

ELECTORAL.

No. 9 of 1983.

AN ACT to amend the Electoral Act 1907-1982.

[Assented to 29 September 1983.]

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:—

PART I—PRELIMINARY.

1. (1) This Act may be cited as the *Electoral Amendment Act 1983*. Short title and citation.

(2) In this Act the Electoral Act 1907-1982 is referred to as the principal Act. Reprinted as approved 8 December 1981;

(3) The principal Act as amended by this Act may be cited as the Electoral Act 1907-1983. amended by Acts Nos. 31 and 123 of 1982.

Commence-
ment.

2. The provisions of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation, but the same day shall be fixed for the coming into operation of all of the provisions of Part III of this Act.

PART II—GENERAL AMENDMENTS.

Section 4
amended.

3. Section 4 of the principal Act is amended by deleting the definition of “naturalized”.

Section 17
amended.

4. Section 17 of the principal Act is amended in subsection (1)—

(a) by deleting “, who”; and

(b) by deleting paragraphs (a), (aa), (b) and (c) and substituting the following—

“ (a) who is a British subject;

(b) who has lived in Australia for 6 months continuously; and

(c) who has lived in the District or Sub-district for which he claims to be enrolled as an elector for one month last past, ”.

Section 31
repealed and
sections 31
and 31A
substituted.

Arrangement
with
Common-
wealth for
single
enrolment
procedure.

5. Section 31 of the principal Act is repealed and the following sections are substituted—

“ 31. (1) The Governor may arrange with the Governor General of the Commonwealth for the Australian Electoral Officer to perform all or any of the following functions—

(a) the receipt and initial checking of claims for enrolment under this Act (including claims under section 45 (2)) and the undertaking of enquiries in respect thereof; and

- (b) the transmission to the Chief Electoral Officer of the information necessary for the preparation, alteration, and revision of rolls under this Act.

(2) An arrangement entered into under subsection (1) of this section may provide that—

- (a) the Australian Electoral Officer shall be the officer to whom a claimant shall send any claim under this Act, but that a claim may be sent, or in specified circumstances or cases may be sent, to a Divisional Returning Officer or an Electoral Registrar (within the meaning of those terms in the Commonwealth Electoral Act 1918) acting on behalf of the Australian Electoral Officer;
- (b) the Australian Electoral Officer shall have the powers, functions and duties conferred or imposed on the Registrar of a District or Sub-district by sections 42 (c), 44 (2) and (3), 44A (3) and (5), and 45 (4) of this Act;

and

- (c) a claim shall be in a form provided by the Chief Electoral Officer and the Australian Electoral Officer for putting into effect a single enrolment procedure for the purpose of Commonwealth and State elections,

but shall not make provision for the removal of the name of a person from the roll otherwise than pursuant to a provision of this Act.

(3) Where an arrangement is entered into under subsection (1) of this section the Governor may by order, which shall be

published in the *Gazette*, declare that a single enrolment procedure is in operation for the purpose of enrolment for Commonwealth and State elections as from such date as is specified in the order.

(4) An order under subsection (3) of this section—

- (a) shall be accompanied by an explanatory note indicating briefly to intending claimants the requirements of the single enrolment procedure so far as it affects the making of a claim under this Act;
- (b) may contain such incidental or transitional provisions as the Governor considers necessary to give effect to this section;
- (c) may be revoked by the Governor by further order published in the *Gazette*.

(5) An order under subsection (3) of this section, and the arrangement to which it relates, shall have effect notwithstanding anything in this Act.

(6) In this section and in section 31A of this Act “Australian Electoral Officer” means the Australian Electoral Officer for this State provided for by section 4 of the Australian Electoral Office Act 1973 of the Commonwealth Parliament or any provision amending, or in substitution for, that section.

31A. (1) The Governor may arrange with the Governor General of the Commonwealth for the Australian Electoral Officer to give notice in writing to the Chief Electoral Officer (whether in lists or otherwise) of the name and description of each person whose name is removed, in accordance with the Common-

wealth Electoral Act 1918, from the Commonwealth roll for this State on the ground that he is no longer living at the address shown for him in the roll.

(2) During any period when an arrangement is in operation under subsection (1) of this section, subsection (3) of this section shall have effect notwithstanding anything in this Act.

(3) If the Chief Electoral Officer is satisfied that a person—

- (a) is named in a notice received by him pursuant to an arrangement under subsection (1) of this section; and
- (b) is shown on the roll for a District or Sub-district under this Act as living at the address referred to in the notice,

he shall, in writing, order the Registrar for that District or Sub-district to remove the name of the person from the roll, and the Registrar shall forthwith comply with such order. ”.

6. Section 42 of the principal Act is repealed and the following section is substituted—

Section 42
repealed
and
substituted.

“ 42. A claim—

Claims.

- (a) may be in the prescribed form;
- (b) shall be signed by the claimant in the presence of an elector, or a person qualified to be enrolled as an elector, of the Commonwealth Parliament or of the Assembly who shall sign his name as witness in his own handwriting; and

- (c) shall be sent to the Registrar keeping the roll on which the claimant claims to be enrolled, who shall immediately insert therein the date of receipt. ”.

Section 42A
inserted.

7. After section 42 of the principal Act the following section is inserted—

Certain
Common-
wealth
electors
deemed to
have
claimed
State
enrolment.

“ 42A. (1) On the day on which section 7 of the Electoral Amendment Act 1983 comes into operation (in this section called “the commencement date”), the Registrar for a District or Sub-district shall be deemed to have received a claim under section 42 of this Act for enrolment on the roll for that District or Sub-district from every person who—

- (a) is enrolled as an elector for Commonwealth elections; and
- (b) appears to be entitled to be enrolled as an elector for that District or Sub-district for the Assembly but does not appear to be so enrolled.

(2) Within 6 months after the commencement date the Registrar of a District or Sub-district shall, in respect of each person who is deemed to have claimed enrolment on the roll for that District or Sub-district, take action under subsection (3) and either enrol the person under subsection (4) or give notice to him under subsection (5) of this section.

(3) The Registrar shall cause enquiries to be made as to whether the person is—

- (a) disqualified under section 18 of this Act from being enrolled as an elector;

- (b) residing at the address shown for him in the Commonwealth roll,

but shall not be obliged to enquire whether the person is otherwise qualified under section 17 (1) of this Act to be enrolled as an elector.

(4) If, after making enquiries under subsection (3) of this section in respect of a person, it appears to the Registrar that the person satisfies the following requirements, namely—

- (a) he is not enrolled as an elector under this Act;
- (b) he is not disqualified under section 18 of this Act from being so enrolled;

and

- (c) he is residing at the address shown for him on the Commonwealth roll,

the Registrar shall enrol the person by entering his name and the other prescribed particulars on the roll filed in the Registrar's office under section 32 of this Act.

(5) If it appears to the Registrar that the person does not satisfy the requirements of subsection (4) (a), (b) and (c) of this section, he shall give to him notice in writing to that effect and, without prejudice to the making of a claim by that person under section 42 of this Act, the Registrar shall not be bound to take any further action under this section. ”.

Section 44
amended.

9. Section 44 of the principal Act is amended—

(a) in subsection (1)—

(i) in paragraph (e), by inserting after the semi-colon the following—

“ and ”;

(ii) by deleting paragraph (f) and substituting the following paragraph—

“ (f) the usual signature in his own handwriting of the person who witnessed the signing of the claim by the claimant. ”; and

(iii) by deleting paragraph (g);

(b) by repealing subsection (1a); and

(c) by repealing subsection (4) and substituting the following subsection—

“ (4) If the claimant is unable to insert in his claim the date of his birth because it is not known to him but—

(a) the claim contains a statement to that effect; and

(b) the person who witnesses the claim certifies in writing that he is satisfied that the claimant is not under 18 years of age,

the claim shall be taken to sufficiently comply with subsection (1) (c) of this section. ”.

Section 44A
inserted.

10. After section 44 of the principal Act, the following section is inserted—

Enrolment of
claimants
and
rejection
of claims.

“ 44A. (1) A claim is in order for the purposes of this section if it complies with sections 42 (b) and 44 of this Act.

(2) If a claim—

- (a) is in order and is not objected to by the Registrar under section 47 of this Act; or
- (b) although it is not in order on receipt by the Registrar, is—
 - (i) rectified as mentioned in subsection (5) of this section; and
 - (ii) not objected to by the Registrar under section 47 of this Act,

the Registrar shall enrol the claimant by entering his name and the other prescribed particulars on the roll filed in the Registrar's office under section 32 of this Act.

(3) If a claim is not in order the Registrar shall—

- (a) reject it and give notice of the rejection to the claimant in the prescribed form; or
- (b) make enquiries or seek further information under subsection (5) of this section.

(4) The Registrar may exercise any power mentioned in subsection (3) of this section notwithstanding that the power is for the time being vested also in the Australian Electoral Officer for this State pursuant to section 31 of this Act.

(5) If a part of a claim is not in order but the Registrar considers that any defect in that part may be able to be rectified as a result of the making of enquiries or the

seeking of further information or otherwise, he may, for that purpose and without prejudice to enrolment as provided in subsection (2) (b) of this section, defer rejection of the claim until he considers it is no longer expedient to seek to have the claim rectified. ”.

Section 46
repealed and
substituted.

11. Section 46 of the principal Act is repealed and the following section is substituted—

Where
Registrar
considers
qualification
insufficient
or incorrect.

“ 46. (1) If the Registrar has reason to believe that the qualification of the claimant as set out in his claim is insufficient or incorrect he may, if he thinks fit, refer the claim to—

(a) any officer mentioned in section 35 of this Act, qualified in his opinion to report thereon;

(b) an officer of the Australian Electoral Office (within the meaning of section 4 of the Australian Electoral Office Act 1973 of the Commonwealth Parliament), if he has reason to believe that an officer of that office is willing to report thereon.

(2) An officer to whom a claim is referred under subsection (1) (a) of this section shall forthwith make all necessary inquiries and report to the Registrar.

(3) If a report from an officer mentioned in subsection (1) of this section is adverse to the claimant, the Registrar shall object to the claim under section 47 (3) (a) of this Act or, if the claimant has been enrolled, to the enrolment under section 48 (3) (a) of this Act. ”.

12. Section 47 of the principal Act is amended— Section 47 amended.

- (a) by repealing subsection (1) and substituting the following subsection—

“ (1) The Registrar shall object to any claim if he has reason to believe that the claimant is not entitled to be enrolled. ”;

- (b) by repealing subsection (2); and

- (c) in subsection (3)—

- (i) by deleting “If the objection is by the Registrar, the following provisions shall apply” and substituting the following—

“ The following provisions apply where the Registrar decides to object to a claim ”; and

- (ii) in paragraph (g) by deleting “not less than fourteen days before” and substituting the following—

“ before the time of ”.

13. Section 53 of the principal Act is amended— Section 53 amended.

- (a) by deleting “date” and substituting the following—

“ time ”; and

- (b) by deleting paragraphs (a), (b) and (c) and substituting the following—

“ (a) claims received before the time of the issue of the writ may be enrolled after that time if no

notice of objection to such claim has been lodged or given under section 47 of this Act;

(b) a claimant may be enrolled pursuant to section 47 (3) (e) of this Act after that time;

(c) alterations may be made after that time pursuant to section 48 (2) (f) or section 48 (3) (b) or (e) of this Act; and ”.

Section 65
amended.

14. Section 65 of the principal Act is amended by deleting “the last preceding section” and substituting the following—

“ section 64 or 67 of this Act, ”.

Section 68
amended.

15. Section 68 of the principal Act is amended in subsection (2) by deleting “commencement” and substituting the following—

“ hour of 6 o'clock in the afternoon ”.

Section 70
amended.

16. Section 70 of the principal Act is amended by deleting “seven” and substituting the following—

“ fourteen ”.

Section 72
amended.

17. Section 72 of the principal Act is amended by deleting “issue” and substituting the following—

“ date ”.

Section 90
amended.

18. Section 90 of the principal Act is amended in subsection (1) by inserting after “prior to the” the following—

“ date of ”.

19. Section 100A of the principal Act is amended by adding a new subsection (5) as follows—

- (5) The Chief Electoral Officer or the returning officer as the case may require shall give not less than 48 hours' notice in writing to each candidate for the Province and District in which the institution or hospital is situated of the time or times at which the Presiding Officer and another officer will be in attendance pursuant to subsection (2) (a) of this section.

20. Section 119 of the principal Act is amended in subsection (2)— Section 119 amended.

- (a) by deleting paragraph (h) and substituting the following paragraph—

“ (h) Are you a British subject? ”; and

- (b) by deleting paragraph (j).

21. Section 122A of the principal Act is amended in subsection (1)— Section 122A amended.

- (a) in paragraph (a) (i), by deleting “not less than fourteen days before” and substituting the following—

“ before the time of ”; and

- (b) in paragraph (b) (ii), by deleting “date” and substituting the following—

“ time ”.

22. Section 156 of the principal Act is amended— Section 156 amended.

- (a) in subsection (4) by deleting “, at the address mentioned in that list,”; and

- (b) by repealing subsection (15) and substituting the following—

“ (15) At the conclusion of an election, the Chief Electoral Officer shall—

(a) cause to be ascertained whether any person who failed or neglected to fill up, sign and post to the Chief Electoral Officer the form referred to in subsections (6) and (7) of this section is living at the address shown in the roll; and

(b) if he is satisfied that the person is no longer living at that address, remove, or direct the Registrar to remove, the name of that person from the roll,

and any person whose name has been removed from the roll pursuant to this subsection shall be required to furnish a new claim for enrolment before his name is reinstated on the roll. ”.

Section 190
amended.

23. The Table to section 190 of the principal Act is amended—

- (a) by deleting the following—

“ Wilfully making false statement in any claim other than a false statement to the effect that the claimant has lived in a District or Sub-district for a continuous period	Imprisonment not exceeding twelve months.
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of one month immediately preceding the date of the claim, or that the claimant is a natural born or naturalized subject of Her Majesty, or wilfully making false statement in any application, return, or declaration, or in answer to a question under this Act.

”

and substituting the following—

“ Wilfully making false statement in any claim other than a false statement as to any qualification required by section 17 (1) (a) or (c) of this Act, or wilfully making false statement in any application, return, or declaration, or in answer to a question under this Act.

Imprisonment not exceeding twelve months.

”;

(b) by deleting the following—

“ Wilfully making false statement in any claim to the effect that the claimant has lived in a District for a continuous period of one month immediately preceding the date of the claim or that the claimant is a natural born or naturalized subject of Her Majesty.

Penalty not less than ten dollars nor more than one hundred dollars.

”

and substituting the following—

“ Wilfully making false statement in any claim as to any qualification required by section 17 (1) (a) or (c) of this Act.	Penalty not less than ten dollars nor more than one hundred dollars.
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”; and

(c) by deleting the following—

“ Wilfully making a false insertion or alteration in any claim.	Penalty not exceeding one hundred dollars.
Wilfully inserting in a claim a date other than the date on which the claim was made.	Penalty not exceeding one hundred dollars.

”.

Section 193
repealed.

24. Section 193 of the principal Act is repealed.

Section 194
amended.

25. Section 194 of the principal Act is amended by deleting “so as to enable him to receive the claim within the period referred to in section 44 (4) of this Act”.

Section 207
repealed and
substituted.

26. Section 207 of the principal Act is repealed and the following section is substituted—

Persons
who may
witness
signatures
and take
declarations.

“ 207. (1) The signatures to claims or other forms may be witnessed by an elector, or a person qualified to be enrolled as an elector, of the Commonwealth Parliament or of the Assembly.

(2) Any declaration required under this Act may be made before any person authorized to witness signatures to claims, and shall have the same force and effect, and in the case of a false declaration shall subject

the declarant to the same penalty, as if such declaration had been made before a justice of the peace.

(3) Any person who witnesses the signature of a claimant without being personally acquainted with the facts, or satisfying himself by inquiry from the claimant or otherwise that the statements contained in the claim are true, commits an offence and is liable to a fine not exceeding \$100. ”.

27. Section 208 of the principal Act is repealed and the following section is substituted—

Section 208
repealed
and
substituted.

“ 208. Without limiting section 31 (1) of the Interpretation Act 1918, where any notice or notification is required to be served on, or given or sent to, any person under this Act, the same may be posted to him as a letter addressed to him—

Service of
notices.

(a) at the address shown for him in the roll; or

(b) if the person has notified a postal address to the Chief Electoral Officer or the Registrar, at that postal address. ”.

28. Section 211 of the principal Act is amended by repealing subsection (2).

Section 211
amended.

PART III—AMENDMENTS RELATING TO AUSTRALIAN CITIZENSHIP QUALIFICATION.

29. Section 4 of the principal Act is amended—

Section 4
amended.

(a) by inserting after the definition of “Assistant Chief Electoral Officer” the following definition—

“ “Australian citizen” means a person who is an Australian citizen under the Australian Citizenship Act 1948

of the Commonwealth or any Act amending that Act or substituted therefor; ”; and

- (b) by inserting after the definition of “prison” the following definition—

“ “proclaimed day” means the day on which Part III of the Electoral Amendment Act 1983 comes into operation; ”.

Section 17
amended.

30. Section 17 of the principal Act, as amended by section 4 of this Act, is further amended in subsection (1) by deleting paragraph (a) and substituting the following paragraph—

“ (a) who is—

- (i) an Australian citizen; or
- (ii) a British subject (other than an Australian citizen) who was, at some time within 3 months immediately preceding the proclaimed day, an elector of the Assembly or an elector, under a Commonwealth Act, of the Commonwealth Parliament; ”.

Section 119
amended.

31. Section 119 of the principal Act, as amended by section 20 of this Act, is further amended in subsection (2) by deleting paragraph (h) and substituting the following paragraph—

“ (h) Are you an Australian citizen? (and if the answer to that question is No, the further question, Are you a British subject? and if the answer to this question is Yes, the further question, At some time within 3 months immediately preceding [*here state the date of the proclaimed day*] was your name on any electoral roll kept for the purposes of an election for the Assembly or for the Commonwealth Parliament?) ”.