

Western Australia

## **Juries Amendment Act 2003**

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As at 16 May 2003

No. 25 of 2003

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## Juries Amendment Act 2003

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Western Australia

## **Juries Amendment Act 2003**

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**No. 25 of 2003**

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**An Act to amend the *Juries Act 1957* and to make a consequential amendment to *The Criminal Code*.**

[Assented to 16 May 2003]

The Parliament of Western Australia enacts as follows:

**1. Short title**

This Act may be cited as the *Juries Amendment Act 2003*.

**2. Commencement**

This Act comes into operation on a day fixed by proclamation.

**3. The Act amended**

The amendments in this Act are to the *Juries Act 1957\**, unless otherwise indicated.

[\* Reprinted as at 3 July 2000.]

**4. Section 3 amended**

- (1) Section 3 is amended by inserting the following definition in the appropriate alphabetical position —

“

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

”.

- (2) Section 3 is amended by inserting before “In” the subsection designation “(1)”.

- (3) At the end of section 3 the following subsection is inserted —

“

- (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.

”.

**5. Section 18 replaced and transitional**

- (1) Section 18 is repealed and the following section is inserted instead —

“

**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.
- (7) Section 646 of *The Criminal Code* does not apply unless, before the jury retires to consider its verdict, the number of jurors is less than 12.

”.

- (2) If immediately before the day on which this Act comes into operation a trial is being held with reserve jurors chosen and returned under section 18 of the *Juries Act 1957*, on and after that day that section continues to apply to the trial and those jurors as if it had not been repealed by this section.

**6. Section 26 amended**

After section 26(5) the following subsection is inserted —

“

- (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.

”.

**7. Section 29A amended**

Section 29A(1)(a) is amended by deleting “and (5)” and inserting instead —

“ , (5) and (6) ”.

**8. Section 30 amended**

Section 30 is amended by deleting “The” and inserting instead —

“ Subject to an order made under section 43A, the ”.

**9. Section 32D amended**

After section 32D(1) the following subsections are inserted —

- “
- (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.
- ”.

**10. Section 32F amended**

Section 32F(1) is amended as follows:

- (a) in paragraph (a) by inserting after “names” —  
“ and identification numbers ”;
- (b) in paragraph (b) by deleting “names” and inserting instead —  
“ identification numbers ”.

**11. Section 32FA amended**

Before section 32FA(1) the following subsections are inserted —

- “
- (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.
- ”.

**12. Section 32H amended**

- (1) Section 32H(2) is amended by inserting after “names of the persons” —

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“ and their identification numbers ”.

- (2) Section 32H(3) is amended by deleting “relating to” and inserting instead —

“ on which are the identification numbers of ”.

**13. Section 34 amended**

- (1) Section 34(1) is amended by deleting the penalty provision and inserting the following provision instead —

“

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

”.

- (2) Section 34(2) is amended by deleting the penalty provision and inserting the following provision instead —

“

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

”.

**14. Section 34B amended**

- (1) Section 34B is amended by inserting before “Immediately” the subsection designation “(3)”.

- (2) At the beginning of section 34B the following subsections are inserted before the subsection designated subsection (3) —

“

(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.

”.

**15. Part VI heading amended**

The heading to Part VI is amended by deleting “at” and inserting instead —

“ **relating to** ”.

**16. Section 35 amended**

- (1) Section 35 is amended by inserting before “On the day” the subsection designation “(1)”.
- (2) Section 35 is amended by deleting “names” and inserting instead —  
“ identification numbers ”.
- (3) At the end of section 35 the following subsection is inserted —  
“  
(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.  
”.

**17. Section 36 amended**

- (1) Section 36(1) and (4) are repealed and the following subsections are inserted instead —  
“  
(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.  
”.

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- (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.

”.

- (2) Section 36(5) is amended by deleting “constitute a jury” and inserting instead —

“ have been sworn as jurors ”.

**18. Section 36A inserted**

After section 36 the following section is inserted —

“

**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.

”.

**19. Section 43 amended**

Section 43(1) is amended as follows:

- (a) by deleting “or panel,” and inserting instead —  
“ panel or list, ”;
- (b) by inserting after “or the preparation thereof,” —  
“ or in the allocation of an identification number, ”.

**20. Section 43A inserted**

After section 43 in Part VI the following section is inserted —

“

**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.

”.

**21. Section 52 amended**

- (1) Section 52(1) is amended by deleting “a full jury” and inserting instead —

“ sufficient jurors ”.

- (2) Section 52(2) is repealed and the following subsections are inserted instead —

“

- (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.

”.

**22. Section 58A inserted**

After section 58 the following section is inserted —

“

**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.

”.

**23. Section 62 amended**

After section 62(3) the following subsection is inserted —

“

- (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).

”.

**24. The Criminal Code amended**

- (1) The amendments in this section are to *The Criminal Code*\*.

[\* Reprinted as at 9 February 2001 as the Schedule to the *Criminal Code Act 1913* appearing as Appendix B to the *Criminal Code Compilation Act 1913*.

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 89 and Acts Nos. 3, 6, 8 and 27 of 2002.]*

- (2) Section 611A(1) is amended by deleting the full stop after paragraph (c) and inserting instead —

“

;

- (d) make an order under section 43A of the *Juries Act 1957*.

”.

- (3) Section 626 is amended by deleting “names” and inserting instead —

“ identification numbers ”.

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