

ELECTORAL (WAR TIME).

7° GEO. VI., No. XXIII.

No. 28 of 1943.

AN ACT relating to the exercise of the franchise by members of the Forces and others.

[Assented to 25th October, 1943.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and 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 (War Time) Act*, 1943, and shall be read as one with the Electoral Act, 1907-1940, hereinafter referred to as the principal Act.

Repeal of subsections (1) and (2) of section 2 of Franchise Act, 1916.
Act to contain Divisions.

2. Subsections (1) and (2) of section two of the Franchise Act, 1916, are hereby repealed.

3. This Act shall contain five Divisions, as follows:—

Division (1): Preliminary.

Division (2): Voting by Members of the Forces outside Australia: ss. 6 to 15.

Division (3): Voting by Members of the Forces within Australia: s. 16.

Division (4): Voting by Discharged Members of the Forces in Australia who are Unenrolled: ss. 17 to 21.

Division (5): Miscellaneous: ss. 22 to 34.

Division (1)—Preliminary.

Definitions.

4. In this Act, unless the context otherwise requires—

“Commanding Officer” means the officer commanding any unit.

“Discharged Member of the Forces” includes an officer whose appointment has been terminated or who has been placed on reserve and any member who has been transferred or released from service.

“District” means Electoral District in Western Australia.

“Election” includes any election for the Legislative Assembly caused by effluxion of time or by the dissolution of the Assembly by the Governor, or any by-election for the Assembly.

“Member of the Forces” means a person who is or has been a member of the Defence Force of the Commonwealth and who is or has been on active service during the present war.

“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.

5. (1) Subject to the provisions of section eighteen of the principal Act a qualified member of the Forces shall be entitled to vote at any election as an elector of the District in Western Australia in which immediately prior to his appointment or enlistment as a member of the Forces he was ordinarily resident, or, in the case of a member of the Forces appointed or enlisted prior to the third day of September, one thousand nine hundred and thirty-nine, of the District in which he was ordinarily resident immediately prior to that date.

Members of the Forces entitled to vote.

(2) For the purposes of the last preceding subsection a qualified member of the Forces means—

- (a) a member of the Forces who is not under the age of twenty-one years and 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;
- (b) who is under the age of twenty-one years and who has served outside Australia and is serving with any unit within Australia or the area referred to in the preceding paragraph;
- (c) a discharged member of the Forces—
 - (i) who is not enrolled as an elector and is not under the age of twenty-one years; or
 - (ii) is under the age of twenty-one years and has served outside Australia.

Appointment
of returning
officers.

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

6. (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.

(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.

Action by
Chief Elec-
toral Officer.

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

(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 district.

8. 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 district.

Action by
returning
officer.

9. 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 officers of the unit before whom the 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 members of the Forces serving with the unit may record their votes.

10. At each place where the votes of 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.

List of names
of candidates
to be posted.

11. (1) The manner of voting shall be as follows:—
- (a) A member of the Forces serving with the unit who is entitled to vote by reason of section

Manner of
voting.

five of this Act shall attend before an officer of that unit designated in pursuance of section nine, and shall, in the presence of that officer, fill in the form of declaration referred to in section eight of this Act which the officer shall then complete and attest:

Provided that, if the voter is unable to state the District in which he ordinarily resided immediately prior to appointment or enlistment as a member of the Forces, or immediately prior to the third day of September, one thousand nine hundred and thirty-nine, as the case may be, the officer shall, by reference to the alphabetical list of polling places supplied to him, determine the District 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 District on which the officer has written, in alphabetical order, the names and party designations of all the candidates for that District 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 officer of a unit is designated in pursuance of section nine 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.

Transmission
of ballot
papers by
commanding
officer.

12. 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.

13. 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.

14. 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 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 Districts 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.

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

Inclusion of result of scrutiny in determining result of polling.

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

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

Voting by members of 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 district concerned, or by an assistant returning officer appointed by the returning officer;
- (b) the functions of a commissioned officer, as set out in that Division shall, in respect of any unit, be performed by a presiding officer and any assisting presiding officer thereto appointed by the returning officer or assistant returning officer concerned;
- (c) the Chief Electoral Officer shall appoint such special polling places as are necessary, and the day and hours during which members of the Forces may record their votes thereat before the duly appointed officers shall be the date fixed by the writ for the polling, between eight o'clock in the morning and eight o'clock in the evening; and
- (d) the envelopes bearing the declarations and containing the ballot papers of 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 thirteen and fourteen 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)—Voting by Discharged Members of the Forces in Australia who are Unenrolled.

Voting by
discharged
member of
Forces.

17. (1) A discharged member of the Forces in Australia who is entitled to vote at an election by reason of section five of this Act and who has not become enrolled as an elector for any Electoral District in any other State of the Commonwealth may, at any time after the issue of the writ, make application to the Chief Electoral Officer, or a returning officer, for a certificate and ballot paper to enable him to vote at the election.

(2) An application under this Division shall not be considered unless it is made on the form prescribed in the Second Schedule of this Act and in the prescribed manner and reaches the Chief Electoral Officer or returning officer before six o'clock in the afternoon of the day immediately preceding polling day.

18. Upon receipt of an application for a certificate and ballot paper, the Chief Electoral Officer, or returning officer, if he is satisfied that the application is in order, and that the applicant is a discharged member of the Forces in Australia and entitled to vote at the election by reason of section five of this Act—

Action by
Chief Elec-
toral Officer.

- (a) shall indorse on the application the District in respect of which the applicant is entitled to vote;
- (b) shall issue to the applicant a certificate and ballot paper in respect of that District; and
- (c) shall forthwith transmit the application to the Chief Electoral Officer.

19. (1) A discharged member of the Forces who is within Western Australia and who is entitled to vote at an election by reason of section five of this Act may attend at any polling booth and fill in and sign a declaration in the form set out in the Third Schedule to this Act which shall be attested by the returning officer or presiding officer.

Voting by
unenrolled
discharged
soldiers with-
in Western
Australia.

(2) If the returning officer or presiding officer is satisfied that the declarant is a discharged member of the Forces and entitled to vote at the election by reason of section five of this Act—

- (a) he shall indorse on the declaration the District in respect of which the applicant is entitled to vote;
- (b) he shall issue to the declarant a ballot paper in respect of that District, and
- (c) he shall forthwith transmit the declaration to the Chief Electoral Officer.

20. The certificates and ballot papers issued under this Division shall be in the form prescribed by the regulations.

Form of cer-
tificates and
ballot papers.

Provisions of
principal Act
to apply.

21. The provisions of the principal Act shall, in so far as they are applicable, apply to the recording and scrutiny of votes recorded under this Division:

Provided that, if he is satisfied that the certificate or declaration has been signed by the applicant, and has been duly witnessed by an authorised witness, the Returning Officer for the District named in the certificate or declaration shall accept for further scrutiny the ballot paper contained in the envelope bearing the certificate or declaration without questioning the right of the applicant to vote for that particular District.

Division (5)—Miscellaneous.

One vote only
to be recorded.

22. (1) A member of the Forces, in respect of the same election, shall not vote more than once under this Act and shall not vote both under this Act and also the principal Act.

Penalty: Imprisonment not exceeding twelve months.

(2) A prosecution for an offence against this section may, in the case of a member of the Forces who is absent from the State when the offence is committed, be commenced at any time within twelve months after the return of that person to the State.

(3) Subject to this section, a 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 members of the Forces to record their votes under the provisions of this Act, attend and vote at that place.

Voting by
members of
Civil Con-
structional
Corps.

23. 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 north of the twenty-sixth parallel of south latitude, who is a British subject not under the age of twenty-one years, and not subject to any of the disqualifications set out in section eighteen of the principal Act, may vote in accordance with the provisions of this Act, in so far as those provisions are applicable, as if he were a member of the Forces:

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.

Provided further that, in lieu of filing in a declaration in the form prescribed by section eleven of this Act a person entitled by the provisions of this section to vote in accordance with the provisions of this Act shall fill in a declaration in the form set out in the Fourth Schedule to this Act.

24. Notwithstanding anything contained in this or any other Act any resident engineer, personnel officer, supervisor, foreman, member of the Civil Construction Corps, or other person employed under the authority or direction of the Allied Works Council who is a British subject not under the age of twenty-one years and not subject to any of the disqualifications set out in section eighteen of the principal Act, shall be entitled to vote at any election as an elector of the district in which he was ordinarily resident immediately prior to the commencement of his employment under the authority or direction of the Allied Works Council and in respect of which he was then enrolled but shall not be entitled to vote at any election as an elector of any other district.

Voting by members of Civil Construction Corps for own districts.

25. (1) Any elector or the Registrar may object—
- (a) to the claim of any person to be enrolled; or
 - (b) to any name on the roll;

Objections to claims for enrolment.

on the ground that such person is precluded by the provisions of this Act from voting at an election as an elector of the district for which he claims to be enrolled or is enrolled.

(2) The provisions of section forty-seven or forty-eight of the principal Act shall, as the case may require, in so far as they are applicable and except as they are by this Act expressly excluded or varied, apply to an objection made under the last preceding subsection.

(3) Notwithstanding the provisions of the principal Act the magistrate before whom an objection, made on

either of the grounds mentioned in subsection (1) of this section, is set down for hearing, shall proceed to determine such objection notwithstanding that before the day appointed for the hearing a writ for an election shall have issued.

(4) If at the conclusion of the hearing the magistrate is of the opinion that the person objected to is a person precluded by the provisions of this Act from voting at an election as an elector of the district in respect of which such person claims to be enrolled or is enrolled, as the case may be, he shall direct the Registrar to reject the claim for enrolment or strike the name of the person objected to off the roll, as the case may require, and thereupon the person objected to shall not vote at an election as an elector of the district in respect of which his claim to enrolment has been rejected or his name struck off.

Voting by
presiding
officers and
others.

26. A presiding officer, or assistant presiding officer engaged in taking the votes of 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 principal Act, record his vote at the election in accordance with the provisions of this Act as if he were a member of the Forces.

Voting not
compulsory.

27. Notwithstanding anything contained in any other Act, a person entitled to vote at an election by reason only of this Act shall not be guilty of an offence by reason of his failing to vote at that election.

Validity of
election not
to be
challenged.

28. 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 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.

29. 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.

Candidates may appoint scrutineers.

30. 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.

Authorised witnesses.

31. 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.

Regulations.

32. Whenever in the preparation of electoral rolls the name of any member of the Forces or person employed under the authority or direction of the Allied Works Council which was on an existing roll has been omitted on the ground that by reason of service with the Forces or employment under the authority or direction of the Allied Works Council such member or person did not appear to reside in the Electoral District for which he was enrolled, the name of such member or person may be reinstated on the roll by the Chief Electoral Officer.

Reinstatement on the roll of names of members of the Forces.

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

Amendment of s. 77 of principal Act.

34. 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.

THE ELECTORAL (WAR TIME) 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) My ordinary place of residence immediately prior to my appointment or enlistment as a member of the Forces (or if appointed or enlisted prior to the 3rd September, 1939, immediately prior to that date) was at (here insert place of residence in full) in the Electoral District of (here insert name of Electoral District).
- (3) I have not voted at the election 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.
- (4) I am not under the age of twenty-one years or I am under the age of twenty-one years and I have served outside Australia.

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.

THE ELECTORAL (WAR TIME) ACT, 1943.

Application by Discharged Member of the Forces in Australia who is unenrolled for Certificate and Ballot Paper.

(This application may be made and sent (or delivered) to the Chief Electoral Officer or a returning officer at any time after the issue of the writ for the election to which it relates but so as to reach that officer before six o'clock in the afternoon of the day immediately preceding polling day.)

TO the Chief Electoral Officer or Returning Officer for the District of (here insert the name of the District in which the application is to be made or sent).

I, (here insert name in full and add rank or designation, No. (if any), and unit to which attached immediately prior to discharge from service) hereby apply for a certificate and ballot paper to enable me to vote at the next forthcoming election under the provisions of the Electoral (War Time) Act, 1943.

I declare that:—

- (1) I am a discharged member of the Defence Forces of the Commonwealth and that I have been on active service during the present war. I am the holder of Certificate of Discharge No.
- (2) To the best of my knowledge and belief I am not enrolled as an elector for any Electoral District in any State of the Commonwealth.
- (3) My ordinary place of residence immediately prior to my appointment or enlistment as a member of the Forces (or if appointed or enlisted prior to the 3rd September, 1939, immediately prior to that date) was at (here insert place of residence in full) in the Electoral District of (here insert name of Electoral District).
- (4) I have not voted at the election to which this application relates and I promise that if I am now permitted to vote I will not again vote or attempt to vote at that election.
- (5) I am not under the age of twenty-one years or I am under the age of twenty-one years and I have served outside Australia.

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 application or to vote more than once at an election.

I request that the certificate and ballot paper to which I am entitled be forwarded to me at the following address, namely:—

(Personal signature of applicant.)

Dated at.....this.....day of.....194 .

Signature of witness:—

(An elector or a person qualified to be an elector.)

Address of witness.....

Endorsement by Chief Electoral Officer or Returning Officer.

I certify that the abovenamed applicant is entitled, in pursuance of section five of the Electoral (War Time) Act, 1943, to vote in respect of the Electoral District of.....and that I have this day issued to the Applicant Discharged Member of the Forces Certificate No.....and the requisite ballot paper in respect of that District.

.....
Signature and designation of Chief Electoral
Officer or Returning Officer.

Dated thisday of.....194..

Schedule No. 3.

Western Australia.

THE ELECTORAL (WAR TIME) ACT, 1943.

Declaration by Discharged Member of the Forces in Western Australia voting under the above-mentioned Act.

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

- (1) I am a discharged member of the Defence Forces of the Commonwealth and that I have been on active service during the present war.
- (2) To the best of my knowledge and belief I am not enrolled as an elector for any Electoral District in any State of the Commonwealth.
- (3) My ordinary place of residence immediately prior to my appointment or enlistment as a member of the Forces (or if appointed or enlisted prior to the 3rd September, 1939, immediately prior to that date) was at (here insert place of residence in full) in the Electoral District of (here insert name of Electoral District).
- (4) I have not voted at the election 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.
- (5) I am not under the age of twenty-one years or I am under the age of twenty-one years and I have served outside Australia.

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 make any false statement in this Declaration or to vote more than once at an election.

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

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

.....
(Signature and designation of returning officer
or presiding officer.)

Schedule No. 4.

Western Australia.

THE ELECTORAL (WAR TIME) 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 a British subject.

- (3) I am not under the age of twenty-one years.
- (4) My ordinary place of residence immediately prior to becoming employed under the authority or direction of the Allied Works Council was at (here insert place of residence in full) in the Electoral District of (here insert name of Electoral District).
- (5) I have not voted at the election 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.

