

*Division (3): Voting by qualified Members of
the Forces within Australia:
s. 14.*

Division (4): Miscellaneous: ss. 15 to 23.

Division (1)—Preliminary.

Definitions.

3. In this Act, unless the context otherwise requires—
- “Commanding Officer” means the officer commanding any unit.
- “Election” includes any election for the Legislative Council caused by effluxion of time or by the dissolution of the Legislative Council by the Governor, or any by-election for the Legislative Council.
- “Elector” means any person whose name appears on the electoral roll of a Province as an elector.
- “Member of the Forces” means a person who is a member of the Defence Force of the Commonwealth.
- “Province” means an Electoral Province for the election of members of the Legislative Council.
- “Qualified member of the Forces” means a member of the Forces who is serving with any unit within Australia or outside Australia, but within that portion of the South-Western Pacific Zone as may be proclaimed from time to time under the provisions of section four of the Commonwealth Defence (Citizen Military Forces) Act, 1943, and who is an elector.
- “The present war” means the war in which His Majesty is engaged and which commenced on the third day of September, one thousand nine hundred and thirty-nine.
- “Unit” includes any detachment, formation, establishment, or ship of the Defence Force of the Commonwealth.

Division (2)—Voting by qualified Members of the Forces outside Australia.

4. (1) For the purposes of this Act, the Chief Electoral Officer may appoint such returning officers as he thinks necessary, and any returning officer so appointed may appoint such deputy returning officers to assist him in carrying out his functions under this Act as he thinks necessary.

Appointment of returning officers.

(2) A returning officer may delegate to a deputy returning officer appointed by him, the whole or any of his powers and functions under this Act, except this power of delegation.

5. (1) The Chief Electoral Officer shall arrange for each returning officer to have in his possession all necessary material for the use of qualified members of the Forces in the area under his control pending the happening of any election.

Action by
Chief Elec-
toral Officer.

(2) Immediately after the close of nominations, the Chief Electoral Officer shall notify each returning officer of the names and party designation of all the candidates nominated for each Province.

6. As soon as possible after he receives from the Chief Electoral Officer notification of the names and party designations of the candidates, the returning officer shall, so far as the exigencies of defence operations permit, supply to the commanding officer of each unit in the area under his control a sufficient supply of envelopes bearing the declaration set out in the First Schedule to this Act and of ballot papers to enable the members of the Forces in that unit to record their votes, together with a list of the names and party designations of all candidates nominated for each Province.

Action by
returning
officer.

7. Immediately upon receipt of the material specified in the last preceding section, the commanding officer of each unit shall—

Action by
commanding
officer.

(a) designate one or more commissioned or non-commissioned officers of the unit before whom the qualified members of the Forces serving with that unit, may record their votes;

- (b) hand over to the officer or officers so designated the envelopes, ballot papers, and lists received from the returning officer; and
- (c) notify in orders where and before whom and on what days (not being later than the date fixed by the writ for the polling) and during what hours qualified members of the Forces serving with the unit may record their votes.

List of names
of candidates
to be posted.

8. At each place where the votes of qualified members of the Forces are to be taken, the officer in charge of the voting shall post in a conspicuous position a copy of the list showing the names of the candidates and their party designations (if any), and each officer before whom votes are being recorded shall, when handing the requisite ballot paper to a voter, direct the attention of the voter to that list, and to the fact that the parties represented by the respective candidates may be ascertained therefrom.

Manner of
voting.

9. (1) The manner of voting shall be as follows:—

- (a) A qualified member of the Forces serving with the unit who is entitled to vote by reason of this Act shall attend before an officer of that unit designated in pursuance of section eight, and shall, in the presence of that officer, fill in the form of declaration referred to in section seven of this Act which the officer shall then complete and attest:

Provided that, if the voter is unable to state the Province for which he is enrolled the officer shall, by reference to the alphabetical list of polling places supplied to him, determine the Province and insert the name thereof in the declaration.

- (b) The officer shall initial and issue to the voter a small envelope and a ballot paper for the voter's Province on which the officer has written, in alphabetical order, the names and party designations of all the candidates for that Province as appearing in the list supplied to the officer.

- (c) The voter shall, then and there, in private, mark his vote on the ballot paper and place the ballot paper in the small envelope and fasten and seal same.
- (d) The officer shall, then and there, place the small envelope in the envelope bearing the declaration of the voter, fasten and seal the envelope and, at the earliest practicable time, deliver it, or cause it to be delivered to the commanding officer.

(2) Where only one commissioned or non-commissioned officer of a unit is designated in pursuance of section seven of this Act, the commanding officer shall, for the purpose of enabling that officer to vote, perform the functions of the officer set forth in the last preceding subsection.

10. The commanding officer shall forthwith transmit, or cause to be transmitted, by the most expeditious means available, to the returning officer controlling the area in which his unit is located all envelopes bearing declarations and containing ballot papers which are delivered to him in accordance with the last preceding section. All such envelopes received by the returning officer prior to eight o'clock on the afternoon of the third day after the date fixed by the writ for polling (reckoned according to the standard or legal time of the country or place in which he is) shall be placed in a sealed parcel or other similar receptacle.

Transmission
of ballot
papers by
commanding
officer.

11. As soon as practicable after the period of time specified in the preceding section the returning officer shall transmit or cause to be transmitted the sealed parcel or receptacle aforesaid to the Chief Electoral Officer.

Action by
returning
officer upon
receipt of
ballot papers.

12. Upon receipt by the Chief Electoral Officer of any sealed parcel or receptacle referred to in the preceding section the Chief Electoral Officer—

Scrutiny.

- (a) if he is satisfied that the declaration is in order and was made on or before the date fixed for the polling, and that the person by whom it

has been made is a qualified member of the Forces, entitled to vote under this Act, shall accept the envelope for further scrutiny;

- (b) if he is not so satisfied, shall indorse the envelope with the word "Rejected" and preserve it in safe custody separately from those accepted for further scrutiny.

The Chief Electoral Officer shall sort the envelopes accepted by him for further scrutiny into separate parcels, according to the Provinces respectively indicated thereon and, in the prescribed manner, extract the ballot papers therefrom and proceed with the scrutiny and count of the votes marked thereon.

Inclusion of
result of
scrutiny in
determining
result of poll-
ing.

13. The Chief Electoral Officer shall forthwith notify each returning officer of the result of the scrutiny in so far as it affects his Province, and the returning officer shall include the result so notified in determining the result of the polling at the election in that Province.

Division (3)—Voting by qualified Members of the Forces within Australia.

Voting by
members of
Forces within
Australia.

14. The provisions of Division (2) of this Act shall so far as applicable, apply *mutatis mutandis*, in relation to voting by qualified members of the Forces within Australia:

Provided that—

- (a) the functions of a commanding officer, as set out in that Division shall, in respect of each unit in the area under his control, be performed by the returning officer for the Province concerned, or by an assistant returning officer appointed by the returning officer;
- (b) the functions of a commissioned or non-commissioned officer, as set out in that Division shall, in respect of any unit, be performed by a presiding officer and any assistant presiding officer thereto appointed by the returning officer or assistant returning officer concerned;

- (d) the envelopes bearing the declarations and containing the ballot papers of qualified members of the Forces voting under this Division shall, upon receipt, be dealt with by the returning officer and the Chief Electoral Officer, in accordance with the provisions of sections eleven and twelve of this Act, as if those envelopes had been received prior to eight o'clock on the afternoon of the third day after the date fixed by the writ for the polling.

Division (4)—Miscellaneous.

15. A qualified member of the Forces who is on authorised absence from his unit may, during the hours fixed for the polling at any place where arrangements have been made for qualified members of the Forces to record their votes under the provisions of this Act, attend and vote at that place.

One vote
only to be
recorded.

16. Notwithstanding anything contained in this or any other Act, a resident engineer, personnel officer, supervisor, foreman member of the Civil Constructional Corps or other person employed under the authority or direction of the Allied Works Council on any project, undertaking, or work in Australia, who is an elector may vote in accordance with the provisions of this Act, in so far as those provisions are applicable, as if he were a qualified member of the Forces.

Voting by
members of
Civil Con-
structional
Corps.

Provided that in the case of any project, undertaking or work outside the State, the functions of a commanding officer and of a commissioned officer, as set out in Division (2) of this Act may be performed respectively by

the engineer or other person in charge of the project, undertaking, or work, and by any person designated by him.

Voting by
presiding
officers and
others.

17. A presiding officer, or assistant presiding officer engaged in taking the votes of qualified members of the Forces under the provisions of this Act on the date fixed by the writ for the polling may, if he is entitled to vote under the provisions of the Electoral Act, record his vote at the election in accordance with the provisions of this Act as if he were a qualified member of the Forces.

Validity of
election not
to be chal-
lenged.

18. The validity of any election shall not be questioned on the ground that any ballot papers coming from a place outside Western Australia have been lost or destroyed during the course of their transmission to a returning officer or the Chief Electoral Officer or on the ground that, for any reason whatsoever, a qualified member of the Forces was unable to record his vote.

Provided that the validity of any election may be disputed on the ground that any ballot papers have been removed or destroyed fraudulently or under such circumstances that there is reasonable ground for the belief that such removal or destruction was fraudulent during the course of their transmission to a returning officer or the Chief Electoral Officer.

Candidates
may appoint
scrutineers.

19. Each candidate may, by notice in writing or by telegram addressed to the Chief Electoral Officer, appoint one scrutineer to represent him at any scrutiny under this Act, and any scrutineer so appointed shall, if he presents himself at any such scrutiny, be entitled to be present at that scrutiny.

Authorised
witnesses.

20. All officers and non-commissioned officers of His Majesty's Naval, Military and Air Forces shall be authorised witnesses for the purposes of this Act.

Regulations.

21. The Governor in Council may from time to time make regulations providing for all or any purposes that may be convenient for the administration of this Act and in particular for prescribing forms where necessary.

22. For the purposes of this Act section seventy-seven of the Electoral Act is amended by inserting the words "party designation" after the word "residence" in line one of paragraph (b).

Amendment
of s. 77 of
Electoral
Act.

23. This Act shall remain in force until the thirty-first day of December, one thousand nine hundred and forty-four, and no longer.

Duration.

Schedule No. 1.
Western Australia.

LEGISLATIVE COUNCIL (WAR TIME) ELECTORAL ACT, 1943.

Declaration by Member of the Forces voting under the above-mentioned Act.

I, (here insert name in full, rank or designation, No. (if any) and unit to which attached) declare that:—

- (1) I am a member of the Defence Forces of the Commonwealth.
- (2) I am enrolled as an elector in the Electoral Province of (here insert name of Electoral Province).
- (3) I have not voted at the election for the Province to which this declaration relates and I promise that, if I am now permitted to vote, I will not again vote or attempt to vote at that election.

I am aware that it is an offence to personate or attempt to personate any other person for the purpose of securing a vote to which I am not entitled or wilfully to make any false statement in this declaration or to vote more than once at an election.

(Personal Signature of voter.)

Declared before me at.....the.....day of
.....194..

(Signature of officer designated to take votes, or signature of returning officer or presiding officer, as the case may be.)

(Rank and unit (or designation).)

Schedule No. 2.

Western Australia.

LEGISLATIVE COUNCIL (WAR TIME) ELECTORAL ACT, 1943.

Declaration by Person employed under the authority or direction of
the Allied Works Council.

I, (here insert name in full and name (if any) of unit or branch
of the Allied Works Council by which employed) declare that:—

- (1) I am employed under the authority or direction of the
Allied Works Council at (here insert the name of the
locality where employed).
- (2) I am enrolled as an elector in the Electoral Province of
(here insert name of Electoral Province).
- (3) I have not voted at the election for the Province to which
this declaration relates and I promise that, if I am now
permitted to vote, I will not again vote or attempt to
vote at that election.

I am aware that it is an offence to personate or attempt to personate
any other person for the purpose of securing a vote to which I am
not entitled or wilfully to make any false statement in this declaration
or to vote more than once at an election.

.....
(Personal signature of voter.)

Declared before me at.....the.....day of.....194..

.....
Signature and designation of person
designated to take votes.