



New South Wales

# Jury Amendment Bill 2010

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Jury Act 1977* (*the Act*):

- (a) to change the categories of persons disqualified from jury service or ineligible to undertake jury service, and
- (b) to remove certain exemptions as of right from jury service and enable, instead, a person to apply for an exemption from jury service for “good cause” (a term which is defined), and
- (c) to improve the administrative provisions governing the way in which the sheriff, courts and coroners determine persons who are excluded from jury service or are exempt from jury service, and
- (d) to increase the workplace protections for employees who are required to attend for jury service, and
- (e) to enable the sheriff to request certain information from the Commissioner of Police and the Roads and Traffic Authority in relation to persons being considered for inclusion on a jury roll.

The Bill also amends the *Jury Regulation 2004 (the Regulation)*:

- (a) to enable a person to be included on more than one jury roll, and
- (b) to revise the allowances payable to persons for attendance for jury service.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

## Schedule 1 Amendment of Jury Act 1977 No 18

### Changes in categories of persons disqualified from or ineligible for jury service or able to claim exemptions from jury service

Currently, Schedule 1 to the Act lists categories of persons who are disqualified from jury service and Schedule 2 to the Act lists categories of persons who are ineligible for jury service. The amendments replace the concept of disqualification from jury service and ineligibility for jury service with the concept of exclusion from jury service.

**Schedule 1 [22]** omits Schedules 1 and 2 to the Act and replaces those Schedules with a single Schedule which contains categories of persons who are excluded from jury service.

The changes to the categories of persons who will be excluded from jury service include the following:

- (a) persons who have been found guilty of certain serious offences will be excluded from jury service for life,
- (b) persons who have been imprisoned or detained for committing other offences will be excluded from jury service for a specified number of years depending on the length of the period of detention and whether the offences were committed as adults or juveniles,
- (c) persons awaiting trial or sentencing for an offence or the determination of an appeal in relation to an offence, or subject to certain orders, will be excluded from jury service,
- (d) persons will be excluded from jury service during any period of 12 months or more in which they are disqualified from holding a driver licence,
- (e) Australian lawyers will no longer be excluded from jury service,
- (f) the holders of certain specified offices or certain positions will be excluded from jury service but, with certain exceptions, only while holding the office or position and for 3 years afterwards,

- (g) a person who is unable to read or understand English will no longer be excluded from jury service (but will instead be eligible for an exemption for good cause under proposed section 14),
- (h) a person who is unable, because of sickness, infirmity or disability, to discharge the duties of a juror will no longer be excluded from jury service (but will instead be eligible for a permanent exemption or exemption for good cause under proposed section 14 depending on the nature of the sickness, infirmity or disability),
- (i) a person who is an undischarged bankrupt will be excluded from jury service.

**Schedule 1 [23]** omits Schedule 3 to the Act which contains the categories of persons who have a right to claim an exemption from jury service and inserts a new Schedule 2 which contains a revised list of those categories. The following current categories of exemptions have been excluded from the new Schedule, but persons within those categories will be able to apply for an exemption for good cause under proposed section 14:

- (a) mining managers and under-managers of mines,
- (b) persons who are at least 70 years old,
- (c) pregnant women,
- (d) a person who has the care, custody and control of children under the age of 18 years (other than children who have ceased attending school), and who, if exempted, would be the only person exempt under this item in respect of those children,
- (e) a person who resides with, and has full-time care of, a person who is sick, infirm or disabled.

**Schedule 1 [3]** substitutes sections 13–15 of the Act dealing with the procedure for including persons on a supplementary jury roll.

**Proposed section 13** requires the sheriff (as is currently the case) to send a notice to each person that the sheriff intends to include on a supplementary jury roll informing the person of that intention and the various categories of exclusion and exemption from jury service. The notice also includes a questionnaire designed to elicit information as to whether the person is excluded from jury service or has a claim for exemption from jury service.

**Proposed section 14** provides for the manner in which a person may claim to be excluded or exempt from jury service as of right or may apply to the sheriff for some other exemption.

The proposed section enables a person to request a permanent exemption from jury service on the grounds that he or she has a permanent mental or physical impairment that results in jury service being incompatible with the person's good health or that otherwise renders the person unable to perform jury service.

The proposed section also enables a person to request an exemption from jury service for the whole or part of the period for which the person is liable to be summoned for jury service by showing good cause. The sheriff may exempt a person from jury

service for good cause whether or not a request for exemption has been made. (See proposed section 14A as to what constitutes “good cause”.)

Any such claim or application may be made in response to a notice under proposed section 13, or in writing in an approved form to the sheriff, at any time before the person is actually in attendance at a trial or coronial inquest pursuant to a summons for jury service.

**Proposed section 14A** sets out what generally constitutes good cause to be exempted or excused from jury service, being grounds involving hardship, serious inconvenience, disability or conflict of interest, or some other reason that would affect the person’s ability to perform the functions of a juror.

**Proposed section 14B** enables a person to apply to the sheriff for deferral of jury service.

**Proposed section 14C** enables the sheriff to require verification by statutory declaration or the provision of other evidence of claims, requests or applications in connection with exclusions and exemptions from, and deferrals of, jury service.

**Proposed section 14D** imposes a general duty on the sheriff to update the information on jurors contained in jury rolls and supplementary jury rolls.

**Proposed section 15** re-enacts the current section 15 of the Act dealing with appeals to the Local Court from decisions of the sheriff in connection with exemptions from jury service as a consequence of the removal of the concepts of disqualification from, and ineligibility for, jury service.

**Schedule 1 [1], [2], [4], [5], [6], [9], [10], [11], [12], [18], [19] and [21]** contain consequential amendments.

### **Employment related amendments**

**Schedule 1 [13] and [15]** amend section 69 of the Act to increase the penalties for an offence against that section from 20 penalty units to 200 penalty units (in the case of a corporation) or 50 penalty units or imprisonment for 12 months, or both (in the case of an individual). That section contains offences relating to dismissing a person from his or her employment, injuring a person in his or her employment or altering a person’s position to his or her prejudice because the person has been summoned for jury service.

**Schedule 1 [14]** amends section 69 of the Act to make it clear that it extends to certain casual employees.

**Schedule 1 [16]** inserts proposed section 69A into the Act to create offences to prevent employers requiring employees to use their leave if they are summoned for jury service or to work extra time to make up for work time lost while attending for jury service.

### **Powers of sheriff to request certain information**

**Schedule 1 [20]** amends section 75A of the Act to enable the sheriff to obtain information from the Commissioner of Police relating to the criminal record of a person proposed to be summoned for jury service to determine whether the person is

excluded from jury service. The amendment also enables the sheriff to obtain information from the Chief Executive of the Roads and Traffic Authority for the purpose of checking the relevant details of a person proposed to be summoned for jury service.

### **Miscellaneous**

**Schedule 1 [7]** amends section 38 of the Act to enable a person making a request for an exemption from jury service to a court at a trial or a coroner at a coronial inquest to make the request in writing if it relates to the person's health or may cause embarrassment or distress if made public.

**Schedule 1 [8]** removes an unnecessary word by way of statute law revision.

**Schedule 1 [11]** substitutes section 62 of the Act to include as an offence the provision of false or misleading information to the sheriff in connection with a claim for jury allowance and to increase the penalty for existing offences of providing false or misleading information to the sheriff from 10 penalty units to 50 penalty units (currently, \$5,500).

**Schedule 1 [17]** amends section 72 as a consequence of the amendments to the Regulation in Schedule 2 relating to allowances to persons attending for jury service.

**Schedule 1 [24] and [25]** amend Schedule 8 to the Act to provide for savings and transitional provisions consequent on the enactment of the proposed Act.

## **Schedule 2      Amendment of Jury Regulation 2004**

**Schedule 2 [1]** amends clause 3 of the Regulation to enable a person to be included in more than one jury district and, as a result, on more than one jury roll.

**Schedule 2 [2] and [3]** substitute clause 5 and Schedule 1 to the Regulation to revise the allowances payable to persons who are required to attend for jury service. The attendance allowance is the same for all persons for the first 10 days of attendance and then is increased from day 11 onwards for persons who are employed.



First print



New South Wales

# Jury Amendment Bill 2010

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New South Wales

## Jury Amendment Bill 2010

No. , 2010

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### **A Bill for**

An Act to amend the *Jury Act 1977* in relation to the eligibility and selection of jurors; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Jury Amendment Act 2010</i> .	3
<b>2 Commencement</b>	4
This Act commences on a day or days to be appointed by proclamation.	5

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<b>Schedule 1</b>	<b>Amendment of Jury Act 1977 No 18</b>	1
[1]	<b>Part 2</b>	2
	Omit the Part. Insert instead:	3
	<b>Part 2 Qualifications and liability for jury service</b>	4
	<b>5 Persons qualified and liable to serve as jurors</b>	5
	Subject to this Act, every person who is enrolled as an elector for the Legislative Assembly of New South Wales pursuant to the <i>Parliamentary Electorates and Elections Act 1912</i> is qualified and liable to serve as a juror.	6 7 8 9
	<b>6 Persons excluded from jury service</b>	10
	A person is not qualified or liable to serve as a juror during any period that the person is excluded from jury service by Schedule 1.	11 12 13
	<b>7 Persons entitled to be exempted from serving as jurors</b>	14
	A person referred to in Schedule 2 is entitled as of right to be exempted from serving as a juror if that person claims exemption in accordance with this Act.	15 16 17
	<b>Note.</b> Section 14 deals with the making of claims for exemptions under Schedule 2 and provides for the granting of other exemptions from jury service.	18 19 20
	<b>8 Amendment of Schedule 1 or 2</b>	21
	The regulations may amend Schedule 1 or 2 by adding any matter to, deleting any matter from or altering any matter in the Schedule.	22 23 24
[2]	<b>Section 12 Random selection of prospective jurors</b>	25
	Omit section 12 (3). Insert instead:	26
	(3) The estimate is to allow for persons who are excluded from jury service and for persons who will duly claim exemption from jury service.	27 28 29

<b>[3] Sections 13–15</b>	1
Omit the sections. Insert instead:	2
<b>13 Persons included on supplementary jury roll to be notified</b>	3
(1) The sheriff must send to each person whose name is included on a supplementary jury roll for a district, and who does not appear to the sheriff to be excluded or exempt from jury service, a notice:	4
(a) informing the person that it is proposed to include the person on the jury roll, and	5
(b) describing the classes of persons who are excluded from jury service by Schedule 1 and who are entitled as of right to be exempted from jury service under Schedule 2, and	6
(c) informing the person that a claim for permanent exemption may be made on the grounds referred to in section 14 (2) or a claim for exemption on showing good cause may be made under section 14 (3), and	7
(d) containing a questionnaire that is required to be completed by the person if:	8
(i) the person is excluded from jury service or claims exemption from jury service, or	9
(ii) the particulars of the person appearing on the questionnaire have changed, or	10
(iii) the person is otherwise required by the sheriff in the notice to complete the questionnaire, and	11
(e) requiring the person, if required to complete the questionnaire, to complete it and return it to the sheriff, within the time specified in the notice.	12
(2) Without limiting the matters that may be included in any such questionnaire, it may include questions as to whether the person has a physical disability that would require some form of assistance or aid to be rendered to the person to enable the person to discharge the duties of a juror.	13
<b>14 Claims for exclusion or exemption from jury service made to sheriff</b>	14
(1) A person may claim to be excluded from jury service by Schedule 1 or exempted from jury service as of right under Schedule 2.	15
(2) A person may request the sheriff to exempt him or her permanently from jury service because the person suffers from a permanent mental or physical impairment that results in jury	16

	service being incompatible with the person’s good health or that otherwise renders the person unable to perform jury service.	1 2
(3)	A person may request the sheriff to exempt him or her from jury service for the whole or part of any period during which the person may be summoned for jury service by showing good cause for the exemption.	3 4 5 6
	<b>Note.</b> Section 14A generally defines what constitutes good cause for the purposes of an exemption.	7 8
(4)	The sheriff may exempt a person from jury service whether or not on the request of the person if the sheriff is of the opinion that there is good cause for the exemption.	9 10 11
(5)	A claim or request to be excluded or exempted from jury service may be made:	12 13
	(a) in response to a notice sent to the person under section 13, or	14 15
	(b) by application made in writing to the sheriff and in a form approved by the sheriff.	16 17
(6)	A person who has been summoned to attend at a trial or coronial inquest may not be excluded or exempted from jury service under this section after the commencement of the trial or inquest.	18 19 20
	<b>Note.</b> Section 38 enables a person summoned to attend at a court or coronial inquest to be excused from attending by the court or coroner concerned.	21 22 23
(7)	If a person claims or requests to be excluded or exempted from jury service in accordance with this section and the sheriff determines that the person is not excluded or exempted, the sheriff must notify the person in writing of the sheriff’s determination and of the person’s right to appeal to the Local Court against the determination.	24 25 26 27 28 29
<b>14A</b>	<b>What constitutes good cause for the purposes of an exemption from jury service</b>	30 31
	For the purposes of this Act, a person has good cause to be exempted or excused from jury service if:	32 33
	(a) jury service would cause undue hardship or serious inconvenience to the person, the person’s family or the public, or	34 35 36
	(b) some disability associated with that person would render him or her, without reasonable accommodation, unsuitable for or incapable of effectively serving as a juror, or	37 38 39

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(c)	a conflict of interest or some other knowledge, acquaintance or friendship exists that may result in the perception of a lack of impartiality in the juror, or	1 2 3
(d)	there is some other reason that would affect the person's ability to perform the functions of a juror.	4 5
<b>14B</b>	<b>Deferral of jury service</b>	6
(1)	A person who is required by summons to attend for jury service may apply in writing to the sheriff for deferral of jury service to a later time within the period during which the person may be summoned to attend for jury service.	7 8 9 10
(2)	On receiving the application, the sheriff may defer the person's jury service to a later time within that period.	11 12
(3)	If the sheriff decides to refuse the application, the sheriff must inform the applicant in writing of the decision.	13 14
(4)	The sheriff may not defer the jury service of a person who has been summoned to attend at a trial or coronial inquest if the trial or inquest has commenced.	15 16 17
<b>14C</b>	<b>Sheriff may require information and verification of information</b>	18
(1)	The sheriff may require a person who claims or requests to be excluded or exempted from jury service, or applies for deferral of jury service, to provide evidence to the satisfaction of the sheriff to support the claim, request or application.	19 20 21 22
(2)	The sheriff may require any of the following information to be verified by statutory declaration:	23 24
(a)	information given in a questionnaire under section 13,	25
(b)	information provided to the sheriff for the purpose of determining whether or not a person is excluded or is to be exempted from jury service,	26 27 28
(c)	information provided to the sheriff for the purpose of determining whether or not a person's jury service should be deferred.	29 30 31
(3)	Proceedings may be taken for an offence against this Act or the <i>Oaths Act 1900</i> 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.	32 33 34 35 36 37

<b>14D</b>	<b>Sheriff to amend supplementary jury roll and jury roll to delete persons excluded or exempt from jury service</b>	1 2
	The sheriff is to amend a supplementary jury roll or jury roll:	3
	(a) by deleting the name and particulars of a person if:	4
	(i) the sheriff determines that the person is excluded from jury service, or	5 6
	(ii) the person has claimed exemption in accordance with this Act and has been exempted from jury service for the whole of the period during which the person may otherwise be summoned to attend for jury service, or	7 8 9 10 11
	(iii) the person is dead or no longer resides in the jury district to which the roll relates, or	12 13
	(b) to indicate that a person on the roll has been exempted from jury service for part of the period during which the person may be summoned to attend for jury service, or	14 15 16
	(c) to indicate that the jury service of a person on the roll has been deferred to a specified date in the period during which the person may be summoned to attend for jury service, or	17 18 19
	(d) to correct the particulars relating to any person on the roll.	20
<b>15</b>	<b>Appeal against being included on jury roll or being summoned from supplementary jury roll</b>	21 22
	(1) A person aggrieved by a determination of the sheriff notified to the person under section 14 may appeal to the Local Court by lodging a notice of appeal with the registrar of that court within 21 days after being so notified.	23 24 25 26
	(2) However, 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):	27 28 29 30
	(a) to the judge or coroner having the conduct of the trial or coronial inquest concerned, or	31 32
	(b) to such other judge or coroner, or to such associate Judge, magistrate or registrar of a court, as may be specified in the notice.	33 34 35
	(3) The court or person to whom an appeal is made under this section must hear and determine the appeal.	36 37

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(4)	The court or person to whom the appeal is made must allow the appeal and order the sheriff to amend the jury roll or supplementary jury roll appropriately if satisfied that the appellant:	1 2 3 4
(a)	is excluded from jury service, or	5
(b)	is entitled as of right to be exempted from jury service under Schedule 2 and has duly claimed exemption, or	6 7
(c)	should be exempted from jury service on a ground referred to in section 14 (2) or (3).	8 9
(5)	If the court or person to whom the appeal is made is satisfied that the appellant, having been summoned for jury service, has good cause to be excused from attending at the relevant court or inquest, the court or person must excuse the appellant from attendance.	10 11 12 13 14
(6)	In any case not covered by subsection (4) or (5), the court or person to whom the appeal is made must disallow the appeal.	15 16
(7)	A decision under this section is final and conclusive and is to be given effect by the sheriff.	17 18
(8)	A person who has lodged an appeal under this section that 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.	19 20 21 22
<b>[4]</b>	<b>Section 15A Periodic updating of jury roll</b>	23
	Omit “section 14” from section 15A (1). Insert instead “section 14D”.	24
<b>[5]</b>	<b>Section 37 Certain persons and jurors not required to disclose identity</b>	25
	Omit “section 38 (1) (b)” from section 37 (1). Insert instead “section 38 (1)”.	26
<b>[6]</b>	<b>Sections 18 and 18A</b>	27
	Omit the sections.	28
<b>[7]</b>	<b>Section 38 Person summoned for jury service may be excused at trial or inquest</b>	29 30
	Omit section 38 (1)–(6). Insert instead:	31
(1)	A court or coroner conducting a trial or a coronial inquest may excuse a person for good cause from attending in pursuance of a summons at any time on or after the day on which the person’s attendance is required.	32 33 34 35
	<b>Note.</b> Section 14A generally defines what constitutes good cause for the purposes of excusing a person from jury service.	36 37

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(2)	A person may be excused under subsection (1):	1
(a)	on the person’s request or on the court’s or coroner’s own motion, and	2 3
(b)	even if the sheriff has previously determined not to excuse the person for that cause.	4 5
(3)	A person who makes a request to be excused under subsection (1) may make the request in writing to the court or coroner if the circumstances of the request relate to the person’s health or may cause embarrassment or distress if made public.	6 7 8 9
(4)	A person may be excused under subsection (1) for the whole or any part of the time that the person’s attendance is required.	10 11
(5)	A court or coroner may require a person to make any request to be excused under subsection (1) on oath unless the request is made in writing in accordance with subsection (3).	12 13 14
(6)	If a person is excused under subsection (1) or by the sheriff in accordance with section 14 after the issue of the relevant summons, 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.	15 16 17 18 19
<b>[8]</b>	<b>Section 48 Balloting for jury in criminal proceedings</b>	<b>20</b>
	Omit “appear” where secondly occurring in section 48 (2) (b).	21
<b>[9]</b>	<b>Section 53A Mandatory discharge of individual juror</b>	<b>22</b>
	Omit section 53A (1). Insert instead:	23
(1)	The court or coroner must discharge a juror if, in the course of any trial or coronial inquest:	24 25
(a)	it is found that the juror was mistakenly or irregularly empanelled, whether because the juror was excluded from jury service or was otherwise not returned and selected in accordance with this Act, or	26 27 28 29
(b)	the juror has become excluded from jury service, or	30
(c)	the juror has engaged in misconduct in relation to the trial or coronial inquest.	31 32
<b>[10]</b>	<b>Section 53B Discretionary discharge of individual juror</b>	<b>33</b>
	Omit section 53B (a) and the note to that paragraph. Insert instead:	34
(a)	the juror (though able to discharge the duties of a juror) has, in the judge’s or coroner’s opinion, become so ill, infirm or incapacitated as to be likely to become unable to	35 36 37

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	serve as a juror before the jury delivers their verdict or has become so ill as to be a health risk to other jurors or persons present at the trial or coronial inquest, or	1 2 3
<b>[11]</b>	<b>Section 62</b>	4
	Omit the section. Insert instead:	5
	<b>62 Supply of false or misleading information to sheriff</b>	6
	(1) A person must not provide any information or produce any document to the sheriff that the person knows to be false or misleading in a material respect:	7 8 9
	(a) when claiming to be excluded from jury service under Schedule 1 or to be entitled as of right to be exempted from jury service under Schedule 2, or	10 11 12
	(b) when requesting an exemption from jury service under section 14, or	13 14
	(c) when applying for deferral of jury service under section 14B, or	15 16
	(d) when claiming otherwise that the person is not or will not be available for jury service, or	17 18
	(e) in connection with a claim for payment under section 72.	19
	(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.	20 21 22 23
	Maximum penalty: 50 penalty units.	24
<b>[12]</b>	<b>Section 62A</b>	25
	Omit the section. Insert instead:	26
	<b>62A Failure to inform sheriff of exclusion from jury service</b>	27
	A person summoned to attend at a court or coronial inquest who knows that he or she is excluded from jury service must, before the day on which the person's attendance is required, inform the sheriff of that fact and the reason why the person is excluded from jury service.	28 29 30 31 32
	Maximum penalty: 10 penalty units.	33

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<b>[13] Section 69 Unlawful dismissal of or prejudice to employees summoned for jury service</b>	1
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Omit “Penalty: 20 penalty units.” wherever occurring in section 69 (1), (5) and (7).	3
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<b>[14] Section 69 (10)</b>	5
Omit the subsection. Insert instead:	6
(10) In this section:	7
<i>employee</i> means:	8
(a) a full-time employee, or	9
(b) an employee who, as a regular casual employee (or partly as a regular casual employee and partly as a full-time or part-time employee), has worked with the employer for at least 12 months on an unbroken, regular and systematic basis (including any period of authorised leave or absence).	10
	11
	12
	13
	14
	15
<i>employer</i> includes a person acting on behalf of the employer.	16
<b>[15] Section 69</b>	17
Insert at the end of the section:	18
Maximum penalty: 200 penalty units (in the case of a corporation) or 50 penalty units or imprisonment for 12 months, or both (in the case of an individual).	19
	20
	21
<b>[16] Section 69A</b>	22
Insert after section 69:	23
<b>69A Other offences relating to employment conditions of jurors</b>	24
(1) An employer must not require an employee to use any leave to which the employee is entitled for the purpose of complying with a summons to serve as a juror.	25
	26
	27
(2) Subsection (1) does not prevent an employee from requesting to use any leave to which he or she is entitled for the purpose of complying with a summons to serve as a juror, or an employer from granting any such request.	28
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	30
	31
(3) An employer must not require an employee:	32
(a) to carry out any work on any day on which the employee is serving as a juror, or	33
	34

(b)	to undertake any additional hours of work to compensate for work time lost by the employee while serving as a juror.	1 2 3
(4)	Subsection (3) does not prevent an employer from requiring an employee who is empanelled as a juror to carry out work during normal working hours on any day if the jury of which the employee is a member is not required to attend at the relevant court or coronial inquest on that day.	4 5 6 7 8
(5)	In this section: <i>employee</i> means:	9 10
(a)	a full-time employee, or	11
(b)	an employee who, as a regular casual employee (or partly as a regular casual employee and partly as a full-time or part-time employee), has worked with the employer for at least 12 months on an unbroken, regular and systematic basis (including any period of authorised leave or absence).	12 13 14 15 16 17
	<i>employer</i> includes a person acting on behalf of the employer.	18
	<i>normal working hours</i> means the period between 9 am and 6 pm on any day that is not a Saturday, Sunday or public holiday.	19 20
	Maximum penalty: 20 penalty units.	21
<b>[17]</b>	<b>Section 72 Payment for jury service</b>	22
	Omit section 72 (1) and (1A). Insert instead:	23
(1)	Subject to the regulations, a person is entitled to be paid an amount determined in accordance with the regulations for attendance for jury service at a court or coronial inquest.	24 25 26
(1A)	However, a person is not so entitled if the person attends for jury service in accordance with the summons and then successfully applies to be excused from attending further for jury service.	27 28 29
<b>[18]</b>	<b>Section 73 Verdict not invalidated in certain cases</b>	30
	Omit “disqualified from serving, or was ineligible to serve, as a juror” from section 73 (1) (a).	31 32
	Insert instead “excluded from jury service”.	33
<b>[19]</b>	<b>Section 73 (1) (a1)</b>	34
	Omit “disqualified from serving or ineligible to serve as a juror”.	35
	Insert instead “excluded from jury service”.	36

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<b>[20] Section 75A Information to be supplied to sheriff</b>	1
Insert after section 75A (2):	2
(2A) For the purpose of determining whether a person proposed to be summoned for jury service should be excluded from jury service, the sheriff may request the Commissioner of Police to provide information relating to the criminal record of the person.	3 4 5 6
(2B) For the purpose of checking the relevant details of a person proposed to be summoned for jury service, the sheriff may request the Chief Executive of the Roads and Traffic Authority to provide information relating to the person.	7 8 9 10
(2C) The Commissioner of Police or the Chief Executive of the Roads and Traffic Authority is required and permitted to comply with a request made by the sheriff under this section.	11 12 13
<b>[21] Section 75C Juror may report misconduct and other irregularities</b>	14
Omit paragraph (b) of the definition of <i>irregularity</i> in section 75C (4).	15
Insert instead:	16
(b) a juror becoming excluded from jury service,	17
<b>[22] Schedules 1 and 2</b>	18
Omit the Schedules. Insert instead:	19
 <b>Schedule 1      Persons excluded from jury service</b>	 20
	(Section 6) 21
<b>1 Persons having committed certain serious offences excluded from jury service for life</b>	22 23
(1) A person is excluded from jury service for life if the person has been found guilty or convicted of any of the following offences (wherever committed):	24 25 26
(a) an offence that, if committed in New South Wales, would be punishable with a maximum penalty of life imprisonment,	27 28 29
(b) an offence that involves a terrorist act within the meaning of the <i>Terrorism (Police Powers) Act 2002</i> ,	30 31
(c) an offence under Part 7 (Public justice offences) of the <i>Crimes Act 1900</i> ,	32 33
(d) a sexual offence within the meaning of section 7 of the <i>Criminal Records Act 1991</i> .	34 35

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(2)	Despite subclause (1), the exclusion referred to in that subclause ceases to apply if:	1
	(a) the relevant finding of guilt has been quashed or annulled or a pardon has been granted in respect of the finding of guilt, or	2
	(b) the relevant conviction has been quashed or annulled or a pardon has been granted in respect of the conviction.	3
		4
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<b>2</b>	<b>Persons serving or having served sentence of imprisonment</b>	<b>8</b>
(1)	This clause does not apply to an offence referred to in clause 1.	9
(2)	A person is excluded from jury service while serving a sentence of imprisonment (in New South Wales or elsewhere) for an offence committed when the person was of or above the age of 18 years.	10
		11
		12
		13
(3)	A person is excluded from jury service:	14
	(a) for 7 years after serving such a sentence or sentences of imprisonment of less than 3 consecutive months, or	15
		16
	(b) for 10 years after serving such a sentence or sentences of imprisonment of 3 consecutive months or more.	17
		18
(4)	Subclause (3) does not apply to:	19
	(a) a sentence of imprisonment that has been quashed or converted to a non-custodial sentence on appeal, or	20
		21
	(b) a sentence of imprisonment in respect of a conviction that has been quashed or annulled or for which a pardon has been granted, or	22
		23
		24
	(c) a sentence of imprisonment for failure to pay a fine.	25
(5)	In this clause, <b>sentence of imprisonment</b> includes the following:	26
	(a) a sentence of imprisonment the subject of a periodic detention order or home detention order under the <i>Crimes (Sentencing Procedure) Act 1999</i> ,	27
		28
		29
	(b) a suspended sentence of imprisonment,	30
	(c) compulsory drug treatment detention within the meaning of the <i>Crimes (Administration of Sentences) Act 1999</i> ,	31
		32
	(d) a sentence of imprisonment, a suspended sentence or detention of a similar nature to those referred to in paragraphs (a)–(c) served in another jurisdiction.	33
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(6)	In this clause, a reference to serving a sentence of imprisonment includes a reference to:	1
		2
(a)	being subject to a suspended sentence of imprisonment, or	3
(b)	being on probation or parole after serving part of a sentence of imprisonment.	4
		5
<b>3</b>	<b>Persons serving or having served period of detention</b>	<b>6</b>
(1)	This clause does not apply to an offence referred to in clause 1.	7
(2)	A person is excluded from jury service during any period in which the person is detained in a detention centre or other institution for juvenile offenders, or in a correctional centre, as a result of being found guilty of an offence committed when the person was under the age of 18 years.	8
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		12
(3)	A person who has been found guilty of an offence committed when the person was under the age of 18 years and as a result has been detained in a detention centre or other institution for juvenile offenders, or in a correctional centre, is excluded from jury service for 3 years after the expiry of the period of detention.	13
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		17
(4)	Subclause (3) does not apply to:	18
(a)	any period of detention converted to a non-custodial penalty on appeal or where the relevant order made on the finding of guilt has been quashed, or	19
		20
		21
(b)	a period of detention in respect of a finding of guilt that has been quashed or annulled or for which a pardon has been granted, or	22
		23
		24
(c)	a period of detention for failure to pay a fine.	25
(5)	In this clause, a reference to being detained in a detention centre or other institution for juvenile offenders includes a reference to:	26
		27
(a)	being subject to an order for such detention where the operation of the order is suspended, or	28
		29
(b)	being on probation or parole after serving part of a period of detention.	30
		31
<b>4</b>	<b>Persons subject to certain orders and disqualifications or in custody</b>	<b>32</b>
		<b>33</b>
(1)	A person is excluded from jury service during any period in which the person is bound by an order made in New South Wales or elsewhere pursuant to or consequent on a criminal charge or	34
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| conviction including the following orders so made, but not including an order for compensation:   | 1  |
|   | 2  |
| (a) an apprehended violence order within the meaning of the <i>Crimes (Domestic and Personal Violence) Act 2007</i> ,   | 3  |
|   | 4  |
| (b) a community service order or an order under section 9, 10 or 11 of the <i>Crimes (Sentencing Procedure) Act 1999</i> ,  | 5  |
|   | 6  |
| (c) an extended supervision order, a continuing detention order or an interim detention order under the <i>Crimes (Serious Sex Offenders) Act 2006</i> ,  | 7  |
|   | 8  |
|   | 9  |
| (d) a non-association order or place restriction order within the meaning of the <i>Crimes (Sentencing Procedure) Act 1999</i> ,  | 10 |
|   | 11 |
| (e) a prohibition order or contact prohibition order within the meaning of the <i>Child Protection (Offenders Prohibition Orders) Act 2004</i> ,  | 12 |
|   | 13 |
|   | 14 |
| (f) an order under section 7A of the <i>Drug Court Act 1998</i> ,   | 15 |
| (g) an intervention program order within the meaning of the <i>Crimes (Sentencing Procedure) Act 1999</i> .   | 16 |
|   | 17 |
| (2) A person is excluded from jury service during any period in which the person is:  | 18 |
|   | 19 |
| (a) a person in custody within the meaning of section 249 of the <i>Crimes (Administration of Sentences) Act 1999</i> , or  | 20 |
|   | 21 |
| (b) awaiting trial or sentence for an offence or the determination of appeal proceedings in relation to an offence for which the person has been found guilty or convicted, or  | 22 |
|   | 23 |
|   | 24 |
|   | 25 |
| (c) subject to a preventative detention order within the meaning of Part 2A of the <i>Terrorism (Police Powers) Act 2002</i> or a control order or interim control order under Division 104 of the <i>Criminal Code</i> of the Commonwealth, or | 26 |
|   | 27 |
|   | 28 |
|   | 29 |
|   | 30 |
| (d) a registrable person within the meaning of the <i>Child Protection (Offenders Registration) Act 2000</i> , or   | 31 |
|   | 32 |
| (e) bound by an undertaking to participate in the Program under the <i>Pre-Trial Diversion of Offenders Act 1985</i> , or   | 33 |
|   | 34 |
| (f) subject to a limiting term under the <i>Mental Health (Forensic Provisions) Act 1990</i> , or   | 35 |
|   | 36 |
| (g) detained in a hospital or other place under Division 6 of Part IB of the <i>Crimes Act 1914</i> of the Commonwealth.  | 37 |
|   | 38 |

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| (3)      | A person is excluded from jury service during any period of 12 months or more in which the person is disqualified from holding a driver licence.   | 1<br>2<br>3          |
| <b>5</b> | <b>Persons holding particular office</b>   | 4                    |
| (1)      | A person holding any of the following offices is excluded from jury service:   | 5<br>6               |
| (a)      | the Governor,  | 7                    |
| (b)      | a judicial officer (within the meaning of the <i>Judicial Officers Act 1986</i> ),   | 8<br>9               |
| (c)      | a coroner,   | 10                   |
| (d)      | a member of the Executive Council,   | 11                   |
| (e)      | a member of the Legislative Council or Legislative Assembly,   | 12<br>13             |
| (f)      | the Ombudsman, a Deputy Ombudsman or an Assistant Ombudsman,   | 14<br>15             |
| (g)      | a Crown Prosecutor,  | 16                   |
| (h)      | the Senior Public Defender, a Deputy Senior Public Defender or a Public Defender,  | 17<br>18             |
| (i)      | the Director of Public Prosecutions, a Deputy Director of Public Prosecutions or the Solicitor for Public Prosecutions,  | 19<br>20<br>21       |
| (j)      | the Solicitor General,   | 22                   |
| (k)      | the Crown Advocate,  | 23                   |
| (l)      | the Crown Solicitor.   | 24                   |
| (2)      | A person who held an office referred to in subclause (1) is also excluded from jury service for the period of 3 years after ceasing to hold that office.   | 25<br>26<br>27       |
| <b>6</b> | <b>Persons employed or engaged in certain occupations in the public sector</b>   | 28<br>29             |
| (1)      | A person who is an Australian lawyer or paralegal is excluded from jury service during any period in which he or she is employed or engaged in the public sector in the provision of legal services in criminal cases. | 30<br>31<br>32<br>33 |
| (2)      | A person is excluded from jury service during any period in which the person is employed or engaged as a member of staff in  | 34<br>35             |
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any of the following bodies, except if the person is employed or engaged as clerical, administrative or support staff:	1
(a) the Office of the Ombudsman,	2
(b) the Office of the Director of Public Prosecutions,	3
(c) the Crown Solicitor's Office.	4
(3) A person is excluded from jury service during any period in which he or she is employed or engaged in law enforcement or criminal investigation in any of the following bodies, except if the person is employed or engaged on a casual or voluntary basis or as clerical, administrative or support staff:	5
(a) the NSW Police Force,	6
(b) the Australian Federal Police,	7
(c) the NSW Crime Commission,	8
(d) the Australian Crime Commission,	9
(e) the Police Integrity Commission,	10
(f) the Independent Commission Against Corruption.	11
(4) A person who was employed or engaged as referred to in subclause (1), (2) or (3) is also excluded from jury service for the period of 3 years after ceasing to be so employed or engaged.	12
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<b>7 Persons having access to information about inmates and other detainees</b>	20
	21
(1) A person is excluded from jury service during any period in which he or she holds the position of a member, officer or employee of any of the following bodies but only if, as a result of holding that position, the person has direct access to inmates or information about inmates:	22
(a) Department of Justice and Attorney General,	23
(b) Department of Human Services,	24
(c) State Parole Authority,	25
(d) the Serious Offenders Review Council,	26
(e) the Probation and Parole Service,	27
(f) Justice Health,	28
(g) the Mental Health Review Tribunal.	29
(2) A person who held a position referred to in subclause (1) is also excluded from jury service for the period of 3 years after ceasing to hold that position.	30
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(3) In this clause, *inmate* has the same meaning as in the *Crimes (Administration of Sentences) Act 1999* and includes a person on remand and a person subject to control within the meaning of the *Children (Detention Centres) Act 1987*. 1  
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**8 Undischarged bankrupts** 5

A person is excluded from jury service for any period during which he or she is an undischarged bankrupt. 6  
7

**Note.** Other persons are ineligible for jury service because of the *Jury Exemption Act 1965* of the Commonwealth. 8  
9

**[23] Schedule 3** 10

Omit the Schedule. Insert instead: 11

**Schedule 2 Persons who have a right to claim exemption** 12  
13

(Section 7) 14

**1** Clergy. 15

**2** Vowed members of any religious order. 16

**3** Persons practising as dentists. 17

**4** Persons practising as pharmacists. 18

**5** Persons practising as medical practitioners. 19

**6** A person employed or engaged (except on a casual or voluntary basis) in the provision of fire, ambulance, rescue, or other emergency services, whether or not in the public sector. 20  
21  
22

**7** A person who: 23

(a) within the 3 years that end on the date of the person's claim for exemption, attended court in accordance with a summons and served as a juror, or 24  
25  
26

(b) within the 12 months that end on the date of the person's claim for exemption, attended court in accordance with a summons and who was prepared to, but did not, serve as a juror. 27  
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**8** A person who is entitled to be exempted under section 39 on account of previous lengthy jury service. 31  
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<b>[24] Schedule 8 Transitional and savings provisions</b>	1
Insert at the end of clause 1A (1):	2
<i>Jury Amendment Act 2010</i>	3
<b>[25] Schedule 8, Part 12</b>	4
Insert after Part 11:	5
<b>Part 12 Transitional and savings provisions consequent on enactment of Jury Amendment Act 2010</b>	6
	7
	8
<b>21 Application of amendments</b>	9
(1) In this clause, <i>amending Act</i> means the <i>Jury Amendment Act 2010</i> .	10
	11
(2) Subject to the regulations, an amendment made to a provision of this Act by the amending Act:	12
	13
(a) does not affect any juror empanelled before the commencement of the amendment or give rise to a right to challenge any such juror, and	14
	15
	16
(b) does not require any notice sent under section 13 before the commencement of the amendment to be sent again, and	17
	18
(c) does not prevent a person to whom such a notice was sent from claiming to be excluded from jury service under Schedule 1 as in force after the commencement of the amendment, and	19
	20
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	22
(d) does not prevent a person to whom such a notice was sent from claiming an exemption as of right under Schedule 3 as in force before the commencement of the amendment or from claiming or requesting an exemption under this Act as in force after that commencement, and	23
	24
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	27
(e) does not prevent a person to whom such a notice was sent from applying for deferral of jury service under section 14B as inserted by the amending Act, and	28
	29
	30
(f) does not affect the validity of any jury roll certified under section 16 before the commencement of the amendment, and	31
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	33
(g) does not affect the validity of any supplementary jury roll prepared before the commencement of the amendment.	34
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- (3) Without limiting clause 1A, regulations of a savings or transitional nature may be made for or with respect to the application of any provision of this Act that is amended by the amending Act. 1  
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<b>Schedule 2</b>	<b>Amendment of Jury Regulation 2004</b>	1
<b>[1] Clause 3 Jury districts</b>		2
Omit clause 3 (1) (a). Insert instead:		3
(a) the address of each person whose name appears on an electoral roll is included in at least one jury district, and		4 5
<b>[2] Clause 5</b>		6
Omit the clause. Insert instead:		7
<b>5 Payment for jury service</b>		8
(1) For the purposes of section 72 of the Act, if a person is entitled to be paid for attendance for jury service at a court or coronial inquest, the amount to be paid is to be calculated in accordance with this clause.		9 10 11 12
(2) The amount is to be calculated as the sum of the following:		13
(a) an attendance allowance calculated in accordance with the Table in Part 1 of Schedule 1,		14 15
(b) the travelling allowance calculated in accordance with Part 2 of Schedule 1,		16 17
(c) the refreshment allowance calculated in accordance with Part 3 of Schedule 1.		18 19
(3) A person who is employed at the time the person is in attendance for jury service is entitled to an attendance allowance only if:		20 21
(a) the person's full wage, salary or income is reduced during that time as a result of the jury service and then only to the extent of the reduction, or		22 23 24
(b) the person is not paid any of the wage, salary or income that the person would normally be entitled to during that time, or		25 26 27
(c) the person is required to reimburse his or her employer the amount of the jury allowance.		28 29
(4) The sheriff may require a person who claims or intends to claim a jury allowance to supply such information as the sheriff considers necessary to determine the amount of jury allowance, if any, to which the person is entitled.		30 31 32 33
<b>Note.</b> Section 62 of the Act makes it an offence to supply false or misleading information to the sheriff in connection with a claim for a jury allowance.		34 35 36

- (5) In this clause and Schedule 1, a reference to a person who is employed includes a reference to:
  - (a) a person who is a full-time, part-time or casual employee, and
  - (b) a person who is an independent contractor or a self-employed person.

**[3] Schedule 1** 7  
 Omit the Schedule. Insert instead: 8

**Schedule 1 Jury service allowances** 9

(Clause 5) 10

**Part 1 Attendance allowance** 11

Column 1	Column 2	Column 3
Period of attendance	Daily allowance for person who is not employed	Daily allowance for person who is employed
Attendance for less than 4 hours on day 1 if person not selected for jury service	Nil	Nil
Attendance for less than 4 hours on day 1 if person selected for jury service	\$50	\$50
Attendance for 4 hours or more on day 1 (whether or not person selected for jury service)	\$100	\$100
Attendance for days 2–10	\$100	\$100
Attendance for day 11 and onwards	\$100	\$225

**Part 2 Travelling allowance** 12

On each day that a person is in attendance for jury service, the person is entitled to be paid as follows for one journey each way between the place of 13  
 14

Jury Amendment Bill 2010

Schedule 2 Amendment of Jury Regulation 2004

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residence of that person, as shown on the jury roll, and the court or coronial inquest attended: 1  
2

(a) for a journey of not more than 14 kilometres—\$4.30 each way, 3

(b) for a journey of more than 14 kilometres but not more than 100 kilometres—30.70 cents per kilometre each way, 4  
5

(c) for a journey of 100 kilometres or more—\$30.70 each way. 6

**Part 3 Refreshment allowance** 7

If a person serving as a juror is released by the judge or coroner during a luncheon adjournment, the juror is entitled to be paid a refreshment allowance of \$6.60, but only if the juror does not accept any refreshment provided free of charge. 8  
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10  
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