



New South Wales

Jury Amendment Act 1997 No 15

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New South Wales

Jury Amendment Act 1997 No 15

Act No 15, 1997

An Act to amend the *Jury Act 1977* to provide for the anonymity of jurors and to make further provision with respect to offences relating to the obtaining of information about the deliberations of a jury; to amend the *Criminal Procedure Act 1986* consequentially; and for other purposes.
[Assented to 29 May 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Jury Amendment Act 1997*.

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 Schedule 1.

4 Amendment of Criminal Procedure Act 1986 No 209

The *Criminal Procedure Act 1986* is amended as set out in Schedule 2.

Schedule 1 Amendment of Jury Act 1977

(Section 3)

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

identification number of a person means the identification number allocated to the person under section 29.

[2] Section 29

Insert after section 28:

29 Identification numbers for jurors

- (1) Before furnishing the return and cards referred to in section 28 in respect of a trial or coronial inquest, the sheriff is to allocate a separate identification number to each person included in the panel referred to in section 28.
- (2) The sheriff must record a person's identification number:
 - (a) against the place where the name of the person appears on that panel, and
 - (b) on the card referred to in section 28 (3) relating to the person.
- (3) The sheriff must inform a person of the person's identification number when the person attends on the first day on which the person's attendance is required in accordance with a summons.
- (4) A person who is allocated an identification number is to be addressed or referred to only by that identification number when the person is present at the court or coronial inquest for the purposes of the relevant proceedings.

- (5) A computer may be used to carry out a procedure under this section relating to identification numbers.
- (6) The regulations may make provision for or with respect to identification numbers. In particular, regulations may be made for or with respect to the following:
 - (a) the allocation of identification numbers,
 - (b) the manner in which persons are to be informed of their identification number,
 - (c) the recording of identification numbers on the panel and on the cards relating to the persons in respect of whom the identification numbers have been allocated.

[3] Section 37

Insert before section 38:

37 Certain persons and jurors not required to disclose identity

- (1) A person who is summoned under Division 1 is not required, when the person attends at a trial or coronial inquest in accordance with the summons, to disclose the person's name or any other matter that identifies or is likely to lead to the identification of the person (for example, when the person requests to be excused under section 38 (1) (b) or the person, while serving as a juror, is examined on oath under Part 8).
- (2) However, a person so summoned is to provide such information to the sheriff:
 - (a) when the person attends on the first day on which the person's attendance at the trial or coronial inquest is required in accordance with the summons, or
 - (b) if requested to do so by the sheriff, at any other time during the course of the trial or coronial inquest.

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

Omit “A judge may, at any criminal trial and before the selection of the jury” from section 38 (7).

Insert instead “Before the selection of the jury at a criminal trial, the judge must, subject to the regulations”.

[5] Section 38 (7) (a)

Omit “request”. Insert instead “direct”.

[6] Section 38 (8)–(11)

Insert after section 38 (7):

- (8) Before the selection of the jury at a civil trial, the judge must, subject to the regulations:
 - (a) direct the parties to the proceedings to inform the jurors on the panel of the nature of the action and the identity of the parties and of the principal witnesses to be called by the parties, and
 - (b) call on the jurors on the panel to apply to be excused if they consider that they are not able to give impartial consideration to the case.
- (9) Before the selection of the jury at a coronial inquest, the coroner must, subject to the regulations:
 - (a) direct the person assisting the coroner to inform the jurors on the panel of the nature of the inquest and of the principal witnesses to be called, and
 - (b) call on the jurors on the panel to apply to be excused if they consider that they are not able to give impartial consideration to the matter.
- (10) The identity of a person who is a principal witness must not be disclosed under subsection (7) (a), (8) (a) or (9) (a) if the person is a witness who is included in a witness protection program:

- (a) within the meaning of the *Witness Protection Act 1995*, or
 - (b) conducted by the Commonwealth, another State or a Territory under a complementary witness protection law within the meaning of the *Witness Protection Act 1995*.
- (11) The regulations may make provision for or with respect to:
- (a) the directions and the calling on jurors under subsections (7)–(9), and
 - (b) the informing and the excusing of jurors under those subsections.

[7] Section 40 Inspection of panel permitted in certain circumstances

Omit the section.

[8] Section 45 Time for making challenge to juror

Omit section 45 (1). Insert instead:

- (1) A challenge for cause or a peremptory challenge to a juror in criminal proceedings, or a challenge for cause to a juror in civil proceedings, can be made only after the juror has been called to the book to be sworn and before the juror is sworn.

[9] Section 45 (2)

Omit the subsection.

[10] Section 48 Balloting for jury in criminal proceedings

Omit “furnished under section 28 (2) or 34 (3)” from section 48 (2) (a).

Insert instead “provided under section 28 (3)”.

[11] Section 48 (2) (b)

Omit “names thereon”.

Insert instead “identification numbers on those cards”.

[12] Section 49

Omit the section. Insert instead:

49 Balloting for jury in civil proceedings

- (1) The jury for the trial of any civil proceedings in the Supreme Court or the District Court is to be selected by ballot in open court in accordance with this section whether the jury is to consist of 4 or 12 jurors.
- (2) At the trial the presiding judge or an officer of the court must:
 - (a) place in a box provided for that purpose the cards provided under section 28 (3) in respect of that trial, and
 - (b) draw out of that box those cards, one after another, and call out the identification numbers on those cards, until the number of persons required to constitute the jury for the trial appear, and
 - (c) call each of those persons to be sworn.
- (3) If any challenge for cause is made and allowed in respect of any number of those persons, that number of persons must be so drawn and called to be sworn.
- (4) Such further number of persons as is required is to be so drawn and called to be sworn until all just challenges have been allowed and the number of persons required to constitute the jury for the trial have been sworn.
- (5) The persons referred to in subsection (4) that have been sworn are to constitute the jury for the trial.

[13] Section 50 Balloting for jury at coronial inquest

Omit “furnished under section 28 (2)” from section 50 (2) (a).
Insert instead “provided under section 28 (3)”.

[14] Section 50 (2) (b)

Omit “names thereon” from section 50 (2) (b).
Insert instead “identification numbers on those cards”.

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

Omit “names of those jurors” from section 51 (2).
Insert instead “names and identification numbers of those jurors are”.

[16] Section 67A inspection of panel

Omit section 67A (2) (b) and (c).

[17] Section 68A Soliciting information from or harassing jurors or former jurors

Omit “for inclusion in any material to be published or any matter to be broadcast” from section 68A (1).

[18] Section 68A (1)

Omit “Penalty: In the case of a corporation, 50 penalty units; in any other case, 20 penalty units.”.

Insert instead:

Maximum penalty on indictment: imprisonment for 7 years.

[19] Section 71 Proceedings for offences

Insert at the end of the section:

- (2) Part 9A of the *Criminal Procedure Act 1986* (which relates to the summary disposal of certain indictable offences unless an election is made to proceed on indictment) applies to and in respect of an offence under section 68A.

[20] Schedule 8 Transitional and savings provisions

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

Jury Amendment Act 1997.

[21] Schedule 8, Part 5

Insert after Part 4:

**Part 5 Transitional and savings provisions
consequent on enactment of Jury
Amendment Act 1997**

14 Uncompleted proceedings

An amendment made by Schedule 1 [1], [2], [3], [4], [5], [6], [7], [8], [9], [11], [12], [14], [15] or [16] to the *Jury Amendment Act 1997* does not apply in respect of a trial or coronial inquest commenced but not completed before the commencement of the amendment.

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Schedule 2 Amendment of Criminal Procedure Act 1986

Schedule 2 Amendment of Criminal Procedure Act 1986

(Section 4)

Part 9A, Table 1

Insert after item 20:

20A Jury Act 1977

An offence under section 68A of the *Jury Act 1977*.

[Minister's second reading speech made in—
Legislative Council on 9 April 1997
Legislative Assembly on 22 May 1997]