

EXPLANATORY STATEMENT

Australian Capital Territory

JURIES (AMENDMENT) ORDINANCE 1981

No. 37 of 1981

The purpose of this Ordinance is to amend the Juries Ordinance 1967 so as to provide first that challenges for cause in the selection of a jury are to be tried by the Judge presiding at the trial and secondly for forms of oath or affirmation applicable to jurors to be prescribed by the Supreme Court Rules instead of in the Ordinance as at present.

The Juries Ordinance at present permits a challenge for cause, that is, a challenge to the selection of a juror, when the jury is being empanelled, based upon the need to show a reason for the challenge as distinct from a peremptory challenge for which no reason need to be given. The Ordinance contains no provision for the manner in which challenges for cause are to be heard. Accordingly the Common Law applies under which those challenges are tried by triers, being laymen appointed by the Court. This situation is considered unsatisfactory and it is thought to be more appropriate for the matter to be resolved by the trial Judge. Such a provision has been made in the majority of Australian States and in the United Kingdom.

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The forms of oath at present contained in the Third Schedule of the Ordinance have been criticised as archaic and are in need of revision. The Supreme Court Judges have the power to make Rules of Court that would permit them to do this but for the provisions in the Ordinance. Accordingly those provisions will be amended so that the Judges may make Rules of Court relating to forms of oath or affirmation for jurors as they have already done for witnesses in cases before the Supreme Court. The provisions of the amending Ordinance are as follows:

- Sections 1 to 3 are formal provisions dealing with short title, commencement and interpretation of the expression "Principal Ordinance", that is, the Juries Ordinance 1967.
- Section 4 inserts a new section 36A in the Principal Ordinance providing for a challenge for cause to be tried by the trial Judge.
- Sections 5 to 10 amend the provisions of the Principal Ordinance relating to forms of oath so as to repeal the Third Schedule, which contains the forms, and to substitute references to the Supreme Court Rules in the relevant sections of the Ordinance that require jurors to make oaths and affirmations in relation to their service as jurors.

Authorized by the Attorney-General