

[Act 1997 No 15]



Jury Amendment Bill 1997

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to provide that jurors or prospective jurors:
 - are to be addressed during proceedings by the identification number allocated to them so that their anonymity is maintained, and
 - are not required during those proceedings to give their names or any other details that may identify them (unless the person requesting the information is the sheriff),
 - (b) to enable prospective jurors to be informed of the nature of the proceedings and of the identities of persons involved in the proceedings (eg the accused and witnesses for the prosecution in a criminal trial) so that those jurors who feel that they are unable to give an impartial judgment in the proceedings can seek to be excused,
 - (c) to repeal the provision that allows for the inspection of jury panels containing the names of prospective jurors in civil trials,
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- (d) in relation to the offence of soliciting information from or harassing a juror or former juror:
- to omit the limitation that the information must be solicited for the purposes of publication or broadcasting, and
 - to increase the maximum penalty for the offence to 7 years imprisonment (currently the maximum penalty for the offence is \$5000 in the case of a corporation and \$2000 in any other case),
- (e) to make minor consequential amendments.

Outline of provisions

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be proclaimed.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the *Jury Act 1977*.

Clause 4 is a formal provision that gives effect to the Schedule containing a consequential amendment to the *Criminal Procedure Act 1986*.

Schedule 1 Amendment of Jury Act 1977

Schedule 1 [2] inserts proposed section 29 which provides for the allocation of identification numbers to jurors summoned to serve on a jury.

The jurors are to be informed of their identification number when they first attend for the purposes of a trial, coronial inquest or coronial inquiry in response to a summons for jury service (the *Jury Act 1977* defines a *coronial inquest* to include a coronial inquiry). The jurors are to be addressed or referred to by their identification number during the relevant proceedings.

Regulations may be made in respect of matters relating to identification numbers (eg the way in which those numbers are allocated). **Schedule 1 [1]** inserts a definition of *identification number* in section 4.

Schedule 1 [3] inserts proposed section 37 which provides that a person who is summoned for jury service is not required, at any time the person attends for the purposes of the proceedings, to disclose the person's name or any other matter that identifies or is likely to lead to the identification of the person. The proposed section does not prevent the sheriff from requiring a person so summoned to provide such information to the sheriff.

Schedule 1 [4] and **[5]** amend section 38 (7) to require prospective jurors in a criminal trial to be informed of the details of the proceedings (including the names of the prosecution witnesses) so that they can ask to be excused if they feel that they are unable to give an impartial judgment in the proceedings. At present, the section gives the trial judge a discretion as to whether that information is to be provided to jurors.

Schedule 1 [6] amends section 38 to extend the requirement for prospective jurors to be informed of the details of the proceedings concerned to:

- (a) civil trials (proposed section 38 (8)), and
- (b) coronial inquests and coronial inquiries (proposed section 38 (9)).

However, the identity of a witness in a trial, coronial inquest or coronial inquiry is not to be disclosed if the witness is a person in a NSW, Commonwealth or interstate witness protection program (proposed section 38 (10)).

Regulations may be made with respect to informing jurors of the details of the proceedings concerned and associated matters (proposed section 38 (11)).

Schedule 1 [7] omits section 40 (which provides for the inspection of jury panels containing the names of prospective jurors in civil trials).

Schedule 1 [8] amends section 45 to specify the time for making challenges to jurors. **Schedule 1 [9]** makes a consequential amendment.

Schedule 1 [10] and **[13]** correct incorrect cross-references.

Schedule 1 [11] amends section 48 to provide for the use of identification numbers (instead of jurors' names) in the selection of juries in criminal trials.

Schedule 1 [12] replaces existing section 49. The proposed section deals with the selection of juries in civil trials and provides for the use of identification numbers (instead of jurors' names).

Schedule 1 [14] amends section 50 to provide for the use of identification numbers (instead of jurors' names) in the selection of juries in coronial inquests or coronial inquiries.

Schedule 1 [15] amends section 51 to require the identification numbers of additional jurors who are required to complete the ballot for a jury in a trial, coronial inquest or coronial inquiry to be added to the panel of jurors for the trial, coronial inquest or coronial inquiry.

Schedule 1 [16] amends section 67A as a result of the use of identification numbers for jurors. At present, the section makes it an offence for a person to inspect, or make available to another person, certain documents relating to jurors unless the person has access to those documents for the purposes of

executing the Act or in accordance with an order of the judge or coroner concerned or section 40 (Inspection of panel permitted in certain circumstances).

The amendment will permit access to such documents only for the purposes of executing the Act.

Schedule 1 [17] and [18] amend section 68A. At present, the section makes it an offence to solicit information from or harass a juror or former juror for the purpose of obtaining information about the deliberations of a jury for inclusion in any material to be published or any matter to be broadcast.

The amendments:

- (a) omit the limitation that the information must be solicited for the purpose of including the information in any material to be published or any matter to be broadcast, and
- (b) increase the maximum penalty for the offence to 7 years imprisonment.

Schedule 1 [19] makes a consequential amendment.

Schedule 1 [20] and [21] insert provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 2 Amendment of Criminal Procedure Act 1986

Schedule 2 amends the *Criminal Procedure Act 1986* so that offences under section 68A (Soliciting information from or harassing jurors or former jurors) of the *Jury Act 1977* are dealt with summarily unless an election is made under the *Criminal Procedure Act 1986* to proceed on indictment.