

COMMONWEALTH ELECTORAL.

No. 10 of 1949.

An Act to amend the *Commonwealth Electoral Act 1918-1948*.

[Assented to 25th March, 1949.]

[Date of commencement, 22nd April, 1949.]

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 1949*.

(2.) The *Commonwealth Electoral Act 1918-1948** 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 1918-1949*.

Commencement.

2. Each section inserted in the *Principal Act* by this Act shall commence on the date of commencement of this Act.

* Act No. 27, 1918, as amended by No. 51, 1919; No. 14, 1921; No. 14, 1922; No. 10, 1924; No. 20, 1925; No. 17, 1928; No. 3, 1929; No. 9, 1934; No. 10, 1940; No. 42, 1945; and No. 17, 1946.

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

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

“(b) who are British subjects;” and

(b) by inserting after paragraph (a) of sub-section (5.) the following paragraph:—

“(a) he is an aboriginal native of Australia and—

(i) is entitled under the law of the State in which he resides to be enrolled as an elector of that State and, upon enrolment, to vote at elections for the more numerous House of the Parliament of that State (or, if there is only one House of the Parliament of that State, for that House); or

(ii) is or has been a member of the Defence Force;”.

Persons entitled to enrolment and to vote.

4. Section forty-three of the Principal Act is amended—

(a) by omitting from sub-paragraph (i) of paragraph (b) of sub-section (1.) the words “Subdivision Roll” and inserting in their stead the words “Roll kept by him”;

(b) by omitting from sub-paragraph (iii) of that paragraph the word “Subdivision”; and

(c) by omitting from sub-section (2.) the word “Subdivision”.

Registration of claim.

5. Section sixty-nine of the Principal Act is amended—

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

“(b) He must be a British subject;” and

(b) by omitting paragraph (d) of that sub-section and inserting in its stead the following paragraph:—

“(d) He must be either—

(i) an elector entitled to vote at the election of members of the House of Representatives; or

(ii) a person qualified to become such an elector.”.

Qualifications of members of House of Representatives.

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

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

“(2.) The application may be in the prescribed form and must—

(a) contain a declaration by the applicant setting out the grounds upon which he applies for a postal vote certificate and postal ballot-paper;

Application for postal vote certificate and postal ballot-paper.

- (b) be signed by the applicant in his own handwriting in the presence of an elector (or, if the applicant is outside Australia, in the presence of one of the persons specified in paragraph (b) of sub-section (1.) of section ninety-one of this Act); and
- (c) be made after the tenth day prior to the issue of the writ for the election to the Divisional Returning Officer for the Division for which the applicant is enrolled or—
- (i) if the applicant has reason to believe he may not receive a postal vote certificate and postal ballot-paper from that officer in time to vote at the election—to some other Divisional Returning Officer;
 - (ii) if the applicant is enrolled for a Sub-division declared to be a remote Subdivision in pursuance of sub-section (2.) of section twenty-six of this Act—to the Registrar for that Subdivision;
 - (iii) if the applicant is temporarily within the Australian Capital Territory—to the Returning Officer for that Territory; or
 - (iv) if the applicant is temporarily within the Northern Territory of Australia—to the Returning Officer for that Territory.

“(2A.) The application shall not be deemed to have been duly made unless it reaches the Divisional Returning Officer, Registrar or Returning Officer to whom it is addressed before the close of the poll for the election.”; and

- (b) by omitting from sub-section (4.) the words “kept in pursuance of regulations made under the *Advisory Council Ordinance 1936-1938* of ” and inserting in their stead the word “for”.

Duty of
witnesses.

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

- (a) by inserting in sub-section (1.), after the word “elector” (first occurring), the words “or other person”;
- (b) by inserting in sub-section (2.), after the word “elector”, the words “or other person”; and
- (c) by omitting sub-section (3.).

8. After section eighty-seven of the Principal Act the following section is inserted:—

“87A. A person shall not persuade or induce, or associate himself with a person in persuading or inducing, an elector to make application for a postal vote certificate and postal ballot-paper.

Penalty for inducing elector to apply for postal vote.

Penalty: Fifty pounds or imprisonment for one month.”

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

(a) by omitting from sub-section (1.) the words “or Registrar” (twice occurring) and inserting in their stead the words “, Registrar or Returning Officer”; and

Issue of certificate and ballot-paper.

(b) by omitting from the proviso to sub-section (1.) the words “deliver or”.

10. Section eighty-nine of the Principal Act is amended by omitting sub-sections (1a.) and (2.) and inserting in their stead the following sub-sections:—

Inspection of applications.

“(2.) All applications for postal vote certificates and postal ballot-papers received by a Registrar or by the Returning Officer for the Australian Capital Territory or the Returning Officer for the Northern Territory of Australia shall, after being indorsed with the date of the issue of the postal vote certificate and postal ballot-paper, forthwith be sent to the Divisional Returning Officer for the Division to which they relate.

“(3.) All applications for postal vote certificates and postal ballot-papers shall be open to public inspection at all convenient times during office hours from and including the third day after polling day until the election can be no longer questioned.”

11. Section ninety of the Principal Act is amended by omitting the words “or Registrar” (twice occurring) and inserting in their stead the words “, Registrar or Returning Officer”.

Numbering of applications and certificates.

12. Section ninety-one of the Principal Act is amended by omitting paragraphs (a) and (b) of sub-section (1.) and inserting in their stead the following paragraphs:—

Authorized witnesses.

“(a) any elector whose name appears on the Roll for a State, for the Australian Capital Territory or for the Northern Territory of Australia; and

“(b) where the vote is recorded outside Australia—any officer of the Naval, Military or Air Forces of the Commonwealth or of some other part of the King's dominions or any person employed in the Public Service of the Commonwealth or of a Territory of the Commonwealth.”

Directions by
postal voting.

13. Section ninety-two of the Principal Act is amended by omitting paragraphs (d) and (e) of sub-section (1.) and inserting in their stead the following paragraphs:—

“(d) The elector shall then and there, in the presence of the authorized witness, but so that the authorized witness cannot see the vote, mark his vote on the ballot-paper in the prescribed manner, fold the ballot-paper, place it in the envelope addressed to the Divisional Returning Officer and fasten the envelope;

“(e) The elector shall forthwith post or deliver the envelope, or cause it to be posted or delivered, to the Divisional Returning Officer;”.

Unlawfully
opening postal
ballot-paper.

14. Section ninety-three of the Principal Act is amended by omitting the words “paragraph (e) or paragraph (f) of sub-section (1.) of section ninety-two of this Act and which has been fastened by an authorized witness” and inserting in their stead the words “paragraph (d) or paragraph (f) of sub-section (1.) of section ninety-two of this Act and which has been fastened by the elector”.

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

15. Section ninety-four of the Principal Act is amended by inserting after the word “Registrar” the words “, a Returning Officer”.

16. After section ninety-four of the Principal Act the following section is inserted:—

Penalty for
inducing elector
to hand over
postal
ballot-paper.

“94A. A person shall not persuade or induce an elector to hand over to him a postal ballot-paper upon which a vote has been recorded.

Penalty: Fifty pounds or imprisonment for one month.”.

Preliminary
scrutiny of
postal
ballot-papers.

17. Section ninety-six of the Principal Act is amended by omitting from paragraph (b) the words “the envelope bearing the certificate was posted or delivered” and inserting in their stead the words “the vote contained in the envelope was recorded”.

Questions to be
put to voter.

18. Section one hundred and fifteen of the Principal Act is amended by omitting sub-paragraph (v) of paragraph (b) of sub-section (1.) and inserting in its stead the following sub-paragraph:—

“(v) Are you a British subject?”.

Return of writs
for House of
Representatives.

19. Section one hundred and forty-two of the Principal Act is amended by omitting from paragraph (a) of sub-section (1.) the words “chief polling place for the Division” and inserting in their stead the words “place of nomination”.