



New South Wales

Jury Amendment Bill 2023

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to make miscellaneous amendments to the *Jury Act 1977* (*the Act*), including in response to a statutory review of amendments made to the Act by the *Jury Amendment (Verdicts) Act 2006*.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Jury Act 1977 No 18

Schedule 1[1] inserts a note in relation to the requirement for a person to have good cause to be exempted or excused from jury service.

Schedule 1[2] expands the test for the selection of additional jurors in criminal proceedings in the Supreme Court and District Court. In addition to the existing power to order the selection of additional jurors in proceedings of a kind prescribed by the regulations, the Court may order the selection of no more than 3 additional jurors if 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.

Schedule 1[3] provides that a person may, in response to a summons, make a verbal or written request to be excused from jury service to the relevant court or coroner. The proposed amendment

removes the requirement that a written request may be made only if the circumstances of the request relate to the person's health or may cause embarrassment or distress if made public. **Schedule 1[4]** corrects an incorrect cross-reference.

Schedule 1[6] enables a court or coroner to order the selection of a replacement juror if, before the judge or coroner gives oral directions to the jury in a trial or coronial inquest, a juror dies or the court or coroner discharges a juror. The court or coroner may, subject to the minimum number of jurors required to constitute a jury specified in the Act, section 22, order that the trial or coronial inquest continue with a reduced number of jurors or order the selection of a replacement juror. The court or coroner must discharge the jury if, in the opinion of the court or coroner, continuing with the reduced number of jurors or the remaining jurors and a replacement juror would give rise to the risk of a substantial miscarriage of justice.

The proposed section provides for the way in which a court or coroner may order the selection of a replacement juror.

If the court orders the selection of a replacement juror and the number of allowed peremptory challenges has already been exhausted, one additional peremptory challenge without restriction may be made by each person prosecuted and the Crown or, for civil proceedings, each party to the proceedings.

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 before the jury was selected.

The court or coroner may order the selection of a replacement juror even if the court or coroner has previously ordered the continuation of the trial or coronial inquest with a reduced number of jurors or the remaining jurors and a replacement juror. **Schedule 1[5]** makes a consequential amendment.

Schedule 1[7] removes the requirement for a court to make an order permitting the jury in criminal proceedings to separate at any time after the jury retires to consider its verdict. The jury 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.

Schedule 1[8] decreases, from 8 to 4 hours, the minimum period of time certain juries in criminal proceedings must deliberate before the jury may return a majority verdict if—

- (a) the jury has not reached a unanimous verdict, and
- (b) the court is satisfied, after examination on oath of one or more of the jurors, that it is unlikely the jurors will reach a unanimous verdict after further deliberation.

Schedule 1[9] extends the definition of *employee* to part-time employees for offences relating to the unlawful dismissal of, prejudice to and the employment conditions of employees summoned to serve as jurors.

Schedule 1[10] provides that the sheriff may, with the consent or at the request of the Supreme Court or District Court, investigate if there is reason to suspect that the trial of criminal proceedings, rather than the verdict of the jury, may be, or may have been, affected because of improper conduct.

Schedule 1[11] extends the circumstances in which the sheriff may investigate improper conduct that may affect, or may have affected, the trial of criminal proceedings to improper conduct by another person in relation to a juror.

Schedule 1[12] provides that a summons, notice or other document required or authorised by or under the Act to be sent, served or given to a person is deemed to have been sent, served or given if the sheriff emails the document to the person to an email address specified by the person for that purpose.

Schedule 1[13] makes an amendment of a transitional nature.

Schedule 2 Amendment of Jury Regulation 2022

Schedule 2 is consequential on the amendment made by Schedule 1[2].