

## Juries Legislation Amendment Bill 2010

---

### CONTENTS

---

<b>Part 1 — Preliminary matters</b>		
1.	Short title	2
2.	Commencement	2
<b>Part 2 — Amendments about peremptory challenges</b>		
<b>Division 1 — <i>Criminal Procedure Act 2004</i> amended</b>		
3.	Act amended	3
4.	Section 104 amended	3
<b>Division 2 — <i>Juries Act 1957</i> amended</b>		
5.	Act amended	3
6.	Section 32G amended	3
<b>Part 3 — Amendments about liability to serve as a juror and being excused</b>		
<b>Division 1 — <i>Juries Act 1957</i> amended</b>		
7.	Act amended	4
8.	Section 3 amended	4
9.	Section 4 amended	4
10.	Section 5 amended	5
11.	Part IV heading replaced	8
<b>Part IV — Jurors' books, boxes and tickets</b>		
12.	Section 14 amended	8
13.	Section 16A inserted	9
16A.	Sheriff to prepare jurors' book for each district	9

**Contents**

---

14.	Section 17 amended	11
15.	Section 24 amended	11
16.	Section 26 amended	11
17.	Section 27 replaced	13
	27. Extra people to be summoned to make up for people not attending	13
18.	Section 28 amended	14
19.	Section 29 amended	14
20.	Section 29A amended	14
21.	Section 30 replaced	15
	30. Rights of parties in criminal trials to inspect list of summoned jurors	15
22.	Section 32 deleted	15
23.	Section 32C amended	15
24.	Section 32D amended	16
25.	Section 32E amended	16
26.	Section 32F amended	17
27.	Section 32FA amended	17
28.	Section 32H amended	17
29.	Part VC heading replaced	17
	<b>Part VC — Serving summonses and excusing people</b>	
	<b>Division 1 — Serving summonses</b>	
30.	Section 33 amended	18
31.	Section 33A replaced	18
	33A. Information to be given to summoned people	18
32.	Section 34A deleted	18
33.	Section 34B amended	18
34.	Part VC Division 2 inserted	19
	<b>Division 2 — Excusing people</b>	
	34C. Term used: summoned	19
	34D. Division does not affect rights to challenge for cause	19
	34E. Certificates permanently excusing people	19
	34F. Summoned people may apply to be excused	20
	34G. General powers to excuse summoned people	20
	34H. Deferring jury duty for summoned people or excusing them for good reason	22
	34I. People who are not indifferent, excusing	25
	34J. People who have done jury duty in previous 5 years, excusing	26

35.	Section 52 amended	27
36.	First, Second, Third and Fourth Schedules replaced	28
	<b>Schedule 1 — Classes of persons not eligible to be jurors</b>	
	<b>Division 1 — Civil and criminal trials</b>	
	1. Vice-regal and parliamentary officers	28
	2. Judicial and court officers	28
	3. Australian legal practitioners	29
	<b>Division 2 — Criminal trials</b>	
	4. Certain public officers	29
	5. Officers in the WA Police	29
	<b>Schedule 2 — Matters to be disclosed by a person appearing in answer to a summons to be a juror</b>	
	<b>Division 2 — <i>Criminal Procedure Act 2004</i> amended</b>	
37.	Act amended	31
38.	Section 104 amended	31
	<b>Part 4 — Miscellaneous amendments</b>	
39.	Act amended	32
40.	Section 2 deleted	32
41.	Section 32H amended	32
42.	Sections 55 and 56 replaced	32
	55. Offences by jurors and others	32
	56. Prejudicial actions against employees who do jury service	33
43.	Section 58B amended	35
44.	Section 59 amended	36



Western Australia

LEGISLATIVE ASSEMBLY

*(As amended in Committee)*

## **Juries Legislation Amendment Bill 2010**

**A Bill for**

***An Act to amend the *Juries Act 1957* and the *Criminal Procedure Act 2004*.***

The Parliament of Western Australia enacts as follows:

1

**Part 1 — Preliminary matters**

2

**1. Short title**

3

This is the *Juries Legislation Amendment Act 2010*.

4

**2. Commencement**

5

This Act comes into operation as follows —

6

(a) Part 1 — on the day on which this Act receives the  
Royal Assent;

7

8

(b) the rest of the Act — on a day fixed by proclamation,  
and different days may be fixed for different provisions.

9

1 **Part 2 — Amendments about peremptory challenges**

2 **Division 1 — *Criminal Procedure Act 2004* amended**

3 **3. Act amended**

4 This Division amends the *Criminal Procedure Act 2004*.

5 **4. Section 104 amended**

6 (1) Delete section 104(3) and insert:

7

8 (3) The prosecutor may challenge peremptorily —

9 (a) if there is one accused, 3 jurors;

10 (b) if there are 2 or more accused, the number of  
11 jurors equal to 3 times the number of accused,  
12 whether or not any of the accused consent to  
13 join in their challenges.

14

15 (2) In section 104(4) delete “5 jurors” and insert:

16

17 3 jurors

18

19 **Division 2 — *Juries Act 1957* amended**

20 **5. Act amended**

21 This Division amends the *Juries Act 1957*.

22 **6. Section 32G amended**

23 In section 32G(3) delete “shall be the sum of 20 and the number  
24 of peremptory challenges available to the accused person or  
25 persons in the trial.” and insert:

26

27 is 20 plus the total number of peremptory challenges  
28 available to the accused person or persons and to the  
29 prosecutor in the trial.

30

1 **Part 3 — Amendments about liability to serve as a**  
2 **juror and being excused**

3 **Division 1 — *Juries Act 1957* amended**

4 **7. Act amended**

5 This Division amends the *Juries Act 1957*.

6 **8. Section 3 amended**

7 In section 3(1) insert in alphabetical order:

8

9 *Australian legal practitioner* has the meaning given by  
10 the *Legal Profession Act 2008* section 5;

11 *Electoral Commissioner* means the Electoral  
12 Commissioner appointed under the *Electoral Act 1907*;

13 *mental illness* means an underlying pathological  
14 infirmity of the mind, whether of short or long duration  
15 and whether permanent or temporary, but does not  
16 include a condition that results from the reaction of a  
17 healthy mind to extraordinary stimuli;

18 *mental impairment* means intellectual disability,  
19 mental illness, brain damage, dementia or senility;

20 *proper officer* has the meaning given by  
21 subsection (2);

22

23 **9. Section 4 amended**

24 (1) In section 4 delete “Subject” and insert:

25

26 (1) Subject

27



1       (2) At the end of section 4 insert:

2

3           (2) Subsection (1) does not apply to a person who is  
4 enrolled as stated in that subsection and who is —

5               (a) a person to whom the *Electoral Act 1907*  
6 section 17A applies; or

7               (b) a person who is enrolled by virtue of the  
8 *Electoral Act 1907* section 17B(1).  
9

10   **10. Section 5 amended**

11       (1) At the beginning of section 5 insert:

12

13       (1) In this section —

14           **conviction** does not include —

15               (a) a conviction that has been quashed or set aside;  
16 or

17               (b) a conviction in respect of which a pardon has  
18 been granted; or

19               (c) a conviction that is a spent conviction —

20                   (i) for the purposes of the *Spent*  
21 *Convictions Act 1988*; or

22                   (ii) if the conviction is for an offence under  
23 the law of a place outside Western  
24 Australia, for the purposes of a law of  
25 that place that substantially corresponds  
26 with the *Spent Convictions Act 1988*;

27           **relevant period** has the meaning given by  
28 subsection (2).

**Juries Legislation Amendment Bill 2010**

**Part 3** Amendments about liability to serve as a juror and being excused

**Division 1** Juries Act 1957 amended

**s. 10**

---

- 1 (2) For the purposes of determining under this section if a  
2 person is eligible to serve as a juror, the relevant period  
3 is the 5 years immediately before —
- 4 (a) if a summons has been issued under Part VA  
5 or VB to the person, the first date on which the  
6 person is required by the summons to attend; or
- 7 (b) if a summons has not been so issued, the first  
8 date on which the person would have to attend  
9 under a summons if it were so issued.
- 10
- 11 (2) In section 5:
- 12 (a) delete “Notwithstanding” and insert:  
13
- 14 (3) Notwithstanding
- 15
- 16 (b) delete paragraph (a) and insert:  
17
- 18 (a) is not eligible to serve as a juror at a trial if he  
19 or she has reached 75 years of age; and
- 20 (ba) is not eligible to serve as a juror at a trial if he  
21 or she is within a class of person listed in  
22 Schedule 1 Division 1; and
- 23 (bb) is not eligible to serve as a juror at a criminal  
24 trial if he or she is within a class of person  
25 listed in Schedule 1 Division 2; and
- 26
- 27 (c) in paragraph (b) after “as a juror” insert:  
28
- 29 at a trial
- 30
- 31 (d) in paragraph (b)(i)(IV) delete “period,” and insert:  
32
- 33 period;  
34

- 1 (e) in paragraph (b)(i) delete the passage beginning with  
2 “unless” and ending with “1988.”;
- 3 (f) in paragraph (b)(ii) delete “has at any time within  
4 5 years” and insert:  
5  
6 has, in the relevant period  
7
- 8 (g) delete paragraph (b)(iii) and (iv) and insert:  
9
- 10 (iii) has, in the relevant period in Western  
11 Australia, been convicted of 2 or more  
12 offences the statutory penalty for which  
13 is or includes imprisonment; or
- 14 (iv) has, in the relevant period in Western  
15 Australia, been convicted of 3 or more  
16 offences against the *Road Traffic*  
17 *Act 1974*;  
18
- 19 (h) delete paragraph (c) and insert:  
20
- 21 (c) is not qualified to serve as a juror at a trial if he  
22 or she is on bail or in custody awaiting trial on  
23 a charge of an offence or sentence for an  
24 offence; and
- 25 (d) is not qualified to serve as a juror at a trial if he  
26 or she is any of the following —
- 27 (i) an involuntary patient as defined in the  
28 *Mental Health Act 1996* section 3;
- 29 (ii) a represented person as defined in the  
30 *Guardianship and Administration*  
31 *Act 1990* section 3(1);
- 32 (iii) a mentally impaired accused as defined  
33 in the *Criminal Law (Mentally Impaired*  
34 *Accused) Act 1996* section 23;

**Juries Legislation Amendment Bill 2010**

**Part 3** Amendments about liability to serve as a juror and being excused

**Division 1** Juries Act 1957 amended

**s. 11**

---

1 (iv) a person who, under the *Criminal Law*  
2 *(Mentally Impaired Accused) Act 1996*  
3 Part 3, is not mentally fit to stand trial.  
4

5 (i) after paragraph (b)(i) and (ii) insert:  
6

7 or  
8

9 (j) after paragraph (b) insert:  
10

11 and  
12

13 (3) At the end of section 5 insert:  
14

15 (4) Notwithstanding that a person is liable to serve as a  
16 juror at a trial by virtue of section 4, that person is not  
17 liable to serve as a juror at the trial if he or she is  
18 excused under Part VC.  
19

20 **11. Part IV heading replaced**

21 Delete the heading to Part IV and insert:  
22

23 **Part IV — Jurors' books, boxes and tickets**  
24

25 **12. Section 14 amended**

26 (1) Delete section 14(2)(b) and insert:  
27

28 (b) have not reached 75 years of age.  
29

1 (2) In section 14(3) delete “cause to be printed and sent to the  
2 sheriff before 30 April in each year such number of each list as  
3 the sheriff requisitions.” and insert:

4  
5 ensure the sheriff is given each list before 30 April in  
6 each year.

7  
8 (3) Delete section 14(3a)(b) and insert:

9  
10 (b) have not reached 75 years of age.

11  
12 (4) Delete section 14(8), (10), (11) and (12).

13 **13. Section 16A inserted**

14 After section 15 insert:

15  
16 **16A. Sheriff to prepare jurors’ book for each district**

17 (1) Before 1 July in each year the sheriff, in accordance  
18 with this section, must cause to be prepared for each  
19 jury district a list of names of persons in the district  
20 called the jurors’ book.

21 (2) The jurors’ book for a jury district must be compiled  
22 from the jury list prepared for the district under  
23 section 14.

24 (3) If subsection (4)(d) or section 26(3)(d) or 32D(1AA)(d)  
25 or 34G(2)(d) applies to a person, the name of the  
26 person must be included in the jurors’ book for the jury  
27 district in which the person does reside.

28 (4) In preparing the jurors’ book for a jury district, the  
29 sheriff must omit the name of any person whom the  
30 sheriff is satisfied —

31 (a) is not eligible or not qualified to serve as a juror  
32 under section 5; or

**Juries Legislation Amendment Bill 2010**

**Part 3** Amendments about liability to serve as a juror and being excused

**Division 1** Juries Act 1957 amended

**s. 13**

---

- 1 (b) has a certificate issued under section 34E; or  
2 (c) is a person who, under the *Jury Exemption*  
3 *Act 1965* (Commonwealth), shall not be  
4 summoned to serve as a juror in this State; or  
5 (d) no longer resides in the district; or  
6 (e) has no known address; or  
7 (f) has died.
- 8 (5) Each person's name in a jurors' book shall be  
9 numbered in a regular arithmetical series.
- 10 (6) The persons whose names appear in the jurors' book  
11 for a jury district are, subject to this Act, the persons  
12 liable to serve on all juries empanelled for any trial  
13 within the jury district.
- 14 (7) Subject to subsection (8) and any adjustment made  
15 under section 34E(3)(b) or 34G(3)(a)(iii), a jurors'  
16 book compiled in accordance with this Act for a jury  
17 district on or before 1 July in a year shall be used —
- 18 (a) for the selection of the names of persons to be  
19 on panels of jurors or in jury pools, as the case  
20 requires, in the district from and including that  
21 1 July until a new jurors' book is prepared for  
22 the district; and
- 23 (b) notwithstanding any alteration in the  
24 boundaries of the jury district in that period.
- 25 (8) The names of jurors summoned before 1 July in any  
26 year for any trial to be held on and after that 1 July  
27 shall be taken from the jurors' book in use under this  
28 Act at the date when those jurors were so summoned.
- 29 (9) The jury officer for a district shall keep the jurors'  
30 book for the district for use whenever required.  
31

1 **14. Section 17 amended**

2 In section 17 after “persons not” insert:

3

4 eligible or

5

6 **15. Section 24 amended**

7 In section 24 after “she is” insert:

8

9 eligible and

10

11 **16. Section 26 amended**

12 Delete section 26(2), (3) and (4) and insert:

13

14 (2) At a time and place which the summoning officer shall  
15 appoint, and in the presence of one of the senior  
16 officers of the Supreme Court if the summoning officer  
17 is the sheriff, or, if not the sheriff, in the presence of a  
18 justice of the peace, the summoning officer shall do the  
19 following —

20 (a) firstly —

21 (i) read aloud the name of any person  
22 whose name is required to be on the  
23 panel by virtue of section 34H(5)(b)  
24 or (6); and

25 (ii) obtain from the box for the jury district  
26 marked “Jurors in Use” the ticket the  
27 number of which corresponds to that  
28 name, if there is such a ticket; and

29 (iii) except in the case of an omission  
30 authorised by subsection (3), write or

**Juries Legislation Amendment Bill 2010**

**Part 3** Amendments about liability to serve as a juror and being excused

**Division 1** Juries Act 1957 amended

**s. 16**

---

- 1 cause to be written that number and  
2 name on a panel;
- 3 (b) secondly, cause the tickets in the box for the  
4 jury district marked “Jurors in Use” to be  
5 intermixed and then —
- 6 (i) draw one ticket from the box and read  
7 its number; and
- 8 (ii) refer to the corresponding number in the  
9 jurors’ book and read aloud the name to  
10 which that number is assigned in the  
11 jurors’ book; and
- 12 (iii) except in the case of an omission  
13 authorised by subsection (3), write or  
14 cause to be written that number and  
15 name on a panel; and
- 16 (iv) repeat the steps in subparagraphs (i) to  
17 (iii) until the panel, including any name  
18 included under paragraph (a), has on it  
19 the number of persons to be summoned  
20 as jurors;
- 21 (c) thirdly, sign the panel and keep the tickets  
22 corresponding to the numbers and names so  
23 written on the panel until after the precept is  
24 returnable;
- 25 (d) fourthly, draw out of the box, one at a time, a  
26 sufficient number of additional tickets to be  
27 kept for use under section 27(1).
- 28 (3) If the number on a ticket corresponds in the jurors’  
29 book to the name of a person who the summoning  
30 officer is satisfied —
- 31 (a) is not eligible or not qualified to serve as a juror  
32 under section 5; or
- 33 (b) has a certificate issued under section 34E; or



- 1 (c) is a person who, under the *Jury Exemption*  
2 *Act 1965* (Commonwealth), shall not be  
3 summoned to serve as a juror in this State; or  
4 (d) no longer resides in the district; or  
5 (e) has no known address; or  
6 (f) has died,  
7 the summoning officer must omit that name from the  
8 panel and draw from the box a ticket in place of the  
9 ticket representing the person whose name is so  
10 omitted.  
11

12 **17. Section 27 replaced**

13 Delete section 27 and insert:  
14

15 **27. Extra people to be summoned to make up for people**  
16 **not attending**

- 17 (1) If at any time before the panel for a criminal trial is  
18 returnable the summoning officer —  
19 (a) ascertains that a person on the panel to whom a  
20 summons was issued under section 26(5)  
21 cannot be served with the summons; or  
22 (b) under Part VC Division 2, excuses a person on  
23 the panel who has been served with a summons,

24 the officer shall choose in rotation from the jurors  
25 whose names correspond with the numbers on the  
26 additional tickets drawn out under section 26(2)(d)  
27 such number of persons as is required to complete the  
28 panel and shall place their names on the panel in  
29 substitution for the names of the persons who have not  
30 been served or who have been excused, as the case may  
31 be.

**Juries Legislation Amendment Bill 2010**

**Part 3** Amendments about liability to serve as a juror and being excused

**Division 1** Juries Act 1957 amended

**s. 18**

---

1 (2) A person whose name is so substituted shall be  
2 summoned accordingly and is bound to attend pursuant  
3 to the summons notwithstanding that the summons was  
4 not served on the person within the prescribed time.  
5

6 **18. Section 28 amended**

7 Delete section 28(1) and insert:  
8

9 (1) If a person to whom a summons is issued under  
10 section 26(5) cannot be served or does not attend when  
11 summoned, the summoning officer shall forthwith  
12 place the ticket bearing the number of that person in  
13 the box marked "Jurors in Reserve".  
14

15 **19. Section 29 amended**

16 In section 29(2H):

- 17 (a) delete "for any reason";  
18 (b) delete "attendance," and insert:

19  
20 the summons under Part VC Division 2,  
21

22 **20. Section 29A amended**

23 (1) In section 29A(1)(a) delete "sections 26(2), (3), (4), (5)  
24 and (6)," and insert:

25  
26 section 26(2) to (6),  
27

28 (2) In section 29A(2):

29 (a) in paragraph (a) delete "or (4)" and insert:

30  
31 or (3)  
32

1 (b) in paragraph (b) delete “or (4),” and insert:

2

3 or (3),

4

5 (c) in paragraph (b) delete “26(3)” and insert:

6

7 26(2)

8

9 **21. Section 30 replaced**

10 Delete section 30 and insert:

11

12 **30. Rights of parties in criminal trials to inspect list of**  
13 **summoned jurors**

14 Subject to any order made under section 43A, the  
15 summoning officer must ensure a copy of every panel  
16 or pool of jurors who have been summoned to attend  
17 for a criminal trial is available to be inspected by the  
18 parties to the trial from 8 a.m. on the day on which the  
19 trial is listed to begin.

20

21 **22. Section 32 deleted**

22 Delete section 32.

23 **23. Section 32C amended**

24 Delete section 32C(1) and insert:

25

26 (1) If a jury pool is required in a jury district for trials to  
27 which the pool relates, the summoning officer shall,  
28 from time to time as occasion requires —

29 (a) select any person who, under section 34H(5)(b)  
30 or (6), is required for the pool; and

**Juries Legislation Amendment Bill 2010**

**Part 3** Amendments about liability to serve as a juror and being excused

**Division 1** Juries Act 1957 amended

**s. 24**

---

- 1 (b) select at random from the jurors' book for the  
2 jury district additional persons so that,  
3 including any name included under  
4 paragraph (a), the number of persons selected  
5 will, in the officer's estimation, ensure the  
6 attendance of sufficient persons at the jury  
7 pool.  
8

9 **24. Section 32D amended**

10 (1) After section 32D(1) insert:  
11

- 12 (1AA) If the summoning officer is satisfied a person whose  
13 name is selected for the purposes of section 32C —  
14 (a) is not eligible or not qualified to serve as a juror  
15 under section 5; or  
16 (b) has a certificate issued under section 34E; or  
17 (c) is a person who, under the *Jury Exemption*  
18 *Act 1965* (Commonwealth), shall not be  
19 summoned to serve as a juror in this State; or  
20 (d) no longer resides in the district; or  
21 (e) has no known address; or  
22 (f) has died,

23 the summoning officer must not issue the person a  
24 summons, despite subsection (1).  
25

26 (2) Delete section 32D(3).

27 **25. Section 32E amended**

28 In section 32E(2) delete “manually.” and insert:  
29

30 manually or by computer.  
31

- 1   **26.   Section 32F amended**  
2       In section 32F(1)(a) delete “duly excused by the summoning  
3       officer; and” and insert:  
4  
5                               excused from the summons under Part VC  
6                               Division 2; and  
7
- 8   **27.   Section 32FA amended**  
9       In section 32FA(1) delete “factors referred to in the Fourth  
10       Schedule.” and insert:  
11  
12       matters listed in Schedule 2.  
13
- 14   **28.   Section 32H amended**  
15       Delete section 32H(5) and insert:  
16  
17       (5) If a person selected in pursuance of a pool precept is  
18       excused under Part VC Division 2 and the court so  
19       directs, the jury pool supervisor shall select a  
20       replacement person in accordance with subsection (1),  
21       include the person’s name and identification number on  
22       the list referred to in subsection (2) and furnish a card  
23       on which is the person’s identification number to the  
24       court.  
25
- 26   **29.   Part VC heading replaced**  
27       Delete the heading to Part VC and insert:  
28  
29                               **Part VC — Serving summonses and excusing**  
30                               **people**  
31                               **Division 1 — Serving summonses**  
32

**Juries Legislation Amendment Bill 2010**

**Part 3** Amendments about liability to serve as a juror and being excused

**Division 1** Juries Act 1957 amended

**s. 30**

---

1 **30. Section 33 amended**

2 Delete section 33(6).

3 **31. Section 33A replaced**

4 Delete section 33A and insert:

5

6 **33A. Information to be given to summoned people**

7 The summoning officer must ensure that every  
8 summons issued under this Act to a person requiring  
9 attendance as a juror has in it or with it a notice  
10 informing the person of the following —

- 11 (a) the manner in which a claim that he or she is  
12 not eligible or not qualified to serve as a juror  
13 may be made;
- 14 (b) the grounds on which and the procedure by  
15 which he or she may apply to be excused from  
16 serving as a juror;
- 17 (c) the matters in Schedule 2 that he or she is  
18 obliged to disclose to the summoning officer or  
19 the court.  
20

21 **32. Section 34A deleted**

22 Delete section 34A.

23 **33. Section 34B amended**

24 In section 34B(3) delete “existence of any of the factors referred  
25 to in the Fourth Schedule.” and insert:

26

27 matters in Schedule 2.  
28

1   **34.    Part VC Division 2 inserted**

2           After section 34B insert:

3

4                                   **Division 2 — Excusing people**

5    **34C.    Term used: summoned**

6           In this Division —

7           ***summoned*** means summoned under Part VA or VB.

8    **34D.    Division does not affect rights to challenge for cause**

9           This Division does not affect the operation of the  
10          *Criminal Procedure Act 2004* section 104(5).

11   **34E.    Certificates permanently excusing people**

12           (1) If the sheriff is satisfied that a person is permanently  
13           incapable of serving effectively as a juror because of a  
14           physical disability or mental impairment, the sheriff  
15           may issue a certificate to the person stating that the  
16           person is permanently excused from serving as a juror.

17           (2) For the purposes of subsection (1) the sheriff may  
18           require a person to provide information in a statutory  
19           declaration.

20           (3) On issuing a certificate to a person under  
21           subsection (1), the sheriff must —

22                   (a) notify the Electoral Commissioner of that fact;  
23                   and

24                   (b) cause the person's name to be removed from  
25                   the jurors' book and omitted from any future  
26                   jurors' book.

27           (4) If the Electoral Commissioner is notified under  
28           subsection (3), he or she must ensure the name of the

**Juries Legislation Amendment Bill 2010**

**Part 3** Amendments about liability to serve as a juror and being excused

**Division 1** Juries Act 1957 amended

**s. 34**

---

1 person concerned is not on any jury list prepared under  
2 section 14.

3 (5) The sheriff, for good reason, may cancel a certificate  
4 issued under subsection (1).

5 (6) If a person's certificate is cancelled under  
6 subsection (5), then, subject to sections 14 and 16A,  
7 the person's name may be included in a jury list or  
8 juror's book.

9 **34F. Summoned people may apply to be excused**

10 (1) A person who is summoned may apply to be excused  
11 from the summons under section 34G, 34H, 34I, 34J  
12 or 34K or under more than one of those sections.

13 (2) An application to be excused under section 34G, 34H,  
14 34I, 34J or 34K must be made to the summoning  
15 officer.

16 (3) The summoning officer may refer the application to a  
17 judge to decide.

18 (4) If the summoning officer refuses an application to be  
19 excused under section 34G, 34H, 34I, 34J or 34K, the  
20 applicant may renew the application before a judge.

21 (5) The summoning officer or judge may require an  
22 applicant to provide evidence on oath or in a statutory  
23 declaration to substantiate the grounds on which the  
24 person seeks to be excused.

25 **34G. General powers to excuse summoned people**

26 (1) A judge or summoning officer may excuse a person  
27 under this section —

28 (a) on his or her own initiative or an application  
29 made by the person under section 34F; and



- 1 (b) even if an application by the person to be  
2 excused under section 34H has been refused.
- 3 (2) If a judge or the summoning officer is satisfied that a  
4 person who is summoned —
- 5 (a) is not eligible or not qualified to serve as a juror  
6 under section 5; or
- 7 (b) has a certificate issued under section 34E; or
- 8 (c) is a person who, under the *Jury Exemption*  
9 *Act 1965* (Commonwealth), shall not be  
10 summoned to serve as a juror in this State; or
- 11 (d) does not reside in the district concerned; or
- 12 (e) does not understand spoken or written English,  
13 or cannot speak English, well enough to be  
14 capable of serving effectively as a juror; or
- 15 (f) is not capable of serving effectively as a juror  
16 because he or she has a physical disability or a  
17 mental impairment,
- 18 the judge or summoning officer must excuse the person  
19 from the summons.
- 20 (3) As soon as practicable after a person is excused under  
21 this section, the judge or summoning officer must —
- 22 (a) if the person is excused under subsection (2)(a),  
23 (b), (c) or (d), ensure that —
- 24 (i) the person's name, jurors' book number  
25 and identification number are removed  
26 from any panel of jurors or jury pool, as  
27 the case requires; and
- 28 (ii) every ticket and card bearing the  
29 person's jurors' book number or  
30 identification number is removed from  
31 every box in use under this Act; and

**Juries Legislation Amendment Bill 2010**

**Part 3** Amendments about liability to serve as a juror and being excused

**Division 1** Juries Act 1957 amended

**s. 34**

---

- 1 (iii) the person's name and jurors' book  
2 number are removed from the jurors'  
3 book for the district concerned;
- 4 (b) if the person is summoned for one or more  
5 criminal trials and is excused under  
6 subsection (2)(e) or (f), ensure that —
- 7 (i) the person's name, jurors' book number  
8 and identification number are removed  
9 from the panel of jurors or the jury pool,  
10 as the case requires; and
- 11 (ii) the card bearing the person's  
12 identification number is removed from  
13 every box being used to select or choose  
14 jurors at the trials;
- 15 (c) if the person is summoned for a civil trial and is  
16 excused under subsection (2)(e) or (f), ensure  
17 that the ticket bearing the person's jurors' book  
18 number is dealt with in accordance with  
19 section 29(3)(b).
- 20 (4) The name of a person excused under subsection (2)(e)  
21 or (f) must not be removed from the jurors' book for  
22 the district concerned by reason only of the excusal.

23 **34H. Deferring jury duty for summoned people or**  
24 **excusing them for good reason**

- 25 (1) A judge or summoning officer cannot excuse a person  
26 under this section except on an application made by the  
27 person under section 34F.
- 28 (2) For the purposes of this section a person who is  
29 summoned has a good reason to be excused from the  
30 summons if, because of any of the following —
- 31 (a) the nature of the person's business or  
32 occupation;

- 1 (b) a special or pressing commitment that the  
2 person has;
- 3 (c) mental impairment affecting the person;
- 4 (d) a physical disability that the person has;
- 5 (e) the person's state of physical health;
- 6 (f) other circumstances personal to the person,  
7 attendance in accordance with the summons would  
8 cause undue hardship or serious inconvenience to the  
9 person, the person's family or the general public.
- 10 (3) If a judge or the summoning officer is satisfied a  
11 person who is summoned has a good reason to be  
12 excused from the summons, the judge or officer  
13 may —
- 14 (a) unless the summons was issued as a result of  
15 the person having been previously granted a  
16 deferral of jury duty, grant the person a deferral  
17 of jury duty and excuse the person from the  
18 summons; or
- 19 (b) excuse the person from the summons.
- 20 (4) A judge or summoning officer must not excuse a  
21 person from a summons under subsection (3)(b) unless  
22 satisfied —
- 23 (a) the summons was issued as a result of the  
24 person having been previously granted a  
25 deferral of jury duty; and
- 26 (b) either —
- 27 (i) the reason for the person wanting to be  
28 excused from the summons was not  
29 reasonably foreseeable when that  
30 previous deferral was granted; or
- 31 (ii) there are exceptional reasons why the  
32 person should again be excused under  
33 this section from a summons.

**Juries Legislation Amendment Bill 2010**

**Part 3** Amendments about liability to serve as a juror and being excused

**Division 1** Juries Act 1957 amended

**s. 34**

---

- 1 (5) As soon as practicable after a person who is summoned  
2 for one or more criminal trials is granted a deferral of  
3 jury duty under this section, the summoning officer  
4 must —
- 5 (a) remove —
- 6 (i) the person's name, jurors' book number  
7 and identification number from the  
8 panel of jurors or the jury pool, as the  
9 case requires; and
- 10 (ii) the card bearing the person's  
11 identification number from any box  
12 being used to select or choose jurors at  
13 the trials;
- 14 and
- 15 (b) place the person's name and jurors' book  
16 number on either —
- 17 (i) a panel of jurors or a jury pool the  
18 persons on which are to be summoned  
19 to attend on a date within the 6 months  
20 after the date on which the person, but  
21 for the deferral, should have first  
22 attended; or
- 23 (ii) if no jury is required within that period,  
24 the first panel of jurors or jury pool that  
25 is selected after that period.
- 26 (6) As soon as practicable after a person who is summoned  
27 for a civil trial is granted a deferral of jury duty under  
28 this section, the summoning officer must place the  
29 person's name and jurors' book number on either —
- 30 (a) a panel of jurors or a jury pool the persons on  
31 which are to be summoned to attend on a date  
32 within the 6 months after the date on which the  
33 person, but for the deferral, should have first  
34 attended; or

- 1 (b) if no jury is required within that period, the first  
2 panel of jurors or jury pool that is selected after  
3 that period.
- 4 (7) In complying with subsection (5)(b) or (6) the  
5 summoning officer —
- 6 (a) must place the person’s name and jurors’ book  
7 number on a panel or pool that is required for  
8 the jury district in which the person resides, or  
9 will reside, when summonses are issued to the  
10 persons on the panel or pool; and
- 11 (b) must do so even if the name is not in the jurors’  
12 book for that jury district.

13 **34I. People who are not indifferent, excusing**

- 14 (1) A summoning officer cannot excuse a person under  
15 this section except on an application made by the  
16 person under section 34F.
- 17 (2) A judge may excuse a person under this section on his  
18 or her own initiative or an application made by the  
19 person under section 34F.
- 20 (3) If a judge or summoning officer is satisfied that a  
21 person who is summoned would not be indifferent as  
22 between the parties in a trial if he or she were to serve  
23 as a juror at the trial, the judge or officer must excuse  
24 the person from serving as a juror at that trial.
- 25 (4) If a person is excused under this section from serving  
26 as a juror in a criminal trial, the judge or summoning  
27 officer must ensure —
- 28 (a) the card bearing the person’s identification  
29 number is removed from the ballot-box being  
30 used under Part VI to choose jurors at that trial;  
31 and

**Juries Legislation Amendment Bill 2010**

**Part 3** Amendments about liability to serve as a juror and being excused

**Division 1** Juries Act 1957 amended

**s. 34**

---

- 1 (b) the person's name, jurors' book number and  
2 identification number remains on the panel of  
3 jurors or the jury pool, as the case requires,  
4 until the persons on the panel or pool are no  
5 longer required to attend under this Act.
- 6 (5) As soon as practicable after a person is excused under  
7 this section from serving as a juror in a civil trial, the  
8 judge or summoning officer must ensure the ticket  
9 bearing the person's jurors' book number is dealt with  
10 in accordance with section 29(3)(b).
- 11 **34J. People who have done jury duty in previous 5 years,**  
12 **excusing**
- 13 (1) A judge or summoning officer cannot excuse a person  
14 under this section except on an application made by the  
15 person under section 34F.
- 16 (2) If a judge or the summoning officer is satisfied —  
17 (a) that a person who is summoned has, in  
18 accordance with an earlier summons or under  
19 section 52 —  
20 (i) attended any place in order to serve as a  
21 juror; or  
22 (ii) served as a juror,  
23 in this State in the 5 years prior to the date on  
24 which the person is required to first attend  
25 under the current summons; and  
26 (b) that a sufficient number of other persons who  
27 have been summoned is present for the  
28 purposes of choosing persons to be jurors,  
29 the judge or officer may excuse the person from the  
30 summons.

- 1           (3) As soon as practicable after a person summoned for  
2           one or more criminal trials is excused under this  
3           section, the judge or summoning officer must ensure —
- 4                   (a) the person’s name, jurors’ book number and  
5                   identification number are removed from the  
6                   panel of jurors or the jury pool, as the case  
7                   requires; and
- 8                   (b) the card bearing the person’s identification  
9                   number is removed from any box being used to  
10                  select or choose jurors at the trials.
- 11           (4) As soon as practicable after a person summoned for a  
12           civil trial is excused under this section, the judge or  
13           summoning officer must ensure the ticket bearing the  
14           person’s jurors’ book number is dealt with in  
15           accordance with section 29(3)(b).  
16

17 **35. Section 52 amended**

- 18           (1) In section 52(1) delete “qualified and liable” and insert:  
19
- 20                   liable, eligible and qualified  
21
- 22           (2) After section 52(3) insert:  
23
- 24           (4) Part VC Division 2 applies to and in respect of a person  
25           appointed under subsection (1) as if the person had  
26           been summoned under Part VA or VB and as if the  
27           appointment were a summons.  
28

**Juries Legislation Amendment Bill 2010**

**Part 3** Amendments about liability to serve as a juror and being excused

**Division 1** Juries Act 1957 amended

**s. 36**

---

1 **36. First, Second, Third and Fourth Schedules replaced**

2 Delete the First Schedule, Second Schedule, Third Schedule and  
3 Fourth Schedule and insert:  
4

5 **Schedule 1 — Classes of persons not eligible to**  
6 **be jurors**

7 [s. 5(3)(ba) and (bb)]

8 **Division 1 — Civil and criminal trials**

9 **1. Vice-regal and parliamentary officers**

10 A person who is any of the following —

- 11 (a) the Governor or the Lieutenant-Governor or an  
12 Administrator administering the government of the  
13 State or a deputy of the Governor;  
14 (b) a member of the Parliament of Western Australia;  
15 (c) the Clerk of the Legislative Council, Clerk of the  
16 Legislative Assembly, Deputy Clerk of the  
17 Legislative Council, Deputy Clerk of the  
18 Legislative Assembly, Clerk Assistant, Usher of the  
19 Black Rod or Sergeant-at-Arms of the Parliament of  
20 Western Australia.

21 **2. Judicial and court officers**

22 (1) A person who is any of the following —

- 23 (a) a judge, auxiliary judge, commissioner, master or  
24 registrar of the Supreme Court or an associate to  
25 any such officer;  
26 (b) a judge, auxiliary judge or registrar of the District  
27 Court or an associate to any such officer;  
28 (c) a judge of the Family Court of Western Australia;  
29 (d) a magistrate, registrar or judicial support officer of  
30 the Magistrates Court;



- 1 (e) a judge, magistrate, registrar or judicial support  
2 officer of the Children’s Court or an associate to a  
3 judge of the Court;
- 4 (f) the State Coroner or Deputy State Coroner or a  
5 coroner, appointed under the *Coroners Act 1996*;
- 6 (g) the President or a commissioner of the Western  
7 Australian Industrial Relations Commission,  
8 appointed under the *Industrial Relations Act 1979*;
- 9 (h) the sheriff;
- 10 (i) a summoning officer.
- 11 (2) A person who holds an appointment to act in an office listed  
12 in subclause (1).

13 **3. Australian legal practitioners**

14 A person who is an Australian legal practitioner.

15 **Division 2 — Criminal trials**

16 **4. Certain public officers**

17 A person who is any of the following —

- 18 (a) an authorised officer, as defined in the *Corruption*  
19 *and Crime Commission Act 2003* section 184(1);
- 20 (b) the Parliamentary Inspector of the Corruption and  
21 Crime Commission, or an acting Parliamentary  
22 Inspector of the Corruption and Crime Commission,  
23 appointed under the *Corruption and Crime*  
24 *Commission Act 2003*;
- 25 (c) an officer of the Parliamentary Inspector, as defined  
26 in the *Corruption and Crime Commission Act 2003*  
27 section 3(1).

28 **5. Officers in the WA Police**

29 A person who is any of the following —

- 30 (a) the Commissioner of Police appointed under the  
31 *Police Act 1892*;

**Juries Legislation Amendment Bill 2010**

**Part 3** Amendments about liability to serve as a juror and being excused

**Division 1** Juries Act 1957 amended

**s. 36**

---

- 1 (b) a person appointed under the *Police Act 1892* Part I  
2 to be a member of the Police Force of Western  
3 Australia;
- 4 (c) a special constable appointed under the *Police*  
5 *Act 1892* Part III;
- 6 (d) an Aboriginal police liaison officer appointed under  
7 the *Police Act 1892* Part IIIA;
- 8 (e) a police auxiliary officer appointed under the *Police*  
9 *Act 1892* Part IIIB;
- 10 (f) a police cadet employed by the Commissioner of  
11 Police.

12 **Schedule 2 — Matters to be disclosed by a person**  
13 **appearing in answer to a summons to be a juror**

14 [s. 32FA, 33A and 34B]

- 15 1. That the person has reached 75 years of age.
- 16 2. If the person is summoned for a civil trial, that the person is  
17 in a class of person listed in Schedule 1 Division 1.
- 18 3. If the person is summoned for a criminal trial, that the  
19 person is in a class of person listed in Schedule 1.
- 20 4. That the person has a criminal record that means he or she is  
21 not qualified to serve as a juror under section 5(3)(b).
- 22 5. That the person is a person referred to in section 5(3)(c).
- 23 6. That the person is a person referred to in section 5(3)(d).
- 24 7. That the person is a person who, under the *Jury Exemption*  
25 *Act 1965* (Commonwealth), shall not be summoned to serve  
26 as a juror in this State.
- 27 8. That the person has a physical disability or mental  
28 impairment that may mean he or she is not capable of  
29 serving effectively as a juror.
- 30 9. That the person's ability to understand spoken or written  
31 English, or to speak English, may mean he or she is not  
32 capable of serving effectively as a juror.

- 1           10.       Any reason why the person may not be indifferent between  
2                   the parties in a trial at which the person may be liable to  
3                   serve as a juror.  
4

5                   **Division 2 — *Criminal Procedure Act 2004* amended**

6   **37.       Act amended**

7                   This Division amends the *Criminal Procedure Act 2004*.

8   **38.       Section 104 amended**

9                   Delete section 104(5)(a) and insert:

- 10  
11                           (a)   that under the *Juries Act 1957* section 5 the  
12                           juror is not eligible or not qualified to serve as a  
13                           juror; or  
14

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**Part 4 — Miscellaneous amendments**

**39. Act amended**

This Part amends the *Juries Act 1957*.

**40. Section 2 deleted**

Delete section 2.

**41. Section 32H amended**

Delete section 32H(4) and insert:

- (4) The jury pool supervisor, or an officer on his or her behalf, shall also direct the persons selected in pursuance of the pool precept to attend at the court, and at the time, specified in the precept.

**42. Sections 55 and 56 replaced**

Delete sections 55 and 56 and insert:

**55. Offences by jurors and others**

- (1) A person who, without a reasonable excuse, does not obey a summons that has been served on the person under this Act commits an offence.
- (2) A person who, without a reasonable excuse, does not obey a direction given under section 32H(4) commits an offence.
- (3) A talesman who, being present and having been called, without a reasonable excuse, does not appear or wilfully withdraws himself or herself from the presence of the court commits an offence.

- 1           (4) A person who personates or attempts to personate a  
2           person whose name is on a jury panel or a jury pool for  
3           the purpose of sitting as a juror commits an offence.  
4           Penalty: a fine of \$5 000.
- 5           **56. Prejudicial actions against employees who do jury**  
6           **service**
- 7           (1) In this section —  
8           *employee* includes a person employed under a contract  
9           for services;  
10          *employer* includes a person acting on behalf of an  
11          employer.
- 12          (2) For the purposes of this section, an employer acts  
13          prejudicially against an employee if the employer does  
14          any of the following —  
15               (a) terminates the employee’s employment;  
16               (b) ceases remunerating the employee;  
17               (c) reduces the employee’s remuneration;  
18               (d) otherwise acts so as to prejudice the employee  
19               in relation to his or her employment with the  
20               employer;  
21               (e) threatens to take an action described in any of  
22               paragraphs (a) to (d).
- 23          (3) For the purposes of this section, an employer who  
24          employs an employee under a contract acts  
25          prejudicially against the employee because the  
26          employee has done or is doing jury service if the  
27          employer —  
28               (a) does not pay the employee under the contract  
29               the earnings that the employee could  
30               reasonably expect to have been paid while  
31               doing the jury service, despite any breach of the  
32               contract caused by doing the jury service; or

**s. 42**

---

- 1 (b) threatens to do so.
- 2 (4) For the purposes of this section, a person does jury  
3 service if he or she, having been required under this  
4 Act to do so, attends at any place in order to serve, or  
5 does serve, as a juror.
- 6 (5) An employer must not act prejudicially against an  
7 employee because the employee —
- 8 (a) is subject to a summons issued under Part VA  
9 or VB; or
- 10 (b) has done or is doing jury service.
- 11 Penalty:
- 12 (a) for an individual, a fine of \$10 000;  
13 (b) for a body corporate, a fine of \$50 000.
- 14 (6) If, in proceedings on a charge of an offence under  
15 subsection (5), all the facts constituting the offence  
16 other than the reason for the accused's act are proved,  
17 the accused has the onus of proving the accused's act  
18 was not actuated because the employee was subject to a  
19 summons issued under Part VA or VB or had done or  
20 was doing jury service.
- 21 (7) A court that convicts a person of an offence under  
22 subsection (5) —
- 23 (a) may order the person to pay the employee a  
24 sum, set by the court, by way of compensation  
25 for any prejudice (including lost remuneration)  
26 suffered by the employee; and
- 27 (b) if the offence involved the person terminating  
28 an employee's employment, may also —
- 29 (i) order the person to re-employ the  
30 employee, either in his or her old  
31 position or in a similar position; or



**s. 44**

---

- 1                                   employee could reasonably expect to have been  
2                                   paid in that period under the contract,
- 3                                   the employer is entitled to be paid by the State the fees  
4                                   in accordance with the regulations for the employee's  
5                                   service, unless the employer is in a class of employer  
6                                   prescribed by the regulations.
- 7                   (4) If an employee described in subsection (3) is not paid  
8                                   in accordance with that subsection, the employee is  
9                                   entitled to be paid by the State the fees in accordance  
10                                  with the regulations for the jury service, unless he or  
11                                  she is in a class of person prescribed by the regulations.
- 12                   (5) A person who does jury service but who is not an  
13                                  employee described in subsection (3) is entitled to be  
14                                  paid by the State the fees in accordance with the  
15                                  regulations for the jury service, unless the person is in a  
16                                  class of person prescribed by the regulations.  
17

18 **44. Section 59 amended**

- 19           (1) In section 59(1) after "this Act" insert:  
20  
21                                  for an act or omission that does not constitute an offence  
22
- 23           (2) Delete section 59(2).
- 
-