

Western Australia

LEGISLATIVE COUNCIL

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*.

2. Commencement

- (1) Subject to subsection (2) this Act comes into operation on the day on which it receives the Royal Assent.
- (2) Section 10 comes into operation on such day as is fixed by proclamation.

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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.]

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4. Section 5 amended

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

“ 70 years; ”.

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

“ been the subject ”.

5. Section 18 amended

- (1) Section 18(3)(c) is amended by deleting “, stand asides,”.

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- (2) Section 18(4) is amended by deleting “, or the number of stand asides,”.

6. 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 —

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“ computer — ”; and

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

“

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

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”.

7. Section 33 amended

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

“

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(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

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(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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(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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(6) In subsection (1) —

“**Electoral Commissioner**” means the Electoral
Commissioner appointed under the *Electoral Act 1907*.

”.

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8. Section 36 amended

Section 36(2) and (3) are repealed.

9. Section 38 amended

5 Section 38(1) and (2) are repealed and the following subsection is inserted instead —

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10 (1) Without affecting the right of challenge to the array or for cause shown which might have been claimed or exercised immediately prior to the coming into operation of this Act, any party at any criminal trial (including those prosecuting for the Crown) may challenge peremptorily —

- 15 (a) if the trial is held in the Supreme Court or the District Court sitting at Perth, 3 jurors; or
(b) if the trial is held at a place other than Perth, 5 jurors.

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10. 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 —

- 25 (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
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- (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 —

- 25
- (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
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- (b) information that identifies, or is likely to identify, a person as, or as having been, a juror in particular proceedings;

5 “**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.

10 (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
 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

15 (1) A person who discloses protected information commits
 an offence if the person is aware that, in consequence
 of the disclosure, the information will, or is likely to,
 be published.

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

20 (2) Subsection (1) does not prohibit disclosing protected
 information —
 (a) to a court;
 (b) to a board or commission appointed by the
 Governor;
25 (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;
- (f) as part of a fair and accurate report of an investigation referred to in paragraph (e);
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- (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

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- (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 —
- (a) in the course of proceedings in a court;

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- (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*;
- 10
- (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*;
- 15
- (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;
- (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
- 20
- (g) by a practitioner as defined by the *Legal Practitioners Act 1893* for the purpose of giving advice in relation to a matter referred to in paragraph (a), (b), (c), (d) or (e).

56D. Protected information not to be published

- 25
- (1) A person who publishes protected information commits an offence.
- Penalty: \$5 000 or imprisonment for 6 months, or both.

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

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

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(b) as a part of a fair and accurate report of —

(i) proceedings in respect of an alleged contempt of court, an alleged offence against this Part or an alleged offence otherwise relating to jury deliberations or a juror's identity;

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(ii) proceedings by way of appeal from proceedings referred to in subparagraph (i); or

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(iii) if the protected information relates to jury deliberations, proceedings by way of appeal from the trial in the course of which the deliberations took place if the nature or circumstances of the deliberations is an issue relevant to the appeal;

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
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- (b) after the trial has been completed, disclosing, soliciting or obtaining, or publishing —
- (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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20 **11. 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.

25 Persons who have reached the age of 65 years.

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