

No. 34, 1943.]

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.

# ACT

**To enable persons (other than natives) enrolled upon the voters' lists of divisions in any province who are on whole-time war service during the present war to vote in the Union at any general election of members of the House of Assembly or of the provincial council of that province; and to extend in certain respects the application of the Active Service Voters Act, No. 37 of 1941.**

(Signed by the Officer Administering the Government  
in Afrikaans.)  
(Assented to 28th April, 1943.)

**BE IT ENACTED** by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

## Definitions.

1. In this Act unless the context indicates otherwise—
  - “Electoral Act” means the Electoral Act, No. 12 of 1918, as amended;
  - “general election” means a general election of members of the House of Assembly or a general election of members of the provincial council of any province;
  - “prescribed” means prescribed by this Act;
  - “regulations” means the regulations framed under section *nine*;
  - “the proclamation” means the proclamation issued under sub-section (1) of section *thirty-six* of the Electoral Act;
  - “this Act” includes the regulations;
  - “unit” means any unit of a force or service referred to in paragraph (a) of the definition of “war service”;
  - “war service” means—
    - (a) service with any force or service established by or under—
      - (i) the South Africa Defence Act, No. 13 of 1912, as amended; or
      - (ii) the proclamations and regulations validated by section *two* of the War Measures Act, No. 13 of 1940; or
      - (iii) any regulation made under section *one bis* of the latter Act, as inserted by section *one* of the War Measures (Amendment) Act, No. 32 of 1940; or
    - (b) service with any naval, military or air force or service of an ally of the Union.

## Application of Act.

2. This Act shall not apply to the election of members of the House of Assembly under the provisions of the Representation of Natives Act, No. 12 of 1936.

## Department of Defence to facilitate voting.

3. The Secretary for Defence shall cause arrangements to be made to enable the persons who are entitled to do so to vote in terms of this Act.

## Voters on war service may vote as in this Act provided.

4. Notwithstanding anything to the contrary contained in any other law, any person on whole-time war service whose name appears in either section of the voters' list for any division in any province framed in accordance with the provisions of sub-section (1) of section *six* of the Census, Delimitation and Electoral Act, No. 23 of 1941, and who is in the Union, shall, if arrangements can be made in terms of section *three* to enable him to do so, be entitled to vote at a general election in accordance with the provisions of section *five*.

## Method of voting.

5. (1) Immediately after the publication of the proclamation the officer commanding each unit in the Union shall transmit to the Chief Electoral Officer a nominal roll of all persons (other than natives) under his command, who are on whole-time war service and in the Union.
- (2) A commanding officer may from time to time send supplementary nominal rolls in terms of sub-section (1).
- (3) The Chief Electoral Officer shall examine each roll received by him under sub-section (1) or (2) and shall delete all names—
  - (i) which do not appear in the index in his office of voters who are entitled to vote at the election in question; or

(ii) in respect of which he is unable to satisfy himself as to identity.

(4) The Chief Electoral Officer shall thereupon, in respect of each person whose name remains on such roll issue to the commanding officer concerned in an envelope addressed to the voter—

- (i) a ballot paper for the division in which such person is registered as a voter ;
- (ii) a covering envelope ; and
- (iii) a ballot paper envelope

such as are referred to in paragraphs (a), (c) and (d) respectively of regulation (14) of the Second Schedule to the Electoral Act, 1918, Amendment Act, No. 11 of 1926.

(5) Upon receipt of the papers referred to in sub-section (4) the commanding officer or the next senior officer available of each unit shall, in the manner prescribed issue such papers and make arrangements for each voter secretly to record his vote and for the transmission of the ballot papers so as to reach the Chief Electoral Officer not later than 8 p.m. on polling day.

Rejection of votes.

6. The Chief Electoral Officer shall reject any vote transmitted to him in terms of sub-section (5) of section five unless it has been given in accordance with the provisions of this Act.

Results of poll to be telegraphed to returning officer.

7. When the result of the examination of ballot papers received by the Chief Electoral Officer has been ascertained, he shall without delay telegraph to the returning officer concerned, the number of votes to be added to the votes recorded for the candidates in the electoral division of which he is returning officer.

How expenditure to be defrayed.

8. The expenditure incurred by the Chief Electoral Officer in connection with the carrying out of the provisions of this Act shall be defrayed, in the case of an election of members of the House of Assembly, out of the Consolidated Revenue Fund, and in the case of an election of members of a provincial council, out of the provincial revenue fund of the province concerned.

Regulations.

9. The Governor-General may make regulations in regard to any of the following matters—

- (a) the appointment of persons to carry out the provisions of this Act, and their powers and functions ;
- (b) the manner in which the identity of a voter shall be established ;
- (c) the method by which votes shall be given under this Act ;
- (d) the sorting of votes so given, the rejection of invalid votes and the acceptance of valid votes ;
- (e) the maintenance of secrecy of the voting in terms of this Act ;
- (f) the forms to be used in connection with any of the matters mentioned in this Act ;
- (g) the prohibition of acts or omissions which may interfere with the carrying out of the objects and purposes of this Act ;
- (h) penalties not exceeding those provided in the Electoral Act for any contravention of or failure to comply with the regulations made under this section, and the jurisdiction of courts to try any such contravention or failure and to impose any such penalty ;
- (i) generally for the better carrying out of any of the objects and purposes of this Act, the scope of this provision not being limited in any way by the mention in this section of particular matters.

Immaterial mistakes not to affect validity of election.

10. No election shall be set aside by any court by reason of any mistake or non-compliance with the provisions of this Act, if it appears to the court that the votes were recorded and dealt with in accordance with the principles laid down in this Act.

Application of Act 37 of 1941.

11. (1) In the application of the Active Service Voters Act, 1941—

- (i) " defence forces " shall be deemed to include any naval, military or air force or service of an ally of the Union ; and
- (ii) any person contesting a seat at a general election as an independent candidate, whether connected with a political organization or not, shall be deemed to constitute a political party or group.

(2) In the preparation of the ballot paper for the purposes of the said Act the Chief Electoral Officer shall include the names of all political parties or groups contesting the election in any one or more divisions and the independent candidates as if all such candidates formed one group: Provided that, in the event of similarity of names of parties or groups being in the opinion of the Chief Electoral Officer likely to cause confusion, or in the event of more than one candidate contesting the same seat under the name of the same party or group, or as independents, such officer shall use such description as he thinks fit in order to distinguish candidates.

(3) Any person who would have been entitled had he been out of the Union, to record his vote under the provisions of that Act, shall still be entitled to vote thereunder if he arrives in the Union before polling day but too late to vote under the provisions of this Act: Provided that he shall so record his vote that the ballot paper reaches the Chief Electoral Officer before 8 p.m. on polling day.

Short title.

12. This Act may be cited as the War Service Voters Act, 1943, and shall expire on the date fixed by the Governor-General in terms of section *seven* of the War Measures Act, No. 13 of 1940, as the date of expiry of that Act.