



Australian Capital Territory

## **Juries Act 1967**

**A1967-47**

**Republication No 3 (RI)**

**Effective: 18 December 1995 – 24 November 1997**

Republication date of printed version: 30 November 1996

Reissued electronically: 24 October 2007

Last amendment made by A1995-46

Authorised by the ACT Parliamentary Counsel

## **About this republication**

### **The republished law**

This is a republication of the *Juries Act 1967* effective from 18 December 1995 to 24 November 1997.

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This consolidation has been prepared by the ACT Parliamentary Counsel's Office

Reprinted as at 30 November 1996

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Australian Capital Territory

## **JURIES ACT 1967**

An Act relating to Juries

### **PART I—PRELIMINARY**

#### **Short title**

1. This Act may be cited as the *Juries Act 1967*.<sup>1</sup>

#### **Commencement**

3. This Act shall come into operation on 1 January 1968.

#### **Repeal and saving**

5. (1) The Ordinances specified in the First Schedule are repealed.

(2) The jury list made out under Division 2 of Part II of the *Juries Ordinance 1936* and in force immediately before the commencement of this Act shall, for the purposes of this Act, be the jury list for the Territory until it is superseded by the first jury list referred to in section 19.

#### **Interpretation**

6. (1) In this Act, unless the contrary intention appears—

“ballot-box” means the box into which jury cards are placed by the proper officer under subsection 28 (2);

“civil trial” means the trial of a suit, action or issue of fact ordered, in pursuance of subsection 22 (2) of the *Supreme Court Act 1933*, to be tried before the Court with a jury;

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“criminal trial” includes the trial of an issue whether a prisoner is or is not capable of pleading to an indictment presented against him or her;

“disqualified person” means a person referred to in section 10;

“Judge” means a Judge of the Supreme Court;

“juror” includes a person appointed under section 31 to attend to serve as a juror;

“jury card” means a card prepared in pursuance of subsection 27 (3), or of subsection 31 (3);

“jury precept” means a precept issued under section 22;

“jury summons” means a summons under section 24;

“panel of jurors” means a list of names prepared in pursuance of subsection 27 (1);

“person called” means a person whose name as shown on a jury card drawn from a ballot box is called out by the proper officer;

“Roll of electors for the Territory” means a copy of the roll of the electors of the Territory given to the Sheriff under subsection 65 (3) of the *Electoral Act 1992*;

“the City Area” means the area that is the City Area for the purposes of the *City Area Leases Act 1936*;

“the Court” means the Supreme Court;

“the proper officer”, in relation to the exercise of a power or the performance of a duty under this Act, means a person appointed by the Judge to be the proper officer for the exercise of the power or the performance of the duty;

“the Registrar” means the Registrar of the Supreme Court;

“the Sheriff” means the Sheriff of the Territory;

“verdict” includes a finding.

(2) In this Act, a reference to a Schedule by number shall be read as a reference to the Schedule so numbered to this Act.

## **PART II—NUMBER OF JURORS**

### **Number of jurors**

7. (1) At a criminal trial, a jury shall consist of 12 jurors.
- (2) At a civil trial, a jury shall consist of 4 jurors.

### **Reduced number of jurors**

#### **8.**

(2) If, at a civil trial or at a criminal trial, the Judge is satisfied that, by reason of illness or other sufficient cause, a juror should not continue to act as a juror, the Judge may order that the juror be excused from further attendance during the trial and during such further period as the Judge specifies in the order.

(3) Where, by reason of the death of a juror or of a juror being excused under subsection (2), the number of jurors is reduced to not less than 10 in the case of a criminal trial or to 3 in the case of a civil trial, the trial shall, if the Judge so orders and notwithstanding section 7, continue with the reduced number of jurors, and the verdict of those jurors shall be a sufficient verdict.

(4) If, at a criminal trial—

- (a) the number of jurors is reduced to 11 or 10 and the Judge does not make an order under subsection (3); or
- (b) the number of jurors is reduced to less than 10;

the Judge shall discharge the remaining jurors and shall adjourn the trial to a date fixed by the Judge or to be fixed as the Judge orders.

(5) If, at a civil trial—

- (a) the number of jurors is reduced to 3 and the Judge does not make an order under subsection (3); or
- (b) the number of jurors is reduced to less than 3;

the Judge shall discharge the remaining jurors and shall adjourn the trial to a date fixed by the Judge or to be fixed as the Judge orders.



### **PART III—LIABILITY FOR JURY SERVICE**

#### **Liability to serve as jurors**

**9.** Each person whose name is on the Roll of electors for the Territory is, unless he or she is a disqualified person or is exempt from serving as a juror, liable to serve as a juror.

#### **Persons not qualified to serve as jurors**

**10.** A person who—

- (a) has been convicted, whether within or outside the Territory, of an offence punishable under the law in force at the place at which he or she was convicted by penal servitude or imprisonment for 1 year or longer and has not been granted a free pardon in respect of the offence;
- (b) is an undischarged bankrupt;
- (c) is unable to read and speak the English language;
- (d) is blind, deaf or dumb;
- (e) is, by reason of mental or physical disability, incapable of serving as a juror; or
- (f) is of unsound mind;

is not qualified to serve as a juror and his or her name shall not be included in the jury list.

#### **Exempt persons**

**11.** Each person included in the following classes of persons is exempt from serving as a juror and the name of that person shall not be included in the jury list:

- (a) persons exempt from serving as jurors in the Territory—
  - (i) under the *Jury Exemption Act 1965* of the Commonwealth;
  - (ii) under the Jury Exemption Regulations of the Commonwealth;
  - (iii) under the *Navigation Act 1912* of the Commonwealth; or
  - (iv) under the Air Navigation Regulations of the Commonwealth;

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- (b) ministers of religion;
- (c) magistrates and coroners;
- (d) employees of the Government of an overseas country or of an international organisation;
- (e) the Official Secretary to the Governor-General;
- (f) the household officers and staff of the Governor-General;
- (g) practising barristers and solicitors and their employees;
- (h) practising medical practitioners who are registered under the *Medical Practitioners Act 1930*;
- (i) practising pharmacists who are registered under the *Pharmacy Act 1931*;
- (j) practising dentists who are registered under the *Dentists Registration Act 1931*;
- (k) practising veterinary surgeons who are registered under the *Veterinary Surgeons Act 1965*;
- (l) professors, lecturers, schoolmasters and school-teachers who are engaged in full-time teaching of organised classes at universities, colleges and schools;
- (m) editors of newspapers;
- (n) police officers;
- (o) persons who are engaged in full-time duties as members of the Australian Capital Territory Fire Brigade;
- (q) persons whose place of living is in the Territory accepted by the Commonwealth in pursuance of the *Jervis Bay Territory Acceptance Act 1915* of the Commonwealth; and
- (r) persons who, having attained the age of 60 years, claim exemption from serving as jurors;
- (s) judges and the Master of the Supreme Court;
- (t) persons holding, or performing the duties of, an office of Chief Executive in the Australian Capital Territory Public Service;
- (u) public servants in the staff of—
  - (i) the Supreme Court; or

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- (ii) the Magistrates Court;
- (v) public servants in the staff of—
  - (i) the Attorney-General's Department;
  - (ii) the Legal Aid Commission (A.C.T.); or
  - (iii) the Office of the Director of Public Prosecutions;being public servants whose duties involve the provision of legal professional services;
- (w) persons holding, or performing the duties of, any of the following offices in the Legislative Assembly:
  - (i) Clerk;
  - (ii) Deputy Clerk;
  - (iii) Clerk Assistant;
  - (iv) Sergeant-at-Arms;
  - (v) Editor of Debates;
  - (vi) Secretary to a committee of the Assembly;
- (x) persons holding, or performing the duties of, 1 of the following offices in the Housing and Community Services Bureau:
  - (i) Executive Director, Family Services Branch;
  - (ii) Director, Juvenile Justice Section;
- (y) persons holding, or performing the duties of, an office of Social Worker in the Housing and Community Services Bureau;
- (z) persons appointed to an office of Chief Fire Control Officer or Deputy Fire Control Officer in the Australian Capital Territory Public Service;
- (za) persons holding, or performing the duties of, an office of Community Corrections Officer in the Australian Capital Territory Public Service;
- (zb) persons holding an appointment under section 6 or 6A of the *Remand Centres Act 1976*;

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- (zc) persons who are authorised officers within the meaning of the *Supervision of Offenders (Community Service Orders) Act 1985*.

**Liability of disqualified or exempted persons to attend as jurors**

**13.** A person whose name is on the jury list is not excused from attendance in accordance with a jury summons by reason of his or her not being liable to serve, his or her not being qualified to serve, or his or her being exempted from serving, as a juror unless the Sheriff was, after the issue of the jury summons, informed accordingly and has excused the person from attendance.

**Excusing of jurors by the Judge or Sheriff**

**14.** If the Judge or the Sheriff is satisfied that a person summoned or appointed to attend to serve as a juror ought to be excused from attendance by reason—

- (a) of illness;
- (b) of pregnancy;
- (c) that the person has the care of children or of aged or ill persons; or
- (d) of circumstances of sufficient importance or urgency;

the Judge or the Sheriff may, at any time after service of the summons or the appointment, as the case may be, excuse the person from attendance or further attendance on the Court during such period as the Judge or Sheriff specifies.

**Partners etc. as jurors**

**15.** If the Judge or the Sheriff is satisfied that 2 or more partners who are members of the same partnership or 2 or more persons who are employed in the same establishment have been summoned or appointed to attend as jurors on the same day, the Judge or the Sheriff may excuse 1 or more of those partners or persons from attendance on that day.

**Discharge on account of language difficulty etc.**

**16.** If the Judge is satisfied that a person summoned or appointed to attend to serve as a juror has not sufficient understanding of the English language or of the course of judicial proceedings, or is suffering such mental or physical disability as to be incapacitated for the proper discharge of the duties of a juror, the Judge may discharge that person from further attendance on the Court in pursuance of that summons or appointment.

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**Judge may excuse a person if doubt about liability**

**17.** If, in the opinion of the Judge, it is doubtful whether a person summoned or appointed to attend to serve as a juror is liable to serve as a juror, the Judge may excuse that person from further attendance on the Court.

**Impeachment of verdict of jury**

**18.** The verdict of a jury shall not be impeached on the grounds that a person who served as a juror was not liable to serve, was not qualified to serve, or was exempt from serving, as a juror unless the Judge was informed accordingly before that person was sworn.

**Lengthy trial—relief from jury service**

**18A. (1)** At the conclusion of a criminal trial, the Judge may, if of the opinion that the trial was of sufficient length to justify doing so, order that each of the jurors for that trial shall be excused from serving as a juror for a specified period.

**(2)** The Sheriff shall—

- (a)** make a notation of an order under subsection (1) on the jury list next to the name of each person to whom the order relates; and
- (b)** notify, in writing, that person of the making of the order.

**(3)** During a period specified in an order under subsection (1)—

- (a)** the name of a person to whom the order relates shall, for the purposes of this Act, be deemed to be not included in the jury list; and
- (b)** that person is not liable to be summoned or appointed to attend to serve as a juror.

**PART IV—JURY LIST**

**Jury list**

**19. (1)** The Sheriff shall, as soon as practicable after the commencement of this Act and subsequently at intervals not exceeding 4 years, prepare a list of the names of persons liable to serve as jurors.

**(2)** On each occasion on which it is necessary to do so, the Sheriff shall prepare the list by striking off from a copy of the latest Roll of electors for the Territory the name of each person who, to the knowledge of

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the Sheriff, is dead, is not qualified to serve as a juror or is exempt from serving as a juror.

(6) The names that remain on the copy of the Roll referred to in subsection (2) of this section after the alterations authorised by this section have been made constitute the jury list for the Territory.

(7) The first jury list as so constituted supersedes the jury list referred to in subsection 5 (2) and the list as so constituted or, if that list is revised in accordance with the next succeeding subsection or the next succeeding section, that list as so revised continues to be the jury list for the Territory until the next jury list is prepared and constituted under this section.

(8) The Sheriff shall from time to time revise the jury list—

- (a) by striking off the list the name of each person who, to the knowledge of the Sheriff, is dead, is not qualified to serve as a juror or is exempt from serving as a juror; and
- (b) by including in the list the name of each person who, having been exempt from serving as a juror, has, to the knowledge of the Sheriff, ceased to be so exempt.

(9) A reference in subsection (2) or (8) to a person who is exempt from serving as a juror shall not be read as including a reference to a person to whom an order under subsection 18A (1) relates.

**Reviews in connection with jury lists**

**20. (1)** A person who is aggrieved by a decision of the Sheriff to strike off, not to strike off, not to include or to include in the jury list the name of that person may apply in writing to a Magistrate for a review of the decision.

(2) The Magistrate shall fix a date and time for the hearing of the application and shall cause the applicant and the Sheriff to be notified accordingly.

(3) The decision of the Magistrate on an application for a review under this section is final and conclusive.

(4) The Sheriff shall revise the jury list so that it accords with the decision of the Magistrate.

## **PART V—JURY PRECEPTS AND SUMMONSES**

### **Interpretation**

**21.** In this Part—

“Sheriff” includes any person performing the functions of the Sheriff in accordance with section 52 of the *Supreme Court Act 1933*.

### **Jury precepts**

**22.** From time to time and as often as necessary, the Judge shall issue, under his or her hand, a precept directed to the Sheriff requiring him or her to summon persons to attend on the Court to serve as jurors.

### **Terms of precept**

**23.** A jury precept shall be in accordance with Form 1 in the Second Schedule and shall specify the number of persons required to attend on the Court to serve as jurors and the time when the attendance of those persons is required.

### **Jurors to be chosen by lot**

**24. (1)** Where a jury precept is delivered to the Sheriff, he or she shall choose by lot, from the names on the jury list, the names of as many persons as he or she considers necessary to ensure that the number of persons that the jury precept requires to attend to serve as jurors, will be in attendance at the Court at the time specified in the precept.

**(2)** Where it appears to the Sheriff that—

- (a)** a person whose name has been so chosen is dead, is exempt from serving as a juror or has become a disqualified person;
- (b)** a person whose name has been so chosen is a person referred to in section 25; or
- (c)** there are reasonable grounds for believing that it is unlikely that a person whose name has been so chosen will be served with the jury summons;

the Sheriff shall choose by lot, in substitution for the name previously chosen, the name of another person whose name appears on the jury list.

**(3)** The Sheriff shall prepare, and furnish the Commissioner with a copy of, a list of the names chosen under subsection (1) or (2), as the case requires.

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(4) The Commissioner or a person authorised by him or her for the purpose may make such inquiries as he or she thinks fit in an endeavour to ascertain whether any person whose name is included on the list referred to in subsection (3) is a disqualified person and the Commissioner or the first-mentioned person, as the case requires, shall report in writing the result of any such inquiries to the Sheriff.

(5) A person shall not, except in the performance of a duty under, or otherwise for the purposes of, a law in force in the Territory, either directly or indirectly, make a record of, or divulge or communicate to any person, information obtained in the course of inquiries referred to in subsection (4).

(6) Where it appears to the Sheriff, after considering a report made under subsection (4), that a person whose name is included on the list referred to in subsection (3) is a disqualified person, the Sheriff shall remove the name of the person from that list and shall, by notice in writing sent by post addressed to him or her at his or her last known place of residence, call upon the person to show cause why his or her name should not be struck off the jury list on the ground that he or she is a disqualified person.

(7) Where the Sheriff calls upon a person to show cause under subsection (6), he or she shall, in the relevant notice, include a statement to the effect that if the person is aggrieved by a decision of the Sheriff to strike his or her name off the jury list, he or she may apply for a review of the decision under section 20.

(8) The Sheriff shall cause to be served upon each person whose name was chosen under subsection (1) or (2), as the case requires, and whose name was not, in pursuance of subsection (6), removed from the list referred to in subsection (3) a summons in accordance with Form 2 in the Second Schedule together with a notice that contains—

- (a) a statement of the grounds on which, under section 10, persons are not qualified to serve as jurors; and
- (b) a request that if the person believes he or she is not qualified to serve as a juror on such a ground, he or she inform the Sheriff to that effect.

(9) An action or proceeding, civil or criminal, does not lie against the Commissioner or a person authorised by him or her in pursuance of subsection (4) personally for or in respect of any act done by him or her in good faith in connection with the making of a report under that subsection.



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**(10)** In this section—

“Commissioner” means the person holding, or performing the duties of, the office of Commissioner of Police of the Australian Federal Police.

**Jurors not liable to be summoned until jury list exhausted**

**25.** A person who has, during the currency of a jury list, attended on the Court to serve as a juror is not liable to be summoned or appointed to attend to serve as a juror until that jury list has been exhausted.

**Service of jury summonses**

**26.** A jury summons may be served—

- (a) by delivering it to the person named on it, or by leaving it with a person apparently over the age of 16 years of age at that person’s place of living as shown on the jury list, not less than 4 clear days before the date on which the person is required to attend; or
- (b) by sending it by post (under prepaid postage) in an envelope addressed to the person at his or her place of living as shown on the jury list not less than 7 clear days before the date on which the person is required to attend.

**Preparation of panel of jurors, and lists of jurors excused and jury cards**

**27. (1)** The Sheriff shall prepare a panel of jurors for the purpose of the jury precept by listing the names of persons who have been served with jury summonses or if the number of persons served with jury summonses exceeds the number of persons specified in the jury precept as the number of persons required to attend at the Court, by listing, in the order in which the names were chosen under subsection 24 (1) or (2), as the case requires, so many of those names as equals the number of persons so required by the jury precept to attend.

**(2)** The Sheriff shall also prepare a list showing the names of the persons who have been served with jury summonses and whose names have not been included in the panel of jurors.

**(3)** The Sheriff shall—

- (a) insert, on the jury panel opposite to each name appearing on the panel, the occupation of the person as shown in the jury list; and

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- (b) prepare in respect of each of those persons a card showing the name and occupation of the person.

(4) The persons whose names appear on the list referred to in subsection (2) are excused from attendance at the Court in compliance with the requirements of the jury summons, and the Sheriff shall notify each of those persons accordingly.

**Sheriff's return to precept**

**28. (1)** Upon the day and at the time specified in a jury precept for the attendance of the persons summoned in pursuance of the jury precept, the Sheriff shall return into the Court the jury precept and shall deliver it to the proper officer together with—

- (a) the panel of jurors;
- (b) proof of service of the jury summons on each person named in the jury panel; and
- (c) the jury cards prepared in respect of the persons whose names appear on the jury panel.

(2) The proper officer shall place the jury cards in a ballot-box approved by the Judge.

**Inspection of jury panels**

**29. (1)** Except by leave of the Judge, a person shall not, before the day fixed for a criminal trial or a civil trial, be permitted to inspect the panel of jurors for the trial or to inspect or obtain a copy of the panel.

(2) Counsel for the Crown, the accused or his or her counsel or solicitor may, on the day fixed for a criminal trial, inspect or obtain from the Sheriff a copy of the panel of jurors for the trial.

(3) A party in a civil trial or his or her counsel or solicitor may, on the day fixed for the trial, inspect or obtain from the Sheriff a copy of the panel of jurors for the trial.

**Informalities etc. not to invalidate verdict**

**30.** An omission, informality or error in name or occupation (if there is no question of identity) with respect to the jury list, a jury precept or a panel of jurors does not invalidate or affect any verdict returned by a jury that is in other respects according to law.

## **PART VI—STRIKING AND IMPANELLING JURY**

### **Striking a jury at a criminal trial**

**31. (1)** At the commencement of a criminal trial, the proper officer shall draw the jury cards out of a ballot-box 1 at a time and call aloud the name and occupation shown on each card so drawn until 12 persons have entered the jury-box.

**(2)** If all the jury cards are exhausted, by challenge or otherwise, before 12 persons have entered the jury-box at a criminal trial, the Judge may order the Sheriff to appoint forthwith from persons in or in the vicinity of the Court who are liable to serve as jurors so many persons to attend to serve as jurors as will enable 12 persons to enter the jury-box.

**(3)** The names of the persons so appointed shall be deemed to have been returned on the jury precept and to have been included in the jury panel and the Sheriff shall deliver to the proper officer a jury card showing the name and occupation of each of those persons.

**(4)** The persons so appointed are subject to challenge in the same manner as the persons whose names are included on the panel of jurors.

**(5)** The 12 persons in the jury-box shall, upon being sworn, be the jury for the criminal trial.

**(6)** A card bearing the name of a person, not being a person appointed under this section, who has been called but not sworn shall, upon the jury being sworn, be returned to the ballot-box.

**(7)** When the verdict of the jury has been given and recorded or the jury has been discharged, whichever first happens, the jury cards bearing the names of the jurors shall, unless the Court otherwise orders, be returned to the ballot-box.

### **Striking a jury at a civil trial**

**32. (1)** For the purposes of this section, where, at a civil trial, there are several plaintiffs who are represented by the same counsel or several defendants who are represented by the same counsel, they shall be deemed to be 1 plaintiff or 1 defendant, as the case may be.

**(2)** At the commencement of a civil trial, the proper officer shall draw jury cards out of a ballot-box 1 at a time and call aloud the name and occupation shown on each card so drawn out until, after all challenges for

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cause are allowed, 12 of the persons so called stand in their place in the Court.

(3) Where there are several plaintiffs not all of whom are represented by the same counsel or there are several defendants not all of whom are represented by the same counsel, subsection (2) applies as if the words “so many persons as the Judge directs” were substituted for the words “12 of the persons”.

(4) The proper officer shall make out a list of the names and occupations of the persons so standing and shall deliver the list successively to—

- (a) counsel representing the plaintiff or, where there are several plaintiffs not all of whom are represented by the same counsel, to counsel for the different plaintiffs or, if a plaintiff is not represented by counsel, to that plaintiff; and
- (b) counsel representing the defendant or, where there are several defendants not all of whom are represented by the same counsel, to counsel for the different defendants or, if a defendant is not represented by counsel, to that defendant.

(5) Each counsel or party to whom the list is delivered may strike 4 names off the list.

(6) Where a defendant does not appear in person or by counsel, the proper officer may, on the defendant’s behalf, strike 4 names off the list.

(7) After the names are struck off under this section, if not more than 4 names remain on the list, the persons whose names so remain or, if more than 4 names then remain on the list, the persons whose names are the first 4 names so remaining shall enter the jury-box and, upon being sworn, shall be the jury for the trial.

(8) The card bearing the name of a person who has been called but not sworn shall, upon the jury being sworn, be returned to the ballot-box.

(9) When the verdict of the jury has been given and recorded or the jury has been discharged, whichever first happens, the jury cards bearing the names of the jurors shall, unless the Court otherwise orders, be returned to the ballot-box.

(10) A reference in this section to counsel shall, in a case in which a party is represented in Court by a solicitor, be read as including a reference to that solicitor.

## **PART VII—CHALLENGE**

### **Standing persons by**

**33. (1)** At a criminal trial, the Court may, at the request of counsel for the Crown, order a person called to stand by until all cards have been drawn from the ballot-box.

**(2)** When all cards have been drawn from the ballot-box and less than 12 persons have entered the jury-box, the cards bearing the names of the persons who have been ordered to stand by shall be returned to the ballot-box and again drawn from the ballot-box in accordance with section 31.

### **Challenges at criminal trials**

**34. (1)** At a criminal trial, the Crown is entitled—

- (b) to 8 peremptory challenges; and
- (c) to any number of challenges for cause.

**(2)** At a criminal trial, the accused or his or her counsel or solicitor is entitled—

- (b) to 8 peremptory challenges; and
- (c) to any number of challenges for cause.

### **Time for challenging at criminal trials**

**35.** At a criminal trial, a challenge shall be made as the person called comes to, and before he or she enters, the jury-box.

### **Challenge at civil trial**

**36.** Subject to section 32, a party in a civil trial or his or her counsel or solicitor is not entitled to challenge a person called except for cause.

### **Trial of challenge for cause**

**36A.** A challenge for cause shall be tried by the Judge presiding at the trial at which the challenge is made.

### **Informality in summoning jurors**

**37.** An omission, irregularity or error by the Sheriff or any of his or her officers with respect to the time or mode of service of a summons on a person in pursuance of a jury precept, or the summoning or return of such a person by a wrong name (if there is no question of identity) is not a cause of challenge.

## **PART VIII—DISAGREEMENT OF JURY**

### **Disagreement at criminal trials**

**38.** Where, at a criminal trial—

- (a) a period of 6 hours has elapsed since the jury retired; and
- (b) the judge is satisfied, after examination of 1 or more of the jurors, that the jurors are not likely to agree;

the Judge may discharge the jury, but, except as otherwise provided by this Act, the Judge shall not discharge the jury until the period of 6 hours has elapsed.

### **Disagreement at civil trials**

**39. (1)** Where, at a civil trial—

- (a) a period of 6 hours has elapsed since the jury retired;
- (b) the jurors are not unanimously agreed upon their verdict; and
- (c) 3 of the jurors are agreed upon the verdict to be given;

the decision of those 3 jurors shall be taken and entered as the verdict of the whole jury.

**(2)** Where, at a civil trial—

- (a) a period of 6 hours has elapsed since the jury retired; and
- (b) it is not possible to enter a verdict in accordance with subsection (1);

the Judge may discharge the jury, but, except as otherwise provided by this Act, the Judge shall not discharge the jury until the period of 6 hours has elapsed.

### **Adjournment of trial on discharge of jury for disagreement**

**40.** Where a jury is discharged under section 38 or 39, the Judge shall adjourn the trial to a date fixed by the Judge or to be fixed as the Judge orders.

## **PART IX—OFFENCES**

### **Offences by jurors**

**41.** Where—

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- (a) a person served with a summons to attend or appointed by the Sheriff to serve as a juror, not being a person who has been excused under this Act from attendance, has failed to attend in accordance with the summons or appointment; or
- (b) a person who has so attended has, before being discharged or excused by the Judge or the Sheriff and without the permission of the Sheriff, withdrawn himself or herself from the presence of the Court;

the Judge may, on the facts being reported to him or her by the Sheriff in open Court, impose forthwith and without service of process on the person a fine not exceeding 5 penalty units.

**Enforcement of fines**

**42. (1)** Where a fine has been imposed on a juror, the Registrar shall give notice in writing to the juror of the fact that the fine has been imposed.

**(2)** A notice in writing under subsection (1) may be served in the manner in which a jury summons may be served.

**(3)** Within 21 days after the notice is served, the juror may apply to the Judge in writing, supported by an affidavit or statutory declaration, for the remission or mitigation of the fine on 1 of the following grounds, namely:

- (a) that the juror was, by reason of illness or other sufficient cause, unable to attend or to continue to attend to serve as a juror;
- (b) in a case where the jury summons was not personally served on the juror, that the juror did not know that he or she had been summoned.

**(4)** The Judge may confirm, remit or mitigate the fine and the Registrar shall give notice in writing to the juror of the decision of the Judge.

**(5)** A notice in writing under the last preceding subsection may be served in the manner in which a jury summons may be served.

**(6)** Where application is not made under subsection (3) of this section or application is so made but the Judge confirms or mitigates the fine, and the fine or the fine as mitigated remains unpaid for a period of 21 days after the notice referred to in subsection (5) is served, the Registrar may deliver to the Sheriff a writ of execution in accordance with Form 3 in the Second Schedule.

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(7) The Sheriff shall execute the writ of execution according to its tenor in the manner in which a writ of execution issued out of the Court is executed.

(8) In this section—

“juror” means a person upon whom a fine is imposed under the last preceding section.

**Personation of jurors**

43. A person shall not personate, or attempt to personate, a person whose name is on a panel of jurors for the purpose of sitting as that person on a jury.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

**Corruptly influencing a juror**

44. A person who corrupts a juror, or influences a juror except by evidence or argument given in Court, or a juror who is corrupted or is so influenced, is guilty of an indictable offence punishable upon conviction by a fine not exceeding 500 penalty units, or by imprisonment for a term not exceeding 5 years, or by both.

**Unlawful dismissal etc. of employees for jury service**

44AA. (1) An employer shall not dismiss or injure an employee, or alter an employee’s position to the prejudice of the employee, because the employee is summoned to serve as a juror.

Penalty—

(a) in the case of a natural person—50 penalty units or imprisonment for 6 months, or both;

(b) in the case of a body corporate—250 penalty units.

(2) If all the elements of the offence other than the reason for the employer’s action are proved, the onus of proving that the dismissal, injury or alteration was not because the employee was summoned to serve as a juror is on the employer.

(3) Where an employer is convicted under subsection (1), the court may make either or both of the following orders:



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- (a) an order that the employer pay to the employee a specified sum by way of reimbursement for the salary or wages lost by the employee;
- (b) an order that the employee be reinstated in his or her former position or in a similar position.

(4) An order under paragraph (3) (a) is enforceable as if it were a judgment given or entered on a claim under the *Magistrates Court (Civil Jurisdiction) Act 1982*.

(5) An employer shall comply with an order under paragraph (3) (b).

Penalty—

- (a) in the case of a natural person—50 penalty units or imprisonment for 6 months, or both;
- (b) in the case of a body corporate—250 penalty units.

(6) Where an employer fails to comply with an order under paragraph (3) (b), the amount of salary or wages that would, but for the failure, have been payable to an employee in respect of the period of the failure is recoverable as a debt due to the employee by the employer.

## **PART X—MISCELLANEOUS**

### **Oath by jurors**

45. Before serving as a juror, a person shall in open Court make an oath in accordance with the Supreme Court Rules.

### **Oath by person in charge of jury**

46. The person in charge of a jury shall make an oath in accordance with the Supreme Court Rules.

### **View during trial**

47. (1) At a criminal trial or a civil trial, the Judge may, at any time before a jury gives its verdict, order a view of any place or property by the jury and may make all such orders upon the Sheriff or other persons, and give such directions, as the Judge thinks necessary, for the purposes of the view.

(2) Upon a view being ordered, the person in charge of the jury and each person appointed by the Judge to conduct the view shall make an oath in accordance with the Supreme Court Rules.

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(3) The expenses of a view at a civil trial are payable to such extent and by such person, in the first instance, as the Judge orders.

**Affirmations**

48. (1) A person may, instead of making an oath in accordance with the Supreme Court Rules as required by this Act, make an affirmation in accordance with those Rules.

(2) A person so making an affirmation shall, for the purposes of this Act, be deemed to have been sworn.

**Food and refreshment for jury**

49. The Court may, at any time after a jury has been sworn and whether or not it has retired to consider its verdict, order the jury to be supplied with such refreshments as the Court thinks fit, and the Sheriff shall cause the refreshments to be provided accordingly.

**Separation of jury at criminal trials**

50. At a criminal trial, the Court may, subject to such conditions as the Court thinks fit, at any time before the jury retires to consider its verdict, permit the jury to separate.

**Payment of jurors**

51. A person who attends on the Court, either upon being summoned or appointed to attend to serve as a juror, is, for each day on which the person so attends, whether he or she serves as a juror or not, entitled to receive payment for his or her attendance in accordance with the prescribed scale.

**Payment of juror's expenses**

51A. (1) Where—

- (a) a person incurs expense during his or her service as a juror, being expense which he or she would not have incurred but for that service; and
- (b) that expense was incurred in circumstances arising after the person was sworn as a juror, being circumstances that would have constituted a sufficient cause for the person to be excused attendance on the Court under this Act if they had arisen before he or she was so sworn;

*Juries Act 1967*

the person may apply to the Sheriff for payment to the person of an amount equal to the amount of that expense.

(2) Where an application is made to the Sheriff under subsection (1), the Sheriff shall consider the application and may grant payment to the applicant of the whole of the amount of the expense incurred by the applicant or such lesser amount as the Sheriff considers reasonable.

(3) A person who is aggrieved by a decision of the Sheriff under subsection (2) may apply in writing to a Magistrate for a review of the decision.

**Regulations**

**52.** The Executive may make regulations, not inconsistent with this Act, prescribing the scale of payments for the purposes of section 51.

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**THE SCHEDULES**

**FIRST SCHEDULE**

Section 5

**ORDINANCES REPEALED**

*Juries Ordinance 1932*  
*Juries Ordinance (No. 2) 1932*  
*Juries Ordinance 1933*  
*Juries Ordinance (No. 2) 1933*  
*Juries Ordinance 1936*  
*Juries Ordinance 1941*  
*Juries Ordinance 1951*

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**SECOND SCHEDULE**

**FORM 1**

Section 23

**AUSTRALIAN CAPITAL TERRITORY**

*Juries Act 1967*

**JURY PRECEPT**

To the Sheriff.

In pursuance of the *Juries Act 1967*, I require you to summon to attend the Supreme Court of the Australian Capital Territory at 10 a.m. (*or as the case may be*) on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, persons whose names appear on the jury list to make, on that date and until discharged or excused by the Court or by you, a jury for all such matters as shall be required of them.

Given under my hand at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Judge.

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*Juries Act 1967*

**SECOND SCHEDULE**—continued

FORM 2

Section 24

**AUSTRALIAN CAPITAL TERRITORY**

*Juries Act 1967*

**JURY SUMMONS**

**IN THE SUPREME COURT OF THE AUSTRALIAN  
CAPITAL TERRITORY**

To—

.....  
.....

You are hereby required to attend the Supreme Court of the Australian Capital Territory at Knowles Place, Canberra City, at 10 a.m. (*or as the case may be*) on the day of 19 , to serve as a juror and you are there to attend from day to day until you are discharged or excused by the Court or the Sheriff.

Dated this day of , 19 .

Sheriff.

FORM 3

Section 42

**AUSTRALIAN CAPITAL TERRITORY**

*Juries Act 1967*

**WRIT OF EXECUTION AGAINST JUROR**

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom, Australia and Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith:

To our Sheriff of the Australian Capital Territory.

WE command you that of the goods and chattels, moneys and securities for money of and belonging to of (excepting the wearing apparel, bedding, tools and implements of trade of the to the value of \$500 in the whole) you cause to be made a levy of the sum of being the amount of a fine payable by the for an offence against the abovementioned Act committed on the day of , 19 , and that you do all such things as you are authorised and required to do in this behalf that you have the money before us in our Supreme Court of the Australian Capital Territory immediately after the execution thereof to satisfy us for the fine and that you have there then this writ.

Witness , Judge of the Supreme Court of the Australian Capital Territory, at this day of , 19 .

Registrar of the Supreme Court.

Levy dollars besides the Sheriff's Fee and other fees and expenses.

*Juries Ordinance 1967*

**NOTES**

1. The *Juries Act 1967* as shown in this reprint comprises Act No. 47, 1967 amended as indicated in the Tables below.

The Australian Capital Territory received Self-Government on 11 May 1989.

For details regarding the application of the *Juries Act 1967* from 11 May 1989 to 1 July 1992 see the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth (No. 106, 1988) and the *A.C.T. Self-Government (Consequential Provisions) Act 1988* of the Commonwealth (No. 109, 1988), in particular sections 3, 34 and Schedules 3 and 5 and section 12 respectively. The *Self-Government (Citation of Laws) Act 1989* (No. 21, 1989) and the *Reserved Laws (Interpretation) Ordinance 1989* (No. 25, 1989) effect the citation change of Ordinance to Act and affect references to Commonwealth legislation.

2. The *Legislation (Republication) Act 1996* (No. 51, 1996) authorises the Parliamentary Counsel in preparing a law for republication, to make certain editorial and other formal amendments in accordance with current legislative drafting practice. Those amendments make no change in the law. Amendments made pursuant to that Act do not appear in the Table of Amendments but details may be obtained on request from the Parliamentary Counsel's Office.

**Table of Laws**

Law	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Juries Ordinance 1967</i>	47, 1967	20 Dec 1967	1 Jan 1968	
<i>Ordinances Revision Ordinance 1977</i>	65, 1977	22 Dec 1977	22 Dec 1977	—
<i>Ordinances Revision Ordinance 1978</i>	46, 1978	28 Dec 1978	28 Dec 1978	—
<i>Juries (Amendment) Ordinance 1979</i>	39, 1979	18 Dec 1979	1 Feb 1980 (see <i>Gazette</i> 1980, No. G2, p. 3)	—
<i>Juries (Amendment) Ordinance 1981</i>	37, 1981	30 Oct 1981	1 Dec 1981 (see <i>Gazette</i> 1981, No. G48, p. 6)	—
<i>Juries (Amendment) Ordinance 1983</i>	6, 1983	14 Apr 1983	14 Apr 1983	—
<i>Juries (Amendment) Ordinance (No. 2) 1983</i>	60, 1983	30 Dec 1983	30 Dec 1983	—
<i>Juries (Amendment) Ordinance 1984</i>	8, 1984	11 Apr 1984	11 Apr 1984	—
<i>Magistrates Court Ordinance 1985</i>	67, 1985	19 Dec 1985	1 Feb 1986 (see <i>Gazette</i> 1986, No. G3, p. 265)	—
<i>Juries (Amendment) Ordinance 1989</i>	61, 1989	20 Dec 1989	20 Dec 1989	—
<i>Supreme Court (Amendment) Act (No. 2) 1993</i>	91, 1993	17 Dec 1993	17 Dec 1993	—

*Juries Act 1967*

**NOTES—continued**

**Table of Laws—continued**

Law	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Electoral (Amendment) (Consequential Provisions) Act 1994</i>	15, 1994	17 May 1994	Part I (ss. 1-3), s. 7 and Part III (ss. 9 and 10): 17 May 1994 (see s. 2 (1)) Ss. 4-6 and Parts IV and V (ss. 11-15): 25 Aug 1994 (see s. 2 (2) and (3) and <i>Gazette</i> 1994, No. S172) S. 8: 17 May 1994 (see s. 2 (4))	
<i>Public Sector Management (Consequential and Transitional Provisions) Act 1994</i>	38, 1994	30 June 1994	Ss. 1 and 2: 30 June 1994 Remainder: 1 July 1994 (see <i>Gazette</i> 1994, No. S142, p. 2)	Ss. 3, 5-12, 15 and 19
<i>Statute Law Revision (Penalties) Act 1994</i>	81, 1994	29 Nov 1994	Ss. 1 and 2: 29 Nov 1994 Remainder: 29 Nov 1994 (see <i>Gazette</i> 1994, No. S269, p. 2)	—
<b>(Reprinted as at 28 February 1995)</b>				
<i>Statute Law Revision Act 1995</i>	46, 1995	18 Dec 1995	18 Dec 1995	—

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision	How affected
S. 2 .....	rep. No. 46, 1978
S. 4 .....	rep. No. 65, 1977
S. 6 .....	am. No. 67, 1985; No. 61, 1989; Act No. 91, 1993; No. 15, 1994
S. 8 .....	am. No. 61, 1989
S. 11 .....	am. No. 39, 1979; No. 61, 1989; Act No. 38, 1994
S. 12 .....	rep. No. 39, 1979
S. 14 .....	rs. No. 39, 1979
S. 18A .....	ad. No. 8, 1984
S. 19 .....	am. No. 8, 1984; Act No. 15, 1994
S. 21 .....	rs. Act No. 91, 1993
S. 24 .....	am. No. 60, 1983

*Juries Act 1967*

**NOTES—continued**

**Table of Amendments—continued**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision	How affected
S. 27 .....	am. No. 60, 1983
S. 34 .....	am. No. 61, 1989
S. 36A .....	ad. No. 37, 1981
S. 41 .....	am. No. 61, 1989; Act No. 81, 1994
S. 43 .....	am. No. 61, 1989; Act No. 81, 1994
S. 44 .....	am. Act No. 81, 1994
S. 44AA .....	ad. No. 61, 1989; Act No. 81, 1994
S. 44A .....	ad. No. 37, 1981 rep. No. 51, 1996
Ss. 45-48 .....	am. No. 37, 1981
S. 50 .....	am. No. 61, 1989
S. 51A .....	ad. No. 6, 1983
S. 52 .....	am. No. 6, 1983; Act No. 46, 1995
Third Schedule .....	rep. No. 37, 1981

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