



New South Wales

# Jury Amendment Bill 2024

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*This PUBLIC BILL, originated in the LEGISLATIVE COUNCIL and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.*

*Legislative Council*

*Clerk of the Parliaments.*



New South Wales

## **Jury Amendment Bill 2024**

Act No           , 2024

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An Act to make miscellaneous amendments to the *Jury Act 1977*, including in response to a statutory review of amendments made to the Act by the *Jury Amendment (Verdicts) Act 2006*; and for related purposes.

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**The Legislature of New South Wales enacts—**

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**1 Name of Act**

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This Act is the *Jury Amendment Act 2024*.

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**2 Commencement**

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This Act commences on a day or days to be appointed by proclamation.

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<b>Schedule 1</b>	<b>Amendment of Jury Act 1977 No 18</b>	1
<b>[1] Section 14A</b>	<b>What constitutes good cause for the purposes of an exemption from jury service</b>	2
	Insert after section 14A(d)—	3
	<b>Note—</b> Other reasons that would affect a person’s ability to perform the functions of a juror may include temporary disabilities or other physical or mental conditions.	4
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		6
<b>[2] Section 19</b>	<b>Numbers of jurors in criminal proceedings</b>	7
	Omit section 19(2) and (3). Insert instead—	8
	(2) Before a jury is selected in criminal proceedings in the Supreme Court or the District Court, the Court may order the selection of no more than 3 additional jurors if—	9
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		11
	(a) the Court is satisfied the nature, likely duration or complexity of the proceedings, or any other factor that may result in a juror being discharged during the trial of the proceedings, necessitates the selection of additional jurors, or	12
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	<b>Example—</b> A trial that involves distressing or sensitive material may necessitate the selection of additional jurors.	16
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	(b) the trial of the proceedings is of a kind prescribed by the regulations for this subsection.	18
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	(3) The Court may make an order under subsection (2) only if the Court is also satisfied—	20
		21
	(a) the selection of the additional jurors is an appropriate means of ensuring there will be sufficient jurors remaining on the jury when the jury is required to consider the jury’s verdict, and	22
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	(b) appropriate facilities to accommodate the additional jurors are available.	25
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<b>[3] Section 38</b>	<b>Person summoned for jury service may be excused at trial or inquest</b>	27
	Omit section 38(3). Insert instead—	28
	(3) A person who makes a request to be excused under subsection (2)(a) may make the request to the court or coroner verbally or in writing.	29
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<b>[4] Section 38(5)</b>		31
	Omit “subsection (1)”. Insert instead “subsection (2)(a)”.	32
<b>[5] Section 53C</b>	<b>Discretion to continue trial or coronial inquest or discharge whole jury</b>	33
	Insert after section 53C(3)—	34
	(4) This section does not apply if section 53D applies.	35
<b>[6] Section 53D</b>		36
	Insert after section 53C—	37
<b>53D</b>	<b>Discretion to continue trial or coronial inquest, discharge whole jury or order selection of replacement juror in special circumstances</b>	38
		39
	(1) This section applies if either of the following occurs before the judge or coroner gives oral directions to the jury in a trial or coronial inquest—	40
		41
	(a) a juror dies,	42

(b)	the court or coroner discharges a juror.	1
(2)	The court or coroner may—	2
(a)	subject to section 22, order that the trial or coronial inquest continue with a reduced number of jurors, or	3 4
(b)	order the selection of a replacement juror.	5
(3)	However, the court or coroner must discharge the jury if, in the opinion of the court or coroner, an order under subsection (2) would give rise to the risk of a substantial miscarriage of justice.	6 7 8
(4)	For subsection (2)(b), the court or coroner may order the selection of a replacement juror—	9 10
(a)	for a trial—from among the persons specified in section 53, in accordance with section 48 or 49, as the case may require, or	11 12
(b)	for a coronial inquest—in accordance with section 50.	13
(5)	If the court orders the selection of a replacement juror and the number of peremptory challenges allowed under section 42(1) or (1A) or 42A has been exhausted—	14 15 16
(a)	for criminal proceedings—each person prosecuted and the Crown have one additional peremptory challenge without restriction, or	17 18
(b)	for civil proceedings—each party to the proceedings has one additional peremptory challenge without restriction.	19 20
(6)	The Supreme Court or District Court may order the selection of a replacement juror in criminal proceedings even if the Court ordered the selection of an additional juror in accordance with section 19(2).	21 22 23
(7)	To avoid doubt, this section applies even if the court or coroner has previously ordered the continuation of the trial or coronial inquest with—	24 25
(a)	a reduced number of jurors, or	26
(b)	the remaining jurors and a replacement juror.	27
<b>[7]</b>	<b>Section 54</b>	28
	Omit the section. Insert instead—	29
	<b>54 Jury permitted to separate in criminal trials</b>	30
	The jury in criminal proceedings is, subject to a contrary order of the court, permitted to separate at any time either before or after the jury retires to consider its verdict.	31 32 33
<b>[8]</b>	<b>Sections 69(10), definition of “employee” and 69A(5), definition of “employee”</b>	34
	Insert after paragraph (a) wherever occurring—	35
	(a1) a part-time employee, or	36
<b>[9]</b>	<b>Section 73A Investigation by sheriff of jury irregularities</b>	37
	Omit “verdict of a jury in a” from section 73A(1).	38
<b>[10]</b>	<b>Section 73A(1)</b>	39
	Omit “by a member or members of the jury”.	40
	Insert instead “by a juror, or improper conduct by another person in relation to a juror”.	41

<b>[11] Section 75 Service of summons etc</b>	1
Insert at the end of section 75(1)(b)—	2
, or	3
(c) if emailed to the person to an email address specified by the person for that purpose.	4
<b>[12] Schedule 8 Transitional and savings provisions</b>	6
Insert at the end of the schedule, with appropriate part and clause numbering—	7
<b>Part Transitional and savings provision consequent on enactment of Jury Amendment Act 2024</b>	8
	9
<b>Application of amendments</b>	10
(1) An amendment made to section 14A or 38 by the amendment Act only applies to a request for exemption from jury service made after the commencement of the amendment.	11
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(2) An amendment made to section 19, 54 or 73A by the amendment Act only applies to a trial or coronial inquest if the jury is empanelled after the commencement of the amendment.	14
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(3) Section 53D, as inserted by the amendment Act, only applies to a trial or coronial inquest if the jury is empanelled after the commencement of the amendment.	17
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(4) An amendment made to section 69 or 69A by the amendment Act only applies in relation to a person summoned to serve as a juror after the commencement of the amendment.	20
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(5) In this clause—	23
<i>amendment Act</i> means the <i>Jury Amendment Act 2024</i> .	24

**Schedule 2 Amendment of Jury Regulation 2022**

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**Section 5 Additional jurors in criminal proceedings—the Act, s 19**

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Omit “section 19(2)(a), a trial estimated” from the section.

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Insert instead “section 19(2)(b), a trial that the court estimates”.

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