

**Submission
No 1**

INQUIRY INTO JURY AMENDMENT BILL 2023

Organisation: District Court of NSW

Date Received: 8 December 2023



*The Chief Judge of the
District Court & President
of the Dust Diseases
Tribunal of NSW*

7 December 2023

Director
Portfolio Committee No. 5 – Justice and Communities
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Director,

I make the following brief submissions on behalf of the District Court of NSW to the inquiry being conducted into the Jury Amendment Bill 2023 by Portfolio Committee No. 5.

a) Section 19 Number of jurors in criminal proceedings

The District Court supports the proposed sections 19(2) and 19(3) as they will enhance the prospects of complex and lengthy trials proceeding to verdict. Retrials arising from the discharge of jurors result in additional costs and unsatisfactory delays for accused persons and complainants.

b) Section 53D Discretion to continue trial or coronial inquest, discharge whole jury or order selection of replacement juror in special circumstances

The District Court supports proposed s 53D.

c) Section 54 Jury permitted to separate in criminal trials

Section 54 is procedural in nature. The amendment to this section encapsulates the orders which are made on a daily basis by a trial judge and removes the requirement for the trial judge to make such an order.

d) Section 55F(2)(a) Majority verdicts in criminal proceedings

The Statutory Review conducted on behalf of the then Attorney General by the Department of Communities and Justice (DCJ) recommended that the “eight-hour rule” be amended to four hours.

The difficulties that District Court Judges had experienced with the eight-hour period of deliberation before the jury could consider a majority verdict were brought to the attention of the Attorney General, the Honourable Mark Speakman SC. In a number of trials, trial Judges had been informed well within eight hours by the jury that they

were unable to agree, notwithstanding that a “Black” direction had been given. A majority verdict direction may well have avoided the jury being discharged.

As a consequence of the District Court’s request to Mr Speakman that the eight-hour rule be considered, the Statutory Review was conducted.

The Review noted that “[a] reduced statutory minimum time period would bring NSW into line with most other Australian jurisdictions, which have lower minimum period for juries to deliberate where majority verdicts are available...”

Victoria, South Australia, Western Australia, Tasmania, the Northern Territory, and the Australian Capital Territory all allow for majority verdicts after less than eight hours of deliberation, with exact times varying from entirely discretionary to up to six hours. Only Queensland and New South Wales require a minimum of eight hours of deliberation before a majority verdict becomes available.

The District Court supports the Statutory Review’s recommendation that s 55F(2)(a) be amended to enable a majority verdict to be returned after the jury has deliberated for not less than four hours. In the Court’s opinion, four hours is an appropriate length of time for jury deliberation before a majority verdict may be considered.

These short submissions may be published on the website, noting that the submissions are lodged on behalf of the District Court.

Yours sincerely,

Justice D Price AO
Chief Judge