

Passed by both Houses



New South Wales

Jury Amendment Bill 2004

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2004*



New South Wales

Jury Amendment Bill 2004

Act No , 2004

An Act to amend the *Jury Act 1977* to prohibit improper inquiries by jurors and the disclosure of information by jurors; and for other purposes.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Jury Amendment Act 2004*.

2 Commencement

This Act commences on the date of assent.

3 Amendment of Jury Act 1977 No 18

The *Jury Act 1977* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 55DA

Insert after section 55D:

55DA Examination of juror—juror making private inquiries about trial matters

- (1) A judge may examine a juror on oath to determine whether a juror has engaged in any conduct that may constitute a contravention of section 68C.
- (2) A juror is not excused from a requirement to give evidence on such an examination on the ground that the evidence may tend to prove that the juror has committed an offence against section 68C.
- (3) However, if the judge is satisfied, after the evidence has been given, that the evidence may tend to prove that the juror has committed an offence against section 68C, the judge is to cause the juror to be given a certificate under this section in respect of the evidence.
- (4) In any proceedings for an offence against section 68C, evidence given by a person in respect of which a certificate under this section has been given cannot be used against the person.

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

Omit section 68A (1). Insert instead:

- (1) A person must not solicit information from, or harass, a juror or former juror for the purpose of obtaining information about:
 - (a) the deliberations of a jury, or
 - (b) how a juror, or the jury, formed any opinion or conclusion in relation to an issue arising in a trial or coronial inquest.

Maximum penalty on indictment: imprisonment for 7 years.

[3] Section 68A (4A)

Insert after section 68A (4):

- (4A) Subsection (1) does not prohibit a juror from soliciting information from another member of the jury during a trial or coronial inquest.

[4] Section 68B Disclosure of information by jurors etc

Omit section 68B (1) and (2). Insert instead:

- (1) A juror must not, except with the consent of or at the request of the judge or coroner, wilfully disclose to any person during the trial or coronial inquest information about:
 - (a) the deliberations of the jury, or
 - (b) how a juror, or the jury, formed any opinion or conclusion in relation to an issue arising in the trial or coronial inquest.

Maximum penalty: 20 penalty units.

- (2) A person (including a juror or former juror) must not, for a fee, gain or reward, disclose or offer to disclose to any person information about:
 - (a) the deliberations of a jury, or
 - (b) how a juror, or a jury, formed any opinion or conclusion in relation to an issue arising in a trial or coronial inquest.

Maximum penalty: 50 penalty units.

[5] Section 68B (4)

Insert after section 68B (3):

- (4) Subsection (1) does not prohibit a juror from disclosing information to another member of the jury during a trial or coronial inquest.

[6] Section 68C

Insert after section 68B:

68C Inquiries by juror about trial matters prohibited

- (1) A juror for the trial of any criminal proceedings must not make an inquiry for the purpose of obtaining information about the accused, or any matters relevant to the trial, except in the proper exercise of his or her functions as a juror.

Maximum penalty: 50 penalty units or imprisonment for 2 years, or both.

- (2) This section applies in respect of a juror from the time the juror is sworn in as a juror and until the juror, or the jury of which the juror is a member, is discharged by the court having conduct of the proceedings.

- (3) This section does not prohibit a juror:
 - (a) from making an inquiry of the court, or of another member of the jury, in the proper exercise of his or her functions as a juror, or
 - (b) from making an inquiry authorised by the court.
- (4) Anything done by a juror in contravention of a direction given to the jury by the judge in the criminal proceedings is not a proper exercise by the juror of his or her functions as a juror.
- (5) For the purpose of this section, ***making an inquiry*** includes the following:
 - (a) asking a question of any person,
 - (b) conducting any research, for example, by searching an electronic database for information (such as by using the Internet),
 - (c) viewing or inspecting any place or object,
 - (d) conducting an experiment,
 - (e) causing someone else to make an inquiry.

[7] Section 73A

Insert after section 73:

73A Investigation by sheriff of jury irregularities

- (1) If there is reason to suspect that the verdict of a jury in a trial of any criminal proceedings may be, or may have been, affected because of improper conduct by a member or members of the jury, the sheriff may, with the consent of or at the request of the Supreme Court or District Court, investigate the matter and report to the court on the outcome of the investigation.
- (2) Section 68A (1) does not prohibit the sheriff from soliciting information from a juror or former juror for the purpose of conducting such an investigation.
- (3) Section 68B (1) does not prohibit a juror from disclosing information to the sheriff in connection with such an investigation.
- (4) Section 139 (2) of the *Evidence Act 1995* applies in relation to any questioning conducted by the sheriff for the purpose of an investigation under this section (in the same way as it applies to official questioning by an investigating official).

- (5) The sheriff may, despite sections 29 and 68, include a juror's name or other matter that identifies a juror in a report to the court under this section.

[8] Schedule 8 Transitional and savings provisions

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

Jury Amendment Act 2004

[9] Schedule 8, Part 8

Insert after Part 7:

**Part 8 Transitional and savings provisions
consequent on enactment of Jury
Amendment Act 2004**

17 Application of amendments

- (1) The amendments made to sections 68A and 68B by the *Jury Amendment Act 2004* do not apply in respect of a trial or coronial inquest commenced before the commencement of that Act.
- (2) Sections 68C and 73A, as inserted by the *Jury Amendment Act 2004*, do not apply in respect of a trial commenced before the commencement of that Act.