

ELECTORAL (No. 3).

8° Elizabeth II., No. LIX.

No. 59 of 1959.

AN ACT to amend the Electoral Act, 1907-1957.

[Assented to 3rd December, 1959.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and citation.1. (1) This Act may be cited as the *Electoral Act Amendment Act (No. 3), 1959*.Vol. 9 of
The
Reprinted
Acts,
approved for
reprint
19th March,
1956, and
amended by
Act No. 53
of 1957.

(2) In this Act the Electoral Act, 1907-1957, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Electoral Act, 1907-1959.

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. The principal Act is amended by adding after section five the following section— S. 5A added.

5A. The Governor may from time to time appoint an Assistant Chief Electoral Officer, who, subject to the control of the Chief Electoral Officer, has and may exercise all the powers, duties and functions of the Chief Electoral Officer. Assistant
Chief
Electoral
Officer.

4. Section seventy-one of the principal Act is amended— S. 71
amended.

- (a) by adding after the section number, "71" the subsection designation, "(1)";
- (b) by substituting for the word, "fourteen" in line two, the word, "twenty-one";
- (c) by adding the following subsection—

(2) The day fixed for the polling shall be a Saturday, other than Easter Saturday or the Saturday immediately preceding or succeeding Easter Saturday.

5. Section ninety of the principal Act is repealed and re-enacted with amendments as follows— S. 90
repealed
and
re-enacted
with
amendments.

90. (1) An elector—

- (a) who, being enrolled for a District, has reason to believe that throughout the hours of polling on polling day he will not be within seven miles, by the nearest practicable route, of any polling place open in the State for the purposes of an election; or
- (b) who, being enrolled for a Province, has reason to believe that he will on polling day be more than seven miles from any polling place in that Province; or

Voting
by post.

- (c) who will, throughout the hours of polling on polling day, be travelling under conditions which will preclude him from voting at any polling place open in the State; or
- (d) who is seriously ill or infirm and by reason of such illness or infirmity will be precluded from attending at any polling place to vote; or in the case of a woman, will by approaching maternity be precluded from attending at any polling place to vote;

may, at any time after the tenth day prior to the issue of the writs and before six o'clock in the afternoon of the day immediately preceding polling day, make application for a postal ballot paper, if the elector is within the metropolitan area as described in section four of the Electoral Districts Act, 1947—

- (i) to the Chief Electoral Officer;
- (ii) to the Assistant Chief Electoral Officer;
- (iii) to a Returning Officer for any District;
or
- (iv) to a Clerk of Courts;

and if the elector is within any part of the State other than the metropolitan area as so described he may, at any time during such period, make application for a postal ballot paper—

- (v) to any of the persons referred to in subparagraphs (i), (ii), (iii) and (iv) of this paragraph;
- (vi) to a member of the Police Force appointed by the Minister to issue postal ballot papers;
- (vii) to a Secretary to a Road Board constituted under the Road Districts Act, 1919, or the person appointed by a Road Board to be the Assistant Secretary;

- (viii) to a Town Clerk of a municipality constituted under the Municipal Corporations Act, 1906, or any officer appointed by the Council to be the Assistant Town Clerk; or
- (ix) to a Justice of the Peace appointed by the Minister to issue postal ballot papers in places where any of the persons mentioned in the preceding subparagraphs are not readily available.

(2) Each of the persons referred to in the subparagraphs of subsection (1) of this section is in this Part of this Act called an "issuing officer".

(3) (a) The application shall be in writing signed by the elector and may be in the form prescribed by the regulations and shall contain a statement of the grounds on which it is based, but if an elector is blind or his sight is so impaired that he cannot sign the application or he is unable to write or he is otherwise so physically incapable that he is unable to sign the application, then on satisfying an authorised witness that he is unable to write the elector may make his distinguishing mark on the application which shall be witnessed by the authorised witness.

(b) Where an elector has reason to believe that he will be absent from the address for which he is enrolled at the time that the postal ballot paper will be forwarded to him by the Issuing Officer, he may in the application state an address to which he requires the postal ballot paper to be forwarded.

(4) On receipt of an application made under this section, the issuing officer—

- (a) shall enter on the application form the date of its receipt and sign the endorsement;
- (b) shall number it in the manner prescribed by the regulations, if it is properly signed and, in the case of an

elector making his mark, it is witnessed and the application is otherwise in order; and

(c) shall after the close of nominations, post to the elector or deliver to him at the place of issue

(i) a postal ballot paper printed under the authority of the Chief Electoral Officer in the form prescribed by the regulations and initialled by the issuing officer and attach thereto a declaration in the form so prescribed;

(ii) an envelope marked "ballot paper"; and

(iii) a further envelope addressed to the Chief Electoral Officer for the purpose of returning therein to him the declaration which was attached to the ballot paper after it is detached and completed by the elector and authorised witness together with the envelope containing the ballot paper.

(5) An elector shall not be issued with a postal ballot paper unless his application is received by the issuing officer before six o'clock in the afternoon of the day preceding polling day.

(6) Applications for postal ballot papers received by an issuing officer shall after being dealt with by him, be sent forthwith by him to the Chief Electoral Officer.

(7) If the application is not in order or the issuing officer is not satisfied that the applicant is entitled to vote by post, he shall forthwith post to the applicant a notice in the form prescribed by the regulations.

(8) (a) An issuing officer shall not visit any elector for the purpose of taking his vote, but if a request is made at any time within seven days before six o'clock in the afternoon on the day immediately preceding polling day to an issuing officer by or on behalf of an elector who is entitled to vote by post under paragraph (d) of subsection (1) of this section, the issuing officer may visit the elector by or on whose behalf the request was made, for the purpose, and shall obtain from the elector an application for a postal ballot paper under and in accordance with this section.

(b) When the issuing officer receives the application he shall if the elector is entitled to a postal ballot paper issue him with one and the vote of the elector shall be taken in accordance with the provisions of this section.

(9) The form of application and declaration as prescribed by the regulations shall be printed in type of a size not smaller than the type known as ten point Times.

6. Section ninety-two of the principal Act is ^{S. 92} amended—

(a) by adding after the word, "shall" in line one of paragraph (a) of subsection (2), the passage, "complete the declaration, detach the declaration from the ballot paper and";

(b) by repealing and re-enacting paragraph (d) of subsection (2) with amendments as follows—

(d) shall enclose the declaration duly completed and the envelope marked "ballot paper" and its contents in the envelope addressed to the Chief Electoral Officer and fasten the envelope;

(c) by repealing subsection (3);

- (d) by repealing and re-enacting subsection (5) with amendments as follows—

(5) (a) Where an elector is unable to vote without assistance or is unable to read or write or he is otherwise so physically incapable that he is unable to sign the declaration then the elector may make his distinguishing mark on the declaration which shall be witnessed by the authorised witness and may appoint another elector to mark the ballot paper in accordance with his instructions who shall comply with the directions prescribed by subsection (2) of this section other than completing the declaration, but if no person is appointed by the elector the authorised witness if so requested by the elector shall take the action required by this subsection to be taken by an elector appointed by the elector.

(b) The elector appointed to mark the ballot paper shall state at the foot of the declaration his full name and address and the fact that he has been appointed by the elector issued with the postal ballot paper to mark the ballot paper for him.

S. 94
amended.

7. Paragraph (b) of subsection (1) of section ninety-four of the principal Act is amended by adding after the passage, "Australia—" in line two, the passage, "any person who is enrolled as an elector on a roll for a District;".

S. 95
amended.

8. Section ninety-five of the principal Act is amended—

- (a) by substituting for the word, "selected" in line three of subsection (2), the words, "appointed or any authorised witness requested";

- (b) by adding after subsection (6) the following subsection—

(6a) An elector appointed or an authorised witness requested by an elector to mark the vote of an elector on the ballot paper under the provisions of subsection (5) of section ninety-two of this Act, shall not disclose any knowledge of the vote of the elector on whose behalf he marked the vote on the ballot paper;

- (c) by repealing and re-enacting subsection (8) with amendments as follows—

(8) Where an elector is an inmate in an institution, which institution is prescribed by the regulations as one to which the provisions of this section apply, or is an inmate in an institution or is a patient in a hospital at which a polling place has been appointed under the provisions of section one hundred of this Act, then notwithstanding any other provision of this Act, a person shall not—

- (a) give to the elector a postal ballot paper;
- (b) be present when the elector indicates his vote on the postal ballot paper;
- (c) sign his name on the declaration which is or was attached to the postal ballot paper;
- (d) take custody of or transmit to the Chief Electoral Officer the envelope containing the postal ballot paper; or
- (e) visit the elector in connection with or relative to his voting by post, if such visit is forbidden by or on behalf of a legally qualified medical practitioner,

unless, except in the case referred to in paragraph (e) of this subsection, he is authorised in writing by the Chief Electoral Officer to do so.

S. 100
amended.

9. Subsection (1) of section one hundred of the principal Act is amended by adding after paragraph (b) the following paragraph—

(ba) appoint such other polling places as he thinks fit in any institution or hospital or both; .

S. 100A
added.

10. The principal Act is amended by adding after section one hundred the following section—

Portable
mobile
ballot boxes
at certain
institutions
and
hospitals.

100A. (1) Where a polling place has been appointed by the Minister under the provisions of section one hundred of this Act, at any institution or hospital, the presiding officer appointed under paragraph (5) of section one hundred and two of this Act, notwithstanding any other provision of this Act, shall with another officer attend at the polling place during polling hours with such number of mobile portable ballot boxes as the Chief Electoral Officer thinks fit and approved by him for the purpose of affording an opportunity to vote to every elector who—

- (a) is for the time being resident in the institution or hospital wherein the polling place is appointed to be; and
- (b) by reason of illness or infirmity or in the case of a woman, by reason of approaching maternity, is unable to attend at the polling place to record his vote; and
- (c) has, in the case of an election for the Council, by message to the presiding officer requested him to afford the elector an opportunity to record his vote in the mobile portable ballot box.

(2) A person to whom any such message is given for delivery to the presiding officer, shall, unless otherwise ordered by a legally qualified medical practitioner, deliver the message forthwith to the presiding officer in charge of the polling place.

(3) On a visit to an elector by the officer in charge of the mobile portable ballot box the vote of the elector shall, so far as is reasonably practicable, be taken in all respects as if the vote were recorded at a polling place under usual conditions.

(4) The presiding officer and another officer shall together be in attendance with the mobile portable ballot box when an elector records his vote thereat and shall be accompanied by such of the scrutineers appointed by candidates to represent them at the polling place during the polling, as choose to accompany them.

11. Section one hundred and two of the principal Act is amended by adding after paragraph (4) the following paragraph—

S. 102
amended.

(5) appoint a presiding officer and another officer to be in attendance with and operate each mobile portable ballot box at each polling place appointed at an institution or hospital.

12. Paragraph (a) of section one hundred and thirty-nine of the principal Act is amended by substituting for the words, "Chief Electoral Officer or by a Returning Officer" in line three, the passage, "the issuing officer, but where a ballot paper is not initialled by the presiding officer or the issuing officer, if there is a water mark as prescribed by the regulations in the paper of the ballot paper the fact that it is not so initialled shall not of itself render the ballot paper informal".

S. 139
amended.

S. 183
amended.

13. Paragraph (4) of section one hundred and eighty-three of the principal Act is amended—

- (a) by substituting for the word, “booth” in line two, the word, “place”;
- (b) by substituting for the words, “fifty yards” in lines two and three, the words, “twenty feet”;
- (c) by deleting the words, “from the nearest street or way” in lines three and four.

S. 192
amended.

14. Section one hundred and ninety-two of the principal Act is amended—

- (a) by substituting for the word, “booth” in line three, the word, “place”;
 - (b) by substituting for the words, “fifty yards” in line three, the words, “twenty feet”;
 - (c) by deleting the words, “from the nearest street or way” in lines four and five.
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