

Passed by both Houses



New South Wales

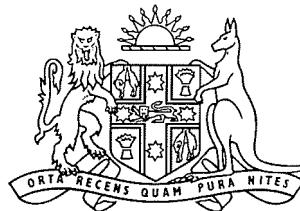
Jury Amendment (Verdicts) Bill 2006

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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, , 2006*



New South Wales

Jury Amendment (Verdicts) Bill 2006

Act No , 2006

An Act to amend the *Jury Act 1977* to permit majority jury verdicts in criminal proceedings.

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 (Verdicts) Act 2006*.

2 Commencement

This Act commences on a day 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 Repeal of Act

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendments

(Section 3)

[1] Sections 55F and 56

Omit section 56. Insert instead:

55F Majority verdicts in criminal proceedings

- (1) This section applies in respect of a verdict in criminal proceedings where the jury consists of not less than 11 persons.
- (2) A majority verdict may be returned by a jury in criminal proceedings if:
 - (a) a unanimous verdict has not been reached after the jurors have deliberated for a period of time (being not less than 8 hours) that the court considers reasonable having regard to the nature and complexity of the criminal proceedings, and
 - (b) the court is satisfied, after examination on oath of one or more of the jurors, that it is unlikely that the jurors will reach a unanimous verdict after further deliberation.
- (3) In this section:
majority verdict means:
 - (a) a verdict agreed to by 11 jurors where the jury consists of 12 persons at the time the verdict is returned, or
 - (b) a verdict agreed to by 10 jurors where the jury consists of 11 persons at the time the verdict is returned.
unanimous verdict means a verdict agreed to by all members of the jury.
- (4) A verdict that the accused is guilty of an offence against a law of the Commonwealth must be unanimous.
- (5) This section extends to any alternative verdict that is available to a jury at law.

56 Discharge of jury that disagree in criminal proceedings

- (1) Where a jury in criminal proceedings has retired, and the jury consists of 11 or 12 persons, the court in which the proceedings are being tried may discharge the jury if it finds, after examination on oath of one or more of the jurors, that it is unlikely that the jurors will reach a unanimous verdict or a majority verdict under section 55F.

Jury Amendment (Verdicts) Bill 2006

Schedule 1 Amendments

- (2) Where a jury in criminal proceedings has retired, and the jury consists of 11 or 12 persons, the court in which the proceedings are being tried may not discharge the jury under this section if it finds, after examination on oath of one or more of the jurors, that it is likely that the jurors will reach a majority verdict under section 55F.
- (3) Where a jury in criminal proceedings has retired, and the jury consists of 10 persons or less, the court in which the proceedings are being tried may discharge the jury if it finds, after examination on oath of one or more of the jurors, that it is unlikely that the jurors will reach a unanimous verdict.

[2] Section 80

Insert after section 79:

80 Review of majority verdict amendments

- (1) The Minister is to review the operation of the amendments made to this Act by the *Jury Amendment (Verdicts) Act 2006* to determine whether the policy objectives of those amendments remain valid and whether the terms of the amendments remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the commencement of the *Jury Amendment (Verdicts) Act 2006*.
- (3) A report of the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

[3] Schedule 8 Transitional and savings provisions

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

Jury Amendment (Verdicts) Act 2006

[4] Schedule 8, Part 9

Insert after Part 8:

Part 9 Transitional and savings provisions consequent on enactment of Jury Amendment (Verdicts) Act 2006

18 Application of majority verdict amendments

- (1) The amendments made to this Act by the *Jury Amendment (Verdicts) Act 2006* apply to criminal proceedings only if the jury is empanelled after the commencement of those amendments.
- (2) Despite subclause (1), those amendments do not apply in criminal proceedings where the jury is empanelled after the commencement of those amendments (*current offence proceedings*) if:
 - (a) in earlier criminal proceedings against the accused, in relation to an offence or conduct that occurred on the same occasion as the occasion to which the current offence proceedings relate:
 - (i) the jury was discharged because the jurors could not reach a verdict, or
 - (ii) a decision in those proceedings was set aside on appeal and a retrial ordered, or
 - (iii) the trial was aborted, and
 - (b) the jury was empanelled in those earlier proceedings before the commencement of those amendments.