

# Jury Act 1977 No 18

[1977-18]



New South Wales

## Status Information

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **See also**  
[Courts and Crimes Legislation Amendment Bill 2015](#)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Jury Act 1977 No 18



New South Wales

An Act to amend and consolidate the law relating to juries; to repeal the [Jury Act 1912](#) and certain other Acts; and to amend the [Mental Health Act 1958](#), the [Coroners Act 1960](#) and the [Supreme Court Act 1970](#).

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the [Jury Act 1977](#).

### 2 Commencement

- (1) This section and section 1 shall commence on the date of assent to this Act.
- (2) Except as provided in subsection (1) and Schedule 8, this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

### 3 (Repealed)

### 4 Definitions

- (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

**civil proceedings** means proceedings:

- (a) in the Supreme Court on a claim for relief within the meaning of the [Supreme Court Act 1970](#), or
- (b) in the District Court in its civil jurisdiction.

**coronial inquest** means an inquest or inquiry held before a coroner and a jury pursuant to section 48 of the [Coroners Act 2009](#).

**criminal proceedings** means proceedings:

- (a) for the prosecution of offenders on indictment, or

(b) under section 23 or 26 of the *Mental Health Act 1958*.

**electoral district** has the meaning ascribed thereto in the *Parliamentary Electorates and Elections Act 1912*.

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

**indictment** includes any information presented or filed as provided by law for the prosecution of offenders.

**jury roll**, in relation to any jury district, means the jury roll certified as in force for the time being for that district under section 16.

**regulation** means a regulation made under this Act.

**summons** means a summons issued under section 26.

**supplementary jury roll** for a district has the meaning given in section 12 (4).

**trial** means a trial by or with a jury in any criminal or civil proceedings.

**verdict** includes an assessment in civil proceedings.

- (2) A reference in this Act to the deletion of a person from a supplementary jury roll or a jury roll is a reference to the deletion of the name of, and other particulars relating to, the person from that roll.
- (3) A reference in this Act to an electoral district includes a reference to a part of an electoral district.
- (4) Notes included in this Act do not form part of this Act.

#### **4A Application of Act**

Nothing in this Act applies to or with respect to a jury for an inquest concerning a death or suspected death caused or suspected by the coroner of having been caused by an explosion or accident in or about a mine situated wholly or partly in the Broken Hill Jury District.

## **Part 2 Qualifications and liability for jury service**

### **5 Persons qualified and liable to serve as jurors**

Subject to this Act, every person who is enrolled as an elector for the Legislative Assembly of New South Wales pursuant to the *Parliamentary Electorates and Elections Act 1912* is qualified and liable to serve as a juror.



## **6 Persons excluded from jury service**

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.

## **7 Persons entitled to be exempted from serving as jurors**

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.

### **Note—**

Section 14 deals with the making of claims for exemptions under Schedule 2 and provides for the granting of other exemptions from jury service.

## **8 Amendment of Schedule 1 or 2**

The regulations may amend Schedule 1 or 2 by adding any matter to, deleting any matter from or altering any matter in the Schedule.

## **Part 3 Jury districts and jury rolls**

### **9 Jury districts**

- (1) There shall be a jury district for each place appointed for sittings of the Supreme Court or the District Court for the trial of any criminal or civil proceedings.
- (2) A jury district is to comprise such electoral districts or parts of electoral districts as may be determined and notified by the sheriff from time to time in accordance with the regulations.
- (3) The regulations may make provision for or with respect to the determination and notification of jury districts.

### **10 Sheriff to maintain jury rolls**

The sheriff must maintain a jury roll for each jury district in accordance with this Part.

### **11 Electoral Commissioner to deliver copies of electoral rolls to sheriff**

- (1) The Electoral Commissioner shall, upon request made by the sheriff, deliver to the sheriff the latest available copies of the rolls of electors for such electoral districts as the sheriff may require for the purpose of preparing jury rolls.
- (2) Such a request is to be made at least once every 15 months for each jury district.

### **12 Random selection of prospective jurors**

- (1) At intervals of not more than 12 months, the sheriff is to select a number of persons at random from the entries in the latest copies of rolls of electors supplied to the sheriff that relate to each jury district. Persons who are for the time being on the jury

roll for the district are excluded from selection.

- (2) The number of persons selected must be estimated by the sheriff as sufficient to provide, in accordance with the scheme for selection of jurors provided by this Part, the number of persons required to serve from time to time as jurors in the jury district.
- (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.
- (4) The particulars of persons who have been selected under this section pursuant to the same estimate comprise a supplementary jury roll for the district in which those persons reside until particulars on the supplementary roll are added to the jury roll for the district.
- (5) A computer may be used to make a selection under this section.

### **13 Persons included on supplementary jury roll to be notified**

- (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:
  - (a) informing the person that it is proposed to include the person on the jury roll, and
  - (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
  - (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
  - (d) containing a questionnaire that is required to be completed by the person if:
    - (i) the person is excluded from jury service or claims exemption from jury service, or
    - (ii) the particulars of the person appearing on the questionnaire have changed, or
    - (iii) the person is otherwise required by the sheriff in the notice to complete the questionnaire, and
  - (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.
- (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.

#### **14 Claims for exclusion or exemption from jury service made to sheriff**

- (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.
- (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 service being incompatible with the person's good health or that otherwise renders the person unable to perform jury service.
- (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.

**Note—**

Section 14A generally defines what constitutes good cause for the purposes of an exemption.

- (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.
- (5) A claim or request to be excluded or exempted from jury service may be made:
  - (a) in response to a notice sent to the person under section 13, or
  - (b) by application made in writing to the sheriff and in a form approved by the sheriff.
- (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.

**Note—**

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.

- (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.

#### **14A What constitutes good cause for the purposes of an exemption from jury service**

For the purposes of this Act, a person has good cause to be exempted or excused from jury service if:

- (a) jury service would cause undue hardship or serious inconvenience to the person, the person's family or the public, or
- (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

- (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
- (d) there is some other reason that would affect the person's ability to perform the functions of a juror.

#### **14B Deferral of jury service**

- (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.
- (2) On receiving the application, the sheriff may defer the person's jury service to a later time within that period.
- (3) If the sheriff decides to refuse the application, the sheriff must inform the applicant in writing of the decision.
- (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.

#### **14C Sheriff may require information and verification of information**

- (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.
- (2) The sheriff may require any of the following information to be verified by statutory declaration:
  - (a) information given in a questionnaire under section 13,
  - (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,
  - (c) information provided to the sheriff for the purpose of determining whether or not a person's jury service should be deferred.
- (3) Proceedings may be taken for an offence against this Act or the [Oaths Act 1900](#) 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.

#### **14D Sheriff to amend supplementary jury roll and jury roll to delete persons excluded or exempt from jury service**

The sheriff is to amend a supplementary jury roll or jury roll:

- (a) by deleting the name and particulars of a person if:
  - (i) the sheriff determines that the person is excluded from jury service, or
  - (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
  - (iii) the person is dead or no longer resides in the jury district to which the roll relates,  
or
- (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
- (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
- (d) to correct the particulars relating to any person on the roll.

**15 Appeal against being included on jury roll or being summoned from supplementary jury roll**

- (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.
- (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):
  - (a) to the judge or coroner having the conduct of the trial or coronial inquest concerned, or
  - (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.
- (3) The court or person to whom an appeal is made under this section must hear and determine the appeal.
- (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:
  - (a) is excluded from jury service, or
  - (b) is entitled as of right to be exempted from jury service under Schedule 2 and has duly claimed exemption, or

(c) should be exempted from jury service on a ground referred to in section 14 (2) or (3).

- (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.
- (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.
- (7) A decision under this section is final and conclusive and is to be given effect by the sheriff.
- (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.

#### **15A Periodic updating of jury roll**

- (1) The sheriff must supplement the jury roll for a jury district by adding to the roll particulars of each person who has been included on a supplementary jury roll for the district and who is not deleted from the supplementary roll by the sheriff under section 14D or pursuant to an order of a court or person under section 15.
- (2) The sheriff must cull from the jury roll for the time being in force for a district particulars of each person who has been included on the roll for 15 months (or such other period, not exceeding 2 years, as may be fixed by the regulations).

#### **16 Current jury roll to be certified by sheriff**

- (1) The sheriff must, immediately after supplementing or culling names from the jury roll for a district in accordance with section 15A, certify a list of persons as the jury roll in force for the time being for the jury district.
- (2) A jury roll may be certified by the sheriff under this section even though an appeal lodged under section 15 by a person on the roll has not been determined. However, the sheriff must amend the roll as soon as is practicable if the appeal is determined so as to require removal of the person from the roll.
- (3) The particulars on a jury roll relating to any person shall be the particulars relating to that person appearing on the copy of the roll of electors for the electoral district from which that person was selected under section 12.
- (4) The jury roll certified under this section for a jury district remains in force until a new jury roll for the district is certified, even if there is an alteration in the boundaries of the jury district before the new jury roll is certified.

## **17 Records of jury rolls and supplementary jury rolls**

- (1) The sheriff must keep among the records of the sheriff's office the jury roll last certified for each jury district and any supplementary jury roll being used to revise a jury roll.
- (2) The sheriff must produce such a roll or supplementary roll (or a certified copy of it) in any court or at any coronial inquest if required to do so or forward a certified copy of the roll or supplementary roll to an officer of a court if it is required for production in that court or at that inquest.

## **18, 18A (Repealed)**

## **Part 4 Trial by jury**

### **19 Numbers of jurors in criminal proceedings**

- (1) Except as provided by section 22, in any criminal proceedings in the Supreme Court or the District Court that are to be tried by jury, the jury is to consist of:
  - (a) 12 persons, or
  - (b) if the Court makes an order under subsection (2) for the selection of additional jurors—12 persons together with the number of additional jurors ordered by the Court,

returned and selected in accordance with this Act.

#### **Note—**

If a jury is constituted by more than 12 jurors immediately before it retires to consider its verdict, section 55G provides that only 12 of those jurors may retire to consider the jury's verdict in the proceedings.

- (2) Before a jury is selected in criminal proceedings in the Supreme Court or the District Court, the Court may order that up to 3 additional jurors be selected for the jury if the Court is satisfied that:
  - (a) the trial of the proceedings is of a kind prescribed by the regulations for the purposes of this subsection, and
  - (b) the selection of the additional jurors is an appropriate means of ensuring that there will be sufficient jurors remaining on the jury when the jury is required to consider its verdict, and
  - (c) appropriate facilities to accommodate the additional jurors are available.
- (3) Until regulations for the purposes of subsection (2) provide otherwise, a trial of proceedings the duration of which is likely to be more than 3 months is taken to be a trial of proceedings of a kind prescribed by the regulations for the purposes of that subsection.

## **20 Number of jurors in civil proceedings**

- (1) Except as provided by section 22 and subject to subsection (2), where civil proceedings in the Supreme Court or the District Court are to be tried with a jury, the jury shall consist of 4 persons returned and selected in accordance with this Act.
- (2) The Supreme Court may, upon application by any party to civil proceedings to be tried in the Supreme Court with a jury made at any time after the pleadings in those proceedings are closed, order that the jury shall, except as provided by section 22, consist of 12 persons.

## **21 Number of jurors in coronial inquests**

Except as provided by section 22, the jury in any coronial inquest shall consist of 6 persons returned and selected in accordance with this Act.

## **22 Continuation of trial or inquest on death or discharge of juror**

Where in the course of any trial or coronial inquest any member of the jury dies or is discharged by the court or coroner under Part 7A, the jury shall be considered as remaining for all the purposes of that trial or inquest properly constituted if:

- (a) in the case of criminal proceedings, the number of its members:
    - (i) is not reduced below 10,
    - (ii) is reduced below 10 but approval in writing is given to the reduced number of jurors by or on behalf of both the person prosecuting for the Crown and the accused or each of the accused, or
    - (iii) is reduced below 10 but not below 8 and the trial has been in progress for at least 2 months,
  - (b) in the case of civil proceedings, the number of its members is not reduced, in the case of a jury of 4, below 3 or, in the case of a jury of 12, below 8, or
  - (c) in the case of a coronial inquest, the number of its members is not reduced below 4,
- and if the court or the coroner, as the case may be, orders that the trial or coronial inquest continue with a reduced number of jurors under Part 7A.

## **Part 5 Summoning of jurors**

### **Division 1 Summoning of jurors for trials and coronial inquests**

#### **23 Estimate of number of jurors required**

- (1) The sheriff must maintain estimates of the number of jurors who will be required to be summoned in each jury district for the trial of criminal and civil proceedings in the



Supreme Court and the District Court and for coronial inquests.

- (2) The number of jurors estimated as required for the purpose of trials must not exceed the number of jurors that, in the opinion of the sheriff, will ensure the attendance of sufficient jurors to allow for the number of challenges reasonably likely to be made by all parties.
- (3) The number of jurors estimated as required for the purpose of coronial inquests must not be less than the number of jurors that, in the opinion of the sheriff, will ensure the attendance of sufficient jurors to comply with requests for juries reasonably likely to be made under the *Coroners Act 2009* by coroners.

#### **24 (Repealed)**

#### **25 Selection of jurors by sheriff**

- (1) The sheriff must select at random, from the jury roll for each jury district, the number of jurors estimated by the sheriff as required to be summoned for trials or coronial inquests in that jury district.
- (2) The sheriff may select one or more of that number of jurors at random from a supplementary jury roll for that district, if the sheriff believes that the jury roll for that district is inadequate for any reason.
- (3) A selection under this section may be made by computer and may be made at any one time or at different times for the purposes of one or more trials or inquests.

#### **26 Persons selected to be summoned**

- (1) The sheriff must issue a summons to each person selected requiring the person to attend at the court or coronial inquest, at the place and at the time specified in the summons until discharged by the court or coroner.
- (2) When such a summons is served on a person selected by the sheriff from a supplementary jury roll, a notice complying with section 13 must also be served on the person, if such a notice has not already been sent to the person.
- (3) Such a summons is to be served on the person to whom it is issued at least 7 days before the time specified in it for attendance at a court or inquest, unless a judge of the court or the coroner holding the inquest otherwise orders.

#### **27 Selection and summoning of additional jurors**

The sheriff may select and summon jurors in accordance with this Division to make up or supplement a jury panel if a trial or coronial inquest is likely to be delayed because there are no persons or not enough persons available for the selection of a jury who have already been summoned.

## **28 Sheriff's return**

- (1) At each time and place at which jurors are required to attend by summonses served under this Division, the sheriff must return particulars of the summonses, including a panel of the names of those summoned and, if appearing on the roll or supplementary roll from which the summonses were prepared, their occupations.
- (2) Only the names of persons qualified and liable to serve as jurors, and who have not been duly excused, are required to be included in the panel.
- (3) The sheriff must also provide with the return the names and other particulars recorded on the roll or supplementary roll of the persons on the panel on separate cards, each card being as nearly as is practicable of equal size.

## **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.

## **Division 2**

### **30-36 (Repealed)**

## **Division 3 General**

### **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) 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.

### **38 Person summoned for jury service may be excused at trial or inquest**

- (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.

**Note—**

Section 14A generally defines what constitutes good cause for the purposes of excusing a person from jury service.

- (2) A person may be excused under subsection (1):
  - (a) on the person's request or on the court's or coroner's own motion, and
  - (b) even if the sheriff has previously determined not to excuse the person for that cause.
- (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.
- (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.
- (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).
- (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.

- (7) Before the selection of the jury at a criminal trial, the judge must, subject to the regulations:
- (a) direct the person prosecuting for the Crown to inform the jurors on the panel of the nature of the charge and the identity of the accused and of the principal witnesses to be called for the prosecution, 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.
- (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.

### **39 Person may be excused from being selected for jury service because of previous**

### **lengthy service**

- (1) At the conclusion of any trial or coronial inquest, the judge who presided at the trial or the coroner who held the inquest may, if the judge or coroner is of the opinion that any of the jurors attended the trial or inquest for a lengthy period, direct that those jurors shall be entitled to be exempted as of right from serving as jurors for a specified period then ensuing.
- (2) A judge or coroner shall cause the sheriff to be notified of any direction given by the judge or coroner under subsection (1).
- (3) The sheriff shall:
  - (a) make a notation of any direction under subsection (1) on the appropriate jury roll, and
  - (b) notify, in writing, the jurors to whom the direction relates.

### **40 (Repealed)**

## **Part 6 Challenge**

### **41 Right of challenge**

Subject to this and any other Act, the law relating to the right of challenge to the array and to the polls of jurors in force immediately before the day appointed and notified under section 2 (2) shall continue in force.

### **42 Peremptory challenges in criminal proceedings**

- (1) In any criminal proceedings:
  - (a) each person prosecuted has 3 peremptory challenges without restriction, and
  - (b) the Crown has 3 peremptory challenges without restriction for each person prosecuted.
- (1A) If the jury in criminal proceedings is to consist of more than 12 jurors, each person prosecuted and the Crown have one peremptory challenge without restriction, respectively, in addition to the peremptory challenges conferred on them by subsection (1).
- (2) Any number of peremptory challenges may be made if the Crown and all the persons prosecuted agree to the challenges.
- (3) Any such agreed peremptory challenge may be made even though all the peremptory challenges without restriction of any person prosecuted or the Crown have not been exhausted.

#### **42A Peremptory challenges in civil proceedings**

In any civil proceedings, each party to the proceedings has the number of peremptory challenges without restriction that is equal to half the number of jurors required to constitute the jury for trial.

#### **43 Crown may challenge for cause but not require jurors to stand aside**

- (1) The Crown has the right to challenge a juror for cause in any criminal proceedings or in any civil proceedings in which it is a party.
- (2) A juror on a panel returned for the trial of any criminal proceedings shall not, at the request of those prosecuting for the Crown, be ordered to stand by until all the jurors on the panel have been called for.

#### **44 Australian legal practitioner may make challenge on behalf of accused**

The Australian legal practitioner representing a person being prosecuted in any criminal proceedings may make any challenge for cause or any peremptory challenge on behalf of that person.

#### **45 Time for making challenge to juror**

- (1) A challenge for cause or a peremptory challenge to a juror in criminal proceedings or in civil proceedings can be made only after the juror has been called to be sworn and before the juror is sworn.
- (1A) A challenge for cause to a juror in criminal proceedings or in civil proceedings may be made either before or after all rights of peremptory challenge have been exhausted.
- (2) (Repealed)

#### **46 Trial of challenge for cause**

A challenge for cause shall be tried by the presiding judge at the trial.

#### **47 Certain errors etc not to be cause for challenge**

No omission, error or irregularity in the time or mode of service of any summons or in the summoning or return of any juror by a wrong name (where there is no question as to the juror's identity) shall be cause of challenge either to the array or to that juror.

#### **47A Discharge of jury as a result of challenges**

The judge presiding at the trial of any criminal proceedings may discharge the jury that has been selected if, in the opinion of that judge, the exercise of the rights to make peremptory challenges has resulted in a jury whose composition is such that the trial might be or might appear to be unfair.

## **Part 7 Selection of jury**

### **48 Balloting for jury in criminal proceedings**

- (1) The jury for the trial of any criminal proceedings in the Supreme Court or the District Court shall be selected by ballot in open court in accordance with this section.
- (2) At the trial the presiding judge or an officer of the court shall:
  - (a) place in a box provided for that purpose the cards provided under section 28 (3) in respect of that trial,
  - (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 for the jury appear (the ***drawn persons***), and
  - (c) call each of the drawn persons to be sworn.
- (3) If any challenge is made and allowed in respect of any number of the drawn persons, that number of persons shall be so drawn and called to be sworn.
- (4) Such further number of persons as is required shall be so drawn and called to be sworn until all just challenges have been allowed and the number of persons required for the jury have been sworn.
- (5) Subject to section 55G, the persons sworn as referred to in subsection (4) shall constitute the jury for the trial.

### **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 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.

#### **50 Balloting for jury at coronial inquest**

- (1) The jury for any coronial inquest shall be selected by ballot in accordance with this section.
- (2) At the inquest the coroner or a person appointed by the coroner for that purpose shall:
  - (a) place in a box provided for that purpose the cards provided under section 28 (3) in respect of that inquest, and
  - (b) draw out of that box those cards, one after another, and call out the identification numbers on those cards, until 6 persons appear.
- (3) The 6 persons referred to in subsection (2) (b) shall, after being duly sworn, constitute the jury for the coronial inquest.

#### **51 Procedure where insufficient jurors to complete ballot**

- (1) If there is an insufficient number of summoned jurors in attendance at a court or coronial inquest for the purposes of a ballot under section 48, 49 or 50, the trial or inquest may be adjourned and:
  - (a) the jurors may be discharged and, in accordance with Division 1 of Part 5, further summonses to attend at the court or inquest may be issued in respect of the trial or inquest,
  - (b) the jurors may be retained and, in accordance with Division 1 of Part 5, further summonses to attend at the court or inquest may be issued in order to obtain the further number of jurors required to complete the ballot, or
  - (c) the jurors may be retained and the further number of jurors required to complete the ballot may be required by the sheriff to attend at the court or inquest for that purpose if they have been summoned to attend at another court or inquest in the same jury district and are not required at that other court or inquest.
- (2) Balloting for a trial or inquest referred to in subsection (1) (b) may proceed after the cards relating to the further number of jurors required to complete the ballot are placed in the ballot box and the names and identification numbers of those jurors are added to the panel.



## 52 Cards of jury members to be kept apart

- (1) The cards relating to the jurors who constituted the jury for the trial of any criminal or civil proceedings shall be kept apart from the cards relating to the other persons summoned for that trial until the conclusion of the trial.
- (2) After all the jurors for a trial are sworn, the cards relating to persons who were summoned and who were called but not sworn for the trial are to be returned to the sheriff so as to be available for any further ballot.
- (3) The cards relating to persons who were summoned and were sworn for the trial, but who are not discharged from attending at the court in pursuance of the summons, are also to be returned to the sheriff, if a further ballot is to be conducted under section 53.

## 53 Jurors liable to be selected on more than one ballot

Where the persons who were summoned to attend at a court and who constituted the jury for a trial cease to be required for that trial and have not been discharged from attending at the court in pursuance of the summons, juries for subsequent trials in that court may be selected from among those persons in accordance with section 48 or 49, as the case may require.

## Part 7A Discharge of jurors

### 53A Mandatory discharge of individual juror

- (1) The court or coroner must discharge a juror if, in the course of any trial or coronial inquest:
  - (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
  - (b) the juror has become excluded from jury service, or
  - (c) the juror has engaged in misconduct in relation to the trial or coronial inquest.
- (2) In this section:

**misconduct**, in relation to a trial or coronial inquest, means:

- (a) conduct that constitutes an offence against this Act, or

**Note—**

For example, under section 68C it is an offence for a juror to make certain inquiries except in the proper exercise of his or her functions as a juror.

- (b) any other conduct that, in the opinion of the court or coroner, gives rise to the risk of a substantial miscarriage of justice in the trial or inquest.

### **53B Discretionary discharge of individual juror**

The court or coroner may, in the course of any trial or coronial inquest, discharge a juror if:

- (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 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
- (b) it appears to the court or coroner (from the juror's own statements or from evidence before the court or coroner) that the juror may not be able to give impartial consideration to the case because of the juror's familiarity with the witnesses, parties or legal representatives in the trial or coronial inquest, any reasonable apprehension of bias or conflict of interest on the part of the juror or any similar reason, or
- (c) a juror refuses to take part in the jury's deliberations, or
- (d) it appears to the court or coroner that, for any other reason affecting the juror's ability to perform the functions of a juror, the juror should not continue to act as a juror.

**Note—**

Section 22 provides for the continuation of a trial or inquest on the death or discharge of a juror.

### **53C Discretion to continue trial or coronial inquest or discharge whole jury**

- (1) If a juror dies, or the court or coroner discharges a juror in the course of a trial or coronial inquest, the court or coroner must:
  - (a) discharge the jury if the court or coroner is of the opinion that to continue the trial or coronial inquest with the remaining jurors would give rise to the risk of a substantial miscarriage of justice, or
  - (b) if of the opinion that there is no such risk and subject to section 22, order that the trial or coronial inquest continue with a reduced number of jurors.
- (2) A court or coroner that discharges a jury under subsection (1) (a) may stay the proceedings on such terms as the court or coroner thinks fit if a party gives notice of an intention to lodge an application for leave to appeal for review of the decision under section 5G of the [Criminal Appeal Act 1912](#).
- (3) Where a jury in civil proceedings is discharged under this section, the proceedings may, without any new process for that purpose, be set down for trial either at the same or any subsequent sittings, as the court may order.

## **Part 8 Proceedings upon trial or inquest**

### **54 Jury permitted to separate in criminal trials**

(1) The jury in criminal proceedings:

(a) shall, unless the court otherwise orders, be permitted to separate at any time before they retire to consider their verdict, and

(b) may, if the court so orders, be permitted to separate at any time after they retire to consider their verdict.

(2) An order under subsection (1) (b) may be made even if the jury in the proceedings is not present when the order is made.

### **55 Court or coroner may permit refreshment for jurors**

The court on any trial or a coroner holding any coronial inquest may permit the members of the jury to be supplied with such refreshments as the court or coroner thinks fit at any time after they have been sworn and notwithstanding that they have retired to consider their verdict.

#### **55A Exhibits in jurors' deliberation room**

A judge or coroner may refuse to allow an exhibit at the trial or inquest being left with the jurors after they have retired if satisfied that the exhibit or the safety of the jurors would be put at risk.

#### **55B Judge or coroner may give directions to jury in writing**

Any direction of law to a jury by a judge or coroner may be given in writing if the judge or coroner considers that it is appropriate to do so.

#### **55C Supply of transcripts to jury**

A copy of all or any part of the transcript of evidence at a trial or inquest may, at the request of the jury, be supplied to the members of the jury if the judge or coroner considers that it is appropriate and practicable to do so.

#### **55D Examination of jurors—publication of prejudicial material during trial or inquest**

A judge or coroner may examine a juror on oath to determine:

(a) whether the juror has read, seen or heard alleged prejudicial material published or broadcast during the trial or inquest, and

(b) whether the juror has been influenced by the material.

**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.

**55E Discharge of jury after delivery of verdict**

- (1) The jury shall be discharged immediately after delivering their verdict.
- (2) Nothing in this section prevents any member of the jury from remaining in court as an ordinary member of the public after being so discharged.

**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.

**Note—**

Lengthy criminal proceedings may be tried by a jury of up to 15 persons if the court makes an order for additional jurors under section 19 (2). However, section 55G provides that only 12 members of such an expanded jury may retire to consider the jury's verdict in the proceedings.

- (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.

### **55G Ballot where additional jurors on jury in criminal proceedings**

- (1) If the jury in criminal proceedings consists of more than 12 persons (the **expanded jury**) immediately before the jury is required to retire to consider its verdict, the jury for the purposes of considering and returning the verdict (a **verdict jury**) is to be constituted by only 12 members of the expanded jury.
- (2) A verdict jury is to be constituted by:
  - (a) if the expanded jury has chosen one of its members to speak on behalf of the jury as a whole (a **foreperson**)—the foreperson and 11 other members of the expanded jury selected by ballot, or
  - (b) if there is no foreperson—12 members of the expanded jury selected by ballot.
- (3) The ballot for a verdict jury must be conducted by the presiding judge or an officer of the court by:
  - (a) placing in a box provided for that purpose the cards provided under section 28 (3) for all of the members of the expanded jury (other than the foreperson, if any), and
  - (b) drawing out of that box those cards, one after another, and calling out the identification numbers on those cards, until 11 or 12 persons (as the case requires) are selected.
- (4) A verdict jury continues to constitute the jury for the trial until the trial concludes unless the court has given a direction under subsection (5).

**Note—**

Under this section, the same verdict jury will remain in place in trials where a verdict jury is required to consider some counts in an indictment first and then the other counts at a later stage in the trial (unless subsection (5) applies). As a result, the court will be able to reconvene for any further summoning up or directions in relation to counts that remain to be determined without the need for a new verdict jury to be constituted.

- (5) If one or more jurors on the expanded jury are excluded from a verdict jury by a ballot, the court must:

- (a) if the verdict of the verdict jury is a directed verdict in respect of some (but not all) of the accused persons or some (but not all) of the counts in the indictment—direct that the excluded jurors rejoin the jury for the continuation of the trial in respect of the accused persons or counts (as the case may be) that have not yet been the subject of a verdict in the trial, or
  - (b) if the verdict jury retires to consider whether or not to return a verdict without hearing further evidence—direct that the excluded jurors rejoin the jury for the continuation of the trial in the event that the verdict jury decides that it wishes to hear further evidence before returning a verdict.
- (6) The court may not give a direction under subsection (5) if a verdict jury has previously returned a verdict (other than a directed verdict) in the trial.
  - (7) If the court gives a direction under subsection (5), a fresh ballot for a verdict jury must be conducted if there is still an expanded jury when the jury is next required to retire to consider its verdict.
  - (8) The court must discharge any jurors on the expanded jury who are excluded from a verdict jury by ballot if the jurors will not be required to rejoin the jury because of a direction under subsection (5).
  - (9) Nothing in this section affects the operation of section 22.

#### **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.
- (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.

#### **57 Majority verdicts in civil proceedings**

- (1) Where the jury in civil proceedings have retired for more than 4 hours and they are unable to agree on their verdict:
  - (a) in the case of a jury consisting of 4 persons, the decision of 3 jurors, or

(b) in the case of a jury consisting of 12 persons or, pursuant to section 22 (b), 9, 10 or 11 persons, the decision of 8 jurors,

shall be taken as the verdict of all.

(2) A reference in this section to a verdict includes a reference to an answer to any specific question put to the jury by the court.

#### **57A Court may decide issue of fact**

Where the court in civil proceedings finds, after examination on oath of one or more of the jury, that the jury is unable to agree on a decision about an issue of fact, the court may decide that issue, but only if the parties to the proceedings agree that the court should decide the issue.

#### **58 Discharge of jury that disagree in civil proceedings**

(1) Where the jury in civil proceedings have retired for more than 4 hours, the court in which the proceedings are being tried may discharge them if it finds, after examination on oath of one or more of them, that they are not likely to agree on either a unanimous verdict or a verdict under section 57.

(2) (Repealed)

(3) Where a jury is discharged under this section, the proceedings may, without any new process for that purpose, be set down for trial either at the same or any subsequent sittings, as the court may order.

#### **59 Discharge of jury that disagree in coronial inquest**

Where the jury in any coronial inquest have retired for more than 6 hours, the coroner holding that inquest may discharge them if the coroner finds, after examination on oath of one or more of them, that they are not likely to agree.

### **Part 9 Offences**

#### **60 Definition**

(1) A reference in this Part to a person who fails to attend for jury service is a reference to a person who:

(a) is duly summoned to attend at a court or coronial inquest,

(b) fails to attend on the first or on any subsequent day on which the person's attendance is required, and

(c) is not duly excused from that attendance.

(2) Where the sheriff notifies a person of an alteration in the time or place at which the

person is required by a summons to attend for jury service, the person does not fail to attend for jury service for the purposes of this Part if the person attends at the altered time or place as so notified to the person.

### **61 Offences relating to responding to questionnaire**

- (1) A person who is sent a notice under section 13 about the person's inclusion on a supplementary jury roll and who is required to return to the sheriff the questionnaire included in the notice must not, except with good cause, fail to do so within the time specified in the notice.
- (2) The person must not, except with good cause, return such a questionnaire to the sheriff without complete answers to all of the questions in it.
- (3) The person must not return such a questionnaire to the sheriff if it contains any answer or other information that the person knows to be false or misleading in a material respect.

Maximum penalty: 10 penalty units.

### **62 Supply of false or misleading information to sheriff**

- (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:
  - (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
  - (b) when requesting an exemption from jury service under section 14, or
  - (c) when applying for deferral of jury service under section 14B, or
  - (d) when claiming otherwise that the person is not or will not be available for jury service, or
  - (e) in connection with a claim for payment under section 72.
- (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.

Maximum penalty: 50 penalty units.

### **62A Failure to inform sheriff of exclusion from jury service**

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.



Maximum penalty: 10 penalty units.

### **63 Failure to attend for jury service**

- (1) Subject to sections 64 and 66, a person who fails to attend for jury service contravenes this section and is liable to a penalty not exceeding 20 penalty units.
- (2) In any proceedings for an offence under this section, a document purporting to be signed by the sheriff and to certify:
  - (a) that a specified person is recorded as having failed to attend for jury service, or
  - (b) that a specified person has declined to be dealt with under section 64,is evidence of the matter so certified.
- (3) It is a defence to a prosecution for an offence under this section if the person prosecuted proves that the person had a reasonable excuse for his or her failure to attend for jury service.

### **64 Procedure where failure to attend for jury service**

- (1) If a person fails to attend for jury service at a court or coronial inquest, a record of that fact is to be made on the relevant panel by order of the court, of the coroner holding the inquest or of any court in which trials for which the panel was prepared are held.
- (2) The sheriff shall serve, on a person who is recorded under subsection (1) as having failed to attend for jury service, a notice to the effect that, if the person does not desire to have the matter referred to a court, the person:
  - (a) pay to an officer specified in the notice at a place and within a time specified in the notice an amount of penalty equal to 10 penalty units for that failure if dealt with under this section, or
  - (b) show cause to the sheriff within the time specified in the notice why a penalty should not be imposed for that failure.
- (3) The sheriff may require a person who shows cause under subsection (2) (b) to verify the person's statements by statutory declaration.
- (4) If the sheriff determines that a person has not shown reasonable cause under subsection (2) (b) for the person's failure to attend for jury service, the sheriff shall inform that person accordingly and specify a further period of time within which the person may pay the amount of penalty referred to in subsection (2) (a).
- (5) A person served with a notice under subsection (2):
  - (a) has the right to decline to be dealt with under this section, and

(b) shall be deemed to have declined to be so dealt with if the person does not show reasonable cause under subsection (2) (b) for the person's failure to attend for jury service within the time specified in the notice and if the person fails to pay the relevant amount of penalty within the time specified in the notice or within such further time as may, under subsection (4) or in any particular case, be allowed by the sheriff.

(6) Where the relevant amount of penalty is paid pursuant to subsection (2) (a), no person shall be liable for any further proceedings for that failure to attend for jury service.

## **65 (Repealed)**

## **66 Penalty notices for failure to attend jury service**

(1) If it appears to the sheriff or a person prescribed by the regulations that a person has contravened section 61, or has declined to be dealt with under section 64 in respect of a failure to attend for jury service, the sheriff or prescribed person may serve a penalty notice on the person.

(2) A penalty notice is a notice to the effect that, if the person served does not wish to have the alleged contravention of section 61 or 63 dealt with by a court, the person may pay, within the time and to the person specified in the notice, the penalty of:

(a) in the case of an alleged contravention of section 61—5 penalty units, or

(b) in the case of an alleged contravention of section 63—15 penalty units.

(3) If the relevant penalty for the alleged offence is paid in accordance with this section, no person is liable to any further proceedings for the alleged offence.

(4) Payment in accordance with this section is not to be regarded as an admission of liability for the purposes of, nor is in any way to affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.

(5) (Repealed)

(6) This section does not limit the operation of this or any other Act in relation to proceedings that may be taken in respect of offences.

## **67 Personation of jurors**

Any person who personates a juror is guilty of an offence.

Penalty: 50 penalty units.

## **67A Inspection of panel**

(1) A person must not inspect, or make available to any other person, a panel or card

prepared for the purposes of this Act by the sheriff.

Maximum penalty: 10 penalty units.

- (2) This section does not apply to anything inspected or made available to another person:
- (a) for the purposes of executing this Act.
  - (b), (c) (Repealed)

#### **68 Disclosure etc of identity or address of juror**

- (1) A person shall not, except in accordance with this Act, wilfully publish any material, broadcast any matter or otherwise disclose any information which is likely to lead to the identification of a juror or former juror in a particular trial or inquest.

Penalty: In the case of a corporation, \$250,000; in any other case, 2 years imprisonment or 50 penalty units (or both).

- (2) Subsection (1) does not apply to the identification of a former juror with the consent of the former juror.
- (3) A reference in this section to the identification of a juror or former juror includes a reference to the disclosure of the address of the juror or former juror.
- (4) Subsection (1) does not apply to the disclosure of information by the sheriff to any of the following bodies or persons for the purposes of an investigation or prosecution of a contempt of court or an offence relating to a juror or a jury:
- (a) a court,
  - (b) the New South Wales Crime Commission,
  - (c) the Independent Commission Against Corruption,
  - (d) the Police Integrity Commission,
  - (e) the Australian Crime Commission,
  - (f) the Director of Public Prosecutions,
  - (g) the NSW Police Force,
  - (h) the Australian Federal Police.
- (5) Subsection (1) does not apply to the disclosure of information by the sheriff to a person in accordance with an authority granted by the Attorney General for the conduct of a research project into matters relating to juries or jurors.

(6) In this section:

**court** includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

**68A Soliciting information from or harassing jurors or former jurors**

(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.

(2) The deliberations of a jury include statements made, opinions expressed, arguments advanced or votes cast by members of the jury in the course of their deliberations.

(3) Subsection (1) does not prohibit a person from soliciting information from a juror or former juror in accordance with an authority granted by the Attorney General for the conduct of a research project into matters relating to juries or jury service.

(4) Subsection (1) does not prohibit any of the following bodies or persons from soliciting information from a juror or former juror for the purposes of an investigation or prosecution of a contempt of court or an offence relating to a juror or a jury:

- (a) a court,
- (b) the New South Wales Crime Commission,
- (c) the Independent Commission Against Corruption,
- (d) the Police Integrity Commission,
- (e) the Australian Crime Commission,
- (f) the Director of Public Prosecutions,
- (g) the NSW Police Force,
- (h) the Australian Federal Police.

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

(5) In this section:

**court** includes any tribunal, authority or person having power to require the

production of documents or the answering of questions.

**68B Disclosure of information by jurors etc**

- (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.

- (3) The deliberations of a jury include statements made, opinions expressed, arguments advanced or votes cast by members of the jury in the course of their deliberations.
- (4) Subsection (1) does not prohibit a juror from disclosing information to another member of the jury during a trial or coronial inquest.

**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.

**69 Unlawful dismissal of or prejudice to employees summoned for jury service**

- (1) An employer shall not dismiss a person in his or her employment or injure the person in his or her employment or alter his or her position to his or her prejudice by reason of the fact that the person is summoned to serve as a juror.
- (2) In proceedings for an offence under subsection (1), if all the facts constituting the offence other than the reason for the defendant's action are proved, the onus of proving that the dismissal, injury or alteration was not actuated by the reason alleged in the charge shall lie on the defendant.
- (3) Where an employer is convicted by a court of an offence under subsection (1), the court may order:
  - (a) the employer to pay the employee a specified sum by way of reimbursement for the salary or wages lost by the employee, and
  - (b) that the employee be reinstated in his or her old or a similar position.
- (4) An order under subsection (3) (a) shall operate as an order against the employer for the payment of money under the [Civil Procedure Act 2005](#) and shall be enforceable as such an order under that Act.
- (5) An employer shall give effect to an order of the court under subsection (3) (b).
- (6) The amount of salary or wages that would have been payable to an employee in respect of any period that his or her employer fails to give effect to an order under subsection (3) (b) shall be recoverable, as a debt due to the employee by the employer, in any court of competent jurisdiction.
- (7) An employer shall not threaten a person employed by the employer with:
  - (a) dismissal, or

(b) injury in his or her employment, or

(c) alteration of his or her position to his or her prejudice,

by reason of the fact that the person is summoned to serve as a juror.

(8) In proceedings for an offence under subsection (7), if all the facts constituting the offence other than the reason for the defendant's action are proved, the onus of proving that the threat was not actuated by the reason alleged in the charge lies on the defendant.

(9) A person can be prosecuted for and convicted of offences under both subsections (1) and (7) in relation to the same circumstances.

(10) In this section:

**employee** means:

(a) a full-time employee, or

(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).

**employer** includes a person acting on behalf of the employer.

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).

#### **69A Other offences relating to employment conditions of jurors**

(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.

(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.

(3) An employer must not require an employee:

(a) to carry out any work on any day on which the employee is serving as a juror, or

(b) to undertake any additional hours of work to compensate for work time lost by the employee while serving as a juror.

(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.

(5) In this section:

**employee** means:

- (a) a full-time employee, or
- (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).

**employer** includes a person acting on behalf of the employer.

**normal working hours** means the period between 9 am and 6 pm on any day that is not a Saturday, Sunday or public holiday.

Maximum penalty: 20 penalty units.

## **70 Liability of directors etc for offences by corporation—accessory to the commission of the offences**

- (1) For the purposes of this section, a **corporate offence** is an offence against this Act or the regulations that is capable of being committed by a corporation.
- (2) A person commits an offence against this section if:
  - (a) a corporation commits a corporate offence, and
  - (b) the person is:
    - (i) a director of the corporation, or
    - (ii) an individual who is involved in the management of the corporation and who is in a position to influence the conduct of the corporation in relation to the commission of the corporate offence, and
  - (c) the person:
    - (i) aids, abets, counsels or procures the commission of the corporate offence, or
    - (ii) induces, whether by threats or promises or otherwise, the commission of the corporate offence, or
    - (iii) conspires with others to effect the commission of the corporate offence, or
    - (iv) is in any other way, whether by act or omission, knowingly concerned in, or party to, the commission of the corporate offence.

Maximum penalty: The maximum penalty for the corporate offence if committed by an



individual.

- (3) The prosecution bears the legal burden of proving the elements of the offence against this section.
- (4) The offence against this section can only be prosecuted by a person who can bring a prosecution for the corporate offence.
- (5) This section does not affect the liability of the corporation for the corporate offence, and applies whether or not the corporation is prosecuted for, or convicted of, the corporate offence.
- (6) This section does not affect the application of any other law relating to the criminal liability of any persons (whether or not directors or other managers of the corporation) who are concerned in, or party to, the commission of the corporate offence.

## **71 Proceedings for offences**

- (1) Except to the extent that this Act otherwise provides, proceedings for offences against this Act shall be disposed of in a summary manner before the Local Court.
  - (1A) Proceedings for an offence under section 68 by a corporation may be dealt with:
    - (a) summarily before the Local Court, or
    - (b) summarily before the Supreme Court in its summary jurisdiction.
  - (1B) If proceedings for an offence under section 68 by a corporation are brought in the Local Court, the maximum monetary penalty that the Local Court may impose for the offence is \$10,000, despite any higher maximum monetary penalty provided in respect of the offence by that section.
- (2) Chapter 5 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.

## **Part 10 General**

### **72 Payment for jury service**

- (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.
  - (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.
- (2) Where civil proceedings are tried with a jury pursuant to a requisition for trial with a

jury, the party who filed that requisition shall pay to the sheriff or any prescribed officer of the court on the prescribed day of the trial and on each subsequent day the amount, or if the regulations so provide any prescribed part of the amount, required to pay the fees for the jurors under subsection (1) for that day.

- (3) The fees paid under subsection (2) shall be treated as costs in the proceedings, unless the court otherwise orders.

## **72A Juror's oath or affirmation**

- (1) The form of oath or affirmation to be taken or made by a person before serving as a juror is an oath or affirmation that the person will give a true verdict according to the evidence.
- (2) The oath or affirmation may be administered, taken or made in the manner provided for by the *Oaths Act 1900* or in the prescribed manner.
- (3) For the purposes of this section, the **prescribed manner** of administering, taking or making the oath or affirmation is:
- (a) the person taking or making the oath or affirmation repeats the words of the oath or affirmation, or
- (b) the officer administering the oath or affirmation repeats the words of the oath or affirmation and the person taking or making the oath or affirmation indicates his or her assent to the oath or affirmation by uttering the words "So help me God" (in the case of an oath) or "I do" (in the case of an affirmation).
- (4) The words of the oath or affirmation are the following words, or words to the following effect:
- (a) "I swear by Almighty God that I will give a true verdict according to the evidence" (in the case of an oath),
- (b) "I solemnly and sincerely declare and affirm that I will give a true verdict according to the evidence" (in the case of an affirmation).
- (5) If an oath is administered, taken or made in the prescribed manner, it is not necessary that a religious text be used by the person who is taking the oath.

### **Note—**

Under section 11A of the *Oaths Act 1900*, a copy of the Bible, New Testament or Old Testament is used in administering an oath.

- (6) If an oath is taken by a person before serving as a juror, the fact that the person taking it did not have a religious belief or did not have a religious belief of a particular kind does not for any purpose affect the legality or validity of the oath.
- (7) An oath or affirmation taken or made by a person before serving as a juror is not

illegal or invalid by reason of a failure to administer, take or make the oath or affirmation in accordance with this section.

### **73 Verdict not invalidated in certain cases**

- (1) The verdict of a jury shall not be affected or invalidated by reason only:
- (a) that any juror was, after being required by summons to attend for jury service, 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

**Note—**

For example, this paragraph prevents the verdict of a jury from being invalid if, as in *R v Brown & Tran*[2004] NSWCCA 324, a juror who received a jury summons reported for service a day early and was mistakenly empanelled.

- (a1) that any juror became excluded from jury service in the course of the trial or coronial inquest, or
- (b) of any omission, error or irregularity with respect to any supplementary jury roll, jury roll, card or summons prepared or issued for the purposes of this Act, or
- (c) that any juror was misnamed or misdescribed (where there is no question as to the juror's identity).
- (2) Subsection (1) does not apply:
- (a) in respect of a juror if the juror impersonated, or is suspected of impersonating, another person, or
- (b) if there is evidence of any other attempt to deliberately manipulate the composition of the jury.

### **73A Investigation by sheriff of jury irregularities**

- (1) If there is reason (including a report under section 75C) 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.

#### **74 Delegation**

- (1) The sheriff may, by instrument in writing, delegate to a deputy sheriff, under sheriff or other person employed in the sheriff's office the exercise or performance of such of the sheriff's powers, authorities, duties or functions (other than this power of delegation) as are specified in the instrument of delegation, and may, by instrument in writing, revoke wholly or in part any such delegation.
- (2) A power, authority, duty or function, the exercise or performance of which has been delegated under this section, may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation.
- (3) A delegation under this section may be made subject to such conditions or limitations as to the exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstance, as may be specified in the instrument of delegation.
- (4) Notwithstanding any delegation under this section, the sheriff may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.
- (5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the sheriff and shall be deemed to have been done or suffered by the sheriff.

#### **75 Service of summons etc**

- (1) Any summons, notice or other document required or authorised by or under this Act to be sent, served or given to any person by the sheriff shall be deemed to have been duly sent, served or given:
  - (a) if delivered personally to that person, or if left at the address appearing on the jury roll in respect of that person, or
  - (b) if sent by post, addressed to that person at that address.
- (2) Service of a summons, notice or other document in accordance with subsection (1) (b) shall be prima facie deemed to have been effected at the time when it would be delivered in the ordinary course of post.

### **75A Information to be supplied to sheriff**

- (1) For the purpose of allowing the functions of the sheriff to be carried out in pursuance of this Act in a timely and efficient manner, the registrars of the Supreme Court, District Court and Coroners Court are to provide the sheriff with such information about court sittings and trials as the sheriff may reasonably request.
- (2) For that purpose, the sheriff may also obtain relevant information from any judge or coroner having the conduct of any trial or inquest for which a jury has been or is to be summoned and from the parties concerned in any such proceedings.
- (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.
- (2B) For the purposes of determining whether a person proposed to be summoned for jury service should be excluded from jury service, the sheriff may obtain the following information from Roads and Maritime Services:
  - (a) the person's driver licence number,
  - (b) the person's residential address,
  - (c) if the person is disqualified from holding a driver licence and the disqualification period is 12 months or more—the date on which the person's disqualification ends.
- (2C) The sheriff and Roads and Maritime Services may enter into an arrangement in relation to the manner and form in which information requested under this section is to be provided.
- (2D) The Commissioner of Police or Roads and Maritime Services is required and permitted to comply with a request made by the sheriff under this section.
- (3) Regulations may be made for or with respect to the provision of information to the sheriff by persons referred to in this section.
- (4) The sheriff may disclose information obtained under this section to the Commissioner of Police in connection with a request by the sheriff for information from the Commissioner of Police for the purposes of determining whether a person proposed to be summoned for jury service should be excluded from jury service.

### **75B Power to obtain information for purposes of Act**

- (1) The Commissioner of Police, the Commissioner of Corrective Services and any other person prescribed by the regulations are each authorised and required to provide the sheriff with information reasonably requested by the sheriff that is relevant to determining whether or not a person is liable to be included on a supplementary jury

roll or a jury roll or for jury service.

- (2) It is a duty of each party to proceedings listed for trial by a jury or represented at a coronial inquest to inform the sheriff as soon as is practicable of any event of which the party becomes aware that affects the question of whether or not a jury will be required for the trial or inquest and the dates on which persons will be required to attend for jury service.

### **75C Juror may report misconduct and other irregularities**

- (1) A juror who in the course of the trial or coronial inquest has reasonable grounds to suspect any irregularity in relation to another juror's membership of the jury, or in relation to the performance of the other juror's functions as a juror, may disclose the suspicion and the grounds on which it is held to the court or coroner.
- (2) A former juror who has reasonable grounds to suspect any irregularity in relation to another former juror's membership of the jury on which they served or in relation to the performance of the other former juror's functions as a juror on that jury, may disclose the suspicion and the grounds on which it is held to the sheriff.
- (3) Section 68B (1) does not prohibit a juror from making a disclosure under this section.
- (4) In this section:

***irregularity***, in relation to a juror's membership of a jury, or the performance of the juror's functions as a juror, means the following:

- (a) the commission by the juror of an offence under this Act or any other misconduct,
- (b) a juror becoming excluded from jury service,
- (c) the refusal of the juror to take part in the jury's deliberations,
- (d) the juror's lack of capacity to take part in the trial or coronial inquest (including an inability to speak or comprehend English),
- (e) the juror's inability to be impartial because of the juror's familiarity with the witnesses, parties or legal representatives in the trial or coronial inquest, any reasonable apprehension of bias or conflict of interest on the part of the juror, or any similar reason.

### **76 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (1A) In particular, the regulations may make provision for or with respect to the following:

- (a) the information or other matter to be contained in any notice, summons or other document that by or under this Act is required or permitted to be prepared,
  - (b) the manner of service of any such document.
- (2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

## **77 Repeals**

Each Act specified in Column 1 of Schedule 4 is, to the extent specified opposite that Act in Column 2 of Schedule 4, repealed.

## **78 (Repealed)**

## **79 Transitional and savings provisions**

Schedule 8 has effect.

## **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.

## **Schedule 1 Persons excluded from jury service**

(Section 6)

### **1 Persons having committed certain serious offences excluded from jury service for life**

- (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):
  - (a) an offence that, if committed in New South Wales, would be punishable with a maximum penalty of life imprisonment,
  - (b) an offence that involves a terrorist act within the meaning of the *Terrorism (Police Powers) Act 2002*,
  - (c) an offence under Part 7 (Public justice offences) of the *Crimes Act 1900*,
  - (d) a sexual offence within the meaning of section 7 of the *Criminal Records Act 1991*.

- (2) Despite subclause (1), the exclusion referred to in that subclause ceases to apply if:
  - (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
  - (b) the relevant conviction has been quashed or annulled or a pardon has been granted in respect of the conviction.

## **2 Persons serving or having served sentence of imprisonment**

- (1) This clause does not apply to an offence referred to in clause 1.
- (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.
- (3) A person is excluded from jury service:
  - (a) for 7 years after serving such a sentence or sentences of imprisonment of less than 3 consecutive months, or
  - (b) for 10 years after serving such a sentence or sentences of imprisonment of 3 consecutive months or more.
- (4) Subclause (3) does not apply to:
  - (a) a sentence of imprisonment that has been quashed or converted to a non-custodial sentence on appeal, or
  - (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
  - (c) a sentence of imprisonment for failure to pay a fine.
- (5) In this clause, **sentence of imprisonment** includes the following:
  - (a) a sentence of imprisonment the subject of a periodic detention order or home detention order under the *Crimes (Sentencing Procedure) Act 1999*,
  - (b) a suspended sentence of imprisonment,
  - (c) compulsory drug treatment detention within the meaning of the *Crimes (Administration of Sentences) Act 1999*,
  - (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.
- (6) In this clause, a reference to serving a sentence of imprisonment includes a reference to:



- (a) being subject to a suspended sentence of imprisonment, or
- (b) being on probation or parole after serving part of a sentence of imprisonment.

### **3 Persons serving or having served period of detention**

- (1) This clause does not apply to an offence referred to in clause 1.
- (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.
- (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.
- (4) Subclause (3) does not apply to:
  - (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
  - (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
  - (c) a period of detention for failure to pay a fine.
- (5) In this clause, a reference to being detained in a detention centre or other institution for juvenile offenders includes a reference to:
  - (a) being subject to an order for such detention where the operation of the order is suspended, or
  - (b) being on probation or parole after serving part of a period of detention.

### **4 Persons subject to certain orders and disqualifications or in custody**

- (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 conviction including the following orders so made, but not including an order for compensation:
  - (a) an apprehended violence order within the meaning of the *Crimes (Domestic and Personal Violence) Act 2007*,
  - (b) a community service order or an order under section 9, 10 or 11 of the *Crimes (Sentencing Procedure) Act 1999*,

- (c) an extended supervision order, a continuing detention order, an interim detention order or an emergency detention order under the *Crimes (High Risk Offenders) Act 2006*,
  - (d) a non-association order or place restriction order within the meaning of the *Crimes (Sentencing Procedure) Act 1999*,
  - (e) a prohibition order or contact prohibition order within the meaning of the *Child Protection (Offenders Prohibition Orders) Act 2004*,
  - (f) an order under section 7A of the *Drug Court Act 1998*,
  - (g) an intervention program order within the meaning of the *Crimes (Sentencing Procedure) Act 1999*.
- (2) A person is excluded from jury service during any period in which the person is:
- (a) a person in custody within the meaning of section 249 of the *Crimes (Administration of Sentences) Act 1999*, or
  - (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
  - (c) subject to a preventative detention order within the meaning of Part 2A of the *Terrorism (Police Powers) Act 2002* or a control order or interim control order under Division 104 of the *Criminal Code* of the Commonwealth, or
  - (d) a registrable person within the meaning of the *Child Protection (Offenders Registration) Act 2000*, or
  - (e) bound by an undertaking to participate in the Program under the *Pre-Trial Diversion of Offenders Act 1985*, or
  - (f) subject to a limiting term under the *Mental Health (Forensic Provisions) Act 1990*, or
  - (g) detained in a hospital or other place under Division 6 of Part IB of the *Crimes Act 1914* of the Commonwealth, or
  - (h) subject to an interim control order, or a control order, within the meaning of the *Crimes (Criminal Organisations Control) Act 2012*.
- (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.

## **5 Persons holding particular office**

- (1) A person holding any of the following offices is excluded from jury service:

- (a) the Governor,
- (b) a judicial officer (within the meaning of the *Judicial Officers Act 1986*),
- (c) (Repealed)
- (d) a member of the Executive Council,
- (e) a member of the Legislative Council or Legislative Assembly,
- (f) the Ombudsman, a Deputy Ombudsman or an Assistant Ombudsman.
- (g)-(l) (Repealed)

(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.

#### **5A Persons who are Australian lawyers**

A person who is an Australian lawyer, whether or not an Australian legal practitioner, is excluded from jury service.

#### **6 Persons employed or engaged in certain occupations in the public sector**

- (1) A person who is a 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.
- (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 any of the following bodies, except if the person is employed or engaged as clerical, administrative or support staff:
  - (a) the Office of the Ombudsman,
  - (b) the Office of the Director of Public Prosecutions,
  - (c) the Crown Solicitor's Office.
- (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:
  - (a) the NSW Police Force,
  - (b) the Australian Federal Police,
  - (c) the NSW Crime Commission,
  - (d) the Australian Crime Commission,

(e) the Police Integrity Commission,

(f) the Independent Commission Against Corruption.

(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.

## **7 Persons having access to information about inmates and other detainees**

(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:

(a) the Department of Attorney General and Justice,

(b) the State Parole Authority,

(c) the Serious Offenders Review Council,

(d) the Serious Young Offenders Review Panel,

(d1) the Serious Young Offenders Review Panel,

(e) the Probation and Parole Service,

(f) the Justice and Forensic Mental Health Network,

(g) the Mental Health Review Tribunal.

(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.

(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](#).

## **8 Undischarged bankrupts**

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

### **Note—**

Other persons are ineligible for jury service because of the [Jury Exemption Act 1965](#) of the Commonwealth.

## Schedule 2 Persons who have a right to claim exemption

(Section 7)

- 1 Clergy.
- 2 Vowed members of any religious order.
- 3 Persons practising as dentists.
- 4 Persons practising as pharmacists.
- 5 Persons practising as medical practitioners.
- 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.
- 7 A person who:
  - (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
  - (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.
- 8 A person who is entitled to be exempted under section 39 on account of previous lengthy jury service.
- 9 A person who resides with, and has the full-time care of, a person who is sick, infirm or disabled.

## Schedule 3 (Repealed)

## Schedule 4 Repeals

(Section 77)

Column 1		Column 2
Year and number of Act	Short title of Act	Extent of repeal
1912 No 31	<a href="#">Jury Act 1912.</a>	The whole Act.
1918 No 33	<a href="#">Jury (Amendment) Act 1918.</a>	The whole Act.
1924 No 8	<a href="#">Jury (Amendment) Act 1924.</a>	The whole Act.
1924 No 10	<a href="#">Crimes (Amendment) Act 1924.</a>	Section 34.
1929 No 2	<a href="#">Crimes (Amendment) Act 1929.</a>	Section 19.
1937 No 35	<a href="#">Statute Law Revision Act 1937.</a>	So much of the Second Schedule as amends Act No 31, 1912.
1947 No 41	<a href="#">Jury (Amendment) Act 1947.</a>	The unrepealed portion except sections 1 (1) and 7.

1951 No 42	<a href="#">Jury (Amendment) Act 1951.</a>	The whole Act.
1957 No 13	<a href="#">Supreme Court Procedure Act 1957.</a>	Section 10, so much of First Schedule as amends Act No 31, 1912, and so much of the Second Schedule as relates to the <a href="#">Jury Act 1912</a> .
1965 No 12	<a href="#">Supreme Court and Circuit Courts (Amendment) Act 1965.</a>	Section 16 and so much of the Schedule as relates to the <a href="#">Jury Act 1912</a> .
1965 No 12	<a href="#">Law Reform (Miscellaneous Provisions) Act 1965.</a>	Section 26 and so much of the Schedule as relates to the <a href="#">Jury Act 1912</a> .
1968 No 3	<a href="#">Administration of Justice Act 1968.</a>	So much of section 3 as relates to Part 7, Part 7 and so much of the Schedule as relates to the <a href="#">Jury Act 1912</a> .
1970 No 52	<a href="#">Supreme Court Act 1970.</a>	So much of the First Schedule as relates to Act No 41, 1947, and so much of the Second Schedule as amends Act No 31, 1912.
1972 No 41	<a href="#">Supreme Court (Amendment) Act 1972.</a>	Paragraph (t) of the Second Schedule.
1973 No 9	<a href="#">District Court Act 1973.</a>	So much of Schedule 2 as amends Act No 31, 1912, and Act No 41, 1947.
1974 No 50	<a href="#">Crimes and Other Acts (Amendment) Act 1974.</a>	Section 15.
1974 No 51	<a href="#">Metric Conversion Act 1974.</a>	Item 178 of the Schedule.
1975 No 65	<a href="#">Miscellaneous Acts (Administrative Changes) Amendment Act 1975.</a>	Section 7.

## Schedules 5-7 (Repealed)

## Schedule 8 Transitional and savings provisions

(Section 79)

### Part 1 Preliminary and regulations

#### 1 Definitions

In this Schedule:

**commencement of this Act** means the day appointed and notified under section 2 (2).

**former Act** means the [Jury Act 1912](#) as in force immediately before the commencement of this Act.

#### 1A Transitional and savings regulations

(1) The regulations may make provision of a transitional or savings nature consequent on

the enactment of the following Acts:

This Act

*Jury (Amendment) Act 1987*

*Jury Amendment Act 1996*

*Jury Amendment Act 1997*

*Courts Legislation Amendment Act 1999*

*Courts Legislation Amendment Act 2001* (but only to the extent that it amends this Act)

*Jury Amendment Act 2004*

*Courts Legislation Amendment Act 2005* (but only to the extent that it amends this Act)

*Jury Amendment (Verdicts) Act 2006*

*Jury Amendment Act 2007*

*Jury Amendment Act 2008*

*Jury Amendment Act 2010*

- (2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.
- (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.
- (4) A provision referred to in subclause (1) shall, if the regulations so provide, have effect notwithstanding any other clause of this Schedule.

## **Part 2 Transitional and savings provisions consequent on enactment**

## **of this Act**

### **2 Former Act to continue for return of jury in each district until appointed day**

- (1) Notwithstanding anything contained in this Act and subject to subclause (2), Parts 2 and 8 of the former Act and sections 26 and 43 of the *Mental Health Act 1958* as in force immediately before the commencement of this Act shall continue in force for or with respect to the return of a jury for any trial in a jury district until such day as may be appointed by the Governor in respect of that jury district and as may be notified by proclamation published in the Gazette.
- (2) The jurors' book in force immediately before the commencement of this Act for any jury district shall, for the purposes of subclause (1), be deemed to be the jurors' book for that district.

### **3 Act in force for certain purposes**

Clause 2 does not affect, during the period after the commencement of this Act and before the day appointed and notified under that clause in respect of any jury district, the provisions of this Act relating to:

- (a) the preparation of a jury roll for that jury district, and
- (b) the issue of general jury precepts and the summoning and return of jurors in pursuance of those precepts for trials commencing in that jury district after the day appointed and notified in respect of that jury district.

### **4 Day appointed for jury district**

- (1) The day appointed and notified under clause 2 in respect of any jury district shall not be earlier than the day on which the sheriff certifies a jury roll for that district prepared in accordance with this Act.
- (2) The Governor may for the purposes of clause 2 appoint different days in respect of different jury districts.

### **5 Juries at coronial inquests**

- (1) Section 28 of the *Coroners Act 1980* shall not apply if a day has not been appointed and notified under clause 2 in respect of the jury district at which the coronial inquest would, under that section, be required to be held.
- (2) The provisions of the *Coroners Act 1960*, relating to the qualifications and liability to serve as a juror at, or relating to the return of a jury for, any coronial inquest shall continue in force until the day appointed and notified under clause 2 in respect of the jury district at which the inquest is held.



## **6 Trials in progress at commencement of Act**

Nothing in this Act affects any trial in progress at the commencement of this Act.

## **7 Old rules etc continue to apply**

Except as provided in this or in any other Act, a jury in criminal or civil proceedings or in a coronial inquest shall be subject to the same rules and manner of proceeding as were observed before the commencement of this Act.

## **Part 3 Transitional and savings provisions consequent on enactment of [Jury \(Amendment\) Act 1987](#)**

### **8 Pending trials and inquests**

The amendments made by the [Jury \(Amendment\) Act 1987](#) (except Schedule 1 (5), (6), (22) and (23) to that Act) apply to and in respect of a trial or inquest even though the trial or inquest commenced before the commencement of those amendments.

### **9 Existing rolls**

The amendments made by Schedule 1 (1) and (23) to the [Jury \(Amendment\) Act 1987](#) do not apply to or in respect of a jury roll in force before the commencement of those amendments.

## **Part 4 Transitional and savings provisions consequent on enactment of [Jury Amendment Act 1996](#)**

### **10 Saving and culling of former jury rolls**

- (1) The jury roll in force for a jury district immediately before the commencement of section 15A is taken to have been prepared in accordance with Part 3, as amended by the [Jury Amendment Act 1996](#).
- (2) After the commencement of section 15A, the sheriff is to remove from the jury roll for each jury district a sufficient number of the persons who were on the roll immediately before that commencement to compensate for those whose names are added to supplement the roll in accordance with section 15A, until all of those persons have been removed from the roll (except any whose names have been reinstated on the roll pursuant to section 15A (1)).
- (3) The selection of persons to be removed from a jury roll pursuant to subclause (2) is to be made at random and may be made by use of a computer.
- (4) Within 15 months after the commencement of section 15A, the sheriff must remove from a jury roll all of the persons who were on the jury roll immediately before that commencement (except any whose names have been reinstated on the roll pursuant to section 15A (1)).

## **11 Saving of summonses**

This Act, as in force immediately before the commencement of Schedule 1 [13] to the *Jury Amendment Act 1996*, applies to and in respect of a summons issued by the sheriff under Part 5 before that commencement.

## **12 Transitional provisions**

- (1) Section 57A (relating to courts deciding issues of fact) does not apply to a trial that commenced before the commencement of that section.
- (2) Section 58 (relating to the discharge of a jury that disagree in civil proceedings), as in force immediately before the commencement of Schedule 2 [4] and [5] to the *Jury Amendment Act 1996* applies to a trial commenced before the commencement of those items.
- (3) Section 66 (as inserted by the *Jury Amendment Act 1996* and relating to penalty notices for failure to attend for jury service) applies to a failure to attend for jury service before or after the commencement of that section.
- (4) Section 72 (relating to payment for jury service) as in force immediately before the commencement of Schedule 2 [8] to the *Jury Amendment Act 1996* applies to an attendance for jury service before that commencement.

## **13 Saving of fees**

The rates for jury fees prescribed for the purposes of section 72 (1) immediately before the commencement of Schedule 2 [8] to the *Jury Amendment Act 1996* are taken to have been prescribed for the purposes of section 72 (1A), as substituted by that Act, until further rates are prescribed.

## **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.

## **Part 6 Transitional and savings provisions consequent on enactment of *Courts Legislation Amendment Act 1999***

### **15 Peremptory challenges in civil proceedings**

Section 42A, as inserted by the *Courts Legislation Amendment Act 1999*, applies only in respect of civil proceedings for which a jury is selected after the commencement of this

clause.

## **Part 7 Transitional and savings provisions consequent on enactment of Courts Legislation Amendment Act 2001**

### **16 Disclosing and soliciting information regarding jurors and jury deliberations**

Sections 68 and 68A, as amended by Schedule 4 to the *Courts Legislation Amendment Act 2001*, apply to acts, matters or things done, and in relation to jurors and jury deliberations in criminal proceedings, that were finally determined before, on or after the commencement of those amendments.

## **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.

## **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.

## **Part 10 Transitional and savings provisions consequent on enactment of [Jury Amendment Act 2007](#)**

### **19 Application of additional jurors amendments**

The amendments made to this Act by the [Jury Amendment Act 2007](#) apply to criminal proceedings only if the jury is empanelled after the commencement of those amendments.

## **Part 11 Transitional and savings provisions consequent on enactment of [Jury Amendment Act 2008](#)**

### **20 Pending trials and inquests**

An amendment made by the [Jury Amendment Act 2008](#) applies to and in respect of any jury empanelled in a trial or coronial inquest after the commencement of the amendment.

## **Part 12 Transitional and savings provisions consequent on enactment of [Jury Amendment Act 2010](#)**

### **21 Application of amendments**

- (1) In this clause, **amending Act** means the [Jury Amendment Act 2010](#).
- (2) Subject to the regulations, an amendment made to a provision of this Act by the amending Act:
  - (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
  - (b) does not require any notice sent under section 13 before the commencement of the amendment to be sent again, and
  - (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
  - (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
  - (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

- (f) does not affect the validity of any jury roll certified under section 16 before the commencement of the amendment, and
  - (g) does not affect the validity of any supplementary jury roll prepared before the commencement of the amendment.
- (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.

## **Part 13 Transitional provision consequent on enactment of [Courts and Other Legislation Amendment Act 2012](#)**

### **22 Testing of information systems**

The sheriff, Commissioner of Police and Roads and Maritime Services may, before the commencement of Schedule 1 [20] to the [Jury Amendment Act 2010](#), disclose information if the sheriff, Commissioner of Police or Roads and Maritime Services is satisfied that:

- (a) the disclosure is made in relation to the testing of an information system being developed for the purposes of the implementation of the amendments made to this Act by Schedule 1 [20] to the [Jury Amendment Act 2010](#) and Schedule 9 [1] and [2] to the [Courts and Other Legislation Amendment Act 2012](#), and
- (b) the disclosure would be authorised if:
  - (i) it was made for the purposes of determining whether a person proposed to be summoned for jury service should be excluded from jury service, and
  - (ii) the provisions referred to in paragraph (a) had commenced.