

Juries (Amendment) Bill

No.

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LEGISLATIVE ASSEMBLY

Read 1° 10 August 1993

(Brought in by Mrs Wade and Mr Gude)

A BILL

to amend the **Juries Act 1967** and the **County Court Act 1958** and for other purposes.

Juries (Amendment) Act 1993

The Parliament of Victoria enacts as follows:

1. Purposes

The main purposes of this Act are—

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- (a) to provide for majority verdicts in criminal trials other than trials for murder or treason or for an offence against the law of the Commonwealth;
- (b) to reduce the maximum number of challenges to jurors without cause available to the defence as of right in criminal trials;
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- (c) to remove the right of the Crown to order jurors in criminal trials to stand aside and give it instead the

Section headings appear in bold italics and are not part of the Act.
(See **Interpretation of Legislation Act 1984**.)

same right as the defence has to challenge jurors without cause.

2. Commencement

- (1) Section 1 and this section come into operation on the day on which this Act receives the Royal Assent. 5
- (2) Subject to sub-section (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in sub-section (2) does not come into operation within the period of 3 months beginning on, and including, the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period. 10

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3. Principal Act

In this Act, the **Juries Act 1967** is called the Principal Act. 15

4. Pre-selection of jurors

- (1) In section 11 (3) of the Principal Act, after “declaration” **insert** “or otherwise in writing”.
- (2) Section 12 of the Principal Act is **repealed**. 20
- (3) In section 13 (1) of the Principal Act, for paragraphs (a) and (b) **substitute** “that such person ought to be excused from service as a juror by reason of any illness or incapacity or any other matter of special urgency or importance”. 25

5. Service of summonses

- (1) In section 24 (1) of the Principal Act, after “served by” **insert** “the sheriff or”.
- (2) In section 24 (2) of the Principal Act, after “delivered to” **insert** “the sheriff or”. 30

- (3) In section 25 (1) of the Principal Act, for “A member” **substitute** “The sheriff or a member”.
- (4) In section 25 (3) of the Principal Act, after “to answer” **insert** “the sheriff or”.

5 **6. *Peremptory challenges in criminal inquests***

(1) In section 33 of the Principal Act, **omit** the expression commencing “and if before” and ending “challenge for cause;”.

10 (2) In section 34 of the Principal Act, for sub-section (1) **substitute**—

“ (1) Every person arraigned is allowed to challenge peremptorily—

15 (a) 6 jurors if only one person is arraigned in the inquest; or

 (b) 5 jurors if two persons are arraigned in the inquest; or

 (c) 4 jurors if more than two persons are arraigned in the inquest—

20 and, subject to sub-section (1A), every peremptory challenge above that number shall be void.

(1A) Every person arraigned shall be allowed any number of additional peremptory challenges if the Crown and every other person arraigned (if any) agree to the challenge.

25 (1B) The Crown is allowed to challenge peremptorily—

 (a) 6 jurors if only one person is arraigned in the inquest; or

30 (b) 10 jurors if two persons are arraigned in the inquest; or

 (c) 4 jurors for each person arraigned if more than two persons are arraigned in the inquest—

35 and, subject to sub-section (1C), every peremptory challenge above that number shall be void.

- (1c) The Crown shall be allowed any number of additional peremptory challenges if every person arraigned agrees to the challenge.”.

7. New section 47 inserted

After section 46 of the Principal Act **insert—**

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‘47. Majority verdicts in criminal inquests

(1) In this section “**majority verdict**” means—

- (a) if the jury, at the time of returning its verdict, consists of 12 jurors—a verdict on which 11 of them agree;

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- (b) if the jury, at the time of returning its verdict, consists of 11 jurors—a verdict on which 10 of them agree;

- (c) if the jury, at the time of returning its verdict, consists of 10 jurors—a verdict on which 9 of them agree.

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(2) Subject to sub-sections (3) and (4), in any criminal inquest if all the jurors after at least 6 hours deliberation are unable to agree on their verdict, a majority verdict may be taken as the verdict of all.

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(3) A court must refuse to take a majority verdict if it appears to it that the jury have not had a period of time for deliberation that the court thinks reasonable having regard to the nature and complexity of the inquest.

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(4) A verdict that the accused is guilty of murder or treason or of an offence against the law of the Commonwealth must be unanimous.

(5) If on the trial of a person for an offence it is possible for a jury to return a verdict of not guilty of the offence charged but guilty of another offence with which he or she has not been charged and the jury reaches a verdict (either unanimously or by majority in accordance with this section) that the

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5 accused is not guilty of the offence charged, a majority verdict of guilty of that alternative offence may be taken as the verdict of all if the jury are unable to agree on their verdict on that alternative offence after a cumulative total of at least 6 hours deliberation on both offences.’.

8. *Compensation to be paid to jurors*

10 (1) In section 50 (2) of the Principal Act, for “the day upon which he is not required to attend” **substitute** “any day on which the juror is not required to attend court but in respect of which he or she has lost income as a result of serving on the jury”.

15 (2) In section 50 of the Principal Act, after sub-section (4) **insert**—

20 “(4A) Despite anything in the **Employee Relations Act 1992** or in any award or employment agreement under that Act, an employee within the meaning of that Act who has been summoned as a juror and who has attended court (whether he or she has actually served on a jury or not) is entitled to be reimbursed by his or her employer an amount equal to the difference between the amount of compensation paid under this section and the amount of pay he or she would have been entitled to receive in respect of his or her ordinary hours of work had he or she not been summoned as a juror.

30 (4B) An employee must notify his or her employer as soon as possible of the date on which he or she is required to attend court for service as a juror and must give to his or her employer written details of—

35 (a) the date or dates on which he or she attended court;

(b) the duration of the period of jury service;

(c) any amount of compensation paid under this section.”.

9. New section 51A inserted

In Part V of the Principal Act, after section 51 **insert—**

“51A. Court may allow jury to separate after retiring to consider verdict

- (1) Subject to sub-section (2) but despite anything to the contrary in any rule of law or practice, the court may, in its discretion, allow the jury to separate at any time between it retiring to consider its verdict and the verdict being given or the jurors being discharged. 5
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- (2) A court may only allow a jury to separate in accordance with sub-section (1) if each juror has given to the court an undertaking on oath or by affidavit not to discuss with any person, other than another member of the jury, any matter relating (directly or indirectly) to the inquest.” 15

10. Transitional provisions

- (1) The amendments made to the Principal Act by section 6 apply to any inquest that commenced before the commencement of that section but in which the jury had not been empanelled before that commencement as well as to inquests that commence on or after that commencement. 20
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- (2) The amendments made to the Principal Act by section 7 apply only to criminal inquests that commence on or after the commencement of that section.