

JURIES.

No. 59 of 1984.

AN ACT to amend the Juries Act 1957.

[Assented to 24 October 1984.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Juries Amendment Act 1984*.

Short title
and principal
Act.

(2) In this Act the Juries Act 1957 is referred to as the principal Act.

Reprinted as
approved
26 April 1974
and amended
by Acts
Nos. 64 of
1975, 34 of
1976 and
6 of 1981.

2. This Act shall come into operation on a day to be fixed by proclamation.

Commence-
ment.

Long title amended.

3. The long title to the principal Act is amended by deleting “including Provision for Service on Juries by Women”.

Section 1 amended.

4. Section 1 of the principal Act is amended by repealing subsection (3).

Heading to Part II amended.

5. The heading to Part II of the principal Act is amended by deleting “JURORS—QUALIFICATIONS, EXEMPTIONS.” and substituting the following—

“ LIABILITY TO SERVE AS JURORS. ”.

Sections 4 and 5 substituted.

6. Sections 4 and 5 of the principal Act are repealed and the following sections are substituted—

Liability to serve as juror.

“ 4. 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.

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

5. 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 65 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 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;

(ii) has at any time within 5 years in Western Australia or elsewhere—

(I) served any part 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 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 6
repealed.

7. Section 6 of the principal Act is repealed.

Section 7
repealed.

8. Section 7 of the principal Act is repealed.

Section 8
substituted.

9. Section 8 of the principal Act is repealed and the following section is substituted—

Verdict not
affected.

“ 8. 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. ”.

10. Section 14 of the principal Act is amended— Section 14
amended.

- (a) by repealing subsections (1) and (2) and substituting the following subsections—

“ (1) On or about 1 March in each year the Sheriff—

(a) shall notify the Chief Electoral Officer 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 Chief Electoral Officer the number of copies of lists of jurors which he requires for each jury district.

(2) Before 30 April in each year the Chief Electoral Officer 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. ”;

- (b) in subsection (2a), by deleting “, not being a jury district which is referred to in paragraph (1a) of subsection (1) of this section,”;

- (c) by repealing subsection (3) and substituting the following subsection—

“ (3) The Chief Electoral Officer 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. ”;

(d) by inserting the following subsection—

“ (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 Chief Electoral Officer, 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. ”;

(e) in subsection (4) by deleting “rolls” and substituting the following—

“ lists ”;

(f) in subsection (8)—

(i) by deleting “jury roll is disqualified or exempt from serving” and substituting the following—

“ jury list is pursuant to section 5 not eligible or not qualified to serve ”; and

(ii) by deleting “jury roll” and substituting the following—

“ jury list ”;

(g) in subsection (10)—

(i) by deleting “a book” and substituting the following—

“ the list compiled pursuant to subsections (1) to (8) ”; and

(ii) by deleting “jury roll; and the book” and substituting the following—

“ the list; and the list ”;

(h) in subsection (11), by deleting “qualified and” ; and

(i) in subsection (12), by deleting “subsection (6) of section five of this Act and to”.

11. Section 15 of the principal Act is amended— Section 15 amended.

(a) by deleting “for a jury roll”; and

(b) by deleting “jury rolls” and substituting the following—

“ jury lists ”.

Section 26
amended.

12. Section 26 of the principal Act is amended—

- (a) by repealing subsection (2) and substituting the following subsection—

“ (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). ;

and

- (b) by repealing subsection (4) and substituting the following subsection—

“ (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. ”.

13. Section 27 of the principal Act is amended— Section 27 amended.

(a) in subsection (1), by inserting after “may” the following—

“ on the grounds specified in the Third Schedule and ”;

(b) by repealing subsection (2); and

(c) in subsection (3), by deleting “ such number of men and women as is required to complete the panel, but so as to preserve as far as is practicable, the ratio prescribed by that subsection;” and substituting the following—

“ such number of persons as is required to complete the panel ”.

14. Section 28 of the principal Act is amended by repealing subsection (1a) and substituting the following— Section 28 amended.

“ (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. ”.

15. Section 29 of the principal Act is amended— Section 29 amended.

(a) in subsection (2)—

(i) in paragraph (a), by deleting “, but so that as far as is practicable, of the number required men and women, whose names are entered in the Jurors’ Book are represented in the ratio prescribed by subsection (2) of section twenty-six of this Act”;

(ii) in paragraph (g), by deleting “, but so that as far as is practicable, the number of men summoned bears to the number of women summoned the ratio prescribed by subsection (2) of section twenty-six of this Act”;

and

(iii) in paragraph (h), by deleting “but so that if practicable, the juror summoned in substitution is of the same sex as the juror who cannot be served or who is excused,”;

and

(b) in subsection (3), by deleting paragraph (a) and substituting the following paragraph—

“ (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; ”.

Section 32
amended.

16. Section 32 of the principal Act is amended by inserting after “may” the following—

“ on the grounds specified in the Third Schedule ”.

Section 32C
amended.

17. Section 32C of the principal Act is amended in subsection (1) by deleting all the words after “jury pool” where secondly occurring.

Section 32F
amended.

18. Section 32F of the principal Act is amended in subsection (1) by deleting “qualified and” in paragraph (a).

19. The principal Act is amended by inserting after section 32F the following section—

Section 32FA
inserted.

“ 32FA. (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. ”

Jury pool
supervisor
to explain
certain
matters to
persons
answering
summons.

20. Section 33A of the principal Act is repealed and the following section substituted—

Section 33A
substituted.

“ 33A. 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. ”

Notice to be
attached to
summons.

21. Section 34A of the principal Act is amended—

Section 34A
amended.

(a) by repealing subsection (1) and substituting the following subsection—

“ (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). ”;

(b) by repealing subsection (2) and substituting the following subsections—

“ (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,

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 Chief Electoral Officer of that fact and the Chief Electoral Officer shall remove the name of that person from any list of persons liable to serve as a juror under this Act. ”;

and

- (c) in subsection (3), by deleting “disqualified or exempt” and substituting the following—

“ not eligible or not qualified to serve as a juror ”.

22. The principal Act is amended by inserting after section 34A the following section— Section 34B inserted.

“ 34B. 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. ”. Summoning officer to explain certain matters to persons answering summons.

23. The Second Schedule to the principal Act is deleted and the following Schedule substituted— Second Schedule substituted.

“ SECOND SCHEDULE. Section 5.

PART I.

Persons not eligible to serve as jurors.

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 Arbitration Commission established under the Industrial Arbitration Act 1979;
 - (d) Parliamentary Commissioner for Administrative Investigations;
 - (e) Stipendiary Magistrate;
 - (f) Legal practitioner, whether or not in practice, enrolled on the Roll of Practitioners pursuant to the Legal Practitioners Act 1893.

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) Special Magistrate or member of a Children's Court under the Child Welfare Act 1947;
 - (d) Justice of the Peace;
 - (e) Sheriff of Western Australia or officer of the Sheriff of Western Australia;
 - (f) Bailiff or Assistant Bailiff of any Court constituted under any Act;
 - (g) Associate or usher of a Judge of the Supreme Court, Family Court or District Court;
 - (h) Police officer, Special Constable or Aboriginal Aide appointed under the Police Act 1892;
 - (i) Officer in the Crown Law Department of the Public Service of the State other than an officer in the Public Trust Office or the Office of Titles;
 - (j) Officer or employee in the Department of Prisons of the Public Service of the State;
 - (k) Officer or employee in the Department for Community Welfare of the Public Service of the State;
 - (l) Officer or employee in the Police Department of the Public Service of the State;
 - (m) Member of the Parole Board or honorary probation officer under the Offenders Probation and Parole Act 1963.

PART II.

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 Western Australian Emergency Service.

Officers and firemen of permanent fire brigades.

Pilots employed by the Royal Flying Doctor Service.

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 Registration Act 1976 if actually practising.

Nurses registered under the Nurses Act 1968 if actually practising.

Chiropractors registered under the Chiropractors Act 1964 if actually practising.

Physiotherapists registered under the Physiotherapists Act 1950 and in private practice.

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

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.

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. ”.

24. The principal Act is amended by adding after the Second Schedule the following Schedules—

Third
and Fourth
Schedules
added.

“ 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.

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. ”.

Saving.

25. 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.