

**PARLIAMENTARY ELECTIONS (WAR TIME)
ACT.**

Act No. 10, 1944.

George VI.
No. 10, 1944.

An Act to enable members of the Defence Force of the Commonwealth of Australia and certain other persons to vote at elections of Members of the Legislative Assembly; to amend the Parliamentary Electorates and Elections Act, 1912-1941, in certain respects; and for purposes connected therewith. [Assented to, 18th April, 1944.]

BE

BE it enacted by the King's Most Excellent Majesty, No. 10, 1944.
by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Parliamentary Elections (War Time) Act, 1944," and shall be read and construed with the Parliamentary Electorates and Elections Act, 1912-1941. Short title, construction and division into Parts.

(2) The Parliamentary Electorates and Elections Act, 1912-1941, is in this Act referred to as the Principal Act.

(3) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—VOTING BY MEMBERS OF THE FORCES OUTSIDE NEW SOUTH WALES.

PART III.—VOTING BY MEMBERS OF THE FORCES WITHIN NEW SOUTH WALES.

PART IV.—VOTING BY MEMBERS OF THE CIVIL CONSTRUCTIONAL CORPS.

PART V.—VOTING BY DISCHARGED MEMBERS OF THE FORCES IN NEW SOUTH WALES WHO ARE UNENROLLED.

**PART VI.—MISCELLANEOUS.
SCHEDULES.**

2. (1) In this Act, unless the context otherwise requires— Interpretation.

"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.

"Election" means a general election of members of the Legislative Assembly.

"Member

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“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.

In this definition “active service” has the meaning ascribed to it in the Commonwealth Defence Act 1903 as amended by subsequent Acts.

“Prescribed” means prescribed by this Act or by the regulations made thereunder.

“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.

(2) The Electoral Commissioner, through the Minister, may make such arrangements with any Minister of State for the Commonwealth as are necessary and practicable for the purpose of obtaining the assistance and co-operation of officers of the Public Service of the Commonwealth, and commanding officers and commissioned officers of the Defence Force of the Commonwealth, in carrying the provisions of this Act into effect.

Members of
the Forces
entitled to
vote.

3. (1) Subject to the provisions of section twenty-one of the Principal Act a qualified member of the Forces shall be entitled to vote at any election as an elector of the electoral district in New South Wales in which his place of living as existing immediately prior to his appointment or enlistment as a member of the Forces is situated, 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 electoral district in which his place of living as existing immediately prior to that date is situated.

(2) For the purposes of subsection one of this section 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

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; No. 10, 1944.

- (b) a member of the Forces 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 paragraph (a) of this subsection;
- (c) a discharged member of the Forces who is within New South Wales, and
 - (i) who is not enrolled as an elector and is not under the age of twenty-one years; or
 - (ii) who is under the age of twenty-one years and has served outside Australia.

PART II.

VOTING BY MEMBERS OF THE FORCES OUTSIDE NEW SOUTH WALES.

4. This Part of this Act shall apply to and in respect of voting by members of the Forces outside New South Wales. Application of Part.

5. (1) For the purposes of this Act, the Electoral Commissioner 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, duties and functions under this Act, except this power of delegation.

6. (1) The Electoral Commissioner 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. Action by Electoral Commissioner.

(2)

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(2) Immediately after the close of nominations for an election, the Electoral Commissioner shall notify each returning officer of the names and party designations (if any) of all the candidates nominated for each electoral district.

Action by
returning
officer.

7. As soon as possible after he receives from the Electoral Commissioner notification of the names and party designations (if any) 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 in or to the effect of the form 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 (if any) of all candidates nominated for each electoral district.

Action by
command-
ing officer.

8. Immediately upon receipt of the material specified in section seven of this Act the commanding officer of each unit shall—

- (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.

List of
names of
candidates
to be
posted.

9. 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.

10. (1) The manner of voting shall be as follows:— No. 10, 1944.

- (a) A member of the Forces serving with the unit Manner of voting. who is entitled to vote by reason of section three of this Act shall attend before an officer of that unit designated in pursuance of section eight of this Act, 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 name of the electoral district in which his place of living as existing 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, is situated the officer shall, by reference to the alphabetical list of polling places supplied to him, determine the electoral 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 electoral district on which the officer has written, in alphabetical order, the names 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 that envelope.
- (d) The officer shall, then and there, place the small envelope in the envelope bearing the declaration of the voter, fasten and seal the last-mentioned 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 eight 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 subsection one of this section.

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Transmis-
sion of
ballot-
papers by
commanding
officer.

11. 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 section ten of this Act. 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 place in which he is) shall be placed in a sealed parcel or other similar receptacle.

Action by
returning
officer
upon receipt
of ballot-
papers.

12. As soon as practicable after the period of time specified in section eleven of this Act the returning officer shall transmit or cause to be transmitted the sealed parcel or receptacle aforesaid to the Electoral Commissioner.

Scrutiny.

13. Upon receipt by the Electoral Commissioner of any sealed parcel or receptacle referred to in section twelve of this Act the Electoral Commissioner or the person appointed by him for the purpose—

- (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 endorse the envelope with the word "Rejected" and preserve it in safe custody separately from those accepted for further scrutiny.

The Electoral Commissioner or the person appointed by him for the purpose shall sort the envelopes accepted for further scrutiny into separate parcels, according to the electoral 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.

Inclusion
of result of
scrutiny in
determining
result of
polling.

14. The Electoral Commissioner shall cause the returning officer for each electoral district to be notified forthwith of the result of the scrutiny in so far as it affects that electoral district, and the returning officer shall

shall include the result so notified in determining the result of the polling at the election in that electoral district. No. 10, 1944.

PART III.

VOTING BY MEMBERS OF THE FORCES WITHIN NEW SOUTH WALES.

15. This Part of this Act shall apply to and in respect of voting by members of the Forces within New South Wales. Application of Part.

16. (1) The provisions of Part II of this Act shall apply in relation to voting by members of the Forces within New South Wales: Voting by members of Forces within New South Wales.

Provided that in the application of those provisions in relation to voting by members of the Forces within New South Wales generally, or in relation to voting by members of the Forces who are serving in any particular unit within New South Wales, those provisions may be subject to the modifications set out in subsection two of this section.

(2) The functions of a commanding officer in respect of any unit as set out in that Part may be performed by the returning officer within whose area of control the unit is situated, or by an assistant returning officer appointed by the returning officer; and in any such case—

- (a) the functions of a commissioned officer in respect of any unit as set out in that Part may be performed by a deputy returning officer thereto appointed by the returning officer or assistant returning officer concerned;
- (b) the Electoral Commissioner may appoint such special polling places as are necessary;
- (c) 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 Part of this Act shall, upon

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upon receipt, be dealt with by the returning officer and the Electoral Commissioner or the person appointed by him for the purpose, in accordance with the provisions of sections twelve and thirteen 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.

PART IV.

VOTING BY MEMBERS OF THE CIVIL CONSTRUCTIONAL CORPS.

Voting by
members of
the Civil
Construc-
tional
Corps.

17. (1) 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 of the Allied Works Council on any project, undertaking or work outside Australia shall, if qualified in accordance with subsection two of this section, be entitled to vote at any election as an elector of the electoral district in New South Wales in which his place of living as existing immediately before the commencement of his employment under the authority or direction of the Allied Works Council is situated.

(2) A person referred to in subsection one of this section shall be qualified within the meaning of that subsection if—

- (a) he is a British subject;
- (b) he is not under the age of twenty-one years;
- (c) he is not subject to any of the disqualifications set out in section twenty-one of the Principal Act; and
- (d) he has not become enrolled as an elector for any other electoral district in New South Wales or for any electoral district in any other State of the Commonwealth.

A person who is qualified in accordance with this subsection is in this Act referred to as a qualified person.

(3) (a) The provisions of Part II of this Act shall, so far as they are applicable and subject to the modifications set out in this subsection, apply in relation to voting at any election by qualified persons.

(b)

(b) In the application of the provisions of Part II of this Act in relation to voting at any election by qualified persons, who are employed on any project, undertaking or work outside New South Wales—

- (i) a reference in that Part to a member of the Forces shall be construed as a reference to a qualified person;
- (ii) a reference in that Part to a unit shall be construed as a reference to the project, undertaking or work in which the qualified person is employed;
- (iii) a reference in that Part, either directly or indirectly, to the declaration set out in the First Schedule to this Act shall be construed as a reference to the declaration set out in the Second Schedule to this Act;
- (iv) the functions of a commanding officer and a commissioned officer in respect of any unit as set out in that Part shall be performed respectively by the engineer or other person in charge of the project, undertaking or work, and by any person designated by him.

(c) In the application of the provisions of Part II of this Act in relation to voting at any election by qualified persons who are employed on any project, undertaking or work within New South Wales—

- (i) a reference in that Part to a member of the Forces shall be construed as a reference to a qualified person;
- (ii) a reference in that Part to a unit shall be construed as a reference to the project, undertaking or work in which the qualified person is employed;
- (iii) a reference in that Part, either directly or indirectly, to the declaration set out in the First Schedule to this Act shall be construed as a reference to the declaration set out in the Second Schedule to this Act:

Provided always that in the application of the provisions of Part II of this Act in relation to voting by qualified persons within New South Wales generally, or in relation to voting by qualified persons who are employed on any particular project, undertaking or work within

No. 10, 1944. within New South Wales, those provisions may be subject to the following further modifications, that is to say—

The functions of a commanding officer in respect of any unit as set out in that Part may be performed by the returning officer within whose area of control the project, undertaking or work is situated or by an assistant returning officer appointed by the returning officer; and in any such case—

- (i) the functions of a commissioned officer may be performed by a deputy returning officer thereto appointed by the returning officer or assistant returning officer concerned;
- (ii) the Electoral Commissioner may appoint such special polling places as are necessary;
- (iii) the day and hours during which qualified persons 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
- (iv) the envelopes bearing the declarations and containing the ballot-papers of qualified persons voting under this Part of this Act shall, upon receipt, be dealt with by the returning officer and the Electoral Commissioner or the person appointed by him for the purpose in accordance with the provisions of sections twelve and thirteen 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.

PART V.

VOTING BY DISCHARGED MEMBERS OF THE FORCES IN NEW SOUTH WALES WHO ARE UNENROLLED.

Voting by unenrolled discharged soldiers in New South Wales.

18. (1) A discharged member of the Forces in New South Wales who is entitled to vote at an election by reason of section three of this Act and who is not enrolled on the rolls for any electoral district in New South Wales

Wales or in any other State of the Commonwealth may attend at any polling place and fill in and sign a declaration which shall be printed on an envelope and shall be in or to the effect of the form set out in the Third Schedule to this Act and shall be attested by the returning officer or a deputy returning officer. No. 10, 1944.

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

- (a) he shall endorse on the declaration the name of the electoral 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 electoral district;
- (c) when the declarant has marked his vote on the ballot-paper and handed the ballot-paper to him, he shall place the ballot-paper in the envelope bearing the declaration made by the declarant; and
- (d) he shall forthwith transmit the envelope to the Electoral Commissioner.

19. (1) The ballot-papers issued under this Part of this Act shall be in or to the effect of the form prescribed. Ballot-papers, voting and scrutiny.

(2) Regulations made under this Act may make provision for and in relation to the recording and scrutiny of votes recorded under this Part.

PART VI.

MISCELLANEOUS.

20. (1) A member of the Forces or a qualified person shall not, in respect of the same election, vote more than once under this Act nor shall he in respect of the same election vote under this Act and also under the Principal Act. One vote only to be recorded.

A person shall not personate a member of the Forces or a qualified person for the purpose of voting under this Act at any election.

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A person shall not make a wilfully false declaration in respect of any matter or thing for which a declaration is required by or under this Act.

Any person who contravenes any provision of this subsection shall be liable to imprisonment for a term of not less than three months and not exceeding twelve months.

(2) A prosecution for an offence against this section may, in the case of an offender 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 or a qualified person who is on authorised absence from his unit, or from the project, undertaking or work on which he is employed, as the case may be, may, during the hours fixed for the polling at any place where arrangements have been made for members of the Forces or qualified persons to record their votes under the provisions of this Act, attend and vote at that place.

Objections
to claims
for
enrolment.

21. (1) Any elector or the electoral registrar may object—

(a) to the claim of any person to be enrolled; or

(b) to any name on the roll;

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

(2) The provisions of the Principal Act relating to objections to enrolment shall in so far as they are applicable and are not inconsistent with this Act apply to an objection made under subsection one of this section.

Voting by
assistant
returning
officers
and others.

22. An assistant returning officer or deputy returning officer engaged in taking the votes of members of the Forces or of qualified persons 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 or a qualified person, as the case may be.

23.

23. 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.

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Voting not compulsory.

24. The validity of any election shall not be questioned on the ground that any ballot-papers coming from a place outside New South Wales have been lost or destroyed during the course of their transmission to a returning officer or the Electoral Commissioner or on the ground that, for any reason whatsoever, a member of the Forces or a qualified person was unable to record his vote:

Validity of election not to be challenged.

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 Electoral Commissioner.

25. Each candidate may, by notice in writing or by telegram addressed to the Electoral Commissioner, 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.

26. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regulations.

(2) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If

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No. 10, 1944. If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

Reinstatement on the roll of names of members of the Forces and qualified persons.

27. Whenever in the preparation of electoral rolls the name of any member of the Forces or qualified person 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 the place of living of such member or person did not appear to be in the electoral district for which he was enrolled, the name of such member or person may be reinstated on the roll by the Electoral Commissioner.

Nomination paper may include party designation.

28. (1) A nomination paper delivered to the returning officer under section seventy-nine of the Principal Act may contain a statement not exceeding four words indicating the party or designation of the candidate nominated in such nomination paper.

(2) The Principal Act is amended by inserting in section one hundred and twelve after the word "imprisonment" the words "for a term of not less than three months and".

Duration.

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

SCHEDULES.

Secs. 7, 10.

FIRST SCHEDULE.

PARLIAMENTARY ELECTIONS (WAR TIME) ACT, 1944.

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 place of living as existing 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

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Immediately prior to that date) is situated at (here insert **No. 10, 1944.** place of living 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, assistant returning officer, or deputy returning officer, as the case may be.)
(Rank and unit (or designation).)

SECOND SCHEDULE.

Sec. 17.

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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 place of living as existing immediately before the commencement of my employment under the authority or direction of the Allied Works Council is situated at (here insert place of living 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.

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Sec. 10, 1944. 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.)

Sec. 18.

THIRD SCHEDULE.

PARLIAMENTARY ELECTIONS (WAR TIME) ACT, 1944.

Declaration by Discharged Member of the Forces in New South Wales voting under the abovementioned 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 on the roll for any electoral district in New South Wales or in any other State.
- (3) My place of living as existing 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) is situated at
(here insert place of living 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
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.....
(Signature and designation of returning officer or deputy returning officer.)