sign his name in the space provided on the envelope for the signature of the witness and shall insert in the place provided his occupation and the address of his usual place of residence.

(4) The electoral visitor who issued the elector with a vote certificate and ballot-paper shall upon the preceding provisions of this section having been complied with deal with the envelope in the prescribed manner.

Penalty for unlawfully marking ballot-paper.

87h. No person other than—

(a) the elector to whom the ballot-paper has been issued;

or

(b) an electoral visitor acting in pursuance of subsection (2) of section 87g of this Act,

shall mark a vote upon the ballot-paper.

Penalty: Four hundred dollars, or imprisonment for six months.

Duty of persons present when an elector votes with electoral visitor.

87i. Any person present when an elector is voting with an electoral visitor shall—

(a) obey all directions of the electoral visitor;

and

(b) except as provided in section 87g of this Act—

(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 doing anything whereby he may become acquainted with the elector's vote.

Penalty: Four hundred dollars, or imprisonment for three months.

Mistakes.

87j. A ballot-paper issued pursuant to this Part shall not be rejected because the surname only of any candidate has been written thereon, if no other candidate has the same surname, or by reason of any mistake in spelling where the elector's intention is clear.

Prohibition of canvassing for postal votes in declared institutions.

87k. No person shall counsel or procure two or more electors who are inmates of the same declared institution to make an application for a postal vote.

Penalty: Two hundred dollars.

Amendment of principal Act, s. 113—
Mode of voting.

24. Section 113 of the principal Act is amended—

(a) by inserting in subsection (1) immediately after paragraph (c) the following paragraph:—

(d) where he votes with an electoral visitor under the provisions of Part XA of this Act—in the manner prescribed by the regulations relating to voting with electoral visitors.;

and

(b) by inserting in subsection (2) immediately after paragraph (c) the following paragraph:—

(d) where he votes with an electoral visitor under the provisions of Part XA of this Act—in the manner prescribed by the regulations relating to voting with electoral visitors.

25. Section 118a of the principal Act is amended by inserting in subsection (7) immediately after the word "physical" the passage "or mental".
- Amendment of principal Act, s. 118a—
Compulsory voting for House of Assembly.
26. Section 123 of the principal Act is amended by inserting in subsection (1) immediately after the passage "voting by post" the passage "or to voting with an electoral visitor".
- Amendment of principal Act, s. 123—
Informal ballot-papers.
27. Section 125 of the principal Act is amended by striking out the passage "and to voting by post" and inserting in lieu thereof the passage ", to voting by post and to voting with an electoral visitor".
- Amendment of principal Act, s. 125—
Scrutiny of votes.
28. Section 132 of the principal Act is amended by inserting immediately after the passage "postal votes" the passage ", votes with electoral visitors".
- Amendment of principal Act, s. 132—
Custody of ballot-papers after count.

In the name and on behalf of Her Majesty, I hereby assent to this Bill

D. NICHOLLS, Governor