



Australian Capital Territory

## **Juries Act 1967**

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This is a republication of the *Juries Act 1967* effective from 21 December 2000 to 11 September 2001.

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Australian Capital Territory

# Juries Act 1967

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Australian Capital Territory

# Juries Act 1967

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An Act relating to juries

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## Part 1 Preliminary

### 1 Short title

This Act may be cited as the *Juries Act 1967*.

### 6 Interpretation

(1) In this Act:

*ballot box* means a box approved by a judge for use in the random selection of a jury.

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

*court* means the Supreme Court.

*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 section 27 (3) or 31 (3).

*jury list* means the list prepared from time to time under section 19 (1).

*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 section 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.

***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 court to be the proper officer for the exercise of the power or the performance of the duty.

***registrar*** means the registrar of the Supreme Court.

***roll of electors for the Territory*** means a copy of the roll of the electors of the Territory given to the sheriff under the *Electoral Act 1992*, section 65 (3).

***sheriff*** means the sheriff of the Territory.

***verdict*** includes a finding.

*Note* A definition applies except so far as the contrary intention appears (see *Interpretation Act 1967*, s 11G).

- (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 2                      Number of jurors

### 7            Number of jurors

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

### 8            Reduced number of jurors

- (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 3 Liability for jury service

### 9 Liability to serve as jurors

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.

### 10 Persons not qualified to serve as jurors

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 imprisonment for 1 year or longer and has not been granted a free pardon in respect of the offence; or
- (b) is an undischarged bankrupt; or
- (c) is unable to read and speak the English language; or
- (d) is blind, deaf or dumb; or
- (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.

### 11 Exempt persons

Each person included in the following classes of persons is exempt from serving as a juror:

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

- (iv) under the *Air Navigation Regulations 1947* (Cwlth);
- (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 legal practitioners 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 Act 1931*;
- (k) practising veterinary surgeons who are registered under the *Veterinary Surgeons Act 1965*;
- (l) professors, lecturers, schoolmasters, schoolmistresses and schoolteachers 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 fire brigade;
- (q) persons who live in the Jervis Bay Territory;
- (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;
- (sa) members of the Legislative Assembly and members of their staff who are advisers or private secretaries;

- (t) persons holding, or performing the duties of, an office of chief executive in the public service;
- (u) public servants in the staff of—
  - (i) the Supreme Court; or
  - (ii) the Magistrates Court;
- (v) public servants in the staff of—
  - (i) the Department of Justice and Community Safety; or
  - (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;
- (y) public servants performing the duties of social workers responsible to the chief executive responsible for administering the *Children and Young People Act 1999*, chapter 2 (General objects, principles and parental responsibility);
- (ya) a public servant holding a delegation under the *Children and Young People Act 1999*, section 34 whose principal duty is to direct and control the provision of youth justice services in the Territory;
- (z) persons appointed to an office of chief fire control officer or deputy fire control officer in the public service;

- (za) persons holding, or performing the duties of, an office of community corrections officer in the public service;
- (zb) persons holding an appointment under the *Remand Centres Act 1976*, section 6 or 6A;
- (zc) persons who are authorised officers within the meaning of the *Supervision of Offenders (Community Service Orders) Act 1985*;
- (zd) persons holding appointments as—
  - (i) a royal commission under the *Royal Commissions Act 1991*, section 5;
  - (ii) a board of inquiry under the *Inquiries Act 1991*, section 5; or
  - (iii) a member of a judicial commission under the *Judicial Commissions Act 1994*, section 6;
- (ze) public servants during the period they are made available to a royal commission, a board of inquiry or a judicial commission;
- (zf) the public servant holding, or performing the duties of, the office of director of corrective services;
- (zg) the public servants holding, or performing the duties of, an office of manager of a detention centre under the *Periodic Detention Act 1995*;
- (zh) the public servants holding, or performing the duties of, an office of superintendent under the *Remand Centres Act 1976*;
- (zi) the public servants holding, or performing the duties of, an office of custodial officer under the *Remand Centres Act 1976* or the *Periodic Detention Act 1995*;
- (zj) persons employed at a place declared to be an attendance centre, an institution or a shelter under the *Children and Young People Act 1999*, section 412.

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

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.

**14 Excusing of jurors**

If a 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; or
- (b) of pregnancy; or
- (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.

**15 Partners or coworkers as jurors**

If a 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.

**16 Discharge because of comprehension difficulty or disability**

If a 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.

**17 Excusing person where liability in doubt**

If, in the opinion of a 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.

**18 Impeachment of verdict of jury**

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.

**18A Relief from jury service**

- (1) A person who has, during the currency of a jury list, been summoned or appointed to attend to serve as a juror is excused from serving as a juror until a jury list is next prepared in accordance with section 19.
- (2) Despite subsection (1), if at the conclusion of a civil trial or a criminal trial, the judge is of the opinion that the trial was of sufficient length to justify so doing, the judge may order that each of the jurors for that trial shall be excused from serving as a juror for a specified further period.
- (3) Subject to subsection (4), where a person has been excused from serving as a juror under subsection (1) or (2), the sheriff shall take such steps as are necessary to ensure that the person is not



summoned or appointed to attend to serve as a juror before the expiration of the period for which the person is excused.

- (4) Where a person who has been excused from serving as a juror under subsection (1) or (2) notifies the sheriff in writing that he or she wishes to be included on the jury list, the person ceases to be excused from serving as a juror and the sheriff shall include the person on the jury list.

## Part 4 Jury list

### 19 Jury list

- (1) The sheriff shall, at the prescribed times and at such other times as the sheriff considers necessary, prepare a list of the names of persons liable to serve as jurors.
- (2) In preparing the jury list under subsection (1), the sheriff shall remove from the roll of electors for the Territory 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 or excused from so serving.
- (3) The jury list may be kept electronically.
- (4) For the purposes of subsection (1), the following times are prescribed:
  - (a) as soon as practicable after the commencement of this section;
  - (b) once in each 2 year period thereafter.

## Part 5                      **Jury precepts and summonses**

### **21     Meaning of *sheriff* in pt 5**

In this part:

*sheriff* includes any person performing the functions of the sheriff in accordance with the *Supreme Court Act 1933*, section 52.

### **22     Jury precepts**

From time to time and as often as necessary, a 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.

### **23     Terms of precept**

A jury precept shall be in accordance with schedule 1, form 1 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.

### **24     Choosing jurors**

- (1) Where a jury precept is delivered to the sheriff, the sheriff shall choose from the names on the jury list 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; 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, in substitution for the name previously chosen, the name of another person whose name appears on the jury list.

- (2A) The choosing of names of persons under subsection (1) or (2) shall be by lot or by use of a computer programmed to make a random selection.
- (3) The sheriff shall prepare, and furnish a police officer with a copy of, a list of the names chosen under subsection (1) or (2), as the case requires.
- (4) A police officer 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 officer 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 remove the person's name from the jury list.
- (7) Where it appears to the sheriff, after considering a report made under subsection (4)—
- (a) that a person whose name is included on the list referred to in subsection (3) is not a disqualified person but has been convicted of an offence punishable on summary conviction; and
  - (b) that, having regard to the nature and number of the offences committed by the person, when they were committed and any penalties imposed in respect of them, the person would be unable to adequately perform the functions of a juror;

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the sheriff shall remove the name of the person from that list and shall, by notice in writing sent by post addressed to the person at his or her last known place of residence, advise the person that his or her name has been removed and that he or she may object to the removal by written application to a judge.

- (8) Where a person makes an application referred to in a notice under subsection (7), the judge shall fix a date and time for the hearing of the application and shall cause the applicant and the sheriff to be notified accordingly.
- (9) Where the judge decides that an applicant's name should not have been removed from the list referred to in subsection (3), the sheriff shall put the applicant's name back on the list.
- (10) The sheriff shall cause to be served on 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) or (7), removed from the list referred to in subsection (3), a summons in accordance with schedule 1, form 2 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, or is exempt or excused from so serving, the person inform the sheriff to that effect; and
  - (c) a statement that—
    - (i) if the person believes he or she is not qualified to serve as a juror on such a ground, or is exempt or excused from so serving, and informs the sheriff accordingly; and
    - (ii) the sheriff refuses to withdraw the summons;the person may apply in writing to a judge for a review of the decision.
- (11) An action or proceeding, civil or criminal, does not lie against a police officer personally for or in respect of any act done by the officer in good faith in connection with the making of a report under subsection (4).

**26 Service of jury summonses**

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.

**26A Application for withdrawal of summons**

- (1) Where a person has been served with a jury summons and has informed the sheriff that the person believes he or she is not qualified to serve as a juror or is exempt or excused from jury service, the sheriff shall—
  - (a) if the sheriff believes that the person is not qualified to serve as a juror or is exempt or excused from jury service—withdraw the summons; or
  - (b) refuse to withdraw the summons.
- (2) Where the sheriff has refused to withdraw a summons under subsection (1) (b), the person summoned may apply in writing to a judge for a review of the decision.
- (3) The judge shall fix a date and time for the hearing of the application and shall cause the applicant and the sheriff to be notified accordingly.
- (4) The sheriff shall revise the jury list so that it accords with the decision of the judge.

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

- (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 section 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
  - (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.

## **28 Sheriff's return to precept**

- (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; and
  - (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.

**29 Inspection of jury panels**

- (1) Except by leave of the court, 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) The legal practitioner representing the prosecution, the accused or his or her legal practitioner 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 legal practitioner may, on the day fixed for the trial, inspect or obtain from the sheriff a copy of the panel of jurors for the trial.

**30 Informalities etc not to invalidate verdict**

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 6 Striking and impanelling jury

### 31 Striking a jury at a criminal trial

- (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.

**31A Expanded juries in some criminal trials**

- (1) Where a judge considers it appropriate, he or she may direct that a specified number of jurors, greater than 12 and less than 17, be empanelled for a criminal trial.
- (2) Where a judge gives a direction under subsection (1), this Act (other than this section) applies in relation to the trial as if references to 12 jurors or persons were references to as many jurors or persons as are equal to the number of jurors directed to be empanelled.
- (3) Where a judge gives a direction under subsection (1), section 34 applies in relation to the trial as if references in section 34 (1) (b) and (2) (b) to 8 peremptory challenges were—
  - (a) where the judge directs that 13 or 14 jurors be empanelled—references to 9 peremptory challenges; or
  - (b) where the judge directs that 15 jurors be empanelled—references to 10 peremptory challenges; or
  - (c) where the judge directs that 16 jurors be empanelled—references to 11 peremptory challenges.
- (4) Where, immediately before a jury is to retire to consider its verdict, the jury consists of more than 12 jurors, the proper officer shall select the jurors to be discharged by drawing the jury cards out of a ballot box 1 at a time until 12 jurors remain unselected.
- (5) Where a juror is selected under subsection (4)—
  - (a) the judge may, if he or she thinks fit, make an order under section 18A (2) in relation to the juror as if the trial had concluded; and
  - (b) the juror is discharged from jury service.

**32 Striking a jury at a civil trial**

- (1) For the purposes of this section, where, at a civil trial, there are several plaintiffs who are represented by the same legal practitioner or several defendants who are represented by the same legal practitioner, 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 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 legal practitioner or there are several defendants not all of whom are represented by the same legal practitioner, subsection (2) applies as if the words ‘so many persons as a 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) the legal practitioner representing the plaintiff or, where there are several plaintiffs not all of whom are represented by the same legal practitioner, to the legal practitioners for the different plaintiffs or, if a plaintiff is not represented by a legal practitioner, to that plaintiff; and
  - (b) the legal practitioner representing the defendant or, where there are several defendants not all of whom are represented by the same legal practitioner, to the legal practitioners for the different defendants or, if a defendant is not represented by a legal practitioner, to that defendant.
- (5) Each legal practitioner 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 a legal practitioner, 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.

**Part 6**

Striking and impanelling jury

Section 32

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- (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.

## Part 7                      Challenge

### 33     **Standing persons by**

- (1) At a criminal trial, the court may, at the request of the legal practitioner representing the prosecution, 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.

### 34     **Challenges at criminal trials**

- (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 legal practitioner is entitled—
  - (b) to 8 peremptory challenges; and
  - (c) to any number of challenges for cause.

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

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

### 36     **Challenge at civil trial**

Subject to section 32, a party in a civil trial or his or her legal practitioner is not entitled to challenge a person called except for cause.

**36A Trial of challenge for cause**

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

**37 Informality in summoning jurors**

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 8 Disagreement of jury

### 38 Disagreement at criminal trials

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.

### 39 Disagreement at civil trials

(1) Where, at a civil trial—

- (a) a period of 6 hours has elapsed since the jury retired; and
- (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.

**40 Adjourment of trial on discharge of jury for disagreement**

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 9                      Offences

### 41      Nonattendance

- (1) A person who has been served with a jury summons shall not, without a valid and sufficient reason, fail to attend in accordance with the summons.

Maximum penalty: 5 penalty units.

- (2) Subsection (1) does not apply to a person—
- (a) who has subsequently been excused from jury service; or
  - (b) in relation to whom the jury summons has been withdrawn.

### 42      Leaving without permission

A person—

- (a) who attends in accordance with a jury summons; or
- (b) who has been appointed to attend to serve as a juror; or
- (c) who is a juror;

shall not leave the court premises before being discharged or excused by a judge or the sheriff unless permitted to do so by the sheriff.

Maximum penalty: 5 penalty units.

### 42A    Failing to comply with conditions

- (1) A person—
- (a) who attends in accordance with a jury summons; or
  - (b) who has been appointed to attend to serve as a juror; or
  - (c) who is a juror;

shall not, without reasonable excuse, fail to comply with the conditions (if any) imposed by a judge or the sheriff on the person

before being excused by the judge or sheriff or permitted to leave the court premises by the sheriff.

Maximum penalty: 5 penalty units.

- (2) The conditions that may be imposed by a judge or the sheriff include but are not limited to—
  - (a) a condition that the person return to the court premises by a particular time; and
  - (b) a condition that the person is or is not to remain with another person.
- (3) Subject to a condition of the kind described in subsection (2) (b), a jury may separate at any time before or after it retires to consider its verdict.

#### **42B Disposal by judge**

- (1) Where a judge considers that a person may have contravened section 41, 42 or 42A, the judge may issue a warrant in accordance with schedule 1, form 3 requiring the sheriff to apprehend the person and bring him or her before the court.
- (2) Where a person is brought before the court in accordance with a warrant issued under subsection (1), a judge may, if satisfied that the person committed the offence, without service of process impose on the person a fine not exceeding 5 penalty units.
- (3) If a person has been dealt with under subsection (2) in respect of an offence, proceedings do not lie against him or her in respect of that offence.

#### **42C Confidentiality of jury deliberations and identities**

- (1) This section applies in relation to juries in criminal, civil or coronial proceedings in a court of the Territory, the Commonwealth, a State or another Territory whether instituted before or after the commencement of this section.
- (2) A person must not disclose protected information if the person is aware that, in consequence of the disclosure, the information will, or is likely to, be published.

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

- (3) A person must not solicit or obtain protected information with the intention of publishing or facilitating the publication of that information.

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

- (4) A person must not publish protected information.

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

- (5) Subsection (2) does not prohibit disclosing protected information—

- (a) to a court; or
- (b) to a royal commission or a board of inquiry; or
- (c) to the director of public prosecutions, a member of the staff of the director's office 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; or
- (d) as part of a fair and accurate report of an investigation referred to in paragraph (c); or
- (e) to a person in accordance with an authorisation granted by the Attorney-General to conduct research into matters relating to juries or jury service; or
- (f) to a legal practitioner to obtain legal advice in relation to a disclosure mentioned in paragraph (a), (b), (c), (d) or (e).

- (6) Subsection (3) does not prohibit soliciting or obtaining protected information—

- (a) in the course of proceedings in a court; or
- (b) by a royal commission or a board of inquiry; or
- (c) by the director of public prosecutions, a member of the staff of the director's office 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; or

- (d) by a person in accordance with an authorisation granted by the Attorney-General to conduct research into matters relating to juries or jury service; or
  - (e) by a legal practitioner from his or her client for the purpose of giving legal advice to the client in relation to a disclosure mentioned in paragraph (a), (b), (c) or (d).
- (7) Subsection (4) does not prohibit publishing protected information—
- (a) in accordance with an authorisation granted by the Attorney-General to conduct research into matters relating to juries or jury service; or
  - (b) as part of a fair and accurate report of—
    - (i) proceedings in respect of an alleged contempt of court, an alleged offence against this section or an alleged offence otherwise relating to jury deliberations or a juror's identity; or
    - (ii) proceedings by way of appeal from proceedings referred to in subparagraph (i); or
    - (iii) if the protected information relates to jury deliberations—proceedings by way of appeal from the proceedings 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
    - (iv) a statement made or information provided by the director of public prosecutions about a decision, or the reason for a decision, not to institute or conduct a prosecution or proceedings for an alleged contempt of court or alleged offence relating to jury deliberations or a juror's identity.
- (8) This section does not prohibit a person—
- (a) during the course of proceedings, publishing or otherwise disclosing, 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 proceedings; or

- (b) after proceedings have been completed, publishing or otherwise disclosing—
  - (i) information that identifies, or is likely to identify, the person as having been a juror in the proceedings; or
  - (ii) information that identifies, or is likely to identify, another person as, or as having been, a juror in the proceedings if the other person has consented to the publication or disclosure of that information.

(9) This section does not apply in relation to information about a prosecution for an alleged offence against this section if, before the prosecution was instituted, that information had been published generally to the public.

(10) A prosecution for an alleged offence against this section is not to be instituted except with the written consent of the director of public prosecutions or a person authorised by the director for that purpose.

(11) In this section:

***protected information*** means—

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

***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.

### **43 Personation of jurors**

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.

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

### **44 Corruptly influencing a juror**

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, commits an indictable offence.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

### **44AA Unlawful dismissal etc of employees for jury service**

- (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.

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

- (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:

- (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 subsection (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 subsection (3) (b).  
Maximum penalty: 50 penalty units, imprisonment for 6 months or both.
- (6) Where an employer fails to comply with an order under subsection (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.

#### **44AB Conduct of directors, servants and agents**

- (1) Where, for the purposes of a prosecution for an alleged offence against this Act, it is necessary to establish the state of mind of a body corporate or a natural person in relation to particular conduct, it is sufficient to show—
- (a) that a director, servant or agent of the body, or a servant or agent of the person, had that state of mind; and
  - (b) that the conduct was engaged in by that director, servant or agent within the scope of his or her actual or apparent authority.
- (2) A reference in subsection (1) to the state of mind of a body or person is to be read as including a reference to—
- (a) the knowledge, intention, opinion, belief or purpose of the body or person; and
  - (b) the body's or person's reasons for the intention, opinion, belief or purpose.
- (3) Any conduct engaged in on behalf of a body corporate or a natural person by a director, servant or agent of the body, or a servant or agent of the person, within the scope of his or her actual or apparent authority is to be taken, for the purposes of a prosecution for an alleged offence against this Act, to have been engaged in also by the body or person unless the body or person establishes that reasonable

**Part 9**                      Offences

Section 44AB

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precautions were taken and due diligence was exercised to avoid the conduct.

(4) Where—

- (a) a natural person is convicted of an offence against this Act; and
- (b) the person would not have been convicted of the offence if subsections (1) and (3) had not been enacted;

the person is not liable to be punished by imprisonment for that offence.

- (5) A reference in this section to a director of a body corporate is to be read as including a reference to a member of a body corporate incorporated for a public purpose by a law of the Territory, the Commonwealth, a State or another Territory.
- (6) A reference in this section to engaging in conduct is to be read as including a reference to failing or refusing to engage in conduct.



## Part 10                      Miscellaneous

### 45      Oath by jurors

Before serving as a juror, a person shall in open court make an oath or affirmation in accordance with the form specified in schedule 2, part 1.

### 46      Oath by person in charge of jury

The person in charge of a jury shall make an oath or affirmation in accordance with the form specified in schedule 2, part 2.

### 46A    Information for jurors

After a jury has been sworn, the judge shall ensure that the jury is informed generally as to the duty of each member in relation to the confidentiality of jury deliberations and identities.

### 47      View during trial

- (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) Where a view is ordered—
  - (a) the person in charge of the jury shall make an oath or affirmation in accordance with the form specified in schedule 2, part 3; and
  - (b) each person appointed by the judge to conduct the view shall make an oath or affirmation in accordance with the form specified in schedule 2, part 4.
- (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.

**49 Food and refreshment for jury**

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.

**51 Payment of jurors**

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.

**51A Payment of juror's expenses**

- (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;

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 judge for a review of the decision.

**52 Regulation-making power**

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

**Schedule 1**

**Form 1**                      Jury precept

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## **Schedule 1**

### **Form 1                      Jury precept**

(see s 23)

AUSTRALIAN CAPITAL TERRITORY

*Juries Act 1967*

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 am (*or as the case may be*) on the                      day of                      20                      , 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                      , 20                      .

Judge

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**Schedule 1**

**Form 3**                      Warrant

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**Form 3**    **Warrant**

(see s 42B (1))

Authority and directions

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To the Sheriff of the Territory

You must apprehend the person named in this warrant and bring that person before the Court to be dealt with according to the law.

Personal details of person to be apprehended

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Name:

Address:

Reason for apprehension of person

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The person—

- was served with a jury summons on [day/month/year] and failed to attend in accordance with the summons.
- attended in accordance with a jury summons but left the court premises before being discharged or excused by a judge or the sheriff without the permission of the sheriff.
- was appointed to attend to serve as a juror but left the court premises before being discharged or excused by a judge or the sheriff without the permission of the sheriff.
- is a juror who left the court premises before being discharged or excused by a judge or the sheriff without the permission of the sheriff.

This warrant is issued by the Supreme Court for the purposes of the *Juries Act 1967*.

Signed at Canberra on the                      day of    , 20   .

Judge of the Supreme Court

## Schedule 2

### Part 1

(see s 45)

#### **Juror's oath**

I swear by Almighty God that I shall give a true verdict according to the evidence.

#### **Juror's affirmation**

I solemnly and sincerely declare and affirm that I shall give a true verdict according to the evidence.

### Part 2

(see s 46)

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

I swear by Almighty God that I shall keep this jury in my charge, that I shall not allow anyone to speak to any juror and that I shall not speak to any juror myself concerning the issues before the court.

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

I solemnly and sincerely declare and affirm that I shall keep this jury in my charge, that I shall not allow anyone to speak to any juror and that I shall not speak to any juror myself concerning the issues before the court.

### Part 3

(see s 47 (2) (a))

#### **Oath by person in charge of jurors on a view**

I swear by Almighty God that I shall faithfully attend this jury to the place (or property) that the jury has been ordered by the judge to view, that I shall not allow anyone to speak to any juror concerning the issues before the court, other than the persons appointed and sworn to show that place (or

## **Schedule 2**

### **Part 4**

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property) to this jury, and that I shall not speak to any juror myself concerning the issues before the court.

#### **Affirmation by person in charge of jurors on a view**

I solemnly and sincerely declare and affirm that I shall faithfully attend this jury to the place (or property) that the jury has been ordered by the judge to view, that I shall not allow anyone to speak to any juror concerning the issues before the court, other than the persons appointed and sworn to show that place (or property) to this jury, and that I shall not speak to any juror myself concerning the issues before the court.

### **Part 4**

(see s 47 (2) (b))

#### **Oath by person appointed to conduct a view**

I swear by Almighty God that I shall attend this jury and faithfully show this jury the place (or property) that this jury has been ordered by the judge to view and that I shall not speak to any juror concerning the issues before the court otherwise than to describe that place (or property).

#### **Affirmation by person appointed to conduct a view**

I solemnly and sincerely declare and affirm that I shall attend this jury and faithfully show this jury the place (or property) that this jury has been ordered by the judge to view and that I shall not speak to any juror concerning the issues before the court otherwise than to describe that place (or property).



## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation (Republication) Act 1996*, section 13 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnotes.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

### 2 Abbreviation key

am = amended	p = page
amdt = amendment	par = paragraph
ch = chapter	pres = present
cl = clause	prev = previous
def = definition	(prev...) = previously
dict = dictionary	prov = provision
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = Gazette	reg = regulation/subregulation
hdg = heading	renum = renumbered
ins = inserted/added	reloc = relocated
lap = lapsed	R[X] = Republication No
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified	sch = schedule
No = number	sdiv = subdivision
notfd = notified	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	sp = spent
orig = original	<u>underlining</u> = whole or part not commenced

## Endnotes

3 Legislation history

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### 3 Legislation history

The *Juries Act 1967* was originally the *Juries Ordinance 1967*. It became an ACT Act on 1 July 1992 (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) s 34 sch 2) but its previous history is included in this republication.

#### Legislation before becoming Territory enactment

Legislation	Year and number	Gazette notification	Commencement
Juries Ordinance 1967	1967 No 47	20 Dec 1967	1 Jan 1968
Ordinances Revision Ordinance 1977	1977 No 65	22 Dec 1977	22 Dec 1977
Ordinances Revision Ordinance 1978	1978 No 46	28 Dec 1978	28 Dec 1978
Juries (Amendment) Ordinance 1979	1979 No 39	18 Dec 1979	1 Feb 1980 (see Gaz 1980 No G2 p 3)
Juries (Amendment) Ordinance 1981	1981 No 37	30 Oct 1981	1 Dec 1981 (see Gaz 1981 No G48 p 6)
Juries (Amendment) Ordinance 1983	1983 No 6	14 Apr 1983	14 Apr 1983
Juries (Amendment) Ordinance (No 2) 1983	1983 No 60	30 Dec 1983	30 Dec 1983
Juries (Amendment) Ordinance 1984	1984 No 8	11 Apr 1984	11 Apr 1984
Magistrates Court Ordinance 1985	1985 No 67	19 Dec 1985	1 Feb 1986 (see Gaz 1986 No G3 p 265)
Juries (Amendment) Ordinance 1989	1989 No 61	20 Dec 1989	20 Dec 1989

#### Legislation after becoming Territory enactment

Supreme Court (Amendment) Act (No 2) 1993	1993 No 91	17 Dec 1993	17 Dec 1993
Electoral (Amendment) (Consequential Provisions) Act 1994	1994 No 15	17 May 1994	pt 1 (ss 1-3), s 7 and pt 3 (ss 9 and 10): 17 May 1994 (see s 2 (1)) ss 4-6 and pts 4 and 5 (ss 11-15): 25 Aug 1994 (see s 2 (2) and (3) and Gaz 1994 No S172) s 8: 17 May 1994 (see s 2 (4))

Legislation	Year and number	Gazette notification	Commencement
Public Sector Management (Consequential and Transitional Provisions) Act 1994	1994 No 38	30 June 1994	ss 1 and 2: 30 June 1994 remainder: 1 July 1994 (see Gaz 1994 No S142 p 2)
Statute Law Revision (Penalties) Act 1994	1994 No 81	29 Nov 1994	ss 1 and 2: 29 Nov 1994 remainder: 29 Nov 1994 (see Gaz 1994 No S269 p 2)
Statute Law Revision Act 1995	1995 No 46	18 Dec 1995	18 Dec 1995
Juries (Amendment) Act 1997	1997 No 83	25 Nov 1997	ss 12, 21, 26, 28 and 33: 2 Feb 1998 (see Gaz 1998 No S42) remainder: 25 Nov 1997
Legal Practitioners (Consequential Amendments) Act 1997	1997 No 96	1 Dec 1997	ss 1 and 2: 1 Dec 1997 remainder: 1 June 1998 (see s 2 (2))
Children and Young People (Consequential Amendments) Act 1999	1999 No 64	10 Nov 1999	ss 1 and 2: 10 Nov 1999 remainder: 10 May 2000 (see s 2 (2))
Justice and Community Safety Legislation Amendment Act 2000	2000 No 1	9 Mar 2000	9 Mar 2000
Justice and Community Safety Legislation Amendment Act 2000 (No 2)	2000 No 2	9 Mar 2000	9 Mar 2000
Statute Law Amendment Act 2000	2000 No 80	21 Dec 2000	21 Dec 2000

## 4 Amendment history

- s 2 .....om 1978 No 46
- s 3 .....om R5 (LRA s 15 (1))
- s 4 .....om 1977 No 65
- s 5 .....om 1997 No 83
- s 6 .....am 1985 No 67; 1989 No 61; 1993 No 91; 1994 No 15; 1997 No 83
- s 8 .....am 1989 No 61

## Endnotes

### 4 Amendment history

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- s 10 .....am 1997 No 83; 2000 No 80 amdt 3.7
- s 11 .....am 1979 No 39; 1989 No 61; 1994 No 38; 1997 Nos 83 and 96; 1999 No 64 s 4 sch 2
- s 12 .....om 1979 No 39
- s 14 .....sub 1979 No 39  
am 1997 No 83
- ss 15-17 .....am 1997 No 83
- s 18A.....ins 1984 No 8  
sub 1997 No 83
- s 19 .....am 1984 No 8; 1994 No 15  
sub 1997 No 83
- s 20 .....om 1997 No 83
- s 21 .....sub 1993 No 91
- ss 22, 23 .....am 1997 No 83
- s 24 .....am 1983 No 60; 1997 No 83
- s 25 .....om 1997 No 83
- s 26A.....ins 1997 No 83
- s 27 .....am 1983 No 60
- s 28 .....am 1997 No 83
- s 29 .....am 1997 Nos 83 and 96
- s 31A.....ins 1997 No 83
- s 32 .....am 1997 Nos 83 and 96
- s 33 .....am 1997 No 96
- s 34 .....am 1989 No 61; 1997 No 96
- s 36 .....am 1997 No 96
- s 36A.....ins 1981 No 37
- s 38 .....am 1997 No 83
- s 41 .....am 1989 No 61; 1994 No 81  
sub 1997 No 83
- s 42 .....sub 1997 No 83
- ss 42A, 42B.....ins 1997 No 83
- s 42C.....ins 1997 No 83  
am 2000 No 1 s 3 sch; 2000 No 2 s 3 sch
- s 43 .....am 1989 No 61; 1994 No 81
- s 44 .....am 1994 No 81
- s 44AA .....ins 1989 No 61; 1994 No 81
- s 44AB .....ins 1997 No 83
- s 44A.....ins 1981 No 37  
om 1996 No 51

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ss 45, 46 .....	am 1981 No 37 sub 1997 No 83
s 46A .....	ins 1997 No 83
s 47 .....	am 1981 No 37; 1997 No 83
s 48 .....	om 1997 No 83
s 50 .....	am 1989 No 61 om 1997 No 83
s 51A .....	ins 1983 No 6 am 1997 No 83
s 52 .....	am 1983 No 6; 1995 No 46
first schedule .....	om 1997 No 83
hdg to second.....	om 1997 No 83 schedule
hdg to sch 1.....	ins 1997 No 83
sch 1 .....	am 1997 No 83
sch 2 .....	ins 1997 No 83
third schedule .....	om 1981 No 37

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