

ELECTORAL (No. 2).

6° Elizabeth II., No. LIII.

No. 53 of 1957.

AN ACT to amend the Provisions of the Electoral Act, 1907-1953, Relating to Postal Voting.

[Assented to 6th December, 1957.]

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:—

1. (1) This Act may be cited as the *Electoral Act Amendment Act (No. 2), 1957.*

Short title
and citation.

(2) In this Act the Electoral Act, 1907-1953, Act No. 27 of 1907 as reprinted with amendments to and including Act No. 34 of 1953 incorporated pursuant to the Amendments Incorporation Act, 1938,

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for reprint
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1956.

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Electoral Act, 1907-1957.

Commence-
ment.

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

S. 90
repealed
and
re-enacted
with amend-
ments.

3. Section ninety of the principal Act is repealed and re-enacted amended as follows:—

90. (1) An elector—

- (a) who 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 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
- (c) 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—

- (i) to the Chief Electoral Officer; or
- (ii) to a Returning Officer; or
- (iii) to a Clerk of Courts or a member of the Police Force, appointed by the Minister to issue postal ballot papers, if the elector is within the North-West area as defined in the Electoral Dis-

tricts Act, 1947, or in any other part of the State declared to be a remote area under the provisions of section ninety-three of this Act.

(2) The application—

- (a) shall be in the form prescribed by the regulations and shall contain a statement of the grounds on which it is based, which statement shall be verified by solemn declaration made by the elector:
- (b) shall be signed by the elector in his own handwriting in the presence of another elector or if the elector is temporarily absent from the State and is within Australia, in the presence of an authorised witness specified in section ninety-four of this Act; and
- (c) shall be signed and attested by the witness who shall add a statement of his full name, address and occupation;

Cf. Criminal Code, s. 169.

but if the 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 the witness may at the request and in the name of the elector, sign the application for him, and shall, in that case, certify on the application the fact of his having so signed for the elector and of the reason therefor, and shall sign the certificate.

(3) On receipt of an application made under this section the Chief Electoral Officer or Returning Officer or Clerk of Courts or member of the Police Force—

- (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 witnessed and 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 Chief Electoral Officer or the Returning Officer or Clerk of Courts or member of the Police Force concerned;

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

(iii) a further envelope, also numbered with the number endorsed on the application, addressed to the Chief Electoral Officer, and bearing thereon the declaration and certificate prescribed by the regulations and required to be completed by the elector and authorised witness.

(4) A ballot paper shall not be used unless it is on a form which has been printed by the authority of, and supplied by, the Chief Electoral Officer for the purpose of the particular election, but whenever the Chief Electoral Officer or a Returning Officer or Clerk of Courts or member of the Police Force is unable to deliver or post a ballot paper printed by the authority of the Chief Electoral Officer according to the foregoing provisions of this subsection because none is available, the Chief Electoral Officer or Returning Officer or Clerk of Courts or member of the Police Force concerned shall deliver or post to the applicant a ballot paper prepared and signed by him in the form prescribed by the regulations.

(5) An elector shall not be issued with a postal ballot paper unless his application is received by the Chief Electoral Officer or Returning Officer or Clerk of Courts or member of the Police Force before six o'clock in the afternoon of the day preceding polling day.

(6) Applications for postal ballot papers received by a Returning Officer or Clerk of Courts or member of the Police Force 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 if the Chief Electoral Officer or Returning Officer or Clerk of Courts or member of the Police Force 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.

4. Section ninety-one of the principal Act is repealed. S. 91
repealed

5. Section ninety-two of the principal Act is repealed and re-enacted amended as follows:— S. 92
repealed
and
re-enacted
with amend-
ments.

92. (1) The directions prescribed by this section for regulating voting by means of postal ballot papers, whether within or outside the State, shall be complied with.

(2) The elector—

- (a) shall exhibit his postal ballot paper, unmarked, to an authorised witness;
- (b) shall in the presence of the authorised witness, indicate his vote on the postal ballot paper in the manner prescribed by section one hundred and twenty-eight of this Act, but so that the witness shall not see the vote;
- (c) shall fold the ballot paper and in the presence of the authorised witness, put it in the envelope marked "ballot paper", and fasten the envelope;

(d) shall enclose the envelope marked "ballot paper" and its contents in the envelope addressed to the Chief Electoral Officer, fasten the envelope, and in the presence of the authorised witness make the declaration thereon.

(3) The authorised witness shall then sign his name in his own handwriting on the certificate on the envelope addressed to the Chief Electoral Officer and shall add the title under which he acts as an authorised witness, his place of living and the date.

(4) The elector shall then post or deliver the envelope or cause it to be posted or delivered to the Chief Electoral Officer, but if the elector believes on reasonable grounds that the envelope cannot in the ordinary course of post, reach the Chief Electoral Officer before the close of the poll, he may send by post or otherwise the envelope and its contents unopened to a Returning Officer or a Presiding Officer in charge of any polling place open on the day of the election, who, in turn, shall, in accordance with the regulations, send the envelope and its contents unopened to the Chief Electoral Officer.

(5) Where an elector is unable to vote without assistance or is unable to read or write, he may select another elector to mark the ballot paper in accordance with his instructions; and the elector selected

(a) shall state on the envelope his full name and address and the fact that he has been selected by the elector issued with the postal ballot paper to mark the ballot paper for him; and

(b) shall comply with the directions prescribed by subsections (2), (3) and (4) of this section.

(6) An elector to whom a postal ballot paper has been issued is not entitled to vote at any polling place unless he first delivers to the

Presiding Officer for cancellation his postal ballot paper, but if the elector states that he has not received the postal ballot paper he may be permitted to vote if he makes a declaration in the form prescribed by the regulations before the Presiding Officer at the polling place.

6. Section ninety-three of the principal Act is repealed and the following section is enacted in its place:—

S. 93
repealed
and new
section
substituted.

93. (1) Any person who is enrolled as an elector for a Province or District situate within the North-West Area as defined in the Electoral Districts Act, 1947, or who is enrolled as an elector for a Province or District which is wholly or partly in any other portion of the State declared by proclamation to be a remote area to which this section applies, and whose place of living is so distant from the nearest usual polling place at which he might vote, or to whom available means of transport from his place of living to the polling place is so irregular or inadequate as to render it difficult for the elector to attend a polling place to vote in person may, at any time, lodge an application in writing with the Chief Electoral Officer to be registered as a general postal voter.

Cf. No. 51
of 1947
as amended
s. 4 (a) (ii)
and Second
Schedule.

(2) If it appears to the Chief Electoral Officer that the application is validly made and that the elector is entitled to be registered as a general postal voter, he shall register the elector and notify him to that effect, but if the Chief Electoral Officer is not satisfied that the elector is entitled to be registered as a general postal voter, he shall reject the application and notify the elector of his decision.

(3) Any registration under this section may at any time other than between the issue of the writs for an election and the return of the writs, be cancelled by the Chief Electoral Officer who shall send notice of the cancellation to the elector.

(4) As soon as is practicable after nominations has been declared, the Chief Electoral Officer shall send a postal ballot paper to each elector registered under this section and the provisions of section ninety-two of this Act apply in respect of the ballot paper as if repeated in this section.

(5) Power is hereby conferred on the Governor to declare by proclamation any portion of the State to be a remote area to which this section applies, and by subsequent proclamation to cancel a proclamation so made or from time to time by subsequent proclamation to alter a proclamation so made.

7. Section ninety-four of the principal Act is repealed and the following section is enacted in its place:—

S. 94
repealed
and new
section
substituted.

94. (1) The following persons are authorised witnesses within the meaning of this Division—

- (a) within the State—any person who is enrolled as an elector on a roll for a District;
- (b) outside the State and within the Commonwealth of Australia—any Justice of the Peace for any State of the Commonwealth; any member of the Police Force of the Commonwealth or of any State; any officer of the Public Service of any State or of the Commonwealth employed in any State or Commonwealth Electoral Office; any legally qualified medical practitioner; any minister of religion; any postmaster or postmistress and any commissioned officer of the Naval, Military or Air Forces of the Commonwealth.

(2) No person who is a candidate at any election shall be, or act as, an authorised witness in connection with that election.

8. Section ninety-five of the principal Act is repealed and re-enacted amended as follows—

S. 95
repealed and
re-enacted
with amend-
ments.

95. (1) An elector shall not make, and a person shall not induce an elector to make, any false statement in an application for a postal ballot paper.

(2) A person other than the elector to whom the postal ballot paper has been issued, or other than a person selected by the elector in pursuance of subsection (5) of section ninety-two of this Act, shall not mark a vote on any ballot paper.

(3) A person shall not open any envelope which is addressed to the Chief Electoral Officer, and in which a postal ballot paper has been enclosed, unless authorised to do so by the Chief Electoral Officer.

(4) 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.

(5) An authorised witness shall not influence or attempt to influence in any way the vote of an elector voting by post before him.

(6) An authorised witness shall not disclose any knowledge of the vote of any elector voting by post before him.

(7) Any person present when an elector is before an authorised witness for the purpose of voting

(a) shall obey all directions of the authorised witness; and

(b) shall not, except as provided in subsection (5) of section ninety-two of this Act,

(i) make any communication whatever to the elector in relation to his vote;

- (ii) assist the elector, or in any way interfere with him in relation to his vote; and
- (iii) look at, or do anything else whereby he may become acquainted with the elector's vote.

(8) Where an elector is an inmate in an institution or is a patient in a hospital, which institution or hospital is prescribed by the regulations as one to which the provisions of this subsection apply, then notwithstanding any other provision of this Act a person shall not—

- (a) give to the elector an application form for a postal ballot paper;
- (b) witness the signature of the elector to the application form;
- (c) give to the elector a postal ballot paper;
- (d) be present when the elector indicates his vote on the postal ballot paper;
- (e) sign his name on the certificate on the envelope containing the postal ballot paper; or
- (f) take custody of or transmit to the Chief Electoral Officer the envelope containing the postal ballot paper;

unless authorised in writing by the Chief Electoral Officer to do so.

(9) A person to whom an application for a postal ballot paper or an envelope containing or purporting to contain a postal ballot paper is entrusted by a voter for the purpose of posting it or delivering it to the Chief Electoral Officer or a Returning Officer, or delivering it to a Presiding Officer, shall forthwith post or deliver the application or envelope.

(10) A person guilty of any contravention of any of the provisions of this section is liable to a penalty not exceeding one hundred pounds or to imprisonment for three months.

9. Section ninety-nine of the principal Act is repealed. S. 99
repealed.

10. Section ninety-nine B of the principal Act is amended— S. 99B
amended.

(a) by substituting for the word, “ninety-two” in line three of subsection (1), the word, “ninety”; and

(b) by deleting the passage, “counterfoils,” in line three of paragraph (e) of subsection (2).

11. Section one hundred and nineteen of the principal Act is amended by adding after question (i) in subsection (2) the following question:— S. 119
amended.

(ia) Have you applied for a postal ballot paper? (and if the answer to this question is Yes, the further question, Have you received a postal ballot paper for this election?).

12. Section one hundred and thirty-nine of the principal Act is amended— S. 139
amended.

(a) by substituting for the words, “signed and dated by a postal vote officer” in line three of paragraph (a), the words, “initialled by the Chief Electoral Officer or by a Returning Officer”;

(b) by substituting for the words, “sections ninety-three and” in line three of paragraph (b), the word, “section”;

- (c) by substituting for the words, "sections ninety-three and" in line four of paragraph (d), the word, "section"; and
- (d) by deleting the passage, " , respectively," in line five of paragraph (d).

S. 140
amended.

13. Section one hundred and forty of the principal Act is amended by adding after the word, "particular" in line one of subsection (2), the passage, " , where there are not more than two candidates".

S. 180
amended.

14. Section one hundred and eighty of the principal Act is amended by repealing paragraph (4).

S. 181
amended.

15. Section one hundred and eighty-one of the principal Act is amended by substituting for the passage, "bribery," being the last word in paragraph (c), the following passage:—
bribery;

- (d) directly or indirectly makes overtures to any person for the acquiring by gift or purchase, or who acquires by gift or purchase from any person, any postal ballot paper; or
- (e) being an elector directly or indirectly makes overtures to any person for the giving away, or parting with the possession of, or selling, any postal ballot paper; or who gives away any postal ballot paper; or who sells any postal ballot paper; or, except as provided for in subsection (5) of section ninety-two of this Act, parts with the possession of, any postal ballot paper; .