SUPPLIED FOR THE PUBLIC SERVICE



CHAPTER 2.

An Act to make temporary provision for the inclusion in electoral rolls in India of persons returned from war service, to relax residence qualifications for those persons and to extend certain Indian franchise qualifications which depend on service in His Majesty's forces or on the award of a pension. [24th October 1945.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Inclusion in electoral rolls of persons returned from war service.

1.—(1) A person who has been engaged in war service, as defined for the purposes of this Act, may, not later than twelve months from the termination thereof or from the date of the passing of this Act, whichever last occurs, apply for his inclusion in the electoral roll for any of the constituencies mentioned in subsection (3) of this section, and the roll shall, if he is entitled to be included therein, be amended accordingly.

(2) For the purposes of this section, a person shall be treated as entitled to be included in an electoral roll if he would be so entitled if the roll were being revised at or by reference to the date of his application.

(3) Subject to the provisions of this Act—

(*a*) the Governor-General in Council, in the case of a constituency for the election of persons to fill seats in either chamber of the Indian Legislature or for the election of persons to fill seats in the Legislative Council of the Chief Commissioner of Coorg ; and

(*b*) the Governor of the Province, in the case of a constituency for the election of persons to fill seats in a chamber of a Provincial Legislature,

may make rules regulating the manner in which and the persons by whom any question arising as to the right of a person making such an application to be included in the roll is to be decided.

Residence qualifications.

2.—(1) If on an application under the preceding section in respect of such an electoral roll as is therein mentioned or on the preparation or revision of such an electoral roll it appears that a person would have satisfied a residence qualification but for his absence on war service, that qualification shall be treated as satisfied in his case.

(2) In this section the expression "residence qualification" means, in relation to the electoral roll for any constituency, any provision (howsoever expressed) contained in any enactment, Order in Council or rules, requiring as a condition of inclusion in the electoral roll either residence or the possession of a place of residence, at or for any specified time, in the constituency or other specified area.

Definition of war service.

3.—(1) In this Act, the expression "war service" means service at any time during the period which begins with the third day of September, nineteen hundred and thirty-nine, and ends with such date as may be appointed by the Governor-General in Council, either—

(*a*) in any of His Majesty's naval, military or air forces; or

(*b*) under the Crown in any other capacity directly relevant to the prosecution of any war in which His Majesty is at any time engaged during the said period.

(2) If any doubt arises as to whether any service of a person is or is not war service, the question shall be referred, in the case of service under the Government of a Province, to the Governor of that Province and, in the case of any other service, to the Governor-General in Council, and the decision of that Governor or, as the case may be, of the Governor-General in Council, shall be final.

Extension of certain franchise qualifications.

4.—(1) The enactments, Orders in Council and rules mentioned in the Schedule to this Act shall have effect subject to the amendments therein specified, being amendments extending the franchise qualifications depending on service in His Majesty's regular military forces or the Auxiliary Force (India) or the Indian Territorial Force to other cases of service in His Majesty's forces or the reserves thereof, and extending the franchise qualifications depending on the award of a civil, military or political pension to cases of an award of a pension in respect of naval or air service.

(2) Any power conferred by or under any Act to amend, revoke or vary any of the provisions mentioned in the said Schedule shall include a power to amend, revoke or vary those provisions as amended in the manner specified in the said Schedule.

Supplementary. 26 Geo. 5 and 1 Edw. 8. c. 2.

5. The functions of the Governor of a Province under this Act shall be deemed for the purposes of the Government of India Act, 1935, to be included among the functions as respects which he is, by or under that Act, required to exercise his individual judgment.

Printing. 8 & 9 Geo. 6. c. 7.

6. A copy of the Government of India Act, 1935, giving effect to :—

(*a*) the amendments mentioned in subsection (2) of section two of the India (Estate Duty) Act, 1945 ; and

(*b*) the amendments made by section four of, and Part I of the Schedule to, this Act ;

shall be prepared and certified by the Clerk of the Parliaments and deposited with the Rolls of Parliament and His Majesty's printer shall print in accordance with the copy so certified all copies of the Government of India Act, 1935, which are printed after the said copy has been so prepared, certified and deposited.

Short title.

7. This Act may be cited as the Indian Franchise Act, 1945.

Section 4.

SCHEDULE.

AMENDMENTS TO GIVE EFFECT TO EXTENSION OF CERTAIN FRANCHISE QUALIFICATIONS.

PART I.

AMENDMENTS OF THE SIXTH SCHEDULE TO THE GOVERNMENT OF INDIA ACT, 1935 (26 Geo. 5 & 1 Edw. 8. c. 2).

1. For the words " an officer, non-commissioned officer or soldier of His Majesty's regular military forces " wherever those words occur, there shall be substituted the words " a member of His Majesty's naval, military or air forces ".

2. For the words " officer, non-commissioned officer or soldier of His Majesty's regular military forces " wherever those words occur elsewhere, there shall be substituted the words " member of His Majesty's naval, military or air forces ".

3. For paragraph 12 of Part I, there shall be substituted the following paragraph :—

" 12. This Schedule shall have effect as if any reference therein to a member of His Majesty's naval, military or air forces included a reference to a member of any British India police force, the Royal Indian Naval Reserve, the Royal Indian Naval Volunteer Reserve, the Auxiliary Force (India), the Indian Territorial Force or the Royal Indian Air Force Volunteer Reserve, not being a member who has been dismissed or discharged for disciplinary reasons :

Provided that this paragraph shall not have effect in relation to any person by reason of his membership of the Royal Indian Naval Reserve, the Royal Indian Naval Volunteer Reserve, the Auxiliary Force (India), the Indian Territorial Force or the Royal Indian Air Force Volunteer Reserve unless the period of his service either was not less than four years or included actual service in the Royal Indian Navy or the Royal Indian Air Force or service in a part of the Auxiliary Force (India) or the Indian Territorial Force for the time being embodied in pursuance of a notification issued by the Governor-General in Council and published in the Gazette of India.

4. In sub-paragraph (5) of paragraph 13 of Part I, after the words " Any reference in this Schedule to a " there shall be inserted the words " retired, pensioned or discharged member or to a ".

5. In paragraph 10 of Part II and in sub-paragraph (1) of paragraph 10 of Part V for the words " officer, non-commissioned officer or soldier " there shall be substituted the words " member of His Majesty's naval, military or air forces ".

6. In paragraph 9 of Part VIII for the words " an officer, non-commissioned officer, soldier or man " there shall be substituted the words " a member ".

PART II.

AMENDMENT OF THE GOVERNMENT OF INDIA (PROVINCIAL LEGISLATIVE ASSEMBLIES) ORDER, 1936 (S.R. & O. 1936 No. 415).

For paragraphs (*c*) and (*d*) of sub-paragraph (2) of paragraph 9 of Part IX there shall be substituted the following paragraphs :—

" (*c*) he is a retired, pensioned or discharged member of His Majesty's naval, military or air forces, of the Assam Rifles, or of a British India police force, not being a member who was dismissed or discharged for disciplinary reasons ; or

(*d*) in the case of a woman, she is the pensioned widow or pensioned mother of a person who was a member of His Majesty's naval, military or air forces, of the Assam Rifles or of a British India police force."

PART III.

AMENDMENT OF THE GOVERNMENT OF INDIA (PROVINCIAL LEGISLATIVE COUNCILS) ORDER, 1936 (S.R. & O. 1936 No. 416).

For the words " civil, military or political pension ", wherever they occur, there shall be substituted the words " civil, naval, military, air force or political pension ".

PART IV.

AMENDMENTS OF THE COORG ELECTORAL RULES.

1. For sub-paragraph (*e*) of paragraph (iii) of rule 9 there shall be substituted the following sub-paragraph :—

" (*e*) service in His Majesty's forces or the reserves thereof or police service ".

2. For paragraph 1A of the Second Schedule, there shall be substituted the following paragraph :—

" 1A. This Schedule shall have effect as if any reference therein to a member of His Majesty's naval, military or air forces included a reference to a member of any British India police force, the Royal Indian Naval Reserve, the Royal Indian Naval Volunteer Reserve, the Auxiliary Force (India), the Indian Territorial Force or the Royal Indian Air Force Volunteer Reserve, not being a member who has been dismissed or discharged for disciplinary reasons :

Provided that this paragraph shall not have effect in relation to any person by reason of his membership of the Royal Indian Naval Reserve, the Royal Indian Naval Volunteer Reserve, the

Auxiliary Force (India), the Indian Territorial Force or the Royal Indian Air Force Volunteer Reserve unless the period of his service either was not less than four years or included actual service in the Royal Indian Navy or the Royal Indian Air Force or service in a part of the Auxiliary Force (India) or the Indian Territorial Force for the time being embodied in pursuance of a notification issued by the Governor-General in Council and published in the Gazette of India."

3. For the words " officer, non-commissioned officer or soldier of His Majesty's regular forces " wherever those words occur elsewhere in the said Schedule, there shall be substituted the words " member of His Majesty's naval, military or air forces ".

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