

JURIES.

No. 44 of 1973.

AN ACT to amend the Juries Act, 1957-1972.

[Assented to 18th October, 1973.]

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 Act Amendment Act, 1973*. Short title and citation.

(2) In this Act the Juries Act, 1957-1972, is referred to as the principal Act. Act No. 50 of 1957 as amended by Acts Nos. 35 of 1959, 30 of 1961 and 46 of 1972.

(3) The principal Act as amended by this Act may be cited as the Juries Act, 1957-1973.

Commence-
ment.

2. This Act or any provision thereof shall come into operation on such date as is or such dates as are, respectively, fixed by proclamation.

Amendment
to s. 3.
(Interpreta-
tion.)

3. Section 3 of the principal Act is amended—

(a) by deleting the interpretation “addition”;

(b) by substituting for the interpretation “civil trial” an interpretation as follows—

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

(c) by deleting the interpretation “Court of Session”;

(d) by substituting for the words “a Court of Session”, in line three of the interpretation “Court town”, the words “the District Court”;

(e) by adding after the interpretation “criminal trial” an interpretation as follows—

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

(f) by substituting for the interpretation “Judge” an interpretation as follows—

“Judge”—

(a) in relation to the Supreme Court, means Judge or acting Judge of that Court and includes a Commissioner appointed under section forty-nine of the Supreme Court Act, 1935;

(b) in relation to a Circuit Court, means Judge or acting Judge of that Court and includes

a Commissioner appointed under section forty-nine of the Supreme Court Act, 1935; and

- (c) in relation to the District Court, means Judge or acting Judge of that Court and includes a Commissioner appointed under section twenty-four of the District Court of Western Australia Act, 1969; ;
- (g) by substituting for the interpretation "jury officer" an interpretation as follows—
 "jury officer" means jury officer ascertained in accordance with section thirteen of this Act; ;
- (h) by deleting the interpretation "Session town"; and
- (i) by deleting the passage ", or a Court of Session", in line two of the interpretation "Supreme Court".

4. The principal Act is amended by adding after section 3 a section as follows—

Addition of s. 3A.

3A. 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. .

Application of this Act to District Court.

Amendment
to s. 5.
(Disqualifi-
cations.)

5. Section 5 of the principal Act is amended—

- (a) by substituting for the words “jury officer for the jury district in which she lives”, in the last two lines of subsections (2), (3), and (4), the word “Sheriff” in each case;
- (b) by deleting the words “session or”, in lines two and five of subsection (5);
- (c) by substituting for the words “a jury officer of a jury district”, in lines four and five of subsection (6), the words “the Sheriff”; and
- (d) by deleting the passage “and to the Sheriff, if the jury officer is not the Sheriff”, in lines six and seven of subsection (6).

Amendment
to s. 9.
(Jury
districts.)

6. Section 9 of the principal Act is amended by deleting the passage “and for each Court of Session,” in line two.

Amendment
to s. 10.
(Area of jury
districts.)

7. Section 10 of the principal Act is amended—

- (a) by deleting the passage “and for each Court of Session,” in lines two and three of subsection (2);
- (b) by deleting the passage “or where any new Court of Session is established,” in lines five and six of subsection (3);
- (c) by deleting the words “or establishing the Court of Session”, in lines seven and eight of subsection (3); and
- (d) by deleting the passage “, or the Court of Session so established”, in lines twelve and thirteen of subsection (3).

Amendment
to s. 11 (2).
(Transition
provisions
for
alteration
or abolition
of jury
districts.)

8. Subsection (2) of section 11 of the principal Act is amended by deleting the words “session or”, in line four of paragraph (a) and in line one of paragraph (b).

9. Section 13 of the principal Act is repealed and re-enacted as follows—

Repeal and re-enactment of s. 13. (Jury officers to be appointed.)

13. The jury officers for the respective jury districts are—

Jury officers.

- (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 Registrar of the District Court at that place.

10. Section 14 of the principal Act is amended—

Amendment to s. 14. (Chief Electoral Officer to prepare draft jury rolls.)

- (a) by repealing subsection (5);
- (b) by adding before the word “the”, in line three of subsection (8), the passage “is dead, or no longer resides in the jury district or that the address of the person is unknown,”; and
- (c) by repealing and re-enacting subsection (9) as follows—

(9) 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 Sheriff 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 Sheriff does so to a person who establishes his claim on the ground

referred to in paragraph (c) of this subsection, the Sheriff shall cancel the certificate if the person receives a free pardon. .

Repeal and
re-enactment
of s. 20.
(Precepts.)

11. Section 20 of the principal Act is repealed and re-enacted as follows—

Precepts.

20. Where jurors are required for any criminal or civil trial or trials in the Supreme Court, a Circuit Court, or the District Court, a precept in the prescribed form shall be issued to the appropriate summoning officer referred to in section twenty-one or in section twenty-five of this Act 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 precept returnable in the Supreme Court or a Circuit Court; or
- (b) by a District Court Judge, in the case of a 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 precept for summoning jurors to attend both those sittings. .

Repeal and
re-enactment
of s. 21.
(Summoning
officer—who
is.)

12. Section 21 of the principal Act is repealed and re-enacted as follows—

Summoning
officer—who
is.

21. Subject to section twenty-five of this Act—

- (a) the Sheriff is the summoning officer in respect of precepts returnable in the Supreme Court or returnable in 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 precepts returnable in that Court or returnable in a Circuit Court at that place. .

13. Section 24 of the principal Act is amended by substituting for the words "and every Circuit Court and Court of Session and the Judge and Chairman thereof respectively" in lines one, two, and three, the passage "thereof, and every Circuit Court and the Judge thereof,".

Amendment to s. 24.
(Oral precepts and amending or enlarging panel.)

14. Subsection (1) of section 25 of the principal Act is amended by deleting the passage "or as the case may be, the Chairman of a Court of Session or a Justice of the Peace," in lines two and three.

Amendment to s. 25.
(Power of appointment of alternative summoning officer where summoning officer has interest in trial.)

15. Section 27 of the principal Act is amended by repealing and re-enacting subsection (1) as follows—

Amendment to s. 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 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. .

16. Section 28 of the principal Act is amended—

Amendment to s. 28.
(Ticket of juror not attending to be returned to the box.)

- (a) by repealing and re-enacting subsection (1) as follows—

(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". ; and

- (b) by adding before subsection (2) a subsection as follows—

(1a) If any ticket drawn from a box has not been used for the purpose of completing the panel or has not been used in completing the panel because of the provisions of this Act requiring that, as far as is practicable, the number of names of men in the panel shall bear to those of women in the panel the ratio prescribed by subsection (2) of section twenty-six of this Act, the summoning officer shall forthwith return the ticket to the box from which it was drawn. .

Amendment
to s. 29.
(Choosing of
jurors for
civil trials.)

17. Subsection (2) of section 29 of the principal Act is amended by substituting for the word "six", in line two of paragraph (b), the word "eight".

Amendment
to s. 31.
(Time for
summoning
jurors; mode
of service.)

18. Section 31 of the principal Act is amended by substituting for the passage beginning with the word "personally", in line seven, and ending with the word "age", being the last word in the section, the word "personally".

Amendment
to s. 33.
(Summons to
jurors for
criminal
trials to be
served by
police;
"summons
list" (Third
Schedule).)

19. Section 33 of the principal Act is amended—

- (a) by adding after the word "officer", in line three of subsection (1), the words "or Sheriff's officer";
- (b) by substituting for the words "form of the Third Schedule to this Act", in the last two lines of subsection (1), the words "prescribed form"; and
- (c) by deleting the word "police", in line one of subsection (2).

20. Subsection (1) of section 34 of the principal Act is amended by substituting for the words "any other person", in line four, the words "Sheriff's officer".

Amendment to s. 34.
(Duty of secrecy in summoning jurors.)

21. Section 35 of the principal Act is amended by deleting the words "with their respective additions", in line six.

Amendment to s. 35.
(Summoning officer to return precept and panel with cards.)

22. Subsection (2) of section 36 of the principal Act is amended by substituting for the words "as prior to the coming into operation of this Act has been customary", in lines four and five, the passage "to the extent authorised by subsection (2) of section thirty-eight of this Act".

Amendment to s. 36.
(Mode of empanelling jury for a criminal trial.)

23. Section 38 of the principal Act is amended—

Amendment to s. 38.
(Right of challenge.)

- (a) by adding after the word "aside", in line six of subsection (1), the passage "to the extent authorised by subsection (2) of this section";
- (b) by substituting for the word "six", in line seven of subsection (1), the word "eight";
- (c) by substituting for the word "three", in the last line of subsection (1), the word "six";
- (d) by substituting for the words "six jurors", being the last two words in subsection (2), the words "eight jurors and the right to pray for an order to stand four jurors aside"; and
- (e) by adding after the word "juror", in line four of subsection (3), the passage "or where the juror reads the words of the oath from a card, before the juror begins to recite those words".

Repeal and re-enactment of s. 42.
(Limit of attendance on jurors.)

24. Section 42 of the principal Act is repealed and re-enacted as follows—

Limit of attendance on jurors.

42. A juror is not liable and shall not be required to attend for more than five 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. .

Amendment to s. 51.
(View by jury on a civil trial.)

25. Subsection (1) of section 51 of the principal Act is amended by adding after the word "Judge", in line one, the passage "thereof or the District Court or a Judge thereof, as the case may be,".

Amendment to s. 52.
(Party in criminal trial may pray a tales.)

26. Section 52 of the principal Act is amended—

(a) by deleting the passage "or Chairman, as the case may be", in line seven of subsection (1); and

(b) by deleting the passage "or Chairman, as the case may be," in line one of subsection (2).

Amendment to s. 53.
(Neglect by officials to perform duties.)

27. Section 53 of the principal Act is amended by adding after the word "Judge", in line five, the word "thereof".

Amendment to s. 54.
(Offences by Sheriff and others.)

28. Section 54 of the principal Act is amended by adding after the word "Judge", in line one, the word "thereof".

Amendment to s. 56.
(Fine for non-attendance may be remitted on cause shown.)

29. Section 56 of the principal Act is amended—

(a) by deleting the words "or the Chairman"—

(i) in line four of subsection (1);

(ii) in line six of subsection (2); and

(iii) in line one of subsection (3);

(b) by deleting the passage ", as the case may be," in lines four and five of subsection (1); and

(c) by deleting the words "to the", where secondly occurring in line five of subsection (2).

30. Section 59 of the principal Act is amended—

Amendment
to s. 59.
(Recovery
of fines.)

- (a) by adding after the word “Judge”, in line two of subsection (1), the word “thereof”;
and
- (b) by repealing and re-enacting subsection (2) as follows—

(2) Fines imposed under this Act by a District Court, or a Judge thereof, are enforceable in the same manner as a judgment or order of the District Court for the payment of money or a penalty. .

31. The Second Schedule to the principal Act is amended—

Amendment
to the
Second
Schedule.

- (a) by adding immediately under the heading “PART I.” a passage as follows—

Chiropractors, registered as such according to law, if actually practising.

Civil Emergency Services—persons actually engaged thereon.;

- (b) by adding immediately after the passage—

Mining managers and engine-drivers on mines in which not less than ten men are engaged in mining operations.

a passage as follows—

Murdoch University—the academic staff and the Secretary of.

- (c) by adding immediately after the passage—

Nurses, registered as such according to law, if actually practising.

a passage as follows—

Parliamentary Commissioner for Administrative Investigations;

and

(d) by substituting for Part II a Part as follows—

PART II.

Such persons as are at any time exempted by or under any Act of the Parliament of the Commonwealth. .

Commonwealth Act
No. 13 of
1965.

Repeal of
Third
Schedule.
(See s. 33 of
principal Act
and s. 19 of
this Act.)

32. The Third Schedule to the principal Act is repealed.
