

## JURIES.

No. 6 of 1981.

### AN ACT to amend the Juries Act 1957-1976.

[Assented to 18 May 1981.]

**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 1981*.

Short title  
and  
citation.

(2) In this Act, the Juries Act 1957-1976 is referred to as the principal Act.

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

(3) The principal Act as amended by this Act may be cited as the Juries Act 1957-1981.

Commence-  
ment.

2. The provisions of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation.

Section 1  
amended.

3. Section 1 of the principal Act is amended in subsection (3) by—

- (a) deleting “PART V.—NUMBERS OF JURY, PRECEPTS, PANELS AND SUMMONSES: ss. 18-34.” and substituting the following—

“ PART V.—NUMBERS OF JURY: ss. 18-19.”

PART VA.—GENERAL JURY PRECEPTS AND PANELS: ss. 20-32.

PART VB.—JURY POOLS: ss. 32A-32I.

PART VC.—SERVICE OF SUMMONSES AND CLAIMS FOR EXEMPTION: ss. 33-34A. ”; and

- (b) deleting “THIRD SCHEDULE.—FORM OF SUMMONS LIST.”.

Section 3  
amended.

4. Section 3 of the principal Act is amended—

- (a) by deleting the definition of “municipal office”;

- (b) in the definition of “tickets”, by deleting “paper” and substituting the following—

“ material ”; and

- (c) by inserting, in their appropriate alphabetical positions, the following definitions—

“ “general jury precept” means a precept issued under section 20 of this Act;

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

“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 of this Act;

“pool precept” means a precept issued under section 32G of this Act; ”.

5. Section 5 of the principal Act is amended— Section 5  
amended.

(a) in subsection (2), by deleting “, subject to the provisions of subsection (5) of this section,”;

(b) in subsection (3), by deleting “, subsection (9) of section fourteen” and substituting the following—

“ subsection (2) of section 34A ”;

(c) in subsection (4), by deleting “, subject to the provisions of subsection (5) of this section”; and

(d) by repealing subsection (5).

6. Section 6 of the principal Act is amended in subsection (1) by deleting “subsection (9) of section fourteen” and substituting the following— Section 6  
amended.

“ subsection (2) of section 34A ”.

Section 14  
amended.

7. Section 14 of the principal Act is amended—
- (a) in subsection (1)—
    - (i) by deleting “November” and substituting the following—  
“ March ”;
    - (ii) by deleting “draft” in paragraph (a);
  - (b) in subsection (2), by deleting “In the month of November” and substituting the following—  
“ Before the last day of April ”;
  - (c) by inserting after subsection (2a) the following subsection—  
“ (2b) The selection of jurors required by subsections (2) and (2a) of this section may be made by computer. ”;
  - (d) in subsection (3), by deleting “February in the next succeeding” and substituting the following—  
“ April in each ”;
  - (e) in subsection (4), by deleting “draft”;
  - (f) by deleting subsections (6) and (7);
  - (g) in subsection (8), by deleting “draft” wherever it occurs;
  - (h) by deleting subsection (9);
  - (i) in subsection (10), by deleting “draft jury roll as revised by the Sheriff” and substituting the following—  
“ jury roll ”; and
  - (j) in subsection (12), by inserting after “section 5 of this Act” the following—  
“ and to section 34A of this Act ”.

8. Section 15 of the principal Act is amended— Section 15 amended.
- (a) in subsection (1), by deleting “draft” wherever it occurs; and
- (b) by repealing subsection (2).

9. The heading to Part V of the principal Act is amended by deleting “, PRECEPTS, PANELS AND SUMMONSES”. Heading to Part V amended.

10. After section 19 of the principal Act, the following is inserted— Heading to Part VA inserted.

“ PART VA.—GENERAL JURY PRECEPTS AND PANELS. ”.

11. Section 20 of the principal Act is amended— Section 20 amended.
- (a) by deleting “Where jurors” and substituting the following—
- “ Subject to this Act, where jurors ”;
- (b) by deleting “a precept” wherever it occurs and substituting in each case the following—
- “ a general jury precept ”.

12. Section 21 of the principal Act is amended by deleting “precepts” wherever it occurs and substituting in each case the following— Section 21 amended.

“ general jury precepts ”.

13. Section 22 of the principal Act is amended— Section 22 amended.
- (a) by deleting “A jury precept” and substituting the following—

“ A general jury precept ”; and

- (b) in paragraph (b) by deleting “fourteen” and substituting the following—  
“ twenty-one ”.

Section 23  
amended.

14. Section 23 of the principal Act is amended by deleting “a jury precept” and substituting the following—

“ a general jury precept ”.

Section 25  
amended.

15. Section 25 of the principal Act is amended by deleting “precept” wherever it occurs and substituting in each case the following—

“ general jury precept ”.

Section 26  
amended.

16. Section 26 of the principal Act is amended—

(a) in subsection (1), by deleting “precept” wherever it occurs and substituting in each case the following—

“ general jury precept ”; and

(b) in subsection (4), by inserting after “left the district,” the following—

“ or to have attended at a jury pool during the currency of that Jurors’ Book having been summoned so to attend, ”.

Section 29  
amended.

17. Section 29 of the principal Act is amended in paragraph (b) of subsection (2) by deleting “eight” and substituting the following—

“ twenty ”.

Section 30  
amended.

18. Section 30 of the principal Act is amended by inserting after “panel” wherever it occurs the following—

“ or pool ”.

19. Section 31 of the principal Act is amended by deleting “personally” and substituting the following—

Section 31 amended.

“ in accordance with section 33 of this Act ”.

20. After section 32 of the principal Act, the following Part is inserted—

Part VB inserted.

“ PART VB.—JURY POOLS.

32A. (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.

Trials for which jury pools may be summoned.

(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) of this section, may be selected from a jury pool summoned under this Part.

(3) An order made under subsection (2) of this section 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) of this section.

(5) Notwithstanding that pursuant to subsection (1) of this section or an order made under subsection (2) of this section 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 of this Act 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 of this Act.

Summoning  
officer for  
jury pools.

32B. Subject to an appropriate order having been made under section 32A of this Act 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 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.

Selection of  
jury pool.

32C. (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 and so that as far as practicable the number of men to be summoned bears to the number of women to be summoned, the ratio which the number of men whose names are entered in the Jurors' Book bears to the number of women whose names are entered in that Jurors' Book.

(2) A selection under subsection (1) of this section 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.

Summoning  
officer to  
issue  
summons.

32D. (1) The summoning officer shall issue to each person selected for the purposes of section 32C of this Act 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.

(2) A summons issued under subsection (1) of this section shall be served on the person to whom it is issued at least five 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.

32E. (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.

Summoning  
officer may  
withdraw  
summons.

(2) A reduction under subsection (1) of this section 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.

Summoning  
officer to  
provide  
details to  
jury pool  
supervisor.

32F. (1) The summoning officer shall furnish to the jury pool supervisor of a jury pool to which persons have been summoned under section 32D of this Act at the time and place at which the persons are required to assemble—

- (a) a list of the names of the persons so summoned, being persons who are qualified and liable to serve as jurors and who have not been duly excused by the summoning officer; and
- (b) the names 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) of this section in a box to be kept at the jury assembly room.

Pool precept.

32G. (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) of this section, 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.

32H. (1) Where a pool precept is delivered to a jury pool supervisor, he shall select by ballot from the box referred to in subsection (2) of section 32F of this Act the number of jurors specified in the pool precept.

Selection of jurors from jury pool.

(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 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) of this section the cards relating to 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.

Period of  
attendance  
at jury pool  
and  
discharge.

32I. (1) Subject to this section, a person summoned to attend at a jury pool shall attend for such period, not exceeding five consecutive court sitting days, as the summoning officer determines in respect of that jury pool.

(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 five 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) of this section 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. ”.

Heading to  
Part VC  
inserted.

21. After section 32I of the principal Act the following is inserted—

“ PART VC.—SERVICE OF SUMMONSES  
AND CLAIMS FOR EXEMPTION. ”.

Section 33  
repealed and  
substituted  
and section  
33A inserted.  
Service of  
summons.

22. Section 33 of the principal Act is repealed and the following sections are substituted—

“ 33. (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 at the address appearing in the Jurors' Book in respect of that person; or

(b) if sent by prepaid post addressed to that person at that address.

(2) Service of a summons or notice in accordance with paragraph (a) of subsection (1) of this section shall be effected by a police officer or a Sheriff's officer who shall prepare and complete, in the manner required by subsection (3) of this section, 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
- (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 paragraph (b) of subsection (1) of this section shall be *prima facie* deemed to have been effected at the time when it would be delivered in the ordinary course of post.

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

Notice to be  
attached to  
summons.

his name has been recorded on the jury roll and the procedure by which an exemption may be obtained or a claim for cancellation of liability to serve may be made. ”.

Section 34  
amended.

23. Section 34 of the principal Act is amended in subsection (2) by deleting “, reveals the names on the panel” and substituting the following—

“ 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 ”.

Section 34A  
inserted.

24. After section 34 of the principal Act the following section is inserted—

Claims for  
exemption  
and adjust-  
ment of  
Jurors'  
Books.

“ 34A. (1) A person summoned as a juror who claims to be disqualified or exempt from jury service—

- (a) may send to the summoning officer a claim for exemption 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 of permanent exemption from service as a juror previously issued under subsection (2) of this section.

(2) Where a person establishes a claim to exemption from serving as a juror on the ground—

- (a) that he is suffering from an infirmity which it appears to the summoning officer will permanently disable that person from so serving; or
- (b) that he is permanently disqualified or exempt because of his age from so serving; or

- (c) that he has been convicted of a crime or misdemeanour and has not received a free pardon,

the Sheriff shall issue a certificate of permanent exemption to that person but, if the summoning officer does so to a person who establishes his claim on the ground referred to in paragraph (c) of this subsection, the summoning officer shall cancel the certificate if the person receives a free pardon.

(3) If it appears to the Sheriff that a person whose name appears in a Jurors' Book is disqualified or exempt from serving 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. ”.

25. Section 35 of the principal Act is amended by deleting “the precept” where it first occurs and substituting the following—

Section 35  
amended.

“ a general jury precept ”.

26. Section 36 of the principal Act is amended—

Section 36  
amended.

- (a) in subsection (1), by inserting after “his” in paragraph (b) the following—

“ or her ”; and

- (b) by deleting subsections (5) and (6) and substituting the following subsections—

“ (5) The cards relating to persons who constitute a jury 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) of this section.

(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 subsection (2) of section 32F of this Act,

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

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

Section 53  
amended.

27. Section 53 of the principal Act is amended by inserting after “summoning officer” the following—

“ or jury pool supervisor ”.

Section 55  
amended.

28. Section 55 of the principal Act is amended as follows—

(a) by designating the section as subsection (1); and

(b) by inserting after subsection (1) the following subsection—

“ (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 three 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. ”.

29. Section 56 of the principal Act is amended in subsection (1) by inserting after “Court” where it first occurs the following—

Section 56  
amended.

“ or jury assembly room ”.

30. Section 62 of the principal Act is amended—

Section 62  
amended.

- (a) by designating the section as subsection (3); and

- (b) by inserting before subsection (3) the following subsections—

“ (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 of this Act.

Regulations  
as to jury  
pools.

(2) Regulations may be made under subsection (1) of this section—

- (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. ”.