
COMMONWEALTH ELECTORAL.

No. 17 of 1948.

An Act to amend the *Commonwealth Electoral Act* 1918-1946 and the *Senate Elections Act* 1903-1922.

[Assented to 18th May, 1948.]

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* 1948. Short title and citation.

(2.) The *Commonwealth Electoral Act* 1918-1946*, as amended by this Act, may be cited as the *Commonwealth Electoral Act* 1918-1948.

(3.) The *Senate Elections Act* 1903-1922†, as amended by this Act, may be cited as the *Senate Elections Act* 1903-1948.

2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

* Act No. 27, 1918, as amended by No. 31, 1919; No. 14, 1921; No. 14, 1922; No. 10, 1924; No. 20, 1925; No. 17, 1928; No. 2, 1929; No. 9, 1934; No. 13, 1940; and No. 42, 1946.

† Act No. 2, 1903, as amended by No. 22, 1922.

Scrutiny of
votes in
Senate
elections.

3. Section one hundred and thirty-five of the *Commonwealth Electoral Act* 1918-1946 is amended by omitting sub-sections (5.) to (14.) (inclusive) and inserting in their stead the following sub-sections :—

“(5.) The several vacancies shall be filled in the following manner :—

(a) The Commonwealth Electoral Officer shall, from the information received from the Divisional Returning Officers for the several Divisions of the State, ascertain the total number of first preference votes given for each candidate and the total of all such votes.

(b) The Commonwealth Electoral Officer shall then determine a quota by dividing the total number of first preference votes by one more than the number of candidates required to be elected and by increasing the quotient so obtained (disregarding any remainder) by one.

(c) Any candidate who has received a number of first preference votes equal to or greater than the quota so determined shall be elected.

(d) Where the number of first preference votes received by a candidate is equal to the quota, the whole of the ballot-papers containing those votes shall be set aside as finally dealt with.

(e) Unless all vacancies have been filled, the surplus votes (that is, any number in excess of the quota) of each elected candidate shall be transferred to the continuing candidates, in proportion to the voters' preferences, as follows :—

(i) The Commonwealth Electoral Officer shall divide the number of the elected candidate's surplus votes by the number of first preference votes received by him and the resulting fraction shall, for the purposes of this paragraph, be the transfer value of that candidate's surplus votes.

(ii) The Commonwealth Electoral Officer shall direct each Divisional Returning Officer to arrange in separate parcels for the continuing candidates the whole of the ballot-papers of the elected candidate according to the next available preference indicated thereon and to advise him of the number of ballot-papers in each parcel.

(iii) Upon receipt of advices from all the Divisional Returning Officers, the Commonwealth Electoral Officer shall ascertain, in respect of each continuing candidate, the total number of ballot-papers of the elected candidate which bear the next available preference for that continuing candidate and shall, by multiplying that total by the transfer value of the elected

candidate's surplus votes, determine the number of votes to be transferred from the elected candidate to each continuing candidate. If, as a result of the multiplication, any fraction results, so many of those fractions, taken in the order of their magnitude, beginning with the largest, as are necessary to ensure that the number of votes transferred equals the number of the elected candidate's surplus votes shall be reckoned as of the value of unity and the remaining fractions shall be ignored.

- (iv) The Commonwealth Electoral Officer shall then, as nearly as practicable in proportion to the number of ballot-papers contained in the relative parcels in the several Divisions, determine the number of ballot-papers to be transferred from the elected candidate to each continuing candidate in each Division and shall direct the several Divisional Returning Officers to transfer ballot-papers accordingly.
 - (v) Each Divisional Returning Officer shall then, in respect of each continuing candidate, forthwith take at random, from the parcel containing the ballot-papers of the elected candidate which bear the next available preference for that continuing candidate, the number of ballot-papers directed by the Commonwealth Electoral Officer and transfer those ballot-papers to the continuing candidate. When this action has been completed in respect of all the continuing candidates, the Divisional Returning Officer shall notify the Commonwealth Electoral Officer of the total number of votes then received by each continuing candidate in so far as his Division is concerned.
 - (vi) The ballot-papers containing the first preference votes of the elected candidate which have not been transferred (that is, the ballot-papers containing the number of votes equal to the quota) shall be put aside as finally dealt with.
- (f) When the surplus votes of all elected candidates have been transferred to the continuing candidates as provided by the last preceding paragraph, any continuing candidate who has received a number of votes equal to or greater than the quota shall be elected. Unless all the vacancies have been filled, the surplus votes of the elected candidate shall be transferred to the continuing candidates in accordance with the provisions of the last preceding paragraph, but, in the application of those provisions,

only those ballot-papers which have been transferred to the elected candidate from a candidate previously elected shall be taken into consideration.

- (g) If, as a result of the transfer of the surplus votes of a candidate elected in pursuance of the last preceding paragraph or elected at a later stage of the scrutiny, a continuing candidate has received a number of votes equal to or greater than the quota, he shall be elected. Unless all the vacancies have been filled, the surplus votes of the elected candidate shall be transferred to the continuing candidates in accordance with the provisions of paragraph (e) of this sub-section, but, in the application of those provisions, only those ballot-papers which have been transferred to the elected candidate from the candidate or candidates elected at the last preceding count shall be taken into consideration.
- (h) The ballot-papers containing the first preference votes of a candidate who has been elected in pursuance of the provisions of paragraph (f) or (g) of this sub-section, together with the ballot-papers transferred to him from a candidate previously elected or excluded which have not been further transferred, shall be set aside as finally dealt with.
- (i) If, after the count of the first preference votes or after the transfer of the surplus votes of the elected candidates, no candidate has, or less than the number of candidates required to be elected have, received a number of votes equal to the quota, the candidate who has the fewest votes shall be excluded and the whole of his ballot-papers shall be transferred, by the several Divisional Returning Officers under the direction of the Commonwealth Electoral Officer, to the continuing candidates next in order of the voters' available preferences.
- (j) If thereupon, or as the result of the exclusion of a candidate at any subsequent stage of the scrutiny, a continuing candidate has received a number of votes equal to or greater than the quota, he shall be elected. Unless all vacancies have been filled, the surplus votes of the elected candidate shall be transferred to the continuing candidates in accordance with the provisions of paragraph (e) of this sub-section but, in the application of those provisions, only those ballot-papers which have been transferred to the elected candidate from the candidate last excluded shall be taken into consideration. The ballot-papers containing the first preference votes of the elected candidate, together with the ballot-papers transferred to him from a candidate previously elected or excluded which have not been further transferred, shall be set aside as finally dealt with. If no continuing candidate has received a number of votes

equal to the quota, the process of excluding the candidate with the fewest votes and the transferring of ballot-papers containing those votes to the continuing candidates shall be repeated, by the several Divisional Returning Officers under the direction of the Commonwealth Electoral Officer, until a continuing candidate has received a number of votes equal to the quota or, in respect of the last vacancy, a majority of the votes.

- (k) A continuing candidate who has received a number of votes equal to the quota shall be elected. In respect of the last vacancy, the candidate who receives a majority of the votes shall be elected notwithstanding that the number of votes so received by him is not equal to the quota.

“(6.) Where, on the count of the first preference votes, or at the same time at any subsequent stage of the scrutiny, two or more candidates are elected by reason of their having received a number of votes equal to or greater than the quota, any transfer of the surplus votes of those candidates shall be carried out in the order, first of the candidate with the largest surplus, second of the candidate with the next largest surplus and so on.

“(7.) Notwithstanding anything contained in the preceding provisions of this section, a transfer of the surplus votes of an elected candidate shall be deferred (but without affecting the order of that transfer) so long as the total number of those surplus votes is less than the difference between the total votes of the two continuing candidates with the fewest votes. In that case, unless all vacancies have been filled, the candidate with the fewest votes shall be first excluded and the ballot-papers containing his votes shall be transferred to the continuing candidates as provided in paragraph (i) of sub-section (5.) of this section.

“(8.) If on any count two or more candidates have an equal number of votes, and one of them has to be excluded, the Commonwealth Electoral Officer shall decide which shall be excluded. If, at the time of their election, two or more candidates have an equal number of votes, the Commonwealth Electoral Officer shall decide the order of election of those candidates and the order of the transfer of their surplus votes. If in the final count for filling the last vacancy, two candidates have an equal number of votes, the Commonwealth Electoral Officer shall decide by his casting vote which candidate shall be elected. Except as provided in this sub-section, the Commonwealth Electoral Officer shall not vote at the election.

“(9.) If, on the count of the first preferences, or at the same time at any subsequent stage of the scrutiny, two or more candidates are elected by reason of their having received a number of votes equal to or greater than the quota, the election of those candidates shall be deemed to have been in the order, first of the candidate with the largest surplus, second of the candidate with the next largest surplus and so on.

“(10.) In this section, ‘continuing candidate’ means a candidate not already elected or excluded from the count.

“(11.) In any case to which sub-section (2.) of section one hundred and twenty-three of this Act applies, a vote indicated on a ballot-paper opposite the name of a deceased candidate shall be counted to the candidate next in the order of the voter’s preference, and the numbers indicating any subsequent preference shall be deemed to be altered accordingly.

“(12.) Each Divisional Returning Officer shall—

- (a) make out and sign a statement setting out, in respect of the Division for which he is Divisional Returning Officer, the number of votes counted to each candidate at each count and the number of informal ballot-papers, and shall forward the statement, together with the copy of the writ (indorsed in the prescribed manner) to the Commonwealth Electoral Officer for the State;
- (b) place in a separate parcel all the ballot-papers which have been rejected as informal;
- (c) place in a separate parcel all the unrejected ballot-papers; and
- (d) seal up the parcels and indorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the indorsement.”.

Amendment
of Senate
Elections Act.

4. Section nine of the *Senate Elections Act* 1903-1922 is amended by omitting sub-section (2.) and inserting in its stead the following sub-section :—

“(2.) Where a long casual vacancy is to be filled, the vacancy shall, subject to this section, be filled by the continuing candidate who, next after the periodical vacancies have been filled in accordance with section one hundred and thirty-five of the *Commonwealth Electoral Act* 1918-1948, first receives, at the scrutiny conducted in accordance with that section, a number of votes equal to or greater than the quota determined under that section, and if more long casual vacancies than one are to be filled they shall be filled successively in the same way.”.