

Jury Amendment (Verdicts) Bill 2006

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Jury Act 1977* (the **Principal Act**) to allow for majority jury verdicts in criminal proceedings.

The Bill inserts proposed section 55F to allow the decision of 11 out of 12 jurors or 10 out of 11 jurors to be returned as a majority verdict if all of the jurors are unable to agree on a verdict after deliberating for a reasonable time (being not less than 8 hours) and the court is satisfied that it is unlikely that the jurors will reach a unanimous verdict after further deliberation.

The Bill also makes provision for the discharge of an 11 or 12 person jury by the court if the court finds that the jurors are unlikely to agree on a unanimous or majority verdict.

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 to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the Principal Act set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act on the day following the day on which the proposed Act commences. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

Schedule 1 [1] inserts proposed section 55F into the Principal Act to allow the decision of 11 out of 12 jurors or 10 out of 11 jurors to be returned as a majority verdict in criminal proceedings if:

- (a) all of the jurors are unable to agree on a verdict after deliberating for a period of time (being not less than 8 hours) that the court considers reasonable having regard to the nature and complexity of the criminal proceedings, and
- (b) the court is satisfied, after examination on oath of one or more of the jurors, that it is unlikely that all of the jurors will reach a unanimous verdict after further deliberation.

Proposed section 55F also ensures that a verdict that an accused is guilty of an offence against a law of the Commonwealth must be unanimous (the High Court in *Cheatle and Another v The Queen* [1993] HCA 44 decided that section 80 of the Constitution of the Commonwealth precluded a majority verdict in such circumstances).

Schedule 1 [1] also substitutes section 56 of the Principal Act to allow the court to discharge a jury consisting of 11 or 12 persons if it finds that it is unlikely that the jurors will reach a unanimous or majority verdict. Proposed section 56 also makes it clear that a jury cannot be discharged by the court if the court finds that it is likely that the jurors will reach a majority verdict. The provisions relating to the discharge of juries in existing section 56 are re-enacted in relation to juries consisting of 10 persons or less.

Schedule 1 [2] provides for a review of the amendments made by the proposed Act after 5 years from the commencement of those amendments.

Schedule 1 [3] allows regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

Schedule 1 [4] provides that the amendments made by the proposed Act apply only if the jury is empanelled in relation to the criminal proceedings after the

commencement of those amendments (except if a jury was empanelled in certain earlier related proceedings before the commencement of those amendments).