

Western Australia

LEGISLATIVE COUNCIL

(As amended in Committee)

Juries Amendment Bill 1998

A Bill for

An Act to amend the *Juries Act 1957*.

The Parliament of Western Australia enacts as follows:

1. Short title

This Act may be cited as the *Juries Amendment Act 1998*.

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2. Commencement

- (1) Subject to subsection (2) this Act comes into operation on the day on which it receives the Royal Assent.
- (2) Section 7 comes into operation on such day as is fixed by proclamation.

3. The Act amended

The amendments in this Act are to the *Juries Act 1957**.

[* *Reprinted as at 2 December 1987.*

For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 120.]

4. Section 5 amended

- (1) Section 5(a)(ii) is amended by deleting “65 years;” and inserting instead —

“ 70 years; ”.

- (2) Section 5(b)(ii)(I) is amended by deleting “served any part” and inserting instead —

“ been the subject ”.

5. Section 29A amended

Section 29A(1) is amended as follows:

- (a) by deleting “computer in respect of a trial in a Circuit Court — ” and inserting instead —

“ computer — ”; and

- (b) in paragraph (a) before “the procedures”, by inserting —

“

in respect of a criminal trial held at a place other than Perth,

”.

6. Section 33 amended

(1) Section 33(1)(a) is deleted and “or” after it and the following is inserted instead —

“

- 5 (a) if delivered personally to that person, or if left —
- (i) at the address appearing in the Jurors’ Book in respect of that person; or
- 10 (ii) if it is in the same jury district as that address, at an address recorded by the Electoral Commissioner in respect of that person;

or

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15 (2) Section 33(1)(b) is amended by deleting “that address.” and inserting instead —

“ an address referred to in paragraph (a). ”.

(3) After section 33(5) the following subsection is inserted —

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- 20 (6) In subsection (1) —
- “Electoral Commissioner”** means the Electoral Commissioner appointed under the *Electoral Act 1907*.

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7. **Sections 56A to 56E inserted**

Before section 57 of the principal Act, the following heading and sections are inserted —

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Part IXA — Jury confidentiality

56A. Interpretation and application

(1) In this Part —

“**prosecuting officer**” means —

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(a) the Director of Public Prosecutions or the Deputy Director of Public Prosecutions appointed under the *Director of Public Prosecutions Act 1991*;

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(b) a member of the staff referred to in section 30 of the *Director of Public Prosecutions Act 1991* who is a practitioner as defined by the *Legal Practitioners Act 1893*;

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(c) the Director of Public Prosecutions or the Associate Director of Public Prosecutions appointed under the *Director of Public Prosecutions Act 1983*, as amended from time to time, of the Parliament of the Commonwealth;

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(d) a member of the staff referred to in section 27(1) of the *Director of Public Prosecutions Act 1983*, as amended from time to time, of the Parliament of the Commonwealth who is a legal practitioner as defined in that Act; or

- 5 (e) a person employed under section 27(3) of the
Director of Public Prosecutions Act 1983, as
amended from time to time, of the
Parliament of the Commonwealth who is a
legal practitioner as defined in that Act;

“protected information” means —

- 10 (a) statements made, opinions expressed,
arguments advanced or votes cast by
members of a jury in the course of their
deliberations, other than anything said or
done in open court; or
- (b) information that identifies, or is likely to
identify, a person as, or as having been, a
juror in particular proceedings;

15 “publish”, in relation to protected information, means
communicate or disseminate the information in
such a way or to such an extent that it is available
to, or likely to come to the notice of, the public or
a section of the public.

- 20 (2) This Part applies in relation to juries in trials or
coronial proceedings in a court of the State or another
State, the Commonwealth or a territory of the
Commonwealth whether begun before or after the
commencement of the *Juries Amendment Act 1998* and
25 to juries in inquests held under the *Coroners Act 1920*
before its repeal by section 60 of the *Coroners
Act 1996*.

56B. Protected information not to be disclosed

- 30 (1) A person who discloses protected information commits
an offence if the person is aware that, in consequence

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of the disclosure, the information will, or is likely to, be published.

Penalty: \$5 000 or imprisonment for 6 months, or both.

(2) Subsection (1) does not prohibit disclosing protected information —

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(a) to a court;

(b) to a board or commission appointed by the Governor;

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(c) to the Anti-Corruption Commission established under section 5 of the *Anti-Corruption Commission Act 1988*;

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(d) to the Parliamentary Commissioner for Administrative Investigations or the Deputy Parliamentary Commissioner for Administrative Investigations appointed under section 5 of the *Parliamentary Commissioner Act 1971*;

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(e) to a prosecuting officer or a police officer for the purpose of an investigation concerning an alleged contempt of court or alleged offence relating to jury deliberations or a juror's identity;

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(f) as part of a fair and accurate report of an investigation referred to in paragraph (e);

(g) to a person in accordance with an authorization granted by the Minister to conduct research into matters relating to juries or jury service; or

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(h) to a practitioner as defined by the *Legal Practitioners Act 1893* for the purpose of obtaining advice in relation to a matter referred to in paragraph (a), (b), (c), (d) or (e).

56C. Protected information not to be solicited or obtained

- 5 (1) A person who solicits or obtains protected information with the intention of publishing or facilitating the publication of that information commits an offence.
Penalty: \$5 000 or imprisonment for 6 months, or both.
- (2) Subsection (1) does not prohibit soliciting or obtaining protected information —
- 10 (a) in the course of proceedings in a court;
- (b) by a board or commission appointed by the Governor;
- (c) by the Anti-Corruption Commission established under section 5 of the *Anti-Corruption Commission Act 1988*;
- 15 (d) by the Parliamentary Commissioner for Administrative Investigations or the Deputy Parliamentary Commissioner for Administrative Investigations appointed under section 5 of the *Parliamentary Commissioner Act 1971*;
- 20 (e) by a prosecuting officer or a police officer for the purpose of an investigation concerning an alleged contempt of court or alleged offence relating to jury deliberations or a juror's identity;
- 25 (f) by a person in accordance with an authorization granted by the Minister to conduct research into matters relating to juries or jury service; or

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- (c) about a prosecution for an alleged offence against section 56B, 56C or this section if, before the prosecution was instituted, that information had been published generally to the public.

56E. Lawful disclosure of protected information

Sections 56B, 56C and 56D do not prohibit a person —

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- (a) during the course of a trial, disclosing, soliciting or obtaining, or publishing, with the leave of the court or otherwise with lawful excuse, information that identifies, or is likely to identify, the person or another person as, or as having been, a juror in the trial; or
 - (b) after the trial has been completed, disclosing, soliciting or obtaining, or publishing —
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 - (i) information that identifies, or is likely to identify, the person as having been a juror in the trial; or
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 - (ii) information that identifies, or is likely to identify, another person as having been a juror in the trial if the other person has consented to the publication or disclosure of that information.

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8. Second Schedule amended

Part II of the Second Schedule is amended after item 4 by inserting the following item —

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5. Age.

Persons who have reached the age of 65 years.

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