

ELECTORAL.

No. 15° and 16° Geo. VI., No. LVIII.

No. 58 of 1951.

AN ACT to amend the Electoral Act, 1907-1949.

[Assented to 7th January, 1952.]

BE it enacted by the King'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.

1. This Act may be cited as the *Electoral Act Amendment Act, 1951*, and shall be read as one with the Electoral Act, 1907-1949 (Act No. 27 of 1909, reprinted pursuant to the provisions of the *Amendments Incorporation Act, 1938*, with amendments to and including Act No. 26 of 1949, incorporated and as approved for reprint 21st October, 1949), referred to in this Act as the principal Act.

Citation of
principal Act
as amended
by this Act.

2. The principal Act, as amended by this Act, may be cited as the *Electoral Act, 1907-1951*.

3. Paragraph (d) of section eighteen of the principal Act is amended by— S. 18
amended.

- (a) deleting the word, "Australia" in line one;
- (b) adding after the word, "Majesty" in line seven the word, "or" and the following paragraph—
- (e) is a native according to the interpretation of that expression in section two of the *Native Administration Act, 1905-1947*, and is not the holder of a Certificate of Citizenship pursuant to the provisions of the *Natives (Citizenship Rights) Act, 1944-1950*.

4. Subsection (1) of section forty-five of the principal Act is repealed and re-enacted as follows:— S. 45
amended.

(1) Every person who is entitled to have his name placed on the roll for any district or subdistrict and whose name is not on the roll upon the expiration of twenty-one days from the date upon which he became so entitled, or at any subsequent date while he continues to be so entitled, shall be guilty of an offence unless he proves that his non-enrolment is not in consequence of his failure to send or deliver to the Registrar of the district or subdistrict for which he is entitled to be enrolled, a claim in the prescribed form duly filled in and signed in accordance with the directions printed thereon.

5. Section fifty-six of the principal Act is amended by— S. 56
amended.

- (a) substituting for the words, "during the months of January, April, July and October" in lines two and three the words, "so soon as is reasonably practicable after the end of each month";
- (b) substituting for the words, "preceding three months" appearing firstly in line six of paragraph (a) and secondly in lines six and seven of paragraph (b) the word, "month".

S. 58
repealed.

6. Section fifty-eight of the principal Act is repealed.

S. 88
amended.

7. Section eighty-eight of the principal Act is amended by—

- (a) adding after the word, “poll”, being the last word in subparagraph (i) of paragraph (b) of subsection (2), the words, “for the election for which the deceased candidate had nominated but shall keep the polling place open for receiving postal and absent votes for candidates for any other elections then being held”;
- (b) adding after the word, “boxes” in line three of paragraph (c) of subsection (2) the words, “in respect of the election for which the deceased candidate had nominated”.

S. 90
amended.

8. Subsection (1) of section ninety of the principal Act is amended by—

- (a) adding after the word, “who” in line one of paragraph (a) the words, “being enrolled for a District”;
- (b) adding the following paragraph to follow paragraph (a)—
 - (aa) 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;

S. 92
amended.

9. Section ninety-two of the principal Act is amended by—

- (a) adding the word, “vote” after the word, “postal” in line one of subsection (2);
- (b) adding the words, “marked ‘Ballot paper’ ” after the word, “envelope” appearing firstly in line two of subsection (4) and secondly in line three of paragraph (b) of subsection (5); and adding after the word, “vote” being the last word in paragraph (a) of subsection (5) the words, “and where it is necessary for the names of the several candidates to be written on the ballot paper

they shall be written by the elector or at the elector's direction by the postal vote officer”.

- (c) deleting the words, “may, and” in lines seven and eight of the proviso to paragraph (c) of subsection (5) and adding after the word, “shall” in line nine of the proviso to paragraph (c) of subsection (5) the words, “permit a person selected by the elector to”;
- (d) substituting for the words, “the name of the candidate” in line eleven of the proviso to paragraph (c) of subsection (5) the words, “in the manner prescribed by section ninety-three of this Act”.
- (e) repealing and re-enacting subsection (6) as follows:—
 - (6) The postal vote officer shall—
 - (a) place the counterfoil in another envelope marked, “Counterfoil”;
 - (b) in the presence of the elector place the envelope marked, “Ballot paper” and the envelope marked, “Counterfoil” in a third envelope marked, “Postal ballot paper” and seal the third envelope;
 - (c) mark the name of the Province or District for which the vote is cast on the third envelope;
 - (d) sign his name on the third envelope;
 - (e) hand the third envelope to the elector who in the presence of the postal vote officer shall fasten and sign his name on the third envelope;
 - (f) send the third envelope and its contents, by post or otherwise, addressed to the Returning Officer of the Province or District in which the elector claims to be entitled to vote, or to a Presiding Officer at any polling place within that Province or District if the postal vote officer is satisfied that the

vote taken by him cannot in the ordinary course of post reach the Returning Officer before the close of the poll.

S. 99A
amended.

10. Section ninety-nine A of the principal Act is amended by—

- (a) substituting for the words, “a general” in line one of subsection (1) the word, “an”;
- (b) repealing subsections (3), (4), (5) and (6).

S. 99B
added.

11. The following section is added to the principal Act—

Regulations relating to postal and absentee voting and voting pursuant to s. 122A.

Cf. ss. 99A (3), (4), (5) and (6).

Cf. s. 99A (3).

99B. (1) In this section, “ballot papers” means postal vote ballot papers mentioned in section ninety-two, absent vote ballot papers mentioned in section ninety-nine A and ballot papers mentioned in section one hundred and twenty-two A of this Act.

(2) The regulations relating to postal voting, absent voting and voting pursuant to the provisions of section one hundred and twenty-two A of this Act may prescribe all matters, not inconsistent with this Act, necessary or convenient to be prescribed for carrying the provisions of this Act relating to those methods of voting into effect, and in particular may provide for—

- (a) the forms of ballot papers;
- (b) the manner in which votes are to be marked on ballot papers;
- (c) the method of dealing with ballot papers, including the scrutiny thereof and the counting of votes thereon;
- (d) the grounds upon which ballot papers are to be rejected as informal; and
- (e) the retention and preservation of documents likely to be required in case of a disputed election including counterfoils, envelopes, rejected votes and ballot papers until validity of the election in respect of which they are used is no longer liable to be disputed.

Cf. s. 99A (4).

(3) Ballot papers containing votes and enclosed in any prescribed envelope may, if so provided by the regulations, be placed in any

ballot box in use at the polling place at which the votes were cast, but notwithstanding anything contained in this Act a prescribed envelope containing a ballot paper shall, unless the regulations provide otherwise, only be opened and the ballot paper dealt with, as regards the scrutiny thereof and the counting of the votes thereon by the Chief Electoral Officer or an Assistant Returning Officer appointed pursuant to the provisions of section one hundred and forty-two A of this Act.

(4) The Returning Officer or Assistant Returning Officer who is authorised by the provisions of this Act to open the ballot box, shall, without opening the envelope containing any ballot paper, transmit it in the manner prescribed to the Chief Electoral Officer. Cf. s. 99A
(5).

(5) Nothing in this section shall authorise any elector to vote more than once at any election. Cf. s. 99A
(6).

12. Subsections (2), (3), (4), (5) and (6) of section one hundred and twenty-two A of the principal Act are repealed. S. 122A
amended.
Cf. s. 99B.

13. Section one hundred and twenty-seven of the principal Act is amended by adding after the word, "shall" in line one the words, "subject to the provisions of section one hundred and twenty-nine of this Act". S. 127
amended.

14. Section one hundred and twenty-nine of the principal Act is amended by substituting for all words after the word, "shall" in line five to the end of the section the words, "permit a person selected by the elector to retire with the elector into an unoccupied voting compartment and there mark the paper according to the instruction of the elector and on behalf of the elector comply with the requirements of paragraph (b) of section one hundred and twenty-seven of this Act, after having done which the elector and the person so selected by him, if not an electoral officer, shall quit the polling place. S. 129
amended.

15. Section one hundred and forty of the principal Act is amended by repealing paragraph (b) of subsection (2). S. 140
amended.

S. 141
amended.

16. Section one hundred and forty-one of the principal Act is amended by substituting for all words in the first three lines the words, "The Minister may appoint Assistant Returning Officers to count at counting places appointed by the Minister the votes cast at any one or more polling places—".

S. 142
amended.

17. Section one hundred and forty-two of the principal Act is amended by substituting for the words, "polling place" appearing firstly in line four of subsection (1), secondly in line five of subsection (4), thirdly in line five of subsection (5) and fourthly in line five of paragraph (b) of subsection (6), the words, "counting place".

S. 142A
amended.

18. Section one hundred and forty-two A of the principal Act is amended by substituting for the word, "Governor" in line one of subsection (1) the word, "Minister".

S. 151
amended.

19. Paragraph (a) of section one hundred and fifty-one of the principal Act is amended by deleting the word, "accounts" in line three.

S. 156
amended.

20. Section one hundred and fifty-six of the principal Act is amended by—

- (a) adding after the word, "hand", being the last word in subsection (2), the words, "and send the list to the Chief Electoral Officer";
- (b) substituting for the words, "Returning Officer" wherever they appear, except in line one of subsection (2) and except in lines one and two of subsection (3), the words, "Chief Electoral Officer";
- (c) repealing subsection (10);
- (d) deleting the words, "and in which decision the Chief Electoral Officer concurs" in lines five and six of subsection (12).

S. 174
amended.

21. Section one hundred and seventy-four of the principal Act is amended by substituting for the words, "five hundred pounds" in lines four and five the words, "one thousand pounds" and by substituting for the words, "one hundred pounds" in lines six and seven the words, "two hundred and fifty pounds".