

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

Juries (Amendment) Ordinance (No. 2) 1983

No. 60 of 1983

The purpose of this Ordinance is to amend the Juries Ordinance 1967 ('the Principal Ordinance') to provide a method by which the Sheriff may obtain information on whether potential jurors are disqualified from serving as a member of a jury for a trial in the A.C.T. Supreme Court. This will provide a means of ensuring that disqualified persons are not permitted to serve as jurors.

The Principal Ordinance lists a number of grounds on which a person is not qualified to serve as a juror. The Sheriff is required not to include in a jury list or panel, persons who, to his knowledge, are disqualified from serving. No method is provided, however, by which the Sheriff can determine whether or not a person is disqualified.

The need for the amendment was brought to attention by circumstances that arose in a re-trial for a criminal offence before the A.C.T. Supreme Court. After the re-trial had been proceeding for one week a prosecution witness recognised that a member of the jury was a person with a criminal record and therefore disqualified from serving as a juror. As a consequence, the jury was discharged and a further trial ordered.

The circumstances that arose in this case were considered by the Criminal Law Consultative Committee of the A.C.T. This Committee is chaired by Mr Justice Kirby and comprises representatives of the Supreme Court Judges, the Magistrates, the Law Society of the A.C.T., the A.C.T. Bar Association, the Australian Federal Police, the Australian National University Law School, the Attorney-General's Department and the Departments of Territories and Local Government and of the Special Minister of State.

The Ordinance gives effect to recommendations of the Committee.

Section 1 provides that the Ordinance may be cited as the Juries (Amendment) Ordinance (No. 2) 1983.

Section 2 defines the 'Principal Ordinance' to mean the Juries Ordinance 1967.

Section 3 amends section 24 of the Principal Ordinance by omitting sub-section (3) and substituting new sub-sections 3 to 10.

The Sheriff is to prepare and furnish the Commissioner of Police of the Australian Federal Police with a list of the names chosen under sub-sections 24(1) or (2) of the Principal Ordinance. This list comprises the names, chosen by lot, from the names on the jury list, of as many persons as the Sheriff considers necessary to ensure that the number of persons that the jury precept (an order directed to the Sheriff by a Supreme Court Judge) requires to attend to serve as jurors will be in attendance at the Court at the time specified in the precept.

(new sub-section 24(3)).

The Commissioner, or a person authorised by him, is to make inquiries in an endeavour to ascertain whether any person included on a list so provided is disqualified from jury service and to report in writing to the Sheriff the result of the inquiries. (new sub-section 24(4)).

Information obtained in the course of the inquiries is to be confidential, except that it may be disclosed in the performance of a duty under, or otherwise for the purposes of, a law in force in the Territory. (new sub-section 25(5)).

Where it appears to the Sheriff, after considering a report from the Commissioner, that a person is disqualified from service as a juror he is to remove that person's name from the list of names chosen in response to the jury precept and call upon the person in writing to show cause why his name should not be struck off the jury list. (new sub-section 24(6)).

The Sheriff in calling upon a person to show cause is to also advise the person that he may, if aggrieved by the decision of the Sheriff to strike his name off the jury list, apply in writing to a Magistrate for a review of the decision. (new sub-section 24(7)).

The Sheriff is to serve a jury summons on each person whose name remains on the list of names chosen in response to the jury precept, together with a notice setting out the grounds of disqualification for service as a juror under the

Principal Ordinance and requesting the person, if he believes he is not qualified to serve as a juror on any of the grounds, to so inform the Sheriff. (new sub-section 24(8)).

The Commissioner or a person authorized by him is protected from any action in respect of any act done by him in good faith in connection with the making of a report to the Sheriff. (new sub-section 24(9)).

The 'Commissioner' is defined for the purposes of section 24 to mean the person holding, or performing the duties of, the office of Commissioner of Police of the Australian Federal Police. (new sub-section 24(10)).

Section 4 makes a purely drafting amendment to section 27 of the Principal Ordinance, which deals with the preparation of a panel of jurors.

Authorised by Attorney-General

ORD NO 23/83

Meld
11/1/84