

# COMMONWEALTH ELECTORAL.

## No. 26 of 1961.

### An Act to amend the *Commonwealth Electoral Act* 1918-1953.

[Assented to 19th May, 1961.]

[Date of commencement, 16th June, 1961.]

**B**E it enacted by the Queen'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* 1961.

(2.) The *Commonwealth Electoral Act* 1918-1953\* 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* 1918-1961.

Commencement  
of sections  
inserted by  
this Act.

2. Each section inserted in the Principal Act by this Act shall come into operation on the day on which this Act comes into operation.

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 Section four of the Principal Act is repealed and the following section inserted in its stead:—

Partis.

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

- Part I.—Preliminary (Sections 1-5).
- Part II.—Administration (Sections 6-14).
- Part III.—Electoral Divisions (Sections 15-25).
- Part IV.—Subdivisions and Polling Places (Sections 26-28).
- Part V.—Electoral Rolls (Sections 29-38).
- Part VI.—Qualifications and Disqualifications for Enrolment and for Voting (Sections 39-39B).
- Part VII.—Enrolment (Sections 40-51).
- Part VIII.—Objections (Sections 52-57).
- Part IX.—Appeals (Section 58).
- Part X.—Writs for Elections (Sections 59-67).
- Part XI.—The Nominations (Sections 68-84).
- Part XII.—Voting by Post (Sections 85-97).

\* 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. 19, 1940; No. 42, 1946; No. 17, 1948; Nos. 10 and 47, 1949; No. 106, 1952; and No. 79, 1953.

Part XIII.—The Polling (Sections 98–128A).

Part XIV.—The Scrutiny (Sections 129–140).

Part XV.—The Return of the Writs (Sections 141–144).

Part XVI.—Limitation of Electoral Expenses (Sections 145–153).

Part XVII.—Electoral Offences (Sections 154–182).

Part XVIII.—Court of Disputed Returns.

Division 1.—Disputed Elections and Returns (Sections 183–202).

Division 2.—Qualifications and Vacancies (Sections 203–208).

Part XIX.—Miscellaneous (Sections 209–219).”.

4. Section thirty-nine of the Principal Act is amended by omitting sub-section (5.) and inserting in its stead the following sub-sections:—

Persons  
entitled to  
enrolment  
and to vote.

“(5.) A person who is—

(a) the holder of a temporary entry permit for the purposes of the *Migration Act* 1958; or

(b) a prohibited immigrant under that Act,

is not entitled to enrolment under Part VII.

“(6.) An aboriginal native of Australia is not entitled to enrolment under Part VII. unless he—

(a) 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

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

5. Section thirty-nine A of the Principal Act is amended by omitting from sub-section (1.) the words and figures “ sub-sections (4.) and (5.) ” and inserting in their stead the word and figure “ sub-section (4.) ”.

Unenrolled  
members of  
Defence Force  
serving  
outside  
Australia.

6. After section thirty-nine A of the Principal Act the following section is inserted in Part VI.:—

“ 39B. Notwithstanding any other provision of this Act, a person to whom section forty-one of the Constitution applies is entitled to enrolment under Part VII. and to vote at any Senate election or House of Representatives election.”.

Entitlement  
under section 41  
of Constitution.

7. Section forty-one of the Principal Act is amended by omitting from paragraph (b) of sub-section (4.) the words “ Territory for the Seat of Government ” (wherever occurring) and inserting in their stead the words “ Australian Capital Territory ”.

Claims for  
enrolment or  
transfer of  
enrolment.

Compulsory  
enrolment and  
transfer.

8. Section forty-two of the Principal Act is amended—

- (a) by omitting from sub-section (2.) the words “Penalty: For a first offence, Ten shillings; and for any subsequent offence, Two pounds.”;
- (b) by omitting from sub-section (3.) the words “Penalty: For a first offence, Ten shillings; and for every subsequent offence, Two pounds.”; and
- (c) by adding at the end thereof the following sub-section:—
  - “(4.) A person who is guilty of an offence against this section is punishable upon conviction—
  - (a) in the case of a first offence—by a fine of Ten shillings; or
  - (b) in any other case—by a fine of not less than Ten shillings and not more than Two pounds.”.

Alterations to  
be initialed.

9. Section forty-eight of the Principal Act is amended by adding at the end thereof the words “or of the person who makes the alteration on behalf of the Registrar”.

Application for  
a postal vote  
certificate and  
postal ballot-  
paper.

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

- (a) by omitting from paragraph (bb) of sub-section (1.) the word “or”;
- (b) by inserting after paragraph (c) of sub-section (1.) the following word and paragraph:—
  - “; or (d) is, by reason of his membership of a religious order or his religious beliefs—
  - (i) precluded from attending at a polling booth; or
  - (ii) precluded from voting throughout the hours of polling on polling day or throughout the greater part of those hours,”;
- (c) by adding at the end of sub-paragraph (i) of paragraph (c) of sub-section (2.) the words “or to the Registrar for a Subdivision declared to be a remote Subdivision in pursuance of sub-section (2.) of section twenty-six of this Act”; and
- (d) by omitting sub-section (2A.) and inserting in its stead the following sub-section:—
  - “(2A.) An application shall be deemed not to have been duly made if it reaches the officer to whom it is made—
  - (a) where the officer is at a place in Australia—after eight o'clock in the evening of polling day reckoned according to standard or legal time at that place; or
  - (b) in any other case—after the close of the poll for the election.”.

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

Issue of  
certificate and  
ballot-papers.

(a) by omitting from sub-section (1A.) the words “ standard or legal time in the State or Territory in which the election is to be held ” and inserting in their stead the words “ the relevant standard or legal time as ascertained under the next succeeding sub-section ”; and

(b) by inserting after sub-section (1A.) the following sub-section:—

“ (1B.) For the purposes of the last preceding sub-section, the relevant standard or legal time, in relation to an application, is—

(a) where the officer who receives the application is at a place in Australia—standard or legal time at that place; or

(b) in any other case—standard or legal time in the State or Territory in which the election is to be held.”.

**12. Section one hundred and twenty-one of the Principal Act is amended by omitting from sub-section (1.) the words “ the Act ” and inserting in their stead the words “ this Act ”.**

Vote of person  
whose name is  
not on certified  
list or has been  
struck out of  
certified list,  
or is on roll  
and cannot be  
found.

**13. Section one hundred and thirty of the Principal Act is repealed and the following section inserted in its stead:—**

“ 130.—(1.) A candidate may appoint scrutineers to represent him at the scrutiny.

Scrutineers at  
scrutiny.

“ (2.) Except as provided by the next succeeding sub-section, a candidate is not entitled to be represented at the scrutiny at a particular polling booth by more than one scrutineer.

“ (3.) The officer who is to conduct, or is conducting, the scrutiny at a polling booth may, subject to any directions given to him from time to time by the Chief Electoral Officer for the Commonwealth, the Commonwealth Electoral Officer for the State in which the polling booth is situated or the Divisional Returning Officer in whose Division the polling booth is situated, permit each candidate to be represented at the scrutiny at the polling booth by scrutineers not exceeding in number such number as that first-mentioned officer determines.

“ (4.) The appointment of a scrutineer under this section to represent a candidate at a polling booth—

(a) shall be made by notice in writing signed by the candidate, or by telegram signed by the candidate before it is tendered for transmission, given or sent to the officer who is to conduct, or is conducting, the scrutiny at the polling booth; and

(b) shall specify the name and address of the scrutineer.

“(5.) In this section, ‘polling booth’ includes any place at which a scrutiny is to be, or is being, conducted.”.

Display of  
certain electoral  
posters  
prohibited.

14. Section one hundred and sixty-four B of the Principal Act is amended by omitting from sub-section (1.) the word “sixty” (wherever occurring) and inserting in its stead the words “one thousand two hundred”.

Prohibition of  
canvassing  
near polling  
booths.

15. Section one hundred and seventy-one of the Principal Act is amended—

(a) by omitting the words “the entrance” (wherever occurring) and inserting in their stead the words “an entrance”; and

(b) by adding at the end thereof the following sub-section:—

“(2.) Where—

(a) a building used as a polling booth is situated in grounds within an enclosure; and

(b) the presiding officer at the polling booth causes to be displayed throughout the hours of polling at each entrance to those grounds a notice signed by him stating that those grounds are, for the purposes of the last preceding sub-section, part of the polling booth,

those grounds shall, for the purposes of that sub-section, be deemed to be part of the polling booth.”.

16. After section two hundred and sixteen of the Principal Act the following section is inserted:—

Production of  
claims for  
enrolment, &c.

“216A.—(1.) A person who is, or has been, an officer shall not, except for the purposes of this Act, be required—

(a) to produce in court a claim for enrolment or transfer of enrolment under this Act; or

(b) to divulge or communicate to a court any matter or thing in relation to a claim for enrolment or transfer of enrolment under this Act, being a matter or thing that has come under his notice in the performance of his duties or functions under this Act.

“(2.) In this section, ‘officer’ includes any person performing duties, or exercising powers or functions, under or in relation to this Act.”.

The Schedule.

17. The Schedule to the Principal Act is amended by omitting from Form A the words “the office of the Commonwealth Electoral Officer” and inserting in their stead the words “[here insert name of building]”.