



New South Wales

Jury Amendment Act 1996 No 4

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New South Wales

Jury Amendment Act 1996 No 4

Act No 4, 1996

An Act to amend the *Jury Act 1977* to alter procedures for the selection and summoning of jurors; with respect to the recovery of certain fines; to extend the period for which a jury may deliberate in civil trials; and for other purposes; and to make related amendments to the *Justices Act 1902* and *Coroners Act 1980*. [Assented to 13 May 1996]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Jury Amendment Act 1996*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Jury Act 1977 No 18

The *Jury Act 1977* is amended as set out in Schedules 1 and 2.

4 Amendment of other Acts

The *Justices Act 1902* and the *Coroners Act 1980* are amended as set out in Schedule 3.

Schedule 1 Amendments to Jury Act 1977 relating to the selection and summoning of jurors

(Section 3)

[1] Section 4 Definitions

Omit the definitions of *draft jury roll*, *general jury precept*, *jury period*, *jury pool*, *jury pool precept*, *pool judge* and *pool officer* from section 4 (1).

[2] Section 4 (1), definition of “jury roll”

Omit “in force”.

Insert instead “certified as in force for the time being”.

[3] Section 4 (1), definition of “summons”

Omit “section 27 or 31”. Insert instead “section 26”.

[4] Section 4 (1)

Insert in alphabetical order:

supplementary jury roll for a district has the meaning given in section 12 (4).

[5] Section 4 (2)

Omit “draft”. Insert instead “supplementary”.

[6] Section 10

Omit the section. Insert instead:

10 Sheriff to maintain jury rolls

The sheriff must maintain a jury roll for each jury district in accordance with this Part.

[7] Section 11 Electoral Commissioner to deliver copies of electoral rolls to sheriff

Insert at the end of the section:

- (2) Such a request is to be made at least once every 15 months for each jury district.

[8] Sections 12 and 13

Omit the sections. Insert instead:

12 Random selection of prospective jurors

- (1) At intervals of not more than 12 months, the sheriff is to select a number of persons at random from the entries in the latest copies of rolls of electors supplied to the sheriff that relate to each jury district. Persons who are for the time being on the jury roll for the district are excluded from selection.
- (2) The number of persons selected must be estimated by the sheriff as sufficient to provide, in accordance with the scheme for selection of jurors provided by this Part, the number of persons required to serve from time to time as jurors in the jury district.
- (3) The estimate is to allow for persons who are not qualified or are ineligible to serve as jurors and for persons who will duly claim exemption from jury service.
- (4) The particulars of persons who have been selected under this section pursuant to the same estimate comprise a supplementary jury roll for the district in which those persons reside until particulars on the supplementary roll are added to the jury roll for the district.
- (5) A computer may be used to make a selection under this section.

13 Persons included on supplementary jury roll to be notified

- (1) The sheriff must send to each person whose name is included on a supplementary jury roll for a district, and who appears to the sheriff to be qualified and eligible to serve as a juror, a notice in the form prescribed by the regulations:
 - (a) informing the person that it is proposed to include the person on the jury roll, and
 - (b) describing the classes of persons who are disqualified or ineligible to serve as jurors and who are entitled as of right to be exempted from serving as jurors, and
 - (c) containing a questionnaire that requires the person, if disqualified or ineligible or wanting to claim exemption, to state the reason for the disqualification or ineligibility or for claiming the exemption, and that may require the person to provide other information about the person's availability for jury service, and
 - (d) requiring the person to complete and return the questionnaire to the sheriff so that it is received by the sheriff within the time specified in the notice.
- (2) The sheriff may require the answers given to a questionnaire or any other information provided to the sheriff, for the purpose of determining whether or not a person is disqualified or ineligible to serve as a juror, or is to be exempted from serving as a juror, to be verified by statutory declaration.
- (3) Proceedings may be taken for an offence against this Act or the *Oaths Act 1900* for providing false or misleading information to the sheriff that is required to be verified by statutory declaration. However, a person is not liable to be convicted of an offence under both Acts in relation to the provision of the same information.

[9] Section 14 Sheriff to delete persons disqualified, ineligible or exempt from supplementary jury roll

Omit “draft” wherever occurring.
Insert instead “supplementary”.

[10] Sections 15 and 15A

Omit section 15. Insert instead:

15 Appeal against being included on jury roll or being summoned from supplementary jury roll

- (1) A person aggrieved by a determination of the sheriff notified to the person under section 14 (2) or 18 (4) may appeal to a Local Court, constituted by a magistrate sitting alone, by lodging a notice of appeal with the clerk of that court within 21 days of being so notified, except as provided by subsection (2).
- (2) If the person is summoned to attend for jury service on a day occurring before those 21 days have expired and before the notice of appeal is lodged, the appeal is instead to be made (as specified in a notice attached to the summons) to the judge or coroner having the conduct of the trial or coronial inquest concerned or to such other judge or coroner, or to such master, magistrate or registrar of a court, as may be specified in the notice.
- (3) The court or person to whom an appeal is made under this section must hear and determine the appeal and must:
 - (a) if satisfied that the person who made the appeal:
 - (i) is not qualified or is ineligible to serve as a juror, or
 - (ii) is entitled as of right to be exempted from serving as a juror and has duly claimed exemption,allow the appeal and order the sheriff to delete that person from the jury roll or supplementary jury roll, or

- (b) if satisfied that the person, having been summoned for jury service, has good cause to be excused from attending at the relevant court or inquest—excuse the person from attendance, or
 - (c) in any other case—disallow the appeal.
- (4) A decision under this section is final and conclusive and is to be given effect by the sheriff.
 - (5) A person who has lodged an appeal under this section which has not been heard and determined is taken, for the purposes of section 38, to have good cause to be excused from attending at a court or coronial inquest in accordance with a summons.

15A Periodic updating of jury roll

- (1) The sheriff must supplement the jury roll for a jury district by adding to the roll particulars of each person who has been included on a supplementary jury roll for the district and who is not deleted from the supplementary roll by the sheriff under section 14 or pursuant to an order of a court or person under section 15.
- (2) The sheriff must cull from the jury roll for the time being in force for a district particulars of each person who has been included on the roll for 15 months (or such other period, not exceeding 2 years, as may be fixed by the regulations).

[11] Section 16 Current jury roll to be certified by sheriff

Omit section 16 (1) and (2). Insert instead:

- (1) The sheriff must, immediately after supplementing or culling names from the jury roll for a district in accordance with section 15A, certify a list of persons as the jury roll in force for the time being for the jury district.
- (2) A jury roll may be certified by the sheriff under this section even though an appeal lodged under section 15 by a person on the roll has not been determined. However, the sheriff must amend the roll as soon as is practicable if the appeal is determined so as to require removal of the person from the roll.

[12] Section 17

Omit the section. Insert instead:

17 Records of jury rolls and supplementary jury rolls

- (1) The sheriff must keep among the records of the sheriff's office the jury roll last certified for each jury district and any supplementary jury roll being used to revise a jury roll.
- (2) The sheriff must produce such a roll or supplementary roll (or a certified copy of it) in any court or at any coronial inquest if required to do so or forward a certified copy of the roll or supplementary roll to an officer of a court if it is required for production in that court or at that inquest.

[13] Part 5, Divisions 1 and 2

Omit the Divisions. Insert instead:

Division 1 Summoning of jurors for trials and coronial inquests

23 Estimate of number of jurors required

- (1) The sheriff must maintain estimates of the number of jurors who will be required to be summoned in each jury district for the trial of criminal and civil proceedings in the Supreme Court and the District Court and for coronial inquests.
- (2) The number of jurors estimated as required for the purpose of trials must not exceed the number of jurors that, in the opinion of the sheriff, will ensure the attendance of sufficient jurors to allow for the number of challenges reasonably likely to be made by all parties.
- (3) The number of jurors estimated as required for the purpose of coronial inquests must not be less than the number of jurors that, in the opinion of the sheriff, will ensure the attendance of sufficient jurors to comply with requests for juries reasonably likely to be made under the *Coroners Act 1980* by coroners.

24 Alternate procedure where sheriff is interested in case

- (1) The functions of the sheriff under this Division (except the making of estimates under section 23) are to be exercised in respect of a trial or coronial inquest by the person holding the office prescribed by the regulations, if the sheriff is a party (or a judge of the court or the coroner holding the inquest is satisfied that the sheriff is in any other way interested) in the trial or inquest.
- (2) A person so exercising the functions of the sheriff is to have access to the records kept by the sheriff for the purposes of this Act.

25 Selection of jurors by sheriff

- (1) The sheriff must select at random, from the jury roll for each jury district, the number of jurors estimated by the sheriff as required to be summoned for trials or coronial inquests in that jury district.
- (2) The sheriff may select one or more of that number of jurors at random from a supplementary jury roll for that district, if the sheriff believes that the jury roll for that district is inadequate for any reason.
- (3) A selection under this section may be made by computer and may be made at any one time or at different times for the purposes of one or more trials or inquests.

26 Persons selected to be summoned

- (1) The sheriff must issue a summons in the form prescribed by the regulations to each person selected requiring the person to attend at the court or coronial inquest at the time specified in the summons until discharged by the court or coroner.
- (2) When such a summons is served on a person selected by the sheriff from a supplementary jury roll, a notice complying with section 13 must also be served on the person, if such a notice has not already been sent to the person.

- (3) Such a summons is to be served on the person to whom it is issued at least 7 days before the time specified in it for attendance at a court or inquest, unless a judge of the court or the coroner holding the inquest otherwise orders.

27 Selection and summoning of additional jurors

The sheriff may select and summon jurors in accordance with this Division to make up or supplement a jury panel if a trial or coronial inquest is likely to be delayed because there are no persons or not enough persons available for the selection of a jury who have already been summoned.

28 Sheriff's return

- (1) At each time and place at which jurors are required to attend by summonses served under this Division, the sheriff must return particulars of the summonses, including a panel of the names of those summoned and, if appearing on the roll or supplementary roll from which the summonses were prepared, their occupations.
- (2) Only the names of persons qualified and liable to serve as jurors, and who have not been duly excused, are required to be included in the panel.
- (3) The sheriff must also provide with the return the names and other particulars recorded on the roll or supplementary roll of the persons on the panel on separate cards, each card being as nearly as is practicable of equal size.

[14] Section 37 Persons rendering jury service not to be selected again until all persons on jury roll have rendered jury service

Omit the section.

[15] Section 38 Person summoned for jury service may be excused before or at trial

Omit “, coronial inquest or jury pool” from section 38 (1).
Insert instead “or coronial inquest”.

[16] Section 38 (1) (b)

Omit “or by any court in which trials to which that jury pool relates are held, as the case may be”.

[17] Section 38 (6)

Omit the subsection. Insert instead:

- (6) If a person is excused under subsection (1) (b), the panel and the card relating to that person are to be clearly marked accordingly and the card kept apart from the cards relating to other persons on that panel.

[18] Section 40

Omit the section. Insert instead:

40 Inspection of panel permitted in certain circumstances

A party to any civil proceedings or the party’s barrister or solicitor may, on payment of the fee (if any) prescribed by regulations made under the *Supreme Court Act 1970* or the *District Court Act 1973*, as appropriate, inspect or obtain a copy of the panel prepared under this Act for the trial of those proceedings.

[19] Section 51 Procedure where insufficient jurors to complete ballot

Omit “there are an insufficient number of jurors summoned pursuant to a general jury precept” from section 51 (1).

Insert instead “there is an insufficient number of summoned jurors”.

[20] Section 51 (1) (a) and (b)

Omit “a further general jury precept” wherever occurring.

Insert instead “, in accordance with Division 1 of Part 5, further summonses to attend at the court or inquest”.

[21] Section 52 Cards of jury members to be kept apart

Omit section 52 (2) and (3). Insert instead:

- (2) After all the jurors for a trial are sworn, the cards relating to persons who were summoned and who were called but not sworn for the trial are to be returned to the sheriff so as to be available for any further ballot.
- (3) The cards relating to persons who were summoned and were sworn for the trial, but who are not discharged from attending at the court in pursuance of the summons, are also to be returned to the sheriff, if a further ballot is to be conducted under section 53.

[22] Section 53 Jurors liable to be selected on more than one ballot

Omit “pursuant to a general jury precept have not, at the conclusion of a trial,”. Insert instead “to attend at a court and who constituted the jury for a trial cease to be required for that trial and have not”.

[23] Section 60 Definition

Omit “, coronial inquest or jury pool” from section 60 (1) (a). Insert instead “or coronial inquest”.

[24] Sections 61–62A

Omit sections 61 and 62. Insert instead:

61 Offences relating to responding to questionnaire

- (1) A person who is sent a notice pursuant to section 13 about the person's inclusion on a supplementary jury roll must return the questionnaire sent with the notice so that it is received by the sheriff within the time specified in the notice.
- (2) The person must not, except with good cause, return such a questionnaire to the sheriff without complete answers to all of the questions in it.
- (3) The person must not return such a questionnaire to the sheriff if it contains any answer or other information that the person knows to be false or misleading in a material respect.

Maximum penalty: 10 penalty units.

62 Supply of false or misleading information to sheriff

- (1) A person must not provide any information to the sheriff that the person knows to be false or misleading in a material respect:
 - (a) when claiming to be disqualified from serving as a juror or to be ineligible to serve as a juror or to be entitled as of right to be exempted from serving as a juror, or
 - (b) when claiming otherwise that the person is not or will not be available for jury service.
- (2) A person must not cause or permit any representation the person knows to be false or misleading in a material respect to be made to the sheriff on the person's behalf, or on behalf of another person, for the purpose of evading jury service.

Maximum penalty: 10 penalty units.

62A Failure to inform sheriff of disqualification or ineligibility

A person summoned to attend at a court or coronial inquest who knows that he or she is disqualified from serving as a juror or ineligible to serve as a juror must, before the day on which the person's attendance is required, inform the sheriff of that fact and the reason for the disqualification or ineligibility.

Maximum penalty: 10 penalty units.

[25] Section 64 Procedure where failure to attend for jury service

Omit section 64 (1). Insert instead:

- (1) If a person fails to attend for jury service at a court or coronial inquest, a record of that fact is to be made on the relevant panel by order of the court, of the coroner holding the inquest or of any court in which trials for which the panel was prepared are held.

[26] Section 67A Inspection of panel

Omit section 67A (1). Insert instead:

- (1) A person must not inspect, or make available to any other person, a panel or card prepared for the purposes of this Act by the sheriff.

Maximum penalty: 10 penalty units.

[27] Section 73 Verdict not invalidated in certain cases

Omit section 73 (b). Insert instead:

- (b) of any omission, error or irregularity with respect to any supplementary jury roll, jury roll, card or summons prepared or issued for the purposes of this Act.

[28] Sections 75A and 75B

Insert after section 75:

75A Information to be supplied to sheriff

- (1) For the purpose of allowing the functions of the sheriff to be carried out in pursuance of this Act in a timely and efficient manner, the registrars of the Supreme Court, District Court and Coroners Court are to provide the sheriff with such information about court sittings and trials as the sheriff may reasonably request.
- (2) For that purpose, the sheriff may also obtain relevant information from any judge or coroner having the conduct of any trial or inquest for which a jury has been or is to be summoned and from the parties concerned in any such proceedings.
- (3) Regulations may be made for or with respect to the provision of information to the sheriff by persons referred to in this section.

75B Power to obtain information for purposes of Act

- (1) The Commissioner of Police, the Commissioner of Corrective Services and any other person prescribed by the regulations are each authorised and required to provide the sheriff with information reasonably requested by the sheriff that is relevant to determining whether or not a person is liable to be included on a supplementary jury roll or a jury roll or for jury service.
- (2) It is a duty of each party to proceedings listed for trial by a jury or represented at a coronial inquest to inform the sheriff as soon as is practicable of any event of which the party becomes aware that affects the question of whether or not a jury will be required for the trial or inquest and the dates on which persons will be required to attend for jury service.

[29] Schedule 3 Persons Who May Claim Exemption as of Right

Omit clause 8. Insert instead:

8. A person who:
 - (a) within the period of 3 years immediately before claiming exemption under this provision, attended court in accordance with a summons and served as a juror, or
 - (b) within the period of 1 year immediately before claiming exemption under this provision, attended court in accordance with a summons and who was prepared to, but did not, serve as a juror.

Schedule 2 Other amendments to Jury Act 1977

(Section 3)

[1] Section 18 Sheriff may amend jury roll

Insert “or” at the end of section 18 (1) (a) (i) and (ii).

[2] Section 18

Omit subsections (1) (a) (iv) and (b), (5) and (6).

[3] Section 57A

Insert after section 57:

57A Court may decide issue of fact

Where the court in civil proceedings finds, after examination on oath of one or more of the jury, that the jury is unable to agree on a decision about an issue of fact, the court may decide that issue, but only if the parties to the proceedings agree that the court should decide the issue.

[4] Section 58 Discharge of jury that disagree in civil proceedings

Omit section 58 (2).

[5] Section 58 (3)

Omit “subsection (1) or (2)”. Insert instead “this section”.

[6] Section 63 Failure to attend for jury service

Insert at the end of the section:

- (2) In any proceedings for an offence under this section, a document purporting to be signed by the sheriff and to certify:
 - (a) that a specified person is recorded as having failed to attend for jury service, or
 - (b) that a specified person has declined to be dealt with under section 64,is evidence of the matter so certified.

[7] Section 66

Omit the section. Insert instead:

66 Penalty notices for failure to attend jury service

- (1) If it appears to the sheriff or a person prescribed by the regulations that a person has contravened section 61, or has declined to be dealt with under section 64 in respect of a failure to attend for jury service, the sheriff or prescribed person may serve a penalty notice on the person.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the alleged contravention of section 61 or 63 dealt with by a court, the person may pay, within the time and to the person specified in the notice, the penalty prescribed by the regulations for the offence if dealt with under this section.
- (3) If the penalty prescribed for the alleged offence is paid in accordance with this section, no person is liable to any further proceedings for the alleged offence.
- (4) Payment in accordance with this section is not to be regarded as an admission of liability for the purposes of, nor is in any way to affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.

- (5) The regulations may prescribe the penalty (not exceeding $\frac{2}{2}$ penalty units) payable for the offence if dealt with under this section.
- (6) This section does not limit the operation of this or any other Act in relation to proceedings that may be taken in respect of offences.

[8] Section 72 Payment for jury service

Omit section 72 (1) and (1A). Insert instead:

- (1) A person is entitled to be paid for attendance for jury service at a court or coronial inquest only if the person attends for service in accordance with the summons and does not then successfully apply to be excused from service.
- (1A) Such a payment is to be made at the prescribed rate.

[9] Schedule 8, Part 1

Insert at the end of clause 1A (1):

Jury Amendment Act 1996.

[10] Schedule 8, Part 4

Insert after Part 3:

**Part 4 Transitional and savings provisions
consequent on enactment of Jury
Amendment Act 1996**

10 Saving and culling of former jury rolls

- (1) The jury roll in force for a jury district immediately before the commencement of section 15A is taken to have been prepared in accordance with Part 3, as amended by the *Jury Amendment Act 1996*.

- (2) After the commencement of section 15A, the sheriff is to remove from the jury roll for each jury district a sufficient number of the persons who were on the roll immediately before that commencement to compensate for those whose names are added to supplement the roll in accordance with section 15A, until all of those persons have been removed from the roll (except any whose names have been reinstated on the roll pursuant to section 15A (1)).
- (3) The selection of persons to be removed from a jury roll pursuant to subclause (2) is to be made at random and may be made by use of a computer.
- (4) Within 15 months after the commencement of section 15A, the sheriff must remove from a jury roll all of the persons who were on the jury roll immediately before that commencement (except any whose names have been reinstated on the roll pursuant to section 15A (1)).

11 Saving of summonses

This Act, as in force immediately before the commencement of Schedule 1 [13] to the *Jury Amendment Act 1996*, applies to and in respect of a summons issued by the sheriff under Part 5 before that commencement.

12 Transitional provisions

- (1) Section 57A (relating to courts deciding issues of fact) does not apply to a trial that commenced before the commencement of that section.
- (2) Section 58 (relating to the discharge of a jury that disagree in civil proceedings), as in force immediately before the commencement of Schedule 2 [4] and [5] to the *Jury Amendment Act 1996* applies to a trial commenced before the commencement of those items.

- (3) Section 66 (as inserted by the *Jury Amendment Act 1996* and relating to penalty notices for failure to attend for jury service) applies to a failure to attend for jury service before or after the commencement of that section.
- (4) Section 72 (relating to payment for jury service) as in force immediately before the commencement of Schedule 2 [8] to the *Jury Amendment Act 1996* applies to an attendance for jury service before that commencement.

13 Saving of fees

The rates for jury fees prescribed for the purposes of section 72 (1) immediately before the commencement of Schedule 2 [8] to the *Jury Amendment Act 1996* are taken to have been prescribed for the purposes of section 72 (1A), as substituted by that Act, until further rates are prescribed.

Schedule 3 Amendment of other Acts

(Section 4)

3.1 Justices Act 1902 No 27

Section 100I Interpretation

Insert in alphabetical order in paragraph (a) of the definition of *penalty notice* in section 100I (1):

July Act 1977, section 66;

3.2 Coroners Act 1980 No 27

Section 18 Inquests and inquiries with or without juries

Insert after section 18 (4):

- (5) As soon as practicable after a coroner becomes aware that an inquest or inquiry is to be held before the coroner with a jury, the coroner must notify the sheriff of the need for a jury.

[Minister's second reading speech made in—
Legislative Assembly on 7 December 1995
Legislative Council on 17 April 1996]