

# PARLIAMENTARY ELECTORATES AND ELECTIONS (AMENDMENT) ACT.

Act No. 2, 1944.

An Act to amend the Parliamentary Electorates and Elections Act, 1912-1941, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 22nd March, 1944.]

George VI.  
No. 2, 1944.

**B**E it enacted by the King's Most Excellent Majesty, 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 :—

1. (1) This Act may be cited as the "Parliamentary Electorates and Elections (Amendment) Act, 1944." Short title and citation.

(2) The Parliamentary Electorates and Elections Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Parliamentary Electorates and Elections Act, 1912-1944.

## Parliamentary Electorates and Elections (Amendment) Act.

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Amendment of  
Act No. 41,  
1912.

Subst. sec. 108.

Assistance  
to certain  
electors.  
cf. Cwth.  
Electoral  
Act, 1918-  
1940, s. 120.

**2.** The Parliamentary Electorates and Elections Act, 1912-1941, is amended—

(a) by omitting section one hundred and eight and by inserting in lieu thereof the following section:—

108. (1) If an elector satisfies the returning officer or deputy that his sight is so impaired or that he is so physically incapacitated that he is unable to vote without assistance, the returning officer or deputy shall permit a person appointed by the elector to enter an unoccupied compartment of the booth with the elector and mark, fold and deposit the elector's ballot-paper for him.

(2) If any such elector fails to appoint a person in pursuance of subsection one of this section, or if any elector satisfies the returning officer or deputy that he is so illiterate that he is unable to vote without assistance, the returning officer or deputy, in the presence of such scrutineers as are present, or if there are no scrutineers present, then in the presence of—

(a) the poll clerk; or

(b) if the elector so desires, in the presence of a person appointed by such elector, instead of the poll clerk,

shall mark the ballot-paper according to the instruction of such elector, and shall fold and deposit the ballot-paper in the ballot-box.

Sec. 114A.  
(Applica-  
tion for  
postal vote  
certificate.)

(b) (i) by omitting from paragraph (a) of subsection one of section 114A the word "ten" and by inserting in lieu thereof the word "five";

(ii) by inserting after the same paragraph the following new paragraph:—

(a1) will not throughout the hours of polling on polling day be within the State of New South Wales.

(iii) by omitting from subsection two of the same section the words "authorised witness, and must be made and sent, after" and by inserting

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inserting in lieu thereof the words "elector, or, where the elector making the application is outside the State, in the presence of a person whose name appears on the electoral roll for an electoral division of the Commonwealth, and must be made and sent, after the tenth day prior to";

- (iv) by omitting from subsection (2A) of the same section the words "at least thirty-eight hours prior to the hour at which the polling is to commence on" and by inserting in lieu thereof the words "before six o'clock in the afternoon of the day immediately preceding";

- (c) (i) by omitting from paragraph (a) of subsection one of section 114B the words "head teachers" and by inserting in lieu thereof the words "adult teachers";

Sec. 114B.  
(Authorised  
witnesses.)

- (ii) by omitting from the same paragraph the word "and" where lastly occurring, and by inserting in lieu thereof the words "all assistant returning officers; all commissioners for taking declarations or affidavits; all members of a municipal, shire or county council or of a roads board; all town clerks, deputy town clerks, shire clerks or shire secretaries, municipal or shire engineers; all roads board secretaries and roads board engineers; all midwives and nurses registered by the Midwives Board or Nurses Board of a State; all secretaries of hospitals; all assistant lighthouse-keepers; all overseers and foremen of Group Settlements; all permanent way inspectors and roadmasters employed in the railway service of the Commonwealth; all engineers engaged upon railway or road construction; all mail contractors; all naval commissioned officers in the service of the Commonwealth while employed on a ship of war; all licensed surveyors or  
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Government surveyors; all station owners, station managers and station overseers; and”;

- (iii) by inserting after subsection one of the same section the following new subsection:—

(1A) A person who holds any of the offices or qualifications referred to in subsection one of this section shall be an authorised witness within the meaning of this Act, whether he holds such office or qualification in this State or in any other State of the Commonwealth.

Sec. 114c.  
(Duty of electors as witnesses.)

- (d) (i) by omitting from subsection one of section 114c the words “authorised witness” and by inserting in lieu thereof the word “elector”;

- (ii) by omitting subsection two of the same section, and by inserting in lieu thereof the following subsections:—

(2) The elector witnessing the signature of any elector to an application for a postal vote certificate and postal ballot-paper shall sign his name in his own handwriting on the application in the space provided for the purpose, and shall add the name of the electoral district for which he is enrolled as an elector and the date.

(3) Any such elector shall not persuade or induce, or associate himself with any person in persuading or inducing, any person to make application for a postal vote certificate and postal ballot-paper.

cf. Cwth.  
Electoral  
Act, 1918-  
1940, s. 87  
(3).

Any person contravening any provision of this subsection shall be liable to a penalty not exceeding fifty pounds, or to be imprisoned for a term not exceeding one month.

(e)

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- (e) by omitting from section 114D the words "at least thirty-eight hours prior to the hour at which polling is to commence on" and by inserting in lieu thereof the words "before six o'clock in the afternoon of the day immediately preceding";
- (f) by omitting from section 114E the words "at least thirty-eight hours prior to the hour at which the polling is to commence on" and by inserting in lieu thereof the words "before six o'clock in the afternoon of the day immediately preceding";
- (g) (i) by omitting paragraphs (f) and (g) of section 114H and by inserting in lieu thereof the following paragraphs:—
- (f) If the elector's sight is so impaired that he cannot vote without assistance, a person appointed by the elector shall mark the elector's vote on the ballot-paper in the presence of the authorised witness, and shall then and there fold the ballot-paper so that the vote cannot be seen, place it in the envelope addressed to the returning officer, fasten the envelope, and hand it to the voter who shall forthwith post or deliver it or cause it to be posted or delivered, to the returning officer:
- Provided that if no person is appointed by the elector, the authorised witness, if so requested by the elector, shall take the action required by this paragraph to be taken by a person appointed by the elector, and in taking such action shall mark the ballot-paper according to the instruction of the elector.
- (g) The authorised witness shall not, unless the elector's sight is so impaired that he cannot vote without assistance

Sec. 114D.  
(Issue of certificate and ballot-paper.)

Sec. 114E.  
(Inspection of applications.)

Sec. 114H.  
(Directions for postal voting.)

cf. Cwth. Electoral Act, 1918-1940, s. 92 (1) (f).

cf. *Ibid.*, s. 92 (1) (g).

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assistance and no person is appointed by the elector to mark his vote for him, look at or make himself acquainted with the vote given by the elector, and, except as provided in paragraph (f) of this subsection, shall not suffer or permit any person (other than the elector) to see or become acquainted with the elector's vote or to assist the elector to vote or to interfere in any way with the elector in relation to his vote.

(ii) by inserting at the end of the same section the following new subsection:—

(2) Notwithstanding anything contained in this section, in any case in which a postal ballot-paper, if posted prior to the close of the poll, as provided in paragraph (e) or paragraph (f) of subsection one of this section, would not reach the returning officer for the district in respect of which the elector claims to vote before the end of the period of seven days immediately succeeding the close of the poll, or if delivered as provided in paragraph (e) or paragraph (f) of that subsection, would not reach that returning officer before the close of the poll, the envelope in which the ballot-paper is enclosed may be addressed to, and posted or delivered to, any other returning officer, or may be delivered on polling day to any deputy returning officer, and the returning officer or the deputy returning officer, as the case may be, shall deal with it in the prescribed manner.

*cf. Cwth.  
Electoral  
Act, 1918:  
1940, s. 92  
(2).*

**Sec. 114i.**  
(Duty of  
authorised  
witnesses.)  
*cf. Ibid.*  
s. 93 (2).

(h) by inserting after paragraph (c) of section 114i the following words:—

An authorised witness shall not influence or attempt to influence, in any way, the vote of an elector voting by post before him.

(i)

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- (i) by omitting section 114J and by inserting in lieu thereof the following section:—

Subst. sec.  
114J.

114J. (1) No person other than—

(a) the elector to whom the postal ballot-paper has been issued; or

Penalty for  
unlawfully  
marking  
ballot-  
paper.

(b) a person appointed by the elector or an authorised witness acting in pursuance of paragraph (f) of subsection one of section 114H of this Act, assisting an elector whose sight is so impaired that he cannot vote without assistance,

cf. Cwth.  
Electoral  
Act, 1918-  
1940, s. 93A.

shall mark a vote upon the ballot-paper.

Any person contravening any of the provisions of this subsection shall be liable to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding six months.

(2) No person other than the returning officer for the district in respect of which a postal ballot-paper has been issued or an officer acting under his directions shall open the envelope in which the postal ballot-paper has been placed pursuant to paragraph (e) or paragraph (f) of subsection one of section 114H of this Act and which has been fastened by an authorised witness or a person appointed by the elector in accordance with the provisions of whichever of those paragraphs is applicable to the case.

Unlawfully  
opening  
postal  
ballot-  
paper.  
cf. *Ibid.*  
s. 93B.

Any person contravening any of the provisions of this subsection shall be liable to a penalty not exceeding fifty pounds.

(3) Any person to whom an application for a postal vote certificate and postal ballot-paper or an envelope containing or purporting to contain a postal ballot-paper is entrusted by an elector for the purpose of posting or delivery to a returning officer or delivery to a deputy returning officer and who fails to post or deliver

Penalty for  
failure to  
post or  
deliver  
documents.  
cf. *Ibid.*  
s. 94.

forthwith

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forthwith the application or envelope, shall be guilty of an offence and shall be liable to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding one month.

Sec. 114k.  
(Duty of persons present when an elector votes by post.)  
cf. Cwth. Electoral Act, 1918-1940, s. 95 (b).

(j) by omitting paragraphs (b), (c) and (d) of section 114k and by inserting in lieu thereof the following word and paragraph:—

“and

(b) except as provided in paragraph (f) of subsection one of section 114H of this Act in the case of persons whose sight is impaired—

- (i) refrain from making any communication whatever to the elector in relation to his vote;
- (ii) refrain from assisting the elector or in any manner interfering with him in relation to his vote; and
- (iii) refrain from looking at the elector's vote or from doing anything whereby he may become acquainted with the elector's vote.”

Sec. 114L.  
(Preliminary scrutiny of postal ballot-papers.)

(k) (i) by omitting from section 114L the words “close of the poll” and by inserting in lieu thereof the words “end of the period of seven days immediately succeeding the close of the poll by him, or received up to the close of the poll by any other returning officer or any deputy returning officer in pursuance of subsection two of section 114H of this Act”;

(ii) by inserting in paragraph (b) of the same section after the words “authorised witness” the words “and that the envelope bearing the certificate was posted or delivered prior to the close of the poll”;

(l)



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- (1) by omitting Schedules Thirteen, Fourteen, and Fifteen and by inserting in lieu thereof the following Schedules:—

Schedules Thirteen, Fourteen and Fifteen.  
**Sec. 114A.**

**SCHEDULE THIRTEEN.**

This application should be made and sent, after the tenth day prior to the issue of the Writ for the election to which it relates and before polling day, to the Returning Officer for the District for which the elector is enrolled; but if the elector has reason to believe that it may not in the ordinary course of post reach that officer so as to enable him to send a Postal Vote Certificate and Postal Ballot-paper to the elector in time to permit of his voting at the election, the application may, for purposes of expedition, be made and sent to some other Returning Officer.

Unless the application reaches the Returning Officer to whom it is addressed before six o'clock in the afternoon of the day immediately preceding the polling day for the election, a Postal Vote Certificate or Postal Ballot-paper shall not be issued in respect of it.

In order that a Postal Ballot-paper may be admitted to the scrutiny it should be posted prior to the close of the poll to the Returning Officer for the District in respect of which the elector claims to vote, so as to reach him before the end of the period of seven days immediately succeeding the close of the poll, or delivered to that officer prior to the close of the poll. If, however, time does not permit of that course, it may be posted or delivered to any other Returning Officer, or delivered on polling day to any Deputy Returning Officer, but in any such case it must reach such officer before the close of the poll.

**STATE ELECTIONS.**

Number .....	} .....
Postal Vote Certificate and Postal Ballot-paper issued...../...../19...	
Initials of Returning Officer for the Electoral District of .....	} .....
.....	

**APPLICATION FOR A POSTAL VOTE CERTIFICATE AND POSTAL BALLOT-PAPER.**

*To the Returning Officer for the Electoral District of*

(1) Here insert name of District to which application is being sent.

(2) Here insert Surname, Christian names, place of living, and occupation as appearing on the Roll.

Surname.	Christian Names (in full).	Place of Living as appearing on Roll.	Occupation.

hereby

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Co. 2, 944.

hereby apply for a Postal Vote Certificate and a Postal Ballot-paper to enable me to vote by post at the forthcoming Election of Members of the Legislative Assembly.

(3) Here insert name of Sub-division for which enrolled.  
(4) Here insert name of Electoral District for which enrolled.

I declare —

- (1) That I am an elector enrolled on the Electoral Roll for the (3).....Subdivision of the Electoral District of (4).....
- (2) That my answers to the following questions are true and correct in every particular :—

Question. Applicant's answer.

(The following question (A) must be answered by the applicant.)

- (A) Is your place of living within the Electoral District in respect of which you claim to vote ? ... ..

(The following question (B) must be answered by the applicant if his answer to question (A) is in the negative.)

- (B) Was your place of living, at any time within the three months immediately preceding the date fixed for the polling at the election, within the Electoral District in respect of which you claim to vote ? ... ..

NOTE. — If answer to question (A) is "yes," the applicant is not required to answer question

- (3) That the ground on which I apply to vote by post is—

- (a) That I will not throughout the hours of polling on polling day be within the State of New South Wales;
- (b) That I will not throughout the hours of polling on polling day be within five miles by the nearest practicable route of any polling booth open in the State for the purposes of an election;
- (c) That I will throughout the hours of polling on polling day be travelling under conditions which will preclude me from attending at any polling booth to vote;
- (d) That I am seriously ill or infirm, and by reason of such illness or infirmity will be precluded from attending at any polling booth to vote;
- (e) That I will, by approaching maternity, be precluded from attending at any polling booth to vote.

NOTE. — The elector MUST strike out any of these grounds which do not apply to his or her particular case.

(4)

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(4) That my place of living at the time when the postal vote certificate and the postal ballot-paper would be delivered in the ordinary course of post will be as follows :.....

An elector shall not make, and a person shall not induce an elector to make, any false statement in an application for a Postal Vote Certificate and a Postal Ballot-paper, or in the declaration contained in such application.

**PENALTY :** Fifty pounds, or imprisonment for one month.

Signed by the elector in his own handwriting in my presence—  
*Signature of* } \_\_\_\_\_  
*Witness* } (*in own handwriting*)  
 (A person whose name appears on the roll of electors for an Electoral District.)  
 Address of Witness \_\_\_\_\_  
 \_\_\_\_\_  
 Enrolled for Electoral District of \_\_\_\_\_  
 or enrolled on the roll for the \_\_\_\_\_  
 subdivision of the Commonwealth Electoral Division of \_\_\_\_\_

*Signature of* } \_\_\_\_\_  
*Applicant* } (*in own handwriting*)  
 (NOTE.—A marksman cannot vote by post.)

**NOTE.**—Where the elector making the application is outside the State, this application must be signed in the presence of a person whose name appears on the electoral roll for an electoral division of the Commonwealth.

Dated at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

**OBLIGATIONS OF ELECTOR WITNESSING AN APPLICATION FOR A POSTAL VOTE CERTIFICATE AND POSTAL BALLOT-PAPER.**

An elector shall not witness the signature of any elector to an application for a Postal Vote Certificate and Postal Ballot-paper unless—

- (a) he has satisfied himself as to the identity of the applicant;
- (b) he has seen the applicant sign the application in his (the applicant's) own handwriting; and
- (c) he knows that the statements contained in the application are true, or has satisfied himself by inquiry from the applicant or otherwise that the statements contained in the application are true.

**PENALTY :** Fifty pounds, or imprisonment for one month.

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NOTE.—Where the elector making the application is outside the State, this application must be signed in the presence of a person whose name appears on the electoral roll for an electoral division of the Commonwealth. The elector witnessing the application shall sign his name in his own handwriting on the application in the space provided for the purpose, and shall add the date and the name of the Electoral District for which he is enrolled.

Any such elector shall not persuade or induce, or associate himself with any person in persuading or inducing, any person to make application for a Postal Vote Certificate and Postal Ballot-paper.

PENALTY: One hundred pounds, or imprisonment for three months.

PENALTY FOR FAILURE TO POST OR DELIVER APPLICATION FOR POSTAL VOTE CERTIFICATE AND POSTAL BALLOT-PAPER.

Any person to whom an application for a Postal Vote Certificate and Postal Ballot-paper is entrusted by a voter for the purpose of posting or delivery to a Returning Officer or Deputy Returning Officer, and who fails to post or deliver the application forthwith shall be guilty of an offence.

PENALTY: Fifty pounds, or imprisonment for one month.

Sec. 114b.

SCHEDULE FOURTEEN.

PARLIAMENTARY ELECTORATES AND ELECTIONS ACT, 1912, AS AMENDED.

Postal Vote Certificate. No. ....

I hereby certify that..... is entitled (subject to the provisions of the Parliamentary Electorates and Elections Act, 1912, as amended) to vote by post in respect of the Electoral District of..... at the election to be held on the..... day of.....

Returning Officer for the Electoral District of..... Date.....

Certificate of Voter.

I, the person named in the above certificate, hereby certify that the signature of voter hereunder is my personal signature written by me with my own hand.

Signature of Voter..... (in his or her own handwriting)

Certificate

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*Certificate of Authorised Witness.\**

I hereby certify that the above certificate was signed by the voter in his or her own handwriting in my presence at.....(here insert address of place where signature is made and witnessed).

*Signature of Authorised Witness (in his own handwriting)* .....

*Title under which witness acts as Authorised Witness (in full)*.....

*Address of Witness*.....

*Date*.....19..

\* No person other than a person indicated in the list of Authorised Witnesses printed on the "Directions to Elector and Authorised Witness" issued by the Electoral Commissioner is authorised to act as an Authorised Witness for Postal Voting purposes.

NOTES.—(1) This envelope, containing the ballot-paper marked by the voter, should be forthwith posted or delivered to the Returning Officer to whom it is addressed, but if it cannot be delivered to that officer prior to the close of the poll, or, if posted prior to the close of the poll, would not reach him before the end of the period of seven days immediately succeeding the close of the poll, it may be posted or delivered to any other Returning Officer or delivered on polling day to any Deputy Returning Officer, but so as to reach such officer before the close of the poll.  
(2) Any person to whom this envelope, containing a ballot-paper, is entrusted by the voter for the purpose of posting or delivery to a Returning Officer, or delivery to a Deputy Returning Officer, who fails to post or deliver the envelope forthwith shall be guilty of an offence. Penalty: Fifty pounds or imprisonment for one month.  
(3) No person other than the Returning Officer for the District concerned, or an officer acting under his directions, shall open this envelope after the ballot-paper has been placed therein and the envelope fastened. Penalty: Fifty pounds.

The  
**RETURNING OFFICER**  
for the Electoral District  
of.....  
(Postal Address).....

**SCHEDULE**

**Rural Bank (Personal Loans Department) Act.**

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Sec. 114D.

SCHEDULE FIFTEEN.

PARLIAMENTARY ELECTORATES AND ELECTIONS ACT, 1912,  
AS AMENDED.

The elector must not mark his vote hereon until after he has first exhibited the ballot-paper (unmarked) to the Authorised Witness.

POSTAL BALLOT-PAPER.

NEW SOUTH WALES.

*Electoral District of* \_\_\_\_\_

Election of a Member of the Legislative Assembly.

DIRECTIONS.—Mark your vote on this ballot-paper by placing the numbers \_\_\_\_\_ in the squares respectively opposite the names of the candidates so as to indicate the order of your preference for them; fold the ballot-paper so that the vote cannot be seen and hand it so folded to the Authorised Witness.

*Candidates.*

<input type="checkbox"/>	_____
<input type="checkbox"/>	_____
<input type="checkbox"/>	_____
<input type="checkbox"/>	_____
<input type="checkbox"/>	_____
<input type="checkbox"/>	_____
<input type="checkbox"/>	_____
<input type="checkbox"/>	_____
<input type="checkbox"/>	_____
<input type="checkbox"/>	_____

\_\_\_\_\_