

Australian Electoral Office Act 1973

No. 87 of 1973

AN ACT

Relating to the Administration of Electoral Laws.

[Assented to 19 June 1973]

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

1. This Act may be cited as the *Australian Electoral Office Act 1973*. Short title.
2. This Act shall come into operation on a date to be fixed by Proclamation. Commencement.
3. In this Act, "Officer" means an Officer referred to in section 4. Definition.
4. (1) There is hereby established an Office to be known as the Australian Electoral Office, which shall consist of the Officers referred to in this section and the staff referred to in section 15. Establish-
ment of
Office and
offices.
(2) There shall be—
 - (a) a Chief Australian Electoral Officer;
 - (b) a Deputy Chief Australian Electoral Officer; and
 - (c) an Australian Electoral Officer for each State.

(3) The Chief Australian Electoral Officer shall, under the Minister, control the Australian Electoral Office.

**Functions
and duties
of Officers.**

5. (1) An Officer shall have such functions, powers and duties as are conferred or imposed on him by or under any law of the Commonwealth or of a Territory and, for that and every other purpose—

- (a) a reference in any such law, or in any order or instrument under any such law, to the Chief Electoral Officer for the Commonwealth shall, in relation to anything done or to be done after the commencement of this Act, be read as a reference to the Chief Australian Electoral Officer appointed under this Act; and
- (b) a reference in any such law, or in any order or instrument under any such law, to a Commonwealth Electoral Officer or to the Commonwealth Electoral Officer for a State shall, in relation to anything done or to be done after the commencement of this Act, be read as a reference to an Australian Electoral Officer or to the Australian Electoral Officer for that State appointed under this Act.

(2) In addition to his other functions, the Chief Australian Electoral Officer shall, as required by the Minister, advise the Minister on matters relevant to electoral policy, legislation and procedures.

(3) The Deputy Chief Australian Electoral Officer shall assist the Chief Australian Electoral Officer as directed by him.

(4) Where—

- (a) immediately before the commencement of this Act, a person, being an officer within the meaning of the *Commonwealth Electoral Act 1918–1973*, held office as a Distribution Commissioner appointed under section 16 of that Act; and
- (b) that person becomes, on the date of commencement of this Act, an Officer referred to in section 4 of this Act,

his appointment as a Distribution Commissioner continues to have effect.

(5) Where, before the commencement of this Act, an arrangement had been made under the *Conciliation and Arbitration Act 1904–1972* for the taking of any steps in or in connexion with an election, or for the conduct of an election or ballot, by a person holding an office of Commonwealth Electoral Officer, those steps may be taken or completed, or that election or ballot may be conducted or completed, by the person holding the corresponding office under this Act.

**Appoint-
ment of
Officers and
tenure of
Office.**

6. (1) An Officer shall be appointed by the Governor-General and, subject to this Act, holds office for seven years, but is eligible for re-appointment.

(2) An Officer who is appointed or re-appointed within seven years before the day on which he will attain the age of sixty-five years ceases to hold office on that day, and a person who has attained the age of sixty-five years shall not be appointed or re-appointed as an Officer.

(3) An Officer holds office on such terms and conditions, not inconsistent with this Act, as the Governor-General determines.

7. (1) The Chief Australian Electoral Officer shall be paid remuneration at such rate, and an annual allowance at such rate (if any), as the Parliament fixes, but, until 1st January, 1974, the rate of that remuneration and the rate (if any) of that allowance shall be as prescribed. Remuneration and allowances.

(2) The Deputy Chief Australian Electoral Officer and an Australian Electoral Officer for a State shall be paid remuneration at such respective rates as the Parliament fixes, but, until 1st January, 1974, those rates shall be as prescribed.

(3) An Officer shall be paid such allowances (not including an annual allowance) as are prescribed.

8. The Minister may grant leave of absence to an Officer upon such terms and conditions as to remuneration or otherwise as the Minister determines. Leave of absence.

9. An Officer may resign his office by writing under his hand delivered to the Governor-General. Resignation.

10. The Governor-General may, with the consent of the Officer, retire an Officer on the ground of invalidity. Termination of appointment.

11. (1) The Governor-General may suspend an Officer from office for misbehaviour or physical or mental incapacity. Suspension and removal of Officer.

(2) The Minister shall cause a statement of the ground of the suspension to be laid before each House of the Parliament within seven sitting days of the House after the suspension.

(3) Where such a statement has been laid before a House of the Parliament, that House may, within fifteen sitting days of that House after the day on which the statement has been laid before it, by resolution, declare that the Officer ought to be restored to office and, if each House so passes such a resolution, the Governor-General shall terminate the suspension.

(4) If, at the expiration of fifteen sitting days of a House of the Parliament after the day on which the statement has been laid before that House, that House has not passed such a resolution, the Governor-General may remove the Officer from office.

(5) If an Officer becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit, the Governor-General shall remove him from office.

(6) An Officer shall not be removed from office except as provided by this section.

Rights of
public
servant
appointed as
an Officer.

12. If a person appointed as an Officer was, immediately before his appointment, an officer of the Public Service of the Commonwealth (including an unattached officer)—

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights, his service as an Officer shall be taken into account as if it were service in the Public Service of the Commonwealth; and
- (c) the *Officers' Rights Declaration Act* 1928–1969 applies as if this Act and this section had been specified in the Schedule to that Act.

Application
of Super-
annuation
Act.

13. For the purposes of sub-sections 4 (3A) and (4) of the *Super-annuation Act* 1922–1973, an Officer shall be deemed to be required, by the terms of his appointment, to give the whole of his time to the duties of his office.

Acting
appoint-
ments.

14. (1) The Governor-General may appoint a person to act in the office of an Officer during any period, or during all periods, when the person holding the office is absent from duty or from Australia or is performing the duties of another office or during a vacancy in that office, but a person so appointed to act during a vacancy in an office shall not continue so to act for more than twelve months.

(2) The Governor-General may—

- (a) determine the terms and conditions of appointment of a person appointed under this section; and
- (b) at any time terminate such an appointment.

(3) Where a person is acting in an office in pursuance of an appointment under this section otherwise than during a vacancy in that office and the office becomes vacant while that person is so acting, that person may continue to act in the office until the Governor-General otherwise directs, the vacancy is filled or a period of twelve months from the date on which the vacancy occurred expires, whichever first happens.

(4) Sections 8 and 9 apply in relation to a person appointed under this section in like manner as they apply in relation to an Officer.

(5) While a person is acting in an office in pursuance of an appointment under this section, he has, and may exercise, all the powers and shall perform all the functions of the holder of that office under this Act or any other law.

(6) The validity of anything done by a person appointed under this section shall not be called in question on the ground that the occasion for his appointment had not arisen or that the appointment had ceased to have effect.

15. (1) The staff required to assist the Officers in the performance of Staff. their functions shall be persons appointed or employed under, or whose services are made available in accordance with arrangements made under, the *Public Service Act* 1922–1973.

(2) The Chief Australian Electoral Officer has all the powers of, or exercisable by, a Permanent Head under the *Public Service Act* 1922–1973 so far as those powers relate to the branch of the Public Service of the Commonwealth comprising the staff referred to in sub-section (1) as if that branch were a separate Department of the Public Service of the Commonwealth.

(3) For the purposes of sub-sections 25 (5) and (6) of the *Public Service Act* 1922–1973, the Chief Australian Electoral Officer shall be deemed to be a Permanent Head.

16. The Governor-General may make regulations, not inconsistent Regulations. with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.
