



Western Australia

## **Juries Act 1957**

Compare between:

[27 May 2008, 05-g0-02] and [21 Jun 2008, 05-h0-02]



Western Australia

## **Juries Act 1957**

**An Act to consolidate and amend the law relating to juries, and for other purposes.**

*[Long title amended by No. 59 of 1984 s. 3.]*

### **1. Short title and commencement**

- (1) This Act may be cited as the *Juries Act 1957*<sup>1</sup>.
- (2) This Act shall come into operation on a date to be fixed by proclamation<sup>1</sup>.

*[Section 1 amended by No. 6 of 1981 s. 3; No. 59 of 1984 s. 4.]*

## Part I — Introductory

[2.        *Omitted under the Reprints Act 1984 s. 7(4)(e) and (f).]*

### 3.        **Terms used in this Act**

(1)      In this Act unless inconsistent with the subject matter or context —

“**Assembly district**” means an Electoral district for the election of a member of the Legislative Assembly;

“**circuit court**” means a court held in a circuit town by virtue of the provisions of section 46 of the *Supreme Court Act 1935*;

“**civil trial**” means trial in the civil jurisdiction of the Supreme Court, a circuit court, or the District Court;

“**court town**” means any place where a sitting of the Supreme Court or a circuit court or of the District Court is appointed to be held;

“**criminal trial**” means a trial of issues required by the *Criminal Procedure Act 2004* to be tried by a jury, but does not include a trial in a Children’s Court or in summary proceedings;

“**District Court**” means The District Court of Western Australia established under the *District Court of Western Australia Act 1969*;

“**general jury precept**” means a precept issued under section 20;

“**identification number**” of a person means the identification number allocated to the person under section 26(6), 32D(1a) or 52(2);

“**judge**” —

(a)      in relation to the Supreme Court, means judge, acting judge or auxiliary judge of that court and includes a

commissioner appointed under section 49 of the *Supreme Court Act 1935*;

(b) in relation to a circuit court, means judge, acting judge or auxiliary judge of that court and includes a commissioner appointed under section 49 of the *Supreme Court Act 1935*; and

(c) in relation to the District Court, means judge, acting judge or auxiliary judge of that court and includes a commissioner appointed under section 24 of the *District Court of Western Australia Act 1969*;

**“jury assembly room”** means a place specified in the summons for the assembly of jurors summoned to attend at a jury pool;

**“jury district”** means a part of the State proclaimed under this Act to be a jury district;

**“jury officer”** means jury officer ascertained in accordance with section 13;

**“jury pool”** means a pool of jurors from which juries may be selected for trials to which the pool relates;

**“jury pool supervisor”** means a person, appointed by the jury officer, for the time being in charge of a jury pool;

**“panel”** means a panel of jurors chosen under section 26 or 29;

**“police officer”** means an officer or member of the Police Force of Western Australia;

**“pool precept”** means a precept issued under section 32G;

**“sheriff”** means the Sheriff of Western Australia and any deputy sheriff appointed by the Sheriff of Western Australia;

**“summoning officer”** means the sheriff, jury officer or other person whose duty it is to summon jurors, and their deputies respectively;

**“Supreme Court”** does not include a circuit court;

**s. 3A**

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“**tickets**” means distinct pieces of card, parchment, or durable material;

“**trial**” means any trial, issue, inquiry, assessment of damages or other proceeding, whether civil or criminal, for which a jury is or may be lawfully required.

- (2) For the purposes of this Act, a proper officer is —
- (a) the associate of the judge;
  - (b) a person directed by the judge to be the proper officer;  
or
  - (c) in the absence of either, the judge.

*[Section 3 amended by No. 44 of 1973 s. 3; No. 64 of 1975 s. 3; No. 6 of 1981 s. 4; No. 23 of 1997 s. 16; No. 25 of 2003 s. 4; No. 59 of 2004 s. 141; No. 84 of 2004 s. 51.]*

**3A.      Application of this Act to District Court**

Subject to the *District Court of Western Australia Act 1969*, and to the other provisions of this Act, this Act applies in respect of the District Court, a judge thereof, and any civil or criminal trial held in the District Court as they apply in respect of the Supreme Court, a judge thereof, and any such trial held in the Supreme Court and without limiting the generality of the foregoing, the provisions of this Act relating to the constitution and procuring of juries, the summoning and challenging of jurors, the discharge of juries, and the verdicts of juries extend and apply to the constituting and procuring of juries, the summoning and challenging of jurors, the discharge of juries, and the verdicts of juries in the District Court.

*[Section 3A inserted by No. 44 of 1973 s. 4.]*

## Part II — Liability to serve as jurors

*[Heading amended by No. 59 of 1984 s. 5.]*

### 4. Liability to serve as juror

Subject to this Act, a person who is enrolled on any of the rolls of electors entitled to vote at an election of members of the Legislative Assembly of the Parliament of the State is liable to serve as a juror at trials in the jury district in which the person is shown to live by any of those rolls of electors.

*[Section 4 inserted by No. 59 of 1984 s. 6.]*

### 5. Persons who are not eligible or not qualified or who are excused

Notwithstanding that a person is liable to serve as a juror by virtue of section 4 that person —

- (a) is not eligible to serve as a juror if —
    - (i) he or she is a person within the classes of person listed in Part I of the Second Schedule; or
    - (ii) he or she has attained the age of 70 years;
  - (b) is not qualified to serve as a juror if he or she —
    - (i) has been convicted of an offence in Western Australia or elsewhere and sentenced to —
      - (I) death whether or not that sentence has been commuted;
      - (II) strict security life imprisonment referred to in section 282 or 679 of *The Criminal Code*;
      - (III) imprisonment for life; or
      - (IV) imprisonment for a term exceeding 2 years or for an indeterminate period,
- unless he or she has received a free pardon or, where sub-subparagraph (IV) applies, the

**s. 5**

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conviction in respect of which the sentence of imprisonment was imposed is a spent conviction within the meaning in section 3 of the *Spent Convictions Act 1988*;

- (ii) has at any time within 5 years in Western Australia or elsewhere —
  - (I) been the subject of a sentence of imprisonment or been on parole in respect of any such sentence;
  - (II) been found guilty of an offence and detained in an institution for juvenile offenders; or
  - (III) been the subject of a probation order, a community order (as defined in the *Sentencing Act 1995*), or an order having a similar effect, made by any court;
- (iii) does not understand the English language; or
- (iv) is incapacitated by any disease or infirmity of mind or body, including defective hearing, that affects him or her in discharging the duty of a juror;
- (c) is excused from serving as a juror —
  - (i) as of right, if he or she is a person within the classes of person listed in Part II of the Second Schedule and claims to be excused by virtue of that fact; or
  - (ii) if, pursuant to the provisions of this Act, the court, judge, sheriff or summoning officer excuses him or her from serving as a juror.

*[Section 5 inserted by No. 59 of 1984 s. 6; amended by No. 56 of 1988 s. 4; No. 78 of 1995 s. 57; No. 12 of 2000 s. 4.]*

*[6. Repealed by No. 59 of 1984 s. 7.]*



[7. *Repealed by No. 59 of 1984 s. 8.*]

**8. Verdict not affected**

The fact that a person who —

- (a) is not eligible or not qualified to serve as a juror; or
- (b) is excused from serving as a juror,

has served as a juror in a trial, whether civil or criminal, is not a ground for questioning, and does not invalidate or affect, the verdict.

*[Section 8 inserted by No. 59 of 1984 s. 9.]*

### Part III — Jury districts

**9. Jury districts**

For the Supreme Court, and for each circuit court, the Governor shall constitute a jury district.

*[Section 9 amended by No. 44 of 1973 s. 6.]*

**10. Area of jury districts**

- (1) A jury district shall consist of the whole or such part or parts of such Assembly district or Assembly districts as is or as are, from time to time, determined in accordance with the provisions of this Part.
- (2) The jury district for the Supreme Court, and for each circuit court, shall consist of such Assembly district or districts, or such part or parts of such Assembly district or districts, as the Governor determines and declares, and is hereby authorised to determine and declare by proclamation from time to time.
- (3) Where a circuit town is declared after the coming into operation of this Act<sup>1</sup> pursuant to the power conferred by section 46 of the *Supreme Court Act 1935*, or any other Act for the time being in operation, the Governor may by the proclamation declaring the circuit town, or by subsequent proclamation, declare what Assembly district or districts or part or parts of an Assembly district or districts, shall constitute the jury district for the circuit court of the circuit town so proclaimed.
- (4) The jury district for the District Court sitting at Perth shall be the same as the jury district for the Supreme Court.
- (5) The jury district for the District Court sitting at a place other than Perth shall be the same as the jury district for a circuit court at that place.

*[Section 10 amended by No. 44 of 1973 s. 7; No. 64 of 1975 s. 4.]*

**11. Transitional provisions for alterations or abolition of Assembly districts**

- (1) If an Assembly district part or the whole of which forms or is comprised in a jury district is altered or abolished pursuant to any law for the time being in operation; the jury district, as constituted immediately prior to the alteration or abolition of the Assembly district, shall nevertheless remain as so constituted until varied by proclamation under this Act, and any jurors' book in force immediately prior to the alteration or abolition of the Assembly district shall continue to be the jurors' book for the jury district until a new jurors' book is prepared under this Act.
- (2) If a jury district is altered or abolished by proclamation under section 12,
  - (a) jurors for whom summonses have been issued before the day on which the proclamation takes effect to attend for any sittings, shall on being served attend in accordance with the summons;
  - (b) trials to be held at the sittings shall be held, or if commenced before that day, shall be continued; and
  - (c) jurors for those trials shall be chosen,

as if the proclamation had not taken effect.

*[Section 11 amended by No. 44 of 1973 s. 8; No. 1 of 2005 s. 9(2).]*

**12. Power to vary jury districts**

The Governor may from time to time by proclamation —

- (a) alter the area of any jury district as for the time being constituted; and
- (b) include in, or exclude from, the area, the whole or any part of an Assembly district; and

**s. 12**

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- (c) abolish a jury district and include the area of the jury district wholly or partly in any other jury district.

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## Part IV — Jurors' books, boxes and cards

### 13. Jury officers

The jury officers for the respective jury districts are —

- (a) for the Supreme Court, and the District Court sitting at Perth, the sheriff; and
- (b) for the District Court sitting at a place other than Perth, and a circuit court at that place, the senior registrar of the District Court at that place.

*[Section 13 inserted by No. 44 of 1973 s. 9; amended by No. 53 of 1992 s. 9(4).]*

### 14. Electoral Commissioner to prepare jury lists

- (1) On or about 1 March in each year the sheriff —
  - (a) shall notify the Electoral Commissioner of the number of jurors that in his estimate will be required for jury service for each jury district; and
  - (b) shall requisition from the Electoral Commissioner the number of copies of lists of jurors which he requires for each jury district.
- (2) Before 30 April in each year the Electoral Commissioner shall by ballot in accordance with the provisions of subsection (2a) select jurors to the number so notified to him by the sheriff for each jury district from all of the electors who —
  - (a) are shown in the electoral rolls for the Assembly district or districts which, or parts of which, comprise the jury district; and
  - (b) subject to section 5, appear to be liable to serve as jurors.
- (2a) The Electoral Commissioner shall select from each Assembly district or each part of an Assembly district which is comprised

**s. 14**

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in a jury district a quota of the jurors required by the sheriff ascertained to the nearest whole number by —

- (a) multiplying the number of electors on the roll of such Assembly district or shown on the roll to be residing in such part, by the number of jurors required by the sheriff for the jury district; and
  - (b) dividing the product obtained under paragraph (a) by the total number of electors in the jury district.
- (2b) The selection of jurors required by subsections (2) and (2a) may be made by computer.
- (3) The Electoral Commissioner shall prepare a separate list of persons so selected for each jury district, and shall cause to be printed and sent to the sheriff before 30 April in each year such number of each list as the sheriff requisitions.
- (3a) Notwithstanding anything in subsections (1) to (2a), where in relation to a particular jury district the sheriff considers that the number of persons in a jury district who are liable to serve as jurors would be too small for the purposes of applying the provisions of subsections (1) to (2a) for the purposes of selecting persons for service as jurors, the sheriff shall require the Electoral Commissioner instead of providing him with a copy of lists of names of persons in accordance with the provisions of subsections (1) to (2a) in relation to such a jury district, to provide him with a list of the names of all the persons who —
- (a) are shown in the electoral rolls for the Assembly district or districts which, or parts of which, comprise the jury district referred in the requisition to be living in the jury district; and
  - (b) appear not to be, pursuant to section 5, not eligible or not qualified to serve as jurors.
- (4) The lists so prepared by the Electoral Commissioner are the jury lists for the respective jury districts.

*[(5)-(7) repealed]*

- (8) If it appears to the sheriff that a person whose name appears on the jury list is pursuant to section 5 not eligible or not qualified to serve as a juror, is dead, or no longer resides in the jury district or that the address of the person is unknown, the sheriff shall cause the person's name to be removed from the jury list.

*[(9) repealed]*

- (10) Before 1 July in every year the sheriff shall cause to be prepared for, and sent to the jury officer of, each jury district the list compiled pursuant to subsections (1) to (8) to be called the jurors' book containing the names duly numbered in regular arithmetical series appearing on the list; and the list shall be the jurors' book for the jury district until a new jurors' book has been prepared for the jury district in accordance with the provisions of this Act notwithstanding any alteration in the boundaries of the jury district during that year and shall be kept by the jury officer among the records of his office for use whenever required.
- (11) Persons whose names appear in the jurors' book for a jury district are, subject to this Act, the jurors liable to serve on all juries empanelled for any trial, whether civil or criminal, within the jury district.
- (12) A jurors' book compiled in accordance with the provisions of this Act on or before 1 July in a year shall be used, subject to any adjustment made pursuant to section 34A for one year next following and thenceforward until a new jurors' book has been completed, but
- (a) without prejudice to the operation of section 11 of the *Interpretation Act 1918*<sup>2</sup>, a jurors' book may be compiled at any time after the passing of this Act, and before 1 July 1960, being the date on which this Act was proclaimed to come into operation, and may be used until 30 June in the year next following the year in

**s. 15**

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which this Act was proclaimed to come into operation<sup>1</sup>;  
and

- (b) the names of jurors summoned before 1 July in any year, for any trial to be held on and after that 1 July shall be taken from the jurors' book in use under this Act at the date when those jurors were so summoned.

*[Section 14 amended by No. 35 of 1959 s. 2; No. 44 of 1973 s. 10; No. 6 of 1981 s. 7; No. 59 of 1984 s. 10.]*

**15. Electoral Commissioner to prepare jury lists for new districts**

- (1) On any place being newly appointed to be a court town the Electoral Commissioner shall on the request in writing of the Attorney General prepare forthwith a list for the jury district assigned to the town; and shall deal with the list in the same manner as is required by this Act in respect of the preparation of annual jury lists.

*[(2) repealed]*

*[Section 15 amended by No. 6 of 1981 s. 8; No. 59 of 1984 s. 11.]*

**16. Jurors' tickets to be placed in boxes**

- (1) The sheriff shall provide for each jury district 2 suitable boxes of a type to be approved by the Attorney General for use for the purposes of this Act, marked with the name of the district and labelled respectively, "Jurors in Use" and "Jurors in Reserve".
- (2) The summoning officer shall cause to be printed or written upon separate tickets of as nearly as may be the same size and shape the name of the jury district and the several numbers contained in the jurors' book for the district, so that the tickets form a regular arithmetical series corresponding to the numbers in the jurors' book and shall then place the tickets in the box marked with the name of the jury district and labelled "Jurors in Use".



- (3) The summoning officer shall lock the box and keep the keys so that unless this Act provides otherwise, no other person shall have access to it.
- (4) If at any time any of the tickets are lost the summoning officer shall replace them within 2 days after discovery of the loss.

**17. Duty of police**

Police officers shall render such assistance in the compilation of the jury lists and jurors' books and shall undertake such inquiries, and shall supply such information, as the sheriff, or the Electoral Commissioner or any jury officer, or summoning officer, requires, whether for the purpose of ascertaining the names of persons not qualified to serve as jurors, or for any other purpose of the administration of this Act.

## Part V — Numbers of jury

*[Heading amended by No. 6 of 1981 s. 9.]*

### 18. Number of jurors for a criminal trial

- (1) If a jury is required for a criminal trial, not less than 12 and not more than 18 jurors shall be chosen and returned from the jurors' book for the jury district in which the trial is to take place.
- (2) The actual number to be chosen and returned under subsection (1) shall be determined by a judge of the court in which the trial is to be held.
- (3) Immediately after determining the number of jurors to be chosen and returned, the judge shall give the sheriff notice of the number.
- (4) If, immediately before the jury is asked to retire to consider its verdict in a criminal trial, there are more than 12 jurors, a ballot shall be conducted to select 11 of the jurors to retire with the foreperson to consider the verdict.
- (5) The ballot referred to in subsection (4) shall be conducted by the proper officer by —
  - (a) placing the cards with the identification numbers of the jurors other than the foreperson in a ballot-box;
  - (b) agitating the box sufficiently to intermix the cards in the box; and
  - (c) drawing 11 cards one after another out of the box and calling aloud the identification number on each card.
- (6) A juror not selected under subsection (4) shall be discharged from further service as a juror for that trial.

*[Section 18 inserted by No. 25 of 2003 s. 5(1); amended by No. 84 of 2004 s. 51.]*

**19.        Number of jurors for a civil trial**

A jury for a civil trial shall, subject to this Act, consist of 6 persons who shall be chosen and returned, according to the provisions of this Act, from the jurors' book for the jury district in which the trial is to take place.

## **Part VA — General jury precepts and panels**

*[Heading inserted by No. 6 of 1981 s. 10.]*

### **20. General jury precepts**

Subject to this Act, where jurors are required for any criminal or civil trial or trials in the Supreme Court, a circuit court, or the District Court, a general jury precept in the prescribed form shall be issued to the appropriate summoning officer referred to in section 21 or in section 25 requiring him to summon a sufficient number of jurors to attend on the trial or trials —

- (a) by a Supreme Court judge, in the case of a general jury precept returnable in the Supreme Court or a circuit court; or
- (b) by a District Court judge, in the case of a general jury precept returnable in the District Court,

but where a sitting of the Supreme Court or a circuit court, and of the District Court coincide wholly or in part at the same place, a Supreme Court judge may issue a general jury precept for summoning jurors to attend both those sittings.

*[Section 20 inserted by No. 44 of 1973 s. 11; amended by No. 6 of 1981 s. 11.]*

### **21. Summoning officer**

Subject to section 25 —

- (a) the sheriff is the summoning officer in respect of general jury precepts returnable in the Supreme Court or returnable in the District Court sitting at Perth; and
- (b) the senior registrar of the District Court sitting at a place other than Perth is the summoning officer in respect of general jury precepts returnable in that court or returnable in a circuit court at that place.

*[Section 21 inserted by No. 44 of 1973 s. 12; amended by No. 6 of 1981 s. 12; No. 53 of 1992 s. 9(4).]*

**22. Contents and issue of general jury precept**

A general jury precept —

- (a) shall specify the time when and the place where the attendance of the jurors is required; and
- (b) shall be issued and delivered to the summoning officer to whom it is directed 21 days at least before it is returnable.

*[Section 22 amended by No. 6 of 1981 s. 13.]*

**23. Number of jurors to be summoned**

Upon the receipt of a general jury precept in respect of a criminal trial the summoning officer, unless otherwise directed by the precept, shall summon not less than 20 nor more than 40 jurors.

*[Section 23 amended by No. 6 of 1981 s. 14.]*

**24. Oral precepts and amending or enlarging panel**

The Supreme Court and every judge thereof, and every circuit court and the judge thereof, have and may exercise such power and authority as they have prior to the coming into operation of this Act had and exercised, or as similar courts in England have, in making any award or order, orally or otherwise, for the return of a jury for the trial of any issue before any of those respective courts, or for the amending or enlarging of any panel hereinafter mentioned; and the return to any award or order so made shall be made in the accustomed manner heretofore used in such or similar courts respectively in England, but a person shall not be so returned as a juror unless he or she is qualified according to this Act to serve as a juror.

*[Section 24 amended by No. 44 of 1973 s. 13.]*

**s. 25**

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**25. Power of appointment of alternative summoning officer where summoning officer has interest in trial**

- (1) If it appears  
to a judge  
that a summoning officer  
to whom, but for this section, he would issue a general jury precept to summon jurors for the trial of any issue,  
has any direct or indirect interest in the result of the trial  
other than an interest in his capacity as summoning officer or other than an interest in common with the public,

he may issue the general jury precept to such other person as he thinks fit to appoint and is hereby authorised to appoint as summoning officer.

- (2) A person who is appointed as summoning officer, and to whom a general jury precept is issued, under subsection (1), has and may exercise the powers conferred, and shall carry out the duties imposed, on a summoning officer by this Act in respect of the general jury precept.

*[Section 25 amended by No. 44 of 1973 s. 14; No. 6 of 1981 s. 15.]*

**26. Procedure for choosing jurors for criminal trials**

- (1) Where a general jury precept is delivered to the summoning officer for a jury for a criminal trial, the summoning officer shall, subject to section 29A, choose in the manner prescribed by this section the persons to be summoned from those whose names appear in the jurors' book for the jury district in which the attendance of jurors is required by the general jury precept.
- (2) At a time and place which the summoning officer shall appoint, and in the presence of one of the senior officers of the Supreme Court if the summoning officer is the sheriff, or, if not the

sheriff, in the presence of a justice of the peace, the summoning officer shall cause the box for the jury district on which the words "Jurors in Use" are marked to be agitated, or to be rotated, sufficiently to intermix the tickets in the box, and shall then draw out of the box one after another as many of the tickets in the box as are required to make up the number of persons to be summoned as jurors and in every case draw out of the box a sufficient number of additional tickets one after another to be kept by him for use pursuant to section 27(3).

- (3) As each ticket not being an additional ticket is drawn the summoning officer shall refer to the corresponding number in the jurors' book and read aloud the name to which that number is assigned in the jurors' book, and shall, except in the case of an omission authorised by subsection (4) or by section 27(1), write or cause to be written on a panel which he shall sign, the number, and the name with the addition shown in the jurors' book in connection with that name, and shall keep the tickets corresponding to the numbers and names so written on the panel until after the precept is returnable.
- (4) Where the number on a ticket corresponds in the jurors' book to the name of a juror whom the summoning officer knows to be dead, or to have left the district, or to have attended at a jury pool during the currency of that jurors' book having been summoned so to attend, or to be not eligible, the summoning officer shall omit that name from the panel; and shall draw from the box a ticket in place of the ticket representing the person whose name is so omitted and shall make a special return to the court of the names of the jurors whose names appear on the panel, and of the names of the jurors so omitted, stating the reason for the omission.
- (5) The persons whose names appear on the panel shall be the jurors to be summoned and the summoning officer shall forthwith cause to be issued to each juror named in the panel a summons in the prescribed form.

**s. 27**

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- (6) The summoning officer shall ensure that —
- (a) each person to whom a summons is issued is allocated a unique identification number; and
  - (b) the panel shows the identification number against the place where the person's name appears on the panel.

*[Section 26 amended by No. 6 of 1981 s. 16; No. 59 of 1984 s. 12; No. 13 of 1988 s. 3; No. 25 of 2003 s. 6.]*

**27. Summoning officer may omit name from panel and excuse juror from attendance**

- (1) The summoning officer, of his own motion in the jury district for the Supreme Court, a circuit court, or the District Court, may on the grounds specified in the Third Schedule and on such evidence as he deems sufficient, omit from a panel any name in the jurors' book and excuse from attendance at any criminal trial any person who has been summoned as a juror.

*[(2) repealed]*

- (3) If at any time before the panel for any criminal trial is returnable the summoning officer excuses any juror from attendance, or ascertains that any juror cannot be served with a summons, he shall choose in rotation from the jurors whose names correspond with the numbers on the additional tickets drawn out by him pursuant to section 26(2), such number of persons as is required to complete the panel and shall place their names on the panel in substitution for the names of the jurors who are so excused, or who cannot be so served, and a juror whose name is so substituted shall be summoned accordingly and shall be bound to attend pursuant to summons notwithstanding that the summons was not served on him within the prescribed time.

*[Section 27 amended by No. 44 of 1973 s. 15; No. 59 of 1984 s. 13.]*



**28. Ticket of juror not attending to be returned to box**

- (1) If the summoning officer ascertains that any ticket drawn from a box bears a number corresponding to the name of a juror who cannot be served or does not attend when summoned, the summoning officer shall forthwith place the ticket in the box marked "Jurors in Reserve".
- (1a) If any ticket drawn from a box has not been used for the purpose of completing the panel the summoning officer shall forthwith return the ticket to the box from which it was drawn.
- (2) The residue of the tickets drawn shall be placed by the summoning officer into the box marked "Jurors in Reserve" there to remain until all of the tickets in the box marked "Jurors in Use" have been drawn out in which case the summoning officer shall transfer the tickets then in the box marked "Jurors in Reserve" to the box marked "Jurors in Use", or until the tickets are required to be used afresh in connection with a new jurors' book.

*[Section 28 amended by No. 44 of 1973 s. 16; No. 59 of 1984 s. 14.]*

**29. Choosing of jurors for civil trials**

- (1) Subject to section 29A, where an issue in a civil trial is to be tried or damages are to be assessed by a jury, the jury shall be chosen in the manner prescribed by subsection (2).
- (2)(a) At a time and place which the summoning officer shall appoint for the striking of the jury, he shall in the presence of the parties and of their respective solicitors if they choose to attend and if not, then in their absence, cause the box marked "Jurors in Use" to be agitated, or to be rotated sufficiently to intermix the tickets in the box, and shall draw out of the box one after another as many tickets as are required.

**s. 29**

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- (b) The numbers so required shall be ascertained by adding to 20 so many more as will enable each separate party to object to 6 names.
  - (c) Persons joining in claim, defence, or counter claim, shall be regarded as forming one party; and a person who is introduced under third party procedure and who disputes the plaintiffs claim shall be regarded as separate from the other parties, but if 2 or more persons so introduced join in defence they shall be regarded as collectively forming a separate party.
  - (d) The summoning officer upon drawing the tickets out of the box shall prepare a list of the names corresponding with the numbers set against the names in the jurors' book and shall hand a copy of such list to each party.
  - (e) Each separate party may object to 6 names on the list and shall object by making a note in writing of the names to which he objects and shall hand the note to the summoning officer.
  - (f) Where any party does not appear either in person or by his solicitor, the list of jurors may be reduced on his behalf by the summoning officer.
  - (g) The summoning officer without disclosing to any other party the names so objected to, shall strike out those names from the list, and out of the residue the summoning officer shall summon 6 jurors and no more, and shall not disclose to any of the parties the names of the persons summoned or to be summoned.
  - (h) If for any reason a juror so summoned cannot be served or is excused from attendance, the summoning officer may if any names not objected to remain on the list, summon another juror whose name remains on the list to serve instead of the juror who cannot be served or who has been excused, and the juror so substituted shall be bound to attend pursuant to summons notwithstanding that the summons was not served on him within the prescribed time.
- (3) The summoning officer —

- (a) shall restore to the box marked “Jurors in Use” all of the tickets the numbers of which are set against the names of the jurors who have been objected to, and against the names of those who are not summoned;
  - (b) shall place the residue of the tickets in the box marked “Jurors in Reserve” there to remain until all of the tickets in the box marked “Jurors in Use” have been drawn out in which case the summoning officer shall transfer the tickets then in the box marked “Jurors in Reserve” to the box marked “Jurors in Use”, or until the tickets are required to be used afresh in connection with a new jurors’ book.
- (4) On the day appointed for the trial the summoning officer shall deliver to the proper officer the list of jurors summoned and not excused and the proper officer shall call the jurors one by one from the list and the jurors so called on being duly sworn shall be the jury.

*[Section 29 amended by No. 44 of 1973 s. 17; No. 6 of 1981 s. 17; No. 59 of 1984 s. 15; No. 13 of 1988 s. 4.]*

**29A. Empanelling of jury for criminal and civil trials by computer**

- (1) A summoning officer may instead of manual performance carry out by the use of a computer —
  - (a) in respect of a criminal trial held at a place other than Perth, the procedures for and in relation to the choosing of a jury for a criminal trial referred to in sections 26(2), (3), (4), (5) and (6), 27 and 28; and
  - (b) the procedures for and in relation to the choosing of a jury for a civil trial referred to in section 29(2)(a), (b), (d), (f), (g), (h) and (3).
- (2) Where a summoning officer exercises the power under subsection (1) in relation to the procedures referred to in —

**s. 30**

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- (a) section 26(2) or (4) or 29(2), the choosing of a jury shall be made at random from the names in the jurors' book for the jury district concerned;
- (b) section 26(2) or (4), neither the attendance of a person specified in section 26(2) as a witness nor the reading aloud of names by the summoning officer as referred to in section 26(3) shall be required; and
- (c) section 29(2)(a), those procedures shall not be carried out in the presence of the parties or their solicitors but the summoning officer shall forthwith supply a list of the names of the jurors chosen to each party.

*[Section 29A inserted by No. 13 of 1988 s. 5; amended by No. 12 of 2000 s. 6; No. 25 of 2003 s. 7.]*

**30.        Rights of parties to inspect panels for criminal trials**

Subject to an order made under section 43A, the summoning officer shall cause a copy of every panel or pool of jurors who have been summoned to attend at any session or sittings for criminal trials to be kept in his office for 4 clear days at least before the day appointed for the attendance of the jurors and the parties in all criminal trials at that session or sittings and their respective solicitors may inspect the panel or pool without fee.

*[Section 30 amended by No. 6 of 1981 s. 18; No. 25 of 2003 s. 8.]*

**31.        Summoning of jurors**

Each juror whose name appears on any panel shall be summoned by the summoning officer by summons in or substantially in, the prescribed form which shall, except where this Act prescribes a shorter period, be served 5 clear days at least before his or her attendance is required, by the delivery of the summons to the juror in accordance with section 33.

*[Section 31 amended by No. 44 of 1973 s. 18; No. 6 of 1981 s. 19.]*

**32. Power of court to excuse jurors**

The court before which or the judge before whom a jurors' panel is returnable, whether for a criminal trial or for a civil trial, may on the grounds specified in the Third Schedule excuse from attendance any person whose name is included in the panel.

*[Section 32 amended by No. 59 of 1984 s. 16.]*

## **Part VB — Jury pools**

*[Heading inserted by No. 6 of 1981 s. 20.]*

### **32A. Trials for which jury pools may be summoned**

- (1) Juries for criminal trials in the jury districts for the Supreme Court sitting at Perth and the District Court sitting at Perth may be selected from a jury pool summoned under this Part.
- (2) The Governor may, by order published in the *Gazette*, direct that juries for criminal trials in the Supreme Court, a circuit court or the District Court, in addition to those referred to in subsection (1), may be selected from a jury pool summoned under this Part.
- (3) An order made under subsection (2) shall specify the jury district or districts to which it applies.
- (4) The Governor may from time to time revoke or vary in whole or in part an order made under subsection (2).
- (5) Notwithstanding that pursuant to subsection (1) or an order made under subsection (2) a jury for a trial may be selected from a jury pool in accordance with this Part, jurors for that trial may be chosen and summoned under Part VA and in that event the summoning officer shall cause the names of the persons so summoned to be noted in the jurors' book in the same manner as if those persons were summoned under this Part.

*[Section 32A inserted by No. 6 of 1981 s. 20.]*

### **32B. Summoning officer for jury pools**

Subject to an appropriate order having been made under section 32A in respect of the relevant jury district —

- (a) the sheriff is the summoning officer in respect of jury pools required for trials by the Supreme Court or the District Court sitting at Perth; and

- (b) the senior registrar of the District Court sitting at a place other than Perth is the summoning officer in respect of jury pools required for trials to be held at that place.

*[Section 32B inserted by No. 6 of 1981 s. 20; amended by No. 53 of 1992 s. 9(4).]*

**32C. Selection of jury pool**

- (1) Where a jury pool is required for trials to which the pool relates, the summoning officer shall, from time to time as occasion requires, select at random from the jurors' book for the jury district in which the trials are to be held the number of persons which in his estimate will ensure the attendance of sufficient persons at the jury pool.
- (2) A selection under subsection (1) may be made by ballot manually or by computer.
- (3) An officer of a court in which trials to which a jury pool relates are held shall, upon request by a summoning officer, furnish to him such particulars as he requires relating to trials to be held in that court for the purposes of determining the number of persons required to be summoned to attend at the jury pool.

*[Section 32C inserted by No. 6 of 1981 s. 20; amended by No. 59 of 1984 s. 17.]*

**32D. Summoning officer to issue summons**

- (1) The summoning officer shall issue to each person selected for the purposes of section 32C a summons in the prescribed form requiring the person to attend at a place specified for the assembly of the jurors in the jury pool and at the time specified in the summons until discharged pursuant to section 32I.
- (1a) The summoning officer shall ensure that each person to whom a summons is issued is allocated a unique identification number.
- (1b) The allocation of an identification number may be done by computer.

**s. 32E**

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- (2) A summons issued under subsection (1) shall be served on the person to whom it is issued at least 5 days before the time specified therein for his attendance at the jury pool unless a judge of the court in which trials to which the jury pool relates are held otherwise orders in which case the person to whom the summons is issued shall be bound to attend notwithstanding that the summons was not served on him within the time specified by this subsection.
- (3) The summoning officer may on such evidence as he deems sufficient, omit from a jury pool any name in the jurors' book and excuse from attendance at any criminal trial any person who has been summoned as a juror.

*[Section 32D inserted by No. 6 of 1981 s. 20; amended by No. 25 of 2003 s. 9.]*

**32E. Summoning officer may withdraw summons**

- (1) Where it appears to the summoning officer after the issue of summonses to the persons selected to attend at a jury pool and before the attendance of such persons that the number of persons so selected is greater than the number that will be required, the summoning officer may reduce the number of persons required to attend at the jury pool.
- (2) A reduction under subsection (1) shall be performed by ballot manually.
- (3) A person who is excluded under this section from the number of persons required to attend at the jury pool shall be informed accordingly by the summoning officer and informed that the summons is withdrawn and his name shall forthwith be restored to the jurors' book.

*[Section 32E inserted by No. 6 of 1981 s. 20.]*

**32F. Summoning officer to provide details to jury pool supervisor**

- (1) The summoning officer shall furnish to the jury pool supervisor of a jury pool to which persons have been summoned under



section 32D at the time and place at which the persons are required to assemble —

- (a) a list of the names and identification numbers of the persons so summoned, being persons who are liable to serve as jurors and who have not been duly excused by the summoning officer; and
  - (b) the identification numbers of the persons on the list on separate cards each card being as nearly as possible of equal size.
- (2) The jury pool supervisor shall place the cards furnished to him under subsection (1) in a box to be kept at the jury assembly room.
- (3) The procedure set out in subsection (1) may, to the extent that it can be performed by computer instead of by manual performance, be performed by computer.

*[Section 32F inserted by No. 6 of 1981 s. 20; amended by No. 59 of 1984 s. 18; No. 34 of 1997 s. 4; No. 25 of 2003 s. 10.]*

**32FA. Jury pool supervisor to give identification number and explain certain matters to persons answering summons**

- (1a) Before calling the roll of persons summoned to form a jury pool, the jury pool supervisor shall give each person who appears in response to a summons his or her identification number on a card.
- (1b) The jury pool supervisor shall call the roll of persons summoned to form a jury pool by calling their identification numbers.
- (1) Immediately after calling the roll of persons summoned to form a jury pool the jury pool supervisor shall explain or cause to be explained to the persons who have appeared in answer to the summons their obligation to disclose to him or to the court the existence of any of the factors referred to in the Fourth Schedule.

**s. 32G**

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- (2) The procedure set out in subsection (1) may, to the extent that it can be performed by computer instead of by manual performance, be performed by computer.

*[Section 32FA inserted by No. 59 of 1984 s. 19; amended by No. 34 of 1997 s. 5; No. 25 of 2003 s. 11.]*

**32G. Pool precept**

- (1) Where a jury is required at any trial to which a jury pool relates, the presiding judge or a person appointed by him for that purpose may issue a pool precept directed to the jury pool supervisor for that jury pool requiring him to allocate jurors from the jury pool for that trial.
- (2) A pool precept shall —
- (a) be in the prescribed form;
  - (b) specify the time and the court at which the attendance of the jurors is required; and
  - (c) subject to subsection (3), specify the number of jurors required to be allocated from the jury pool.
- (3) Unless the judge or other person issuing a pool precept otherwise orders in particular circumstances, the number of jurors to be specified in a pool precept shall be the sum of 20 and the number of peremptory challenges available to the accused person or persons in the trial.

*[Section 32G inserted by No. 6 of 1981 s. 20.]*

**32H. Selection of jurors from jury pool**

- (1) Where a pool precept is delivered to a jury pool supervisor, he shall select by ballot from the box referred to in section 32F(2) the number of jurors specified in the pool precept.
- (2) At the time and court specified in the pool precept for the attendance of the jurors, the jury pool supervisor, or an officer on his behalf, shall return the pool precept and annex to it a list

of the names of the persons and their identification numbers selected by the jury pool supervisor in pursuance of the pool precept.

- (3) The jury pool supervisor shall also furnish with a pool precept furnished under subsection (2) the cards on which are the identification numbers of the persons selected in pursuance of the pool precept.
- (4) The persons selected in pursuance of a pool precept shall attend at the court and at the time specified in the pool precept.
- (5) The court before which a pool precept is returnable may excuse from attendance any person whose name is included in the list of persons selected by the jury pool supervisor in pursuance of the pool precept and in that event, if the court so directs, the jury pool supervisor shall in accordance with this section select a further person in place of the person excused.
- (6) A person selected in pursuance of a pool precept who is not sworn as a member of the jury for which the precept was issued or who served on that jury shall, unless discharged from attending at the jury pool, return to the jury assembly room and the proper officer shall return the card relating to every such person to the jury pool supervisor.
- (7) The procedures set out in subsections (1), (2), (3) and (5) may, to the extent that they can be performed by computer instead of by manual performance, be performed by computer.

*[Section 32H inserted by No. 6 of 1981 s. 20; amended by No. 34 of 1997 s. 6; No. 25 of 2003 s. 12.]*

**32I.      Period of attendance at jury pool and discharge**

- (1) Subject to this section, a person summoned to attend at a jury pool shall attend for such period, not exceeding 5 consecutive court sitting days, as the summoning officer determines in respect of that jury pool.

**s. 32I**

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- (2) A person who is sworn as a member of a jury shall be required to attend at the court until discharged notwithstanding that he has attended at the jury pool for a longer period than 5 consecutive court sitting days.
- (3) The summoning officer may discharge any person from attending at a jury pool for the whole or any part of the period determined under subsection (1) if it appears to the summoning officer that the number of jurors in the jury pool exceeds the number required for trials to which the pool relates and persons to be discharged under this subsection shall be selected by ballot.

*[Section 32I inserted by No. 6 of 1981 s. 20.]*

## **Part VC — Service of summonses and claims for exemption**

*[Heading inserted by No. 6 of 1981 s. 21.]*

### **33. Service of summons**

- (1) A summons or notice required or authorised by or under this Act to be sent, served or given to any person by a summoning officer shall be deemed to have been duly sent, served or given —
  - (a) if delivered personally to that person, or if left —
    - (i) at the address appearing in the jurors' book in respect of that person; or
    - (ii) if it is in the same jury district as that address, at an address recorded by the Electoral Commissioner in respect of that person;
  - or
  - (b) if sent by prepaid post addressed to that person at an address referred to in paragraph (a).
- (2) Service of a summons or notice in accordance with subsection (1)(a) shall be effected by a police officer or a sheriff's officer who shall prepare and complete, in the manner required by subsection (3), a list (referred to in this section as a **"summons and notice list"**) in the prescribed form.
- (3) The officer who serves the summons or notice —
  - (a) shall insert in the respective columns of the summons and notice list the particulars indicated by the heading to each of those columns;
  - (b) shall certify the summons and notice list in, or substantially in, the manner indicated in that form and shall sign and date the certificate; and

**s. 33A**

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- (c) shall then send or deliver the certified summons and notice list, together with any summonses or notices that he has not been able to serve, to the summoning officer.
- (4) Production of a summons and notice list so certified, signed and dated, is prima facie evidence of the service of the summonses or notices stated to have been served, and of the other facts stated, in the summons and notice list.
- (5) Service of a summons or notice 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.
- (6) In subsection (1) —  
**“Electoral Commissioner”** means the Electoral Commissioner appointed under the *Electoral Act 1907*.

*[Section 33 inserted by No. 6 of 1981 s. 22; amended by No. 12 of 2000 s. 7.]*

**33A. Notice to be attached to summons**

The summoning officer shall cause to be served with every summons for attendance as a juror issued under this Act a notice informing the person to whom the summons is issued that that person’s name has been recorded in the jurors’ book and the grounds on which and the procedure by which that person may be excused from serving as a juror, as of right, or, on the grounds specified in the Third Schedule, and the manner in which a claim that that person is not eligible or not qualified to serve as a juror may be made.

*[Section 33A inserted by No. 59 of 1984 s. 20.]*

**34. Duty of secrecy in summoning jurors**

- (1) Except for the purpose of carrying the provisions of this Act into effect, or in answer to any questions which he is lawfully compellable to answer, a police officer or sheriff’s officer who,

having been entrusted with the serving of a summons to a Juror, communicates or makes known, whether directly or indirectly, to any person any information or matter relating to jurors which has come to his knowledge in carrying out his duties in relation to the service of summonses to jurors commits an offence.

Penalty: \$60 000 or imprisonment for 3 years, or both.

- (2) If a summoning officer, or any of his assistants, or any officer or justice of the peace taking part in, or present at the choosing of a jury panel or a jury pool, including any person concerned in the operation of or having access to a computer used for the purpose, reveals the names of persons on the panel or the jury pool, or any of them to any person, except for the purpose of carrying this Act into effect, or in answer to a question which he is lawfully compellable to answer, he commits an offence.

Penalty: \$60 000 or imprisonment for 3 years, or both.

*[Section 34 amended by No. 113 of 1965 s. 8(1); No. 44 of 1973 s. 20; No. 6 of 1981 s. 23; No. 25 of 2003 s. 13.]*

#### **34A. Claims for exemption and adjustment of jurors' books**

- (1) A person summoned as a juror who claims to be not eligible or not qualified for such service —
- (a) may send to the summoning officer a claim in writing supported by a statutory declaration as to the facts on which the claim is based; or
  - (b) may send to the summoning officer a certificate issued with respect to him or her under subsection (2).
- (2) Where the sheriff is satisfied that a person —
- (a) is suffering from an infirmity which appears to him will permanently disable that person from serving as a juror;
  - (b) is not qualified to serve as a juror by virtue of section 5(b)(i); or
  - (c) is not eligible to serve as a juror because of the age of that person,

**s. 34B**

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the sheriff shall issue a certificate to that person declaring that that person is not eligible or not qualified to serve as a juror, as the case requires, but if a person who is not qualified to serve as a juror by virtue of section 5(b)(i) receives a free pardon the sheriff shall cancel the certificate.

- (2a) Where, pursuant to subsection (2), the sheriff issues a certificate that a person is not eligible or not qualified to serve as a juror, the sheriff shall notify the Electoral Commissioner of that fact and the Electoral Commissioner shall remove the name of that person from any list of persons liable to serve as a juror under this Act.
- (3) If it appears to the sheriff that a person whose name appears in a jurors' book is not eligible or not qualified to serve as a juror, is dead, or no longer resides in the jury district or that the address of the person is unknown, the sheriff shall cause the person's name to be removed from the jurors' book.

*[Section 34A inserted by No. 6 of 1981 s. 24; amended by No. 59 of 1984 s. 21; No. 73 of 1994 s. 4.]*

**34B. Summoning officer to give identification number and explain certain matters to persons answering summons**

- (1) Before calling the roll of persons summoned by a general jury precept the summoning officer shall give each person who appears in response to a summons his or her identification number on a card.
- (2) The summoning officer shall call the roll of persons who have appeared in answer to the summons by calling their identification numbers.
- (3) Immediately after calling the roll of persons summoned by a general jury precept the summoning officer shall explain or cause to be explained to the persons who have appeared in answer to the summons their obligation to disclose to him or to the court the existence of any of the factors referred to in the Fourth Schedule.



*[Section 34B inserted by No. 59 of 1984 s. 22; amended by  
No. 25 of 2003 s. 14.]*

## **Part VI — Proceedings relating to criminal trials**

*[Heading amended by No. 25 of 2003 s. 15.]*

### **35. Summoning officer to return precept and panel, and cards**

- (1) On the day named in a general jury precept for the appearance of the jurors for a criminal trial the summoning officer or his deputy shall in open court deliver the precept with the panel annexed to the proper officer; and give to the proper officer the identification numbers of the jurors written upon separate cards each card being as nearly as may be of equal size, and the proper officer shall then put the cards into a ballot-box to be used in accordance with the provisions of this Part.
- (2) In the case of a criminal trial in respect of which a pool precept has been issued, the proper officer shall put the cards furnished under section 32H(3) into a ballot-box to be used in accordance with the provisions of this Part.

*[Section 35 amended by No. 44 of 1973 s. 21; No. 6 of 1981 s. 25; No. 25 of 2003 s. 16.]*

### **36. Mode of empanelling jury for a criminal trial**

- (1) On any criminal trial the proper officer shall in open court agitate the ballot-box sufficiently to intermix the cards in the box, and shall then according to the practice of the court proceed to draw cards one after another out of the box and call aloud the identification number on each card.
- (2) Where a person whose identification number is called is present he or she shall indicate his or her presence.
- (3) The proper officer shall continue in accordance with subsection (1) until, after excluding those who are challenged or excused, the number of jurors that are needed under section 18 for the trial have been duly sworn.

*[(4) repealed]*

- (5) The cards relating to persons who have been sworn as jurors for a criminal trial shall be kept apart until the jury has given its verdict and the verdict has been recorded or until the jury is discharged at which time the cards shall be dealt with in the manner set out in subsection (6).
- (6) After the jurors for a trial are sworn, the card relating to a person who was summoned but not sworn shall forthwith be returned —
- (a) where that person was summoned pursuant to a general jury precept, to the box from which it was drawn; or
  - (b) where that person was summoned to attend at a jury pool, to the jury pool supervisor for return to the box referred to in section 32F(2),

unless that person has been, or is entitled to be, discharged from further attendance as a juror under section 42 or has otherwise been excused from further attendance.

- (7) Subject to sections 32I(1) and 42, a person whose card has been returned to a box under subsection (6) shall be liable to serve as a juror for so long as the trial of any indictment remains to be commenced.

*[Section 36 amended by No. 44 of 1973 s. 22; No. 6 of 1981 s. 26; No. 12 of 2000 s. 8; No. 25 of 2003 s. 17.]*

**36A. Juror to be referred to by identification number**

In proceedings at a criminal trial —

- (a) a person who has been summoned as a juror or appointed under section 52(1) is to be addressed or referred to only by his or her identification number; and
- (b) a juror is not to be required to state his or her name and address.

*[Section 36A inserted by No. 25 of 2003 s. 18.]*

**s. 37**

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**37. Proceeding with another criminal trial when jury has retired**

Where a jury has retired to consider its verdict in a criminal trial, the court may before the jury which has retired has brought in its verdict or been discharged, proceed with any other criminal trial with a new jury drawn in manner prescribed by section 36, from the residue of the jurors other than the members of the jury which has retired, and other than jurors who have served for the limit of time prescribed by section 42.

[38. *Repealed by No. 84 of 2004 s. 48.*]

**39. Accused persons severing in their challenges**

Where several persons charged with the same offence are put on trial together and do not consent to join in their challenges, the proper officer of the court shall draw out of the ballot-box a sufficient number of cards to permit each of the several persons, or each combination of those persons who consent to challenge jointly to exercise the right of peremptory challenge to the appropriate number prescribed by section 104(4) of the *Criminal Procedure Act 2004*.

[Section 39 amended by No. 2 of 2008 s. 64(2).]

**40. Incorporation of certain provisions of the *Criminal Procedure Act 2004***

The law in the case of criminal trials respecting notice to an accused person of his right of challenge, and challenge to the array and to individual jurors for cause, and the ascertainment of facts as to challenge, and the swearing of the jury and informing them of the charge, and the discharge of a juror and the separation and confinement of the jury, and view by the jury, and special and general verdicts, and the discharge of the jury, is that which is set forth in the *Criminal Procedure Act 2004*.

[Section 40 amended by No. 84 of 2004 s. 51.]

**41. Jury's entitlements when together**

At any time when a jury in a criminal trial is required to be together during any adjournment of the trial, it is to be kept in a private place and provided with such accommodation, food and drink as the judge may order.

*[Section 41 inserted by No. 84 of 2004 s. 49; amended by No. 2 of 2008 s. 64(3).]*

**42. Limit of attendance of jurors**

A juror is not liable and shall not be required to attend for more than 5 days at the same sittings of the Supreme Court, a circuit court, or the District Court except for the purpose of finishing a part heard case.

*[Section 42 inserted by No. 44 of 1973 s. 24.]*

**43. Informalities in summoning jurors not to be cause for challenge**

- (1) An omission, error, irregularity, or informality, in the time or mode of service of a jury summons, or in the summoning or return of a juror by a wrong name where there is no question as to his or her identity, or in or with respect to any precept, ticket, panel or list, or any jurors' list or book or the preparation thereof, or in the allocation of an identification number, is not cause of challenge either to the array or to any juror, and does not invalidate or affect any verdict in any trial, whether civil or criminal.
- (2) A matter which may have been objected to by way of challenge to the polls, or to the array, as the case may be, but which was not objected to by way of challenge, does not invalidate or affect any verdict in any trial, whether civil or criminal.

*[Section 43 amended by No. 25 of 2003 s. 19.]*

**s. 43A**

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**43A. Protection of security of jurors**

- (1) If a judge of a court in which a trial is to be held or is being held considers that it is necessary to protect the security of persons summoned or sworn as a juror or appointed under section 52(1), the judge may at a pre-trial hearing or at the trial, by order, do any one or more of the following —
- (a) prohibit, restrict or impose conditions on the inspection by the parties to a criminal trial or their respective solicitors of the copy of a panel or pool of jurors that would otherwise be allowed under section 30;
  - (b) prohibit, restrict or impose conditions on the provision to the parties to a criminal trial or their respective solicitors of a copy of a panel or pool of jurors;
  - (c) direct the summoning officer to delete the names of persons and details of their address, other than the suburb or town, on any copy of the panel or pool before an inspection of the copy is allowed under section 30;
  - (d) direct that the summoning officer should keep a copy of the panel or pool of jurors in his or her office under section 30 for a specified period less than the 4 clear days prescribed in that section;
  - (e) if an order is made under paragraph (a) prohibiting the inspection of a copy of a panel or pool of jurors under section 30, direct that the parties to a trial or their respective solicitors may for the purpose of selecting the jury have access to a copy of the panel or the list referred to in section 32H(2) in open court for a period commencing immediately before the procedure described in section 36(1) begins and ending when the jurors have been sworn;
  - (f) give such other directions as the court considers necessary.

- (2) If an order is made under subsection (1) that is directed to or affects the summoning officer in the exercise of his or her duties as a summoning officer, the court shall give a copy of the order to the summoning officer.

*[Section 43A inserted by No. 25 of 2003 s. 20.]*

## **Part VII — Proceedings at civil trials**

### **44. Deposit of expenses of a civil jury**

- (1)(a) The party applying for or requiring a jury in a civil trial shall deposit with the summoning officer the prescribed sum per juror per diem and the deposit to cover the first day's payments shall be made on the striking of the jury.
- (b) Unless a deposit is so made, the suit or action shall, notwithstanding the provisions of any other Act, proceed as if the application for a jury had not been made.
- (2) That party shall also on the second and every subsequent day of the trial and before 10.00 a.m. on each of those days pay to the summoning officer the prescribed sum to cover the fees and travelling expenses of the jurors for each of those days.
- (3) If the sums mentioned in subsection (2) are not paid as required by that subsection in respect of any day, the court or judge may, unless those sums are paid by any other party, discharge the jury and proceed to finish the hearing of, and determine, the trial without a jury, notwithstanding that the trial commenced with a jury, and notwithstanding the provisions of any other Act.

### **45. Challenge to the array**

- (1) In a civil trial if a party desires to challenge the array, he must do so before any juror is sworn for the trial.
- (2) A party in a civil trial has no right of challenge other than that which is provided under section 29, or under subsection (1).

### **46. Discharge of juror**

In a civil trial, if after a juror has been sworn it appears to the court that he is not indifferent as between the parties, or that for any other good cause he ought not to be allowed or required to act as a juror on the trial, the court may without discharging the whole of the jury, discharge that particular juror, and the trial



shall proceed with the remaining jurors, being not less than 4 in number, and their verdict shall be taken as the verdict of a full jury and shall be a sufficient verdict.

**47. Jurors may be allowed heating and refreshment**

Jurors in a civil case after having been sworn may in the discretion of the judge be allowed, at any time before giving their verdict and when out of court, the use of a fire or heating appliance and reasonable refreshment.

**48. Incapacity or non-attendance of juror**

In the event of death or illness of any juror during any civil trial, or if for any reason fewer than 6 of the jurors summoned attend at the commencement of the trial the judge may, if he thinks fit, direct that the trial shall proceed with a number of the jurors reduced in no case to less than 4, and any verdict given by, or answer to any question given by, or assessment of any damages made by, the reduced number of jurors shall be taken as the verdict, answer, or assessment of a full jury and shall be a sufficient verdict.

**49. Majority decision to be accepted after 3 hours**

Where the jury upon any civil trial has remained for at least 3 hours in deliberation and all of the jurors are unable to agree as to the verdict to be given or the answer to be given to any question submitted to them by the court or judge, or as to the amount of damages to be assessed, the decision of 5 of them if the jury consists of 6 jurors at the time when the decision is made; or the decision of 4 of them if the jury consists of 5 jurors or of 4 jurors at the time when the decision is made; as to the verdict, answer, or assessment, shall be taken and entered as the verdict, answer, or assessment, of the whole of the jury.

**50. New trial on disagreement**

- (1) Where a jury in a civil trial has remained in deliberation for such period as the judge thinks reasonable, being not less than 4 hours, and 5 of the jurors of a jury of 6, or 4 of a jury of 5 or of 4, do not agree in any such verdict, answer, or assessment, as is referred to in section 49, the judge may discharge the jury.
- (2) The case may then without any new process for that purpose be again set down for trial or assessment as the case may be, either at the same or any subsequent sittings as the court or judge orders and is hereby empowered to order.
- (3) The costs of any trial of a case or of any issue in respect of which a jury is discharged without returning a verdict, answer, or assessment, shall follow the order made as to costs on the final determination of the case or issue.

## **Part VIII — View, tales**

### **51. View by jury on a civil trial**

- (1) The Supreme Court or a judge thereof or the District Court or a judge thereof, as the case may be, may, on the application of a party to any civil trial, grant an order, before or at the trial, that any 2 or more of the jury shall at the expense in all things in the first instance of the party applying, have a view of any place or property in question; but the expenses of the view and of such order shall be costs in the cause.
- (2) The viewers shall be nominated by the parties or their respective solicitors, or in case they cannot agree, by the summoning officer and shall be shown the place by a person or by 2 persons so nominated for the purpose.
- (3) If the order is made before the trial the names of the viewers shall be returned by the summoning officer, and they shall be the first in the panel who shall be called and sworn as jurors to try the issue, and shall not be challenged except for cause shown.

*[Section 51 amended by No. 44 of 1973 s. 25.]*

### **52. Party in criminal trial may pray a tales**

- (1) If when a criminal trial is called on, a sufficient number of jurors summoned to attend the court are not present, or where because of challenges of jurors the case is likely to remain untried for want of sufficient jurors, the prosecution or any other party may pray a tales and the court, or judge, may command the summoning officer forthwith to appoint as many of the bystanders or as many persons as can be found, being in either case persons who are qualified and liable to serve as jurors for the jury district in which the trial is taking place, as are sufficient to make up the full number of jurors required by this Act for the trial.

**s. 52**

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- (2) The summoning officer shall ensure that each person appointed under subsection (1) is allocated a unique identification number and is given the number on a card before attending the court.
- (3) The judge shall cause the names and identification numbers of the persons appointed under subsection (1) to be —
  - (a) included in the jury panel; or
  - (b) added to the list annexed to the pool precept,

and those persons shall be taken to have been called upon the jury precept or selected pursuant to the pool precept and shall be subject to challenge for cause and to any remaining right of challenge peremptorily.

*[Section 52 amended by No. 44 of 1973 s. 26; No. 25 of 2003 s. 21; No. 65 of 2003 s. 127(3).]*

## **Part IX — Offences, fines, penalties**

### **53. Neglect by officials to perform duties**

If the sheriff or any summoning officer or jury pool supervisor, or the Electoral Commissioner, or any jury officer, or police officer, does not well and faithfully carry out any duty imposed upon him by this Act, the Supreme Court or a judge thereof may, unless a sufficient cause for the omission is shown, impose on him a fine not exceeding \$100.

*[Section 53 amended by No. 113 of 1965 s. 8(1); No. 44 of 1973 s. 27; No. 6 of 1981 s. 27.]*

### **54. Offences by sheriff and others**

The Supreme Court or a judge thereof may summarily inflict such fine as the court or judge deems fit upon the sheriff or other summoning officer, or any jury officer, clerk, police or other officer, who without lawful justification or excuse —

- (a) includes or omits from any jurors' list or jurors' book any name or names which should or should not, as the case may be, appear therein, or causes any misdescription in a jurors' list or jurors' book; or
- (b) causes any alteration, omission, insertion, or misdescription in a jurors' list, jurors' book, jury summons, panel, card, or ticket; or
- (c) subtracts, destroys, or permits any person to have access to, any jurors' list, jurors' book, jury summons, panel, card or ticket; or
- (d) directly or indirectly, takes or receives any money or reward, or any promise of or contract for money or reward, for excusing, or under the pretence of excusing, any person from being summoned to serve, or from serving as a juror; or

**s. 55**

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- (e) fails to do or to permit the doing of any act, matter or thing in the manner or at or within the time prescribed; or
- (f) wilfully records the appearance of any person summoned and returned to serve as a juror, who did not really appear.

*[Section 54 amended by No. 44 of 1973 s. 28.]*

**55. Penalties on jurors and others**

- (1) Any court may impose summarily such fine as the court thinks fit upon —
  - (a) a person who, having been duly summoned to attend as a juror in the court, does not attend in pursuance of the summons, or having been thrice called does not answer to his or her name; or
  - (b) a talesman who being present and having been called does not appear, or wilfully withdraws himself or herself from the presence of the court; or
  - (c) a person who personates or attempts to personate a juror whose name is on a jury panel for the purpose of sitting as that juror; or
  - (d) a viewer who, having been duly summoned, does not attend; or
  - (e) a juror who knowingly receives or takes from any person whomsoever any sum whatever beyond that allowed by the prescribed scale under pretence of fees or remuneration for attending a trial.
- (2) Upon consideration of a report made by a summoning officer, any court may impose summarily such fine as the court thinks fit upon —
  - (a) a person who, having been duly summoned to attend as a juror at the jury assembly room of a jury pool, does not attend in pursuance of the summons or having been called 3 times does not answer to his or her name;

- (b) a person who having been selected as a juror in pursuance of a pool precept fails to attend at the court and at the time specified in the pool precept.

*[Section 55 amended by No. 6 of 1981 s. 28.]*

**56. Fine for non-attendance may be remitted on cause shown**

- (1) Where a fine is imposed on a juror for non-attendance at a court or jury assembly room, a summons may forthwith, or at any time afterwards, be signed and issued by the presiding judge of the court calling on the juror to show cause to the court, or to the Supreme Court if the fine has been imposed for non-attendance at a circuit court, on a day specified in the summons, why payment of the fine should not be enforced.
- (2) To a summons so issued a memorandum shall be attached informing the juror that cause may be shown by affidavit transmitted by post or delivered to the registrar or judge of the court imposing the fine.
- (3) The judge of the court upon reading the affidavit may if he deems fit remit or reduce the fine but in default of any order to that effect recovery of the full amount of the fine shall be enforced.

*[Section 56 amended by No. 44 of 1973 s. 29; No. 6 of 1981 s. 29; No. 78 of 1995 s. 57; No. 24 of 2005 s. 63.]*

## Part IXA — Jury confidentiality

[Heading inserted by No. 12 of 2000 s. 10.]

### 56A. Terms used in this Part and application

(1) In this Part —

**“prosecuting officer”** means —

- (a) the Director of Public Prosecutions or the Deputy Director of Public Prosecutions appointed under the *Director of Public Prosecutions Act 1991*;
- (b) a member of the staff referred to in section 30 of the *Director of Public Prosecutions Act 1991* who is a legal practitioner (as defined in the *Legal Practice Act 2003*);
- (c) the Director of Public Prosecutions or the Associate Director of Public Prosecutions appointed under the *Director of Public Prosecutions Act 1983*, as amended from time to time, of the Parliament of the Commonwealth;
- (d) a member of the staff referred to in section 27(1) of the *Director of Public Prosecutions Act 1983*, as amended from time to time, of the Parliament of the Commonwealth who is a legal practitioner as defined in that Act; or
- (e) a person employed under section 27(3) of the *Director of Public Prosecutions Act 1983*, as amended from time to time, of the Parliament of the Commonwealth who is a legal practitioner as defined in that Act;

**“protected information”** means —

- (a) statements made, opinions expressed, arguments advanced or votes cast by members of a jury in the course of their deliberations, other than anything said or done in open court; or



- (b) information that identifies, or is likely to identify, a person as, or as having been, a juror in particular proceedings;

**“publish”**, in relation to protected information, means communicate or disseminate the information in such a way or to such an extent that it is available to, or likely to come to the notice of, the public or a section of the public.

- (2) This Part applies in relation to juries in trials or coronial proceedings in a court of the State or another State, the Commonwealth or a territory of the Commonwealth whether begun before or after the commencement of the *Juries Amendment Act 2000* and to juries in inquests held under the *Coroners Act 1920* before its repeal by section 60 of the *Coroners Act 1996*.

*[Section 56A inserted by No. 12 of 2000 s. 10; amended by No. 65 of 2003 s. 42(2).]*

**56B. Protected information not to be disclosed**

- (1) A person who discloses protected information commits an offence if the person is aware that, in consequence of the disclosure, the information will, or is likely to, be published.  
Penalty: \$5 000.
- (2) Subsection (1) does not prohibit disclosing protected information —
- (a) to a court;
  - (b) to a board or commission appointed by the Governor;
  - (ba) to the Corruption and Crime Commission established under the *Corruption and Crime Commission Act 2003*;
  - (bb) to the Parliamentary Inspector of the Corruption and Crime Commission appointed under the *Corruption and Crime Commission Act 2003*;
- [(c) deleted]*

**s. 56C**

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- (d) to the Parliamentary Commissioner for Administrative Investigations or the Deputy Parliamentary Commissioner for Administrative Investigations appointed under section 5 of the *Parliamentary Commissioner Act 1971*;
- (e) to a prosecuting officer or a police officer for the purpose of an investigation concerning an alleged contempt of court or alleged offence relating to jury deliberations or a juror's identity;
- (f) as part of a fair and accurate report of an investigation referred to in paragraph (e);
- (g) to a person in accordance with an authorisation granted by the Minister to conduct research into matters relating to juries or jury service; or
- (h) to a legal practitioner (as defined in the *Legal Practice Act 2003*) for the purpose of obtaining advice in relation to a matter referred to in paragraph (a), (b), (c), (d) or (e).

*[Section 56B inserted by No. 12 of 2000 s. 10; amended by No. 48 of 2003 s. 62; No. 50 of 2003 s. 73(2); No. 65 of 2003 s. 42(2); No. 78 of 2003 s. 74(2).]*

**56C. Protected information not to be solicited or obtained**

- (1) A person who solicits or obtains protected information with the intention of publishing or facilitating the publication of that information commits an offence.  
Penalty: \$5 000.
- (2) Subsection (1) does not prohibit soliciting or obtaining protected information —
  - (a) in the course of proceedings in a court;
  - (b) by a board or commission appointed by the Governor;
  - (ba) to the Corruption and Crime Commission established under the *Corruption and Crime Commission Act 2003*;

- (bb) to the Parliamentary Inspector of the Corruption and Crime Commission appointed under the *Corruption and Crime Commission Act 2003*;
- [(c) *deleted*]
- (d) by the Parliamentary Commissioner for Administrative Investigations or the Deputy Parliamentary Commissioner for Administrative Investigations appointed under section 5 of the *Parliamentary Commissioner Act 1971*;
- (e) by a prosecuting officer or a police officer for the purpose of an investigation concerning an alleged contempt of court or alleged offence relating to jury deliberations or a juror's identity;
- (f) by a person in accordance with an authorisation granted by the Minister to conduct research into matters relating to juries or jury service; or
- (g) by a legal practitioner (as defined in the *Legal Practice Act 2003*) for the purpose of giving advice in relation to a matter referred to in paragraph (a), (b), (c), (d) or (e).

[Section 56C inserted by No. 12 of 2000 s. 10; amended by No. 48 of 2003 s. 62; No. 50 of 2003 s. 73(2); No. 65 of 2003 s. 42(2); No. 78 of 2003 s. 74(2).]

**56D. Protected information not to be published**

- (1) A person who publishes protected information commits an offence.  
Penalty: \$5 000.
- (2) Subsection (1) does not prohibit publishing protected information —
  - (a) in accordance with an authorisation granted by the Minister to conduct research into matters relating to juries or jury service;

**s. 56E**

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- (b) as a part of a fair and accurate report of —
  - (i) proceedings in respect of an alleged contempt of court, an alleged offence against this Part or an alleged offence otherwise relating to jury deliberations or a juror's identity;
  - (ii) proceedings by way of appeal from proceedings referred to in subparagraph (i); or
  - (iii) if the protected information relates to jury deliberations, proceedings by way of appeal from the trial in the course of which the deliberations took place if the nature or circumstances of the deliberations is an issue relevant to the appeal;

or

- (c) about a prosecution for an alleged offence against section 56B, 56C or this section if, before the prosecution was instituted, that information had been published generally to the public.

*[Section 56D inserted by No. 12 of 2000 s. 10; amended by No. 50 of 2003 s. 73(2).]*

**56E. Lawful disclosure of protected information**

Sections 56B, 56C and 56D do not prohibit a person —

- (a) during the course of a trial, disclosing, soliciting or obtaining, or publishing, with the leave of the court or otherwise with lawful excuse, information that identifies, or is likely to identify, the person or another person as, or as having been, a juror in the trial; or
- (b) after the trial has been completed, disclosing, soliciting or obtaining, or publishing —
  - (i) information that identifies, or is likely to identify, the person as having been a juror in the trial; or
  - (ii) information that identifies, or is likely to identify, another person as having been a juror in the trial

if the other person has consented to the  
publication or disclosure of that information.

*[Section 56E inserted by No. 12 of 2000 s. 10.]*

**57. Jurors not to be photographed**

- (1) A person who takes or causes to be taken or publishes or causes to be published any photograph or likeness or other pictorial representation of any person summoned to attend or empanelled as a juror for any trial whether civil or criminal commits a contempt of the Supreme Court and is punishable accordingly by that court.

*[(2) repealed]*

- (3) Without affecting any other liability of any person under this section or otherwise, a company or other body corporate is liable to any punishment or penalty for any offence under this section as if it were a private person so far as the punishment or penalty is enforceable against a company or body corporate; and if any director, manager, secretary, or officer, of a company or any member of the managing body of a body corporate commits, or knowingly authorises or permits, an offence under this section he also is liable to the punishment or penalty for the offence.
- (4) Nothing in this section applies to the publication of information with regard to any proceedings under this section whether for contempt of court or for a punishment or penalty.

*[Section 57 amended by No. 30 of 1961 s. 3; No. 34 of 1976 s. 3.]*

## Part X — Miscellaneous

### 57A. Grand juries not to be summoned

A Grand Jury is not to be summoned for the Supreme Court, a circuit court or the District Court.

*[Section 57A inserted by No. 84 of 2004 s. 50.]*

### 58. Application of English procedure where no special provision

On a trial by jury, when no other mode of proceeding is specially provided, the jurors and jury, and every trial by them shall, as far as may be practicable, be subject to the same rules and manner of proceeding as would be observed in the High Court of Justice in England on a like trial.

### 58A. Public not to be present when certain procedures are being followed

No person other than a summoning officer, a person assisting a summoning officer in the execution of his or her duties under this Act or a person who is present under section 26(2) is entitled to be or shall be present —

- (a) when the procedures prescribed under section 26, 29A, 32, 32C, 32D, 32FA or 32H are being followed; or
- (b) at the calling of the roll of persons summoned to form a jury panel or a jury pool.

*[Section 58A inserted by No. 25 of 2003 s. 22.]*

### 59. Enforcement of fines

- (1) A fine imposed under this Act is to be paid, and its payment may be enforced, under Part 4 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* as if the fine were a fine imposed for an offence.
- (2) For the purposes of section 32 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*, a fine imposed

under this Act is taken to be imposed on the day specified in the summons issued under section 56(1), or on the day when an order is made under section 56(3), whichever is the later.

- (3) A fine imposed under this Act is to be credited to the Consolidated Account.

*[Section 59 inserted by No. 78 of 1995 s. 57; amended by No. 77 of 2006 s. 4.]*

**60. Operation of Coroners Act**

Nothing contained in this Act alters or affects the Coroners Act, or any of the laws in operation in the State relating to coroners' inquests.

**61. Rules of Court**

The powers to make, alter, and annul rules conferred by Part X of the *Supreme Court Act 1935*, include power to make such rules, and prescribe such forms, as are considered necessary or convenient for the purpose of carrying into effect the provisions of this Act.

**62. Regulations**

- (1) The Governor may make regulations prescribing all matters that are required or permitted to be prescribed or are necessary or convenient to be prescribed for giving effect to the purposes of Part VB.
- (2) Regulations may be made under subsection (1) —
- (a) so as to apply throughout the State or to a specified jury district or districts;
  - (b) so as to confer on a specified person or a specified class of persons a discretionary authority.
- (3) The Governor may by regulations under this Act prescribe the fees and allowances to be paid to persons summoned and attending as jurors in courts of civil jurisdiction, and as jurors in

**s. 62**

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courts of criminal jurisdiction and may differentiate the amount of the fees and allowances to be payable in prescribed parts of the State.

- (4) The Governor may make regulations that are necessary or convenient to be prescribed relating to identification numbers including —
- (a) the allocation of identification numbers;
  - (b) the manner in which a person is to be informed of his or her identification number; and
  - (c) the recording of identification numbers on the list referred to in section 32F(1)(a) or on the card referred to in section 32F(1)(b) or 52(2).

*[Section 62 amended by No. 6 of 1981 s. 30; No. 2 of 1996 s. 61; No. 25 of 2003 s. 23.]*

*[First Schedule omitted under the Reprints Act 1984 s. 7(4)(e) and (f).]*



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## **Second Schedule**

[Section 5]

### **Part I**

#### **Persons not eligible to serve as jurors**

*[Heading inserted by No. 59 of 1984 s. 23.]*

1. A person who is or has been a —
  - (a) judge of the Supreme Court, Family Court or District Court;
  - (b) master or registrar of the Supreme Court, Family Court or District Court;
  - (c) President or commissioner of the Industrial Relations Commission established under the *Industrial Relations Act 1979*;
  - (d) Parliamentary Commissioner for Administrative Investigations;
  - (da) Commissioner appointed under the *Corruption and Crime Commission Act 2003*;
  - (db) Parliamentary Inspector of the Corruption and Crime Commission appointed under the *Corruption and Crime Commission Act 2003*;
  - (e) magistrate;
  - (ea) magistrate of the Children's Court;
  - (f) legal practitioner (as defined in the *Legal Practice Act 2003*).

*[Clause 1 inserted by No. 59 of 1984 s. 23; amended by No. 48 of 2003 s. 62; No. 65 of 2003 s. 42(3); No. 34 of 2004 s. 251; No. 59 of 2004 s. 141.]*

2. A person who is or has been, within a period of 5 years before being summoned to serve as a juror —
  - (a) member or officer of the Legislative Assembly;
  - (b) member or officer of the Legislative Council;

- (c) member of the Children's Court;
- (d) justice of the peace;
- (e) Sheriff of Western Australia or officer of the Sheriff of Western Australia;
- (f) bailiff or assistant bailiff appointed under the *Civil Judgments Enforcement Act 2004*;
- (g) associate or usher of a judge of the Supreme Court, Family Court or District Court;
- (h) police officer, ~~special constable or Aboriginal police liaison officer appointed under the *Police Act 1892*~~;
- [(i) deleted]*
- (j) officer of the Corruption and Crime Commission under the *Corruption and Crime Commission Act 2003*;
- (ja) officer of the Parliamentary Inspector of the Corruption and Crime Commission under the *Corruption and Crime Commission Act 2003*;
- (k) officer as defined in section 3 of the *Children and Community Services Act 2004*;
- (l) member of the Mentally Impaired Accused Review Board under the *Criminal Law (Mentally Impaired Accused) Act 1996*;
- (m) member of the Prisoners Review Board or honorary community corrections officer under the *Sentence Administration Act 2003*;
- (n) member of the Supervised Release Review Board under the *Young Offenders Act 1994*;
- (o) person who —
  - (i) is an officer or employee of an agency as defined in section 3(1) of the *Public Sector Management Act 1994*; or
  - (ii) provides services to such an agency under a contract for services; or

Persons who are excused as of right from serving as jurors if they claim to be excused by virtue of that fact

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- (iii) is a contract worker as defined in section 3 of the *Court Security and Custodial Services Act 1999* or section 15A of the *Prisons Act 1981*,  
being a person prescribed or of a class prescribed by regulations.

*[Clause 2 inserted by No. 59 of 1984 s. 23; amended by No. 31 of 1993 s. 47; No. 104 of 1994 s. 236; No. 78 of 1995 s. 57; No. 48 of 2003 s. 62; No. 50 of 2003 s. 29(3); No. 34 of 2004 s. 251; No. 59 of 2004 s. 141; No. 28 of 2006 s. 39(2); No. 41 of 2006 s. 91; No. 65 of 2006 s. 66; No. 8 of 2008 s. 14 and 23(4).]*

## **Part II**

*[Heading inserted by No. 59 of 1984 s. 23.]*

### **Persons who are excused as of right from serving as jurors if they claim to be excused by virtue of that fact, namely —**

1. Emergency services.

Full-time operational staff of the State Emergency Service.

Officers and firemen of permanent fire brigades.

Pilots employed by the Royal Flying Doctor Service.

*[Clause 1 inserted by No. 59 of 1984 s. 23.]*

2. Health.

Medical practitioners registered under the *Medical Act 1894* if actually practising.

Dentists registered under the *Dental Act 1939* if actually practising.

Veterinary surgeons registered under the *Veterinary Surgeons Act 1960* if actually practising.

Psychologists registered under the *Psychologists Act 2005* if actually practising.

Midwives and nurses registered under the *Nurses and Midwives Act 2006* if actually practising.

Chiropractors registered under the *Chiropractors Act 2005* if actually practising.

Physiotherapists registered under the *Physiotherapists Act 2005* and in private practice.

Pharmaceutical chemists registered under the *Pharmacy Act 1964* and actually in business whether as principal or manager for a principal.

Osteopaths registered under the *Osteopaths Act 2005* if actually practising.

*[Clause 2 inserted by No. 59 of 1984 s. 23; amended by No. 58 of 1997 s. 97; No. 28 of 2005 s. 108; No. 31 of 2005 s. 109; No. 32 of 2005 s. 109; No. 33 of 2005 s. 108; No. 50 of 2006 s. 114.]*

3. Religion.

Persons in holy orders, or who preach or teach in any religious congregation, but only if they follow no secular occupation except that of a schoolteacher.

*[Clause 3 inserted by No. 59 of 1984 s. 23.]*

4. Family.

Pregnant women.

Persons residing with, and having full-time care of, children under the age of 14 years.

Persons residing with, and having full-time care of, persons who are aged, in ill-health, or physically or mentally infirm.

*[Clause 4 inserted by No. 59 of 1984 s. 23.]*

5. Age.

Persons who have reached the age of 65 years.

*[Clause 5 inserted by No. 12 of 2000 s. 11.]*

Grounds on which a person summoned to attend as a juror may be excused from such attendance by the summoning officer or the court

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### **Third Schedule**

[Sections 27, 32]

#### **Grounds on which a person summoned to attend as a juror may be excused from such attendance by the summoning officer or the court**

Illness.

Undue hardship to himself or another person.

Circumstances of sufficient weight, importance or urgency.

Recent jury service.

*[Third Schedule inserted by No. 59 of 1984 s. 24.]*

Matters to be disclosed by persons appearing in answer to the summons to serve as jurors to the jury pool supervisor or to the summoning officer as the case requires

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## **Fourth Schedule**

[Sections 32FA, 34B]

### **Matters to be disclosed by persons appearing in answer to the summons to serve as jurors to the jury pool supervisor or to the summoning officer as the case requires**

Any incapacity by reason of disease or infirmity of mind or body, including defective hearing, that may affect the discharge of the duty of a juror.

Lack of understanding of the English language.

Any family relationship with, any bias or likelihood of bias by reason of being acquainted with, or employed by the judge or any legal practitioner engaged in the trial, and in the case of a civil trial, the plaintiff or defendant in the trial, and in the case of a criminal trial, the prosecutor or accused in the trial, or with the victim of the crime in question.

Any other reason why there may be bias or likelihood of bias.

*[Fourth Schedule inserted by No. 59 of 1984 s. 24.]*

**Notes**

<sup>1</sup> This is a compilation of the *Juries Act 1957* and includes the amendments made by the other written laws referred to in the following table<sup>1a, 4</sup>. The table also contains information about any reprint.

**Compilation table**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Juries Act 1957</i>	50 of 1957 (6 Eliz. II No. 50)	9 Dec 1957	1 Jul 1960 (see s. 1(2) and <i>Gazette</i> 6 Mar 1959 p. 539)
<i>Juries Act Amendment Act 1959</i>	35 of 1959 (8 Eliz. II No. 35)	30 Oct 1959	30 Oct 1959
<i>Juries Act Amendment Act 1961</i>	30 of 1961 (10 Eliz. II No. 30)	11 Jun 1962	11 Jun 1962
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	Act other than s. 4-9: 21 Dec 1965 (see s. 2(1)); s. 4-9: 14 Feb 1966 (see s. 2(2))
<i>Age of Majority Act 1972</i> s. 6(2)	46 of 1972	18 Sep 1972	1 Nov 1972 (see s. 2 and <i>Gazette</i> 13 Oct 1972 p. 4069)
<i>Juries Act Amendment Act 1973</i>	44 of 1973	18 Oct 1973	1 Jan 1974 (see s. 2 and <i>Gazette</i> 14 Dec 1973 p. 4528)
<b>Reprint of the <i>Juries Act 1957</i> approved 26 Apr 1974</b> (includes amendments listed above)			
<i>Juries Act Amendment Act 1975</i>	64 of 1975	24 Oct 1975	Act other than s. 3 and 4: 24 Oct 1975 (see s. 2(1)); s. 3 and 4: 1 Jan 1976 (see s. 2(2) and <i>Gazette</i> 7 Nov 1975 p. 4123)
<i>Juries Act Amendment Act 1976</i>	34 of 1976	9 Jun 1976	3 Sep 1976 (see s. 2 and <i>Gazette</i> 3 Sep 1976 p. 3271)
<i>Juries Amendment Act 1981</i>	6 of 1981	18 May 1981	s. 4(a) and (b), and only that part of s. 22 which repeals and substitutes s. 33: 1 Jul 1981 (see s. 2 and <i>Gazette</i> 26 Jun 1981 p. 2285); s. 7(a)-(g), and (i), and 8: 30 Oct 1981 (see s. 2 and <i>Gazette</i> 30 Oct 1981 p. 4467);

## Juries Act 1957

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Short title	Number and year	Assent	Commencement
			Act other than s. 4(a) and (b), 6-8, 17 and 22: 12 Mar 1982 (see s. 2 and <i>Gazette</i> 12 Mar 1982 p. 801); s. 6, 7(h) and (j), 17 and that part of s. 22 which inserts s. 33A: 1 Jul 1982 (see s. 2 and <i>Gazette</i> 12 Mar 1982 p. 801)
<i>Acts Amendment (Abolition of Capital Punishment) Act 1984</i> Pt. IV	52 of 1984	5 Sep 1984	3 Oct 1984
<i>Juries Amendment Act 1984</i> <sup>5</sup>	59 of 1984	24 Oct 1984	s. 1 and 2: 24 Oct 1984; Act other than s. 1 and 2: 1 Jul 1985 (see s. 2 and <i>Gazette</i> 14 Dec 1984 p. 4115)
<b>Reprint of the <i>Juries Act 1957</i> as at 2 Dec 1987</b> (includes amendments listed above)			
<i>Juries Amendment Act 1988</i>	13 of 1988	6 Sep 1988	s. 1 and 2: 6 Sep 1988; Act other than s. 1 and 2: 4 Oct 1988
<i>Acts Amendment (Spent Convictions) Act 1988</i> Pt. 3	56 of 1988	8 Dec 1988	1 Jul 1992 (see s. 2 and <i>Gazette</i> 26 Jun 1992 p. 2644)
<i>Acts Amendment (Jurisdiction and Criminal Procedure) Act 1992</i> s. 9(4)	53 of 1992	9 Dec 1992	1 Mar 1993 (see s. 2(1) and <i>Gazette</i> 26 Jan 1993 p. 823)
<i>Juries Amendment Act 1992</i>	47 of 1992	10 Dec 1992	10 Dec 1992 (see s. 2)
<i>Acts Amendment (Ministry of Justice) Act 1993</i> Pt. 11 <sup>6</sup>	31 of 1993	15 Dec 1993	1 Jul 1993 (see s. 2)
<i>Statutes (Repeals and Minor Amendments) Act 1994</i> s. 4	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)
<i>Young Offenders Act 1994</i> s. 236	104 of 1994	11 Jan 1995	13 Mar 1995 (see s. 2 and <i>Gazette</i> 10 Mar 1995 p. 895)
<i>Sentencing (Consequential Provisions) Act 1995</i> Pt. 42	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)



<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Coroners Act 1996</i> s. 61	2 of 1996	24 May 1996	7 Apr 1997 (see s. 2 and <i>Gazette</i> 18 Mar 1997 p. 1529)
<i>Acts Amendment (Auxiliary Judges) Act 1997</i> Pt. 6	23 of 1997	18 Sep 1997	18 Sep 1997 (see s. 2)
<i>Juries Amendment Act 1997</i>	34 of 1997	31 Oct 1997	s. 1 and 2: 31 Oct 1997; Act other than s. 1 and 2: 5 Dec 1997 (see s. 2 and <i>Gazette</i> 5 Dec 1997 p. 7161)
<i>Osteopaths Act 1997</i> s. 97	58 of 1997	15 Dec 1997	22 Dec 1999 (see s. 2 and <i>Gazette</i> 21 Dec 1999 p. 6393)
<i>Juries Amendment Act 2000</i>	12 of 2000	27 May 2000	Act other than s. 10: 27 May 2000 (see s. 2(1)); s. 10: 2 Oct 2000 (see s. 2(2) and <i>Gazette</i> 26 Sep 2000 p. 5515)
<b>Reprint of the <i>Juries Act 1957</i> as at 3 Jul 2000</b> (includes amendments listed above other than those in the <i>Juries Amendment Act 2000</i> s. 10)			
<i>Juries Amendment Act 2003</i> <sup>7</sup>	25 of 2003	16 May 2003	s. 1 and 2: 16 May 2003; Act other than s. 1 and 2: 18 Jun 2003 (see s. 2 and <i>Gazette</i> 17 Jun 2003 p. 2201)
<i>Corruption and Crime Commission Act 2003</i> s. 62	48 of 2003	3 Jul 2003	1 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Dec 2003 p. 5723)
<i>Sentencing Legislation Amendment and Repeal Act 2003</i> s. 29(3) and 73	50 of 2003	9 Jul 2003	s. 29(3): 31 Aug 2003 (see s. 2 and <i>Gazette</i> 29 Aug 2003 p. 3833); s. 73: 15 May 2004 (see s. 2 and <i>Gazette</i> 14 May 2004 p. 1445)
<i>Acts Amendment and Repeal (Courts and Legal Practice) Act 2003</i> s. 42 and 127	65 of 2003	4 Dec 2003	1 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Dec 2003 p. 5722)
<i>Corruption and Crime Commission Amendment and Repeal Act 2003</i> s. 74(2)	78 of 2003	22 Dec 2003	7 Jul 2004 (see s. 2 and <i>Gazette</i> 6 Jul 2004 p. 2697)

## Juries Act 1957

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Short title	Number and year	Assent	Commencement
<i>Children and Community Services Act 2004</i> s. 251	34 of 2004	20 Oct 2004	1 Mar 2006 (see s. 2 and <i>Gazette</i> 14 Feb 2006 p. 695)
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> Pt. 10	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Electoral Amendment and Repeal Act 2005</i> s. 9	1 of 2005	20 May 2005	20 May 2005 (see s. 2)
<b>Reprint 4: The Juries Act 1957 as at 2 Sep 2005</b> (includes amendments listed above except those in the <i>Children and Community Services Act 2004</i> )			
<i>Oaths, Affidavits and Statutory Declarations (Consequential Provisions) Act 2005</i> s. 63	24 of 2005	2 Dec 2005	1 Jan 2006 (see s. 2 and <i>Gazette</i> 23 Dec 2005 p. 6244)
<i>Psychologists Act 2005</i> s. 108	28 of 2005	12 Dec 2005	4 May 2007 (see s. 2 and <i>Gazette</i> 4 May 2007 p. 1963)
<i>Chiropractors Act 2005</i> s. 109	31 of 2005	12 Dec 2005	1 Aug 2007 (see s. 2 and <i>Gazette</i> 31 Jul 2007 p. 3789)
<i>Physiotherapists Act 2005</i> s. 109	32 of 2005	12 Dec 2005	23 Feb 2007 (see s. 2 and <i>Gazette</i> 20 Feb 2007 p. 505)
<i>Osteopaths Act 2005</i> s. 108	33 of 2005	12 Dec 2005	30 May 2007 (see s. 2 and <i>Gazette</i> 29 May 2007 p. 2486)
<i>Machinery of Government (Miscellaneous Amendments) Act 2006</i> s. 39(2)	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)
<i>Parole and Sentencing Legislation Amendment Act 2006</i> s. 91	41 of 2006	22 Sep 2006	28 Jan 2007 (see s. 2 and <i>Gazette</i> 29 Dec 2006 p. 5867)
<i>Nurses and Midwives Act 2006</i> s. 114	50 of 2006	6 Oct 2006	19 Sep 2007 (see s. 2 and <i>Gazette</i> 18 Sep 2007 p. 4711)
<i>Prisons and Sentencing Legislation Amendment Act 2006</i> Pt. 9	65 of 2006	8 Dec 2006	4 Apr 2007 (see s. 2 and <i>Gazette</i> 3 Apr 2007 p. 1491)

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 4	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<b>Reprint 5: The Juries Act 1957 as at 8 Jun 2007</b> (includes amendments listed above except those in the <i>Chiropractors Act 2005</i> and the <i>Nurses and Midwives Act 2006</i> )			
<i>Police Amendment Act 2008</i> s. 14- <sup>8</sup> and s. 23(4)	8 of 2008	31 Mar 2008	<del>s. 14</del> ; 1 Apr 2008 (see s. 2(1)) <del>s. 23(4)</del> ; 21 Jun 2008 (see s. 2(2) and <i>Gazette</i> 20 Jun 2008 p. 2706)
<i>Criminal Law and Evidence Amendment Act 2008</i> s. 64	2 of 2008	12 Mar 2008	27 Apr 2008 (see s. 2 and <i>Gazette</i> 24 Apr 2008 p. 1559)

<sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

**Provisions that have not come into operation**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Machinery of Government (Miscellaneous Amendments) Act 2006</i> s. 39(1) <sup>9</sup>	28 of 2006	26 Jun 2006	To be proclaimed (see s. 2)
<i>Acts Amendment (Justice) Act 2008</i> Pt. 14 <sup>12</sup>	5 of 2008	31 Mar 2008	To be proclaimed (see s. 2(d))
<del><i>Police Amendment Act 2008</i> s. 23(4)<sup>13</sup></del>	<del>8 of 2008</del>	<del>31 Mar 2008</del>	<del>To be proclaimed (see s. 2(2))</del>
<i>Legal Profession Act 2008</i> s. 669 <sup>11</sup>	21 of 2008	27 May 2008	To be proclaimed (see s. 2(b))
<i>Medical Practitioners Act 2008</i> s. 162 <sup>8</sup>	22 of 2008	27 May 2008	To be proclaimed (see s. 2)

<sup>2</sup> Repealed by the *Interpretation Act 1984*.

<sup>3</sup> Repealed by the *Nurses Act 1992*.

<sup>4</sup> The *Sentencing Legislation Amendment and Repeal Act 1999* s. 26 did not come into operation and was repealed by the *Sentencing Legislation Amendment and Repeal Act 2003* s. 31.

<sup>5</sup> The *Juries Amendment Act 1984* s. 25 reads as follows:

“

**25. Saving**

A certificate of permanent exemption issued or purporting to have been issued pursuant to section 34A(2) of the principal Act as in force before the day that this Act comes into operation and in force before that day shall continue to have effect for the purposes of the principal Act after that day and, notwithstanding anything in the principal Act, the person with respect to whom the certificate is issued is not liable to serve as a juror.

”.

<sup>6</sup> The *Acts Amendment (Ministry of Justice) Act 1993* Pt. 19 contains savings and transitional provisions that are of no further effect.

<sup>7</sup> The *Juries Amendment Act 2003* s. 5(2) is a savings provision that is of no further effect.

<sup>8</sup> On the date as at which this compilation was prepared, the *Medical Practitioners Act 2008* s. 162, which gives effect to Sch. 3 cl. 31, had not come into operation. It reads as follows:

“

**162. Consequential amendments**

Schedule 3 sets out consequential amendments.

”.

Schedule 3 cl. 31 reads as follows:

“

**Schedule 3 — Consequential amendments**

**31. *Juries Act 1957* amended**

- (1) The amendments in this clause are to the *Juries Act 1957*.
- (2) The Second Schedule Part II item 2 is amended by deleting “*Medical Act 1894*” and inserting instead —  
“ *Medical Practitioners Act 2008* ”.

”.

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<sup>9</sup> On the date as at which this compilation was prepared, the *Machinery of Government (Miscellaneous Amendments) Act 2006* s. 39(1) <sup>10</sup> had not come into operation. It reads as follows:

“

**39. Second Schedule amended**

- (1) The Second Schedule Part I item 2(i) is deleted and the following item is inserted instead —

“

- (i) Officer or employee of the department of the Public Service principally assisting in the administration of this Act, other than an officer in the Public Trust Office;

”

”

<sup>10</sup> The amendment to the Second Schedule, Pt. I it. (2)(i) in the *Machinery of Government (Miscellaneous Amendments) Act 2006* s. 39(1) would not be included because the item it seeks to amend was repealed by the *Prisons and Sentencing Legislation Amendment Act 2006* s. 66.

<sup>11</sup> On the date as at which this compilation was prepared, the *Legal Profession Act 2008* s. 669 had not come into operation. It reads as follows:

“

**669. Juries Act 1957 amended**

- (1) The amendments in this section are to the *Juries Act 1957*.  
(2) Section 56A(1) is amended in paragraph (b) of the definition of “prosecuting officer” by deleting “a legal practitioner (as defined in the *Legal Practice Act 2003*);” and inserting instead —

“

an Australian legal practitioner within the meaning of that term in the *Legal Profession Act 2008* section 3;

”

- (3) Section 56B(2)(h) is amended by deleting “a legal practitioner (as defined in the *Legal Practice Act 2003*)” and inserting instead —

“

an Australian legal practitioner (within the meaning of that term in the *Legal Profession Act 2008* section 3)

”

- (4) Section 56C(2)(g) is amended by deleting “a legal practitioner (as defined in the *Legal Practice Act 2003*)” and inserting instead —

“

an Australian legal practitioner (within the meaning of that term in the *Legal Profession Act 2008* section 3)

”.

- (5) The Second Schedule Part I item 1(f) is deleted and the following paragraph is inserted instead —

“

- (f) an Australian lawyer (within the meaning of that term in the *Legal Profession Act 2008* section 3).

”.

”.

<sup>12</sup> On the date as at which this compilation was prepared, the *Acts Amendment (Justice) Act 2008* Pt. 14 had not come into operation. It reads as follows:

“

#### **Part 14 — *Juries Act 1957* amended**

**65. The Act amended in this Part**

The amendments in this Part are to the *Juries Act 1957*.

**66. Section 44 replaced**

Section 44 is repealed and the following section is inserted instead —

“

**44. Payments for juries in civil trials**

- (1) If trial by jury is ordered in a civil trial, the party that applied for the order must pay the summoning officer, before the time or times prescribed —
- (a) the prescribed amount for summoning the jurors; and
  - (b) the prescribed amount for an officer of the court to attend on the jury for the first day of the trial; and
  - (c) a deposit of such amount as the summoning officer estimates and advises the party will be needed to meet the payments that will have to be made under section 58B for the first day of the trial.

- (2) If an amount is not paid as required by subsection (1), the trial shall proceed as if a trial by jury had not been ordered, notwithstanding any other Act.
- (3) The party referred to in subsection (1) must also pay the summoning officer for each day of the trial after the first day, before the time or times prescribed —
  - (a) the prescribed amount for an officer of the court to attend on the jury for the day; and
  - (b) a deposit of such amount as the summoning officer estimates and advises the party will be needed to meet the payments that will have to be made under section 58B for the day.
- (4) If an amount is not paid for a day as required by subsection (3), the court may, unless the amount is paid by another party, discharge the jury and finish the trial and decide the case without a jury, notwithstanding that the trial commenced with a jury, and notwithstanding any other Act.

”.

**67. Section 58B inserted**

After section 58A the following section is inserted —

“

**58B. Jury service, payments for**

- (1) For the purposes of this section a person does jury service if he or she, having been required under this Act to do so, attends at any place in order to serve, or does serve, as a juror.
- (2) A person who does jury service is entitled to be paid by the State the allowances and expenses prescribed by the regulations in respect of doing the jury service.
- (3) If a person does jury service for a period when he or she is employed by an employer under a contract of service, the employer must pay the person the earnings that he or she could reasonably expect to have been paid in that period under the contract, despite any breach of the contract caused by doing the jury service.  
Penalty: a fine of \$2 000.
- (4) An employer who in accordance with subsection (3) pays a person during any period when the person does jury service is entitled to be paid by the State the fees in accordance with the regulations for

the person's service, unless the employer is in a class of employer prescribed by the regulations.

- (5) If a person to whom subsection (3) applies is not paid under that subsection, the person is entitled to be paid by the State the fees in accordance with the regulations for the jury service, unless the person is in a class of person prescribed by the regulations.
- (6) A person who does jury service but to whom subsection (3) does not apply is entitled to be paid by the State the fees in accordance with the regulations for the jury service, unless the person is in a class of person prescribed by the regulations.
- (7) A claim to the State for a payment under this section must be made and determined under the regulations.
- (8) Any amount paid under this section by the State to or in respect of a juror for a trial in criminal proceedings is to be charged to the Consolidated Account.

”.

**68. Section 62 amended**

Section 62(3) is repealed and the following subsection is inserted instead —

“

- (3) The Governor may make regulations prescribing all matters that are necessary or convenient to be prescribed for the purposes of section 58B including regulations —
  - (a) that confer a discretionary authority;
  - (b) that require information in support of a claim to the State for a payment to be verified by a statutory declaration.

”.

**69. Second Schedule amended**

The Second Schedule clause 2 is amended by deleting paragraph (c).

”.

<sup>13</sup> ~~On the date as at which this compilation was prepared, the *Police Amendment Act 2008* s. 23(4) had not come into operation. It reads as follows:~~



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“

~~23. Various Acts amended in relation to the definition of “police officer”~~

~~(4) The Second Schedule Part I clause 2(h) of the *Juries Act 1957* is deleted and the following paragraph is inserted instead—~~

“

~~(h) police officer;~~

”

”