

TASMANIA

JURIES BILL 2003

CONTENTS

PART 1 - PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
4. Random selection
5. Application of Act

PART 2 - LIABILITY FOR JURY SERVICE

6. Persons qualified, liable or ineligible for jury service
7. Impeaching verdict
8. Deferral of jury service
9. Excused by Sheriff for good reason
10. Permanently excused
11. Excused on ground of age
12. Excused by court for good reason
13. Court may order person not to perform jury service
14. Exemptions in certain circumstances
15. Notification to Sheriff
16. Waiver of exemption or excuse
17. Deferring or cancelling jury service

PART 3 – JURY DISTRICTS, ROLLS AND LISTS

18. Jury districts
19. Jury roll
20. Jury list
21. Questionnaires and documents
22. Determination of qualification and liability for jury service
23. Enquiries relating to disqualification
24. Enquiries relating to non-disqualifying offences

PART 4 – SUMMONING JURORS

25. Civil and criminal juries
26. Reserve jurors
27. Summons

PART 5 – JURY TRIALS

28. Jury panel
29. Empanelment
30. Challenges for cause in civil trials
31. Peremptory challenges in civil trials
32. Challenges to entire panel
33. Challenges for cause in criminal trials
34. Standing aside jurors in criminal trials
35. Peremptory challenges in criminal trials
36. Determination of challenges for cause
37. Supplementary jurors
38. Oath or affirmation by jurors
39. Information for jury
40. Discharge of juror by court
41. Discharge of jury without verdict
42. Continuation of trial with reduced jury
43. Failure to reach unanimous verdict in criminal trials

44. Failure to reach unanimous verdict in civil trials
45. Oath or affirmation by jurykeepers
46. Jury separation after retiring to consider verdict
47. Jury separation during adjournment
48. Jury separation during argument
49. Retirement of jury on argument as to evidence
50. Temporary absence of juror
51. Misconduct concerning jurors
52. View
53. Allowances and remuneration for jury service

PART 6 – OFFENCES AND ENFORCEMENT

54. Answering questions
55. Informing disqualification or ineligibility
56. Termination of employment because of jury service
57. Restriction on publication
58. Disclosure of certain matters
59. Investigation of certain complaints
60. Offence by body corporate
61. False and misleading information
62. Impersonation of jurors
63. Influencing or threatening jurors
64. Extra payment for jury service
65. Summary offences dealt with by court

PART 7 – MISCELLANEOUS

66. Proof of service
67. Rules of Court
68. Regulations
69. Savings and transitional provisions
70. Amendment of Schedules

- 71. Administration of Act
- 72. Consequential amendments
- 73. *Jury Act 1899* repealed
- 74. Miscellaneous amendments

SCHEDULE 1 - PERSONS DISQUALIFIED FROM JURY SERVICE

SCHEDULE 2 - PERSONS INELIGIBLE FOR JURY SERVICE

SCHEDULE 3 - OATH OR AFFIRMATION FOR JURORS

SCHEDULE 4 - OATH OR AFFIRMATION FOR JURYKEEPERS

SCHEDULE 5 - OATH OR AFFIRMATION FOR JURORS SEPARATING

SCHEDULE 6 - OATH OR AFFIRMATION FOR JURYKEEPERS ON A VIEW

SCHEDULE 7 - OATH OR AFFIRMATION FOR SHOWERS ON A VIEW

SCHEDULE 8 - SAVINGS AND TRANSITIONAL PROVISIONS

SCHEDULE 9 - CONSEQUENTIAL AMENDMENTS

JURIES BILL 2003

(Brought in by the Minister for Justice and Industrial Relations, the Honourable Judith Louise Jackson)

A BILL FOR

An Act to provide for the operation and administration of a system of trial by jury

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the *Juries Act 2003*.

Commencement

2. This Act commences on a day to be proclaimed.

Interpretation

3. In this Act –

“**Chief Electoral Officer**” means the Chief Electoral Officer appointed under section 4 of the *Electoral Act 1985*;

“civil trial” means a trial of an issue or an assessment of damages before the court sitting in the exercise of a jurisdiction other than its criminal jurisdiction;

“court” means the Supreme Court;

“criminal trial” means –

- (a) a trial on indictment for an indictable offence; and
- (b) a trial of an issue by the court sitting in the exercise of its criminal jurisdiction; and
- (c) an investigation or a special hearing under the *Criminal Justice (Mental Impairment) Act 1999*;

“deliberations” includes discussions between 2 or more jurors during a trial of matters relevant to that trial;

“juror” means a person who is a member of a jury;

“jury district” means a jury district referred to in section 18;

“jury list” means a jury list referred to in section 20;

“jury roll” means a jury roll referred to in section 19;

“jury service” means service as a juror in a trial;

“jury service period” means the period for which a jury roll is prepared;

“majority verdict” means a verdict on which 10 jurors agree;

“non-disqualifying offence” means an offence that does not disqualify a person from jury service under Schedule 1;

“panel” means a panel constituted under section 28(4);

“prohibited matter” means any statement made, opinion expressed, argument advanced or vote cast in the course of the deliberations of a jury;

“publish” includes disseminate, broadcast and transmit;

“questionnaire” means a questionnaire referred to in section 21;

“registered medical practitioner” means –

- (a) a registered medical practitioner as defined in the *Medical Practitioners Registration Act 1996*; or
- (b) a person registered as a medical practitioner under a corresponding enactment of another State or a Territory of the Commonwealth;

“registered psychologist” means –

- (a) a registered psychologist as defined in the *Psychologists Registration Act 2000*; or
- (b) a person registered as a psychologist under a corresponding enactment of another State or a Territory of the Commonwealth;

“reserve juror” means a person referred to in section 26;

“Sheriff” means the sheriff or deputy sheriff of the court;

“State roll” means the State roll as defined in the *Electoral Act 1985*;

“supplementary juror” means a person referred to in section 37;

“trial” means a civil trial or a criminal trial;

“view” includes inspection.

Random selection

4. The selection of a person for any purpose of this Act, other than for a purpose under section 37, is to be at random.

Application of Act

5. This Act applies to a trial involving a jury the members of which are summoned under this Act, irrespective of when the offence or crime to which the trial relates is alleged to have been committed or when the cause of action arose.

PART 2 – LIABILITY FOR JURY SERVICE**Persons qualified, liable or ineligible for jury service**

6. (1) Any person who is enrolled on the State roll is qualified and liable for jury service.

(2) A person referred to in Schedule 1 is disqualified from jury service.

(3) A person referred to in Schedule 2 is ineligible for jury service.

Impeaching verdict

7. (1) The fact that a juror is disqualified from, or is ineligible for, jury service is not a ground for impeaching a verdict unless that fact is established to the satisfaction of the court before the verdict is delivered.

(2) Any irregularity relating to the preparation of a jury list, the issuing of a summons, the constitution of a panel or the selection of a jury is not a ground for impeaching a verdict.

Deferral of jury service

8. (1) A person, or another person on his or her behalf, may apply to the Sheriff for deferral of jury service to another jury service period within the next 12 months.

(2) An application is to be made –

(a) after receipt of a questionnaire; or

(b) before being selected to be empanelled under section 29.

(3) On receipt of an application, the Sheriff may –

(a) grant the application to defer a person's jury service for a further period within the next 12 months; or

(b) refuse to grant the application.

(4) If the Sheriff refuses to grant the application to defer a person's jury service, the Sheriff, by notice in writing, is to notify the person accordingly.

Excused by Sheriff for good reason

9. (1) A person, or another person on his or her behalf, before the person is selected under section 29 to be empanelled, may apply to the Sheriff to be excused from jury service for the whole or any part of the jury service period.

(2) On receipt of an application, the Sheriff may –

(a) grant the application to excuse a person from jury service for the whole or any part of the jury service period if satisfied that there is good reason for doing so; or

(b) refuse to grant the application if not so satisfied.

(3) Good reason to excuse a person from jury service means any of the following:

(a) the illness or poor health of the person;

(b) the incapacity of the person;

- (c) the excessive time or excessive inconvenience to the person to travel to the place at which the person is required to attend for jury service;
- (d) the substantial hardship to the person resulting from attendance for jury service;
- (e) the substantial financial hardship resulting from the person's attendance for jury service;
- (f) the substantial inconvenience to the public resulting from the person's attendance for jury service;
- (g) if the person has the care of any dependant, alternative care during the person's attendance for jury service is not reasonably available for that dependant;
- (h) the beliefs or principles of the religious society or body of which the person is a practising member are incompatible with jury service;
- (i) any other matter of special urgency or importance.

(4) The Sheriff is to be satisfied by –

- (a) evidence on oath or by affirmation; or
- (b) statutory declaration; or
- (c) any other means the Sheriff considers appropriate.

(5) If the Sheriff refuses an application to be excused from jury service, the Sheriff is to notify the person in respect of whom the application was made accordingly.

Permanently excused

10. (1) A person, or another person on his or her behalf, may apply at any time to the Sheriff for the person to be excused permanently from jury service.

(2) On receipt of an application, the Sheriff may –

- (a) grant the application to excuse a person permanently from jury service if satisfied that there is good reason for doing so; or
- (b) refuse to grant the application if not so satisfied.

(3) Good reason to excuse a person permanently from jury service means any of the following:

- (a) the continuing poor health of the person;
- (b) the disability of the person;
- (c) the beliefs or principles of the religious society or body of which the person is a practising member are incompatible with jury service.

(4) The Sheriff is to be satisfied by –

- (a) evidence on oath or by affirmation; or
- (b) statutory declaration; or
- (c) any other means the Sheriff considers appropriate.

(5) If the Sheriff refuses an application to be excused permanently from jury service, the Sheriff, by notice in writing, is to notify the person in respect of whom the application was made accordingly.

Excused on ground of age

11. (1) A person who is at least 70 years of age, or another person on his or her behalf, may apply to the Sheriff for the person to be excused from jury service –

- (a) for the whole or any part of a jury service period; or
- (b) on a permanent basis.

(2) An application under subsection (1)(a) is to be made before the person is selected under section 29 to be empanelled.

(3) On receipt of an application, the Sheriff must grant the application to excuse the person from jury service in accordance with the application.

Excused by court for good reason

12. (1) The court, by order, may excuse the person from jury service –

- (a) for the whole or a part of a jury service period; or
- (b) for a longer period specified by the court; or
- (c) permanently.

(2) The court may make an order under subsection (1) on referral to it by the Sheriff if the court is satisfied that there is good reason for the person to be excused from jury service.

(3) For the purpose of subsection (2), good reason includes the matters specified in section 9(3) and section 10(3).

Court may order person not to perform jury service

13. (1) If the Sheriff considers that a person may not be able to perform jury service, the Sheriff may apply to the court for an order under subsection (2).

(2) If the court thinks it is just and reasonable to do so, it may, on its own motion or on an application under subsection (1), order that a person not perform jury service –

- (a) for the whole or any part of the jury service period; or
- (b) for a longer period specified by the court; or
- (c) permanently.

Exemptions in certain circumstances

14. (1) The Sheriff may grant a person who performs jury service an exemption from jury service for any period, not exceeding 3 years, that the Sheriff considers appropriate.

(2) When a juror or a jury is discharged during or at the conclusion of a trial, the court may order that the juror is, or all the jurors are, exempt for a specified period from jury service –

- (a) if the trial required the attendance of the juror or jury for a lengthy period; or
- (b) for any other good reason.

Notification to Sheriff

15. The court is to cause the Sheriff to be notified –

- (a) if it –

- (i) excuses or exempts a person from jury service under section 12 or 14; or
 - (ii) orders that a person not perform jury service under section 13; and
- (b) of the period for which the person is excused or exempted from jury service or ordered not to perform jury service.

Waiver of exemption or excuse

16. A person who is –

- (a) excused from jury service under section 9, 10 or 11; or
- (b) exempted from jury service under section 14 –

may waive the excuse or exemption by written notice to the Sheriff.

Deferring or cancelling jury service

17. (1) If it appears to the Sheriff, after the issue of summonses under section 27 but before the persons summoned attend for jury service, that, for any one or more days of their attendance, the number summoned is greater than the number required, the Sheriff may defer or cancel the jury service of all or a selected number of those persons.

(2) If it appears that the number of persons attending for jury service exceeds the number reasonably required, the Sheriff or the court may defer or cancel the jury service of all or a selected number of those persons.

PART 3 – JURY DISTRICTS, ROLLS AND LISTS**Jury districts**

18. (1) There is a jury district for Hobart and any other place at which the court is held.

(2) The Governor, on the recommendation of the Minister, is to define and appoint, by order published in the *Gazette*, a jury district for Hobart and any other place at which the court is held.

Jury roll

19. (1) The Chief Electoral Officer, at the request of the sheriff, is to provide a roll for each jury district.

(2) The roll for a jury district is to contain the name, address and date of birth of each person who is enrolled on the State roll for an address within that jury district.

(3) The roll provided under this section for a jury district is the jury roll for that jury district until a new jury roll is provided.

Jury list

20. (1) The Sheriff is to prepare in each calendar year a list of persons selected from a jury roll by the Sheriff as being liable for jury service in a jury district.

(2) The jury list is to include a number of persons the Sheriff considers adequate excluding –

- (a) persons the Sheriff knows are disqualified from, or ineligible for, jury service; and

- (b) persons who have served as jurors in the previous 3 years.

(3) The jury list is to contain the name, address and date of birth of each person on the jury list.

(4) The Sheriff may make any enquiries he or she considers necessary to determine if –

- (a) a person included on a jury list is disqualified from, or ineligible for, jury service; or
- (b) any information contained in a jury list is incorrect.

(5) The Sheriff may amend a jury list to –

- (a) correct an error; or
- (b) remove from the jury list the name of a person who is disqualified from, or ineligible for, jury service.

(6) A jury list has effect only during the calendar year following the year in which it was prepared.

Questionnaires and documents

21. (1) The Sheriff is to cause a questionnaire to be sent by ordinary post to all persons on a jury list, or as many persons selected from a jury list as the Sheriff thinks necessary, to determine their qualification and liability for jury service for the jury service period.

(2) A person who receives a questionnaire must –

- (a) complete it in the manner specified; and

- (b) return it to the Sheriff within 14 days after receipt or within any other period specified by the Sheriff, whichever is later.

Penalty: Fine not exceeding 30 penalty units.

(3) A person who fails to complete and return a questionnaire as required remains liable for jury service.

(4) The Sheriff may require a person to produce a document to determine if the person is qualified for jury service.

(5) A person, without reasonable excuse, must not fail to comply with a requirement under subsection (4).

Penalty: Fine not exceeding 30 penalty units or imprisonment for a term not exceeding 3 months.

Determination of qualification and liability for jury service

22. On receipt of a completed questionnaire from a person, the Sheriff is to determine the qualification and liability of the person for jury service.

Enquiries relating to disqualification

23. (1) The Sheriff is to provide the Commissioner of Police with a copy of –

- (a) each jury list; and
- (b) a list of persons to be summoned under section 27.

(2) The Commissioner of Police is to –

- (a) cause enquiries to be made as to whether a person named on the jury list or the list of persons to be summoned under section 27 has, or is alleged to have, committed an offence in Tasmania or elsewhere to determine whether the person is disqualified from jury service; and
- (b) provide a report of the result of those enquiries to the Sheriff.

(3) If an enquiry reveals that a person named on a jury list or the list of persons to be summoned under section 27 is disqualified, the Sheriff is to remove the person's name from the jury list or that list.

Enquiries relating to non-disqualifying offences

24. The Commissioner of Police, at the request of the Director of Public Prosecutions, is to –

- (a) cause enquiries to be made as to whether a person named on the list provided under section 27(6) has, or is alleged to have, committed a non-disqualifying offence in Tasmania or elsewhere; and
- (b) provide a report of the result of those enquiries to the Director of Public Prosecutions.

PART 4 – SUMMONING JURORS**Civil and criminal juries**

25. (1) If a civil trial is to be tried by a jury, the jury is to be comprised of –

- (a) 7 jurors; or
- (b) if the court makes an order under section 26, up to 9 jurors.

(2) A criminal trial is to be tried by a jury comprised of –

- (a) 12 jurors; or
- (b) if the court makes an order under section 26, up to 14 jurors.

Reserve jurors

26. (1) Before the jury is empanelled in a trial, the court may order the empanelment of up to 2 reserve jurors.

(2) A reserve juror –

- (a) is to have the same qualifications as a juror; and
- (b) is to be summoned and empanelled in the same manner as a juror; and
- (c) is subject to the same challenges and liability to be stood aside or discharged as a juror; and
- (d) is to take the same oath or make the same affirmation as a juror; and

- (e) has the same functions, powers, entitlements and privileges as a juror.

(3) The law in respect of jurors applies to a reserve juror with any modifications as are required.

(4) If a juror, during a trial (whether before or after the jury retires to consider its verdict), dies or becomes incapable of, is disqualified from, or is discharged from, performing the duties as a juror, the juror is to be replaced by a reserve juror determined in a manner determined by the court.

(5) If a reserve juror who has not replaced a juror dies or becomes incapable of, is disqualified from, or is discharged from, performing the duties as a juror, the trial in respect of which he or she is a reserve juror is not affected by that death, incapacity, disqualification or discharge.

(6) A reserve juror is to remain in the court during a trial in respect of which he or she is a reserve juror unless discharged or permitted by the court to leave the precincts of the court.

(7) The court in which a trial is being conducted, at any time after a jury in that trial has retired to consider its verdict, may discharge a reserve juror empanelled in respect of that trial.

(8) If the jury retires to consider its verdict, a reserve juror, unless otherwise directed by the court, must not –

- (a) participate in the deliberations of the jury; or
- (b) enter the jury room or discuss any other matter relating to the trial with any juror until the jury has returned its verdict.

Summons

27. (1) The Sheriff is to issue a summons to a sufficient number of persons selected from a jury list.

(2) A summons is to –

- (a) be addressed to the person at the address recorded in the jury list; and
- (b) specify the date, time and place at which the person is required to attend for jury service; and
- (c) specify that the person is to attend for jury service as required until discharged; and
- (d) be served on the person in person or by ordinary post not less than 14 days before the person is required to attend for jury service.

(3) The Sheriff may –

- (a) recall and cancel a summons; and
- (b) issue a fresh summons for the same purpose as that for which the cancelled summons was issued.

(4) A person, without reasonable excuse, must not fail to comply with a summons.

Penalty: Fine not exceeding 30 penalty units or imprisonment for a term not exceeding 3 months.

(5) It is a reasonable excuse for the purpose of subsection (4) if –

- (a) an application has been made under section 8 for deferral of jury service or under section 9 or 10 to be excused from jury service; and

- (b) the person has not been notified of the Sheriff's decision to refuse the application before the date specified in the summons as the date on which the person is required to attend for jury service.

(6) The Sheriff is to prepare a list of the names of the persons to whom a summons was issued and provide a copy of the list to –

- (a) the Director of Public Prosecutions; and
- (b) the Commissioner of Police; and
- (c) the person arraigned or his or her representative; and
- (d) the parties to the trial.

PART 5 – JURY TRIALS**Jury panel**

28. (1) On the day and at the time specified in the summons issued under section 27 or on any other day and at a time directed by the court or the Sheriff, the person named in the summons is to attend for jury service at the place referred to in the summons unless the person's service is deferred or cancelled under section 17.

(2) The Sheriff or Deputy Sheriff may require a person attending for jury service to produce evidence of his or her identity.

(3) For each person attending for jury service, the Sheriff or Deputy Sheriff is to cause to be prepared a document bearing –

- (a) the name, address and date of birth of the person; and
- (b) the occupation of the person.

(4) The persons who attend for jury service –

- (a) constitute a panel from which a jury may be formed; and
- (b) are under the direction of the Sheriff or Deputy Sheriff, subject to the general direction of the court.

Empanelment

29. (1) The court is to authorise a person to select persons to be empanelled for a jury for a trial.

(2) The authorised person is to select at random from a panel a sufficient number of persons to be empanelled for a jury for a trial.

(3) Before the selection of persons to be empanelled for a jury for a trial, the court is to inform the person arraigned or parties in that trial that –

- (a) the persons whose names are to be called may become jurors for the trial; and
- (b) if the person arraigned or a party wants to challenge any of them, the person arraigned or party or the lawyer or other representative of the person arraigned or party must make the challenge as the potential juror comes to take his or her seat and before he or she takes it.

(4) When the persons selected to be empanelled are present in the court, the authorised person is to call out their names or, if the court makes a direction under subsection (7), their number, one after another in random order.

(5) If 2 or more persons have the same name, the authorised person is to call out their occupations and, if 2 or more persons have the same name and occupation, their dates of birth.

(6) The authorised person is to call out the names or numbers until the required number of persons are selected taking into account any challenge, stand aside or excuse under this Part.

(7) If the court considers that for security reasons or for any other reason the name of any person selected should not be read out in open court, the court, before or after that person is present in the court, may direct that the person be identified by number only.

(8) Persons who are selected under subsection (6) –

- (a) are thereby empanelled for a jury for a trial;
and
- (b) constitute the jury for that trial.

(9) A person empanelled for a jury, without reasonable excuse, must not fail to attend as a juror until discharged by the court.

Penalty: Fine not exceeding 60 penalty units or imprisonment for a term not exceeding 6 months.

Challenges for cause in civil trials

30. In a civil trial, the number of potential jurors that each party may challenge for cause is unlimited.

Peremptory challenges in civil trials

31. (1) In a civil trial, each party is allowed to challenge peremptorily 3 potential jurors.

(2) A peremptory challenge in a civil trial is to be made as the potential juror comes to take his or her seat and before he or she takes it.

(3) If several parties are represented in a civil trial by the same legal practitioner, they are taken to be one party.

(4) If several parties are not represented in a civil trial by the same legal practitioner –

- (a) they may consent to join in their peremptory challenges; or

- (b) if they do not consent, each is allowed to challenge peremptorily as provided by subsection (1).

(5) Unless the court otherwise orders, a potential juror in respect of whom a peremptory challenge is made –

- (a) is to return to the panel; and
- (b) may be selected on a jury for another trial.

Challenges to entire panel

32. (1) A party to a trial who objects to the entire panel may challenge the panel by stating the reasons for the challenge before the empanelment of the jury commences.

(2) The court is to decide the challenge before proceeding to empanel the jury.

Challenges for cause in criminal trials

33. In a criminal trial, the number of potential jurors that each person arraigned or the Crown may challenge for cause is unlimited.

Standing aside jurors in criminal trials

34. (1) In a criminal trial, the number of potential jurors that the Crown may require to stand aside is unlimited.

(2) The requirement to stand aside is to be made as the potential juror comes to take his or her seat and before he or she takes it.

(3) A potential juror required to stand aside by the Crown –

- (a) continues to be a member of the panel from which the jury is being selected; and
- (b) is available to be selected again for the trial if the panel is exhausted.

(4) If a potential juror required to stand aside by the Crown is selected again from the same panel, the Crown may not require the potential juror to stand aside again but may challenge him or her for cause.

(5) This section does not apply to an investigation under the *Criminal Justice (Mental Impairment) Act 1999*.

Peremptory challenges in criminal trials

35. (1) Each person arraigned in a criminal trial is allowed to challenge peremptorily 6 potential jurors.

(2) A peremptory challenge is to be made as the potential juror comes to take his or her seat and before he or she takes it.

(3) A person arraigned may –

- (a) if that person has peremptorily challenged 6 potential jurors, challenge peremptorily one reserve juror; or
- (b) if that person has peremptorily challenged fewer than 6 potential jurors, challenge peremptorily a number of reserve jurors that is equal to 6 minus the number of potential jurors challenged under subsection (1) plus one.

(4) This section does not apply to an investigation under the *Criminal Justice (Mental Impairment) Act 1999*.

(5) Unless the court orders otherwise, a potential juror in respect of whom a peremptory challenge is made –

- (a) is to return to the panel; and
- (b) may be selected on a jury for another trial.

Determination of challenges for cause

36. (1) A challenge to a potential juror for cause is to be heard and determined by the court before whom the jury is being empanelled.

(2) If a challenge for cause to a potential juror for a trial is upheld, the person challenged is not to be empanelled on the jury for that trial.

(3) Unless the court otherwise orders, a potential juror in respect of whom a challenge for cause is upheld –

- (a) is to return to the panel; and
- (b) may be selected on a jury for another trial.

Supplementary jurors

37. (1) If there is an insufficient number of persons available on a panel for the selection of a jury, the court, on its own motion or on application by a party or the person arraigned, may direct the Sheriff to supplement the panel by –

- (a) selecting a sufficient number from among persons who are qualified and liable for jury service; and
- (b) instructing them to attend for jury service.

(2) The number of persons to be selected, and the method of selection, are as the court directs.

(3) The persons instructed under this section to attend for jury service become members of the panel from which the jury for the trial is to be selected.

(4) A person, without reasonable excuse, must not fail to comply with an instruction under subsection (1)(b).

Penalty: Fine not exceeding 30 penalty units or imprisonment for a term not exceeding 3 months.

Oath or affirmation by jurors

38. (1) On being empanelled in a criminal trial, a juror, in open court, must take an oath or make an affirmation.

(2) A juror in a criminal trial is to take an oath by answering "I swear" or make an affirmation by answering "I affirm" in reply to the oath or affirmation being tendered in accordance with Part 1 or 2 of Schedule 3.

(3) On being empanelled in a civil trial, a juror, in open court, must take an oath or make an affirmation.

(4) A juror in a civil trial is to take an oath by answering "I swear" or make an affirmation by answering "I affirm" in reply to the oath or affirmation being tendered in accordance with Part 3 or 4 of Schedule 3.

(5) A person, without reasonable excuse, must not fail to take the appropriate oath or make the appropriate affirmation.

Penalty: Fine not exceeding 30 penalty units or imprisonment for a term not exceeding 3 months.

Information for jury

39. (1) The court is to inform the jury, or cause the jury to be informed, of the following:

- (a) the type of action or charge involved in the trial;
- (b) the name of the accused in a criminal trial or the names of the parties in a civil trial;
- (c) the names of the principal witnesses expected to be called in the trial;
- (d) the estimated length of the trial;
- (e) any other information that the court considers relevant.

(2) The court is to call on the jurors to seek to be excused from jury service for the trial.

(3) The court may excuse a juror from jury service for the trial if satisfied that the person –

- (a) is unable to consider the case impartially; or
- (b) is unable to perform jury service for any other reason.

(4) If the court excuses a juror from jury service for the trial, the court may direct that another person be selected and sworn in for that trial.

(5) Unless the court otherwise orders, a juror excused from jury service under subsection (3) –

- (a) is to return to the panel; and
- (b) may be selected on a jury for another trial.

Discharge of juror by court

40. The court, during a trial, may discharge a juror without discharging the whole jury if –

- (a) it appears to the court that the juror is not impartial; or
- (b) the juror becomes incapable of continuing to act as a juror; or
- (c) the juror becomes ill or dies; or
- (d) it appears to the court that, for any other reason, the juror should not continue to act as a juror.

Discharge of jury without verdict

41. (1) The court, at any time during a trial, in an emergency, may discharge a jury without giving a verdict if it is expedient to do so in the interests of justice.

(2) If a jury is discharged without giving a verdict, the court may order the trial to be held at the same or any future sittings of the court.

(3) If, during a trial, a judge becomes incapable of proceeding with the trial or directing the discharge of the jury, an officer of the court is to discharge the jury.

(4) If a jury is discharged under this section, a person arraigned is to remain in custody unless admitted to bail.

Continuation of trial with reduced jury

42. (1) If a juror dies or is discharged during a trial and there is no reserve juror, the court may direct that the trial be continued with the remaining jurors.

(2) A civil trial must not continue with fewer than 6 jurors.

(3) A criminal trial must not continue with fewer than 10 jurors.

(4) The verdict of the remaining jurors in a trial has the same effect as if all the jurors had been present.

Failure to reach unanimous verdict in criminal trials

43. (1) If, after deliberating for at least 2 hours, a jury in a criminal trial, other than one relating to treason or murder, has not reached a unanimous verdict, the court is to take a majority verdict as the verdict of the jury.

(2) If, after deliberating for at least 6 hours, a jury in a criminal trial relating to treason or murder has not reached a unanimous verdict, the court is to take a majority verdict of not guilty as the verdict of the jury.

(3) A verdict that the accused is guilty of murder or treason is to be unanimous.

(4) If in a criminal trial, after deliberating for the period referred to in subsection (1) or (2) as appropriate, a jury has not reached a unanimous verdict and there is no majority verdict, the court may discharge the jury unless the court considers further deliberation is desirable.

(5) In a criminal trial, a majority verdict on an alternative crime may be taken as the verdict of the jury if –

- (a) it is possible for the jury to return a verdict of not guilty of the crime charged but guilty of another crime with which the accused has not been charged; and
- (b) the jury reaches a verdict, unanimously or by majority verdict, that the accused is not guilty of the crime charged; and
- (c) the jury is unable to agree on its verdict on the alternative crime after a cumulative total of at least –
 - (i) 2 hours deliberation on both crimes in the case of a criminal trial referred to in subsection (1); or
 - (ii) 6 hours deliberation on both crimes in the case of a crime referred to in subsection (2).

Failure to reach unanimous verdict in civil trials

44. (1) If, after deliberating for at least 3 hours, a jury in a civil trial has not reached a unanimous verdict, the court is to take a verdict on which 5 of the jurors agree as the verdict of the jury.

(2) If, after deliberating for at least 4 hours, 5 of the jurors in a civil trial are unable to agree on a verdict, the court is to discharge the jury unless the court considers further deliberation is desirable.

Oath or affirmation by jurykeepers

45. (1) If a jurykeeper is required in a trial, the jurykeeper is to take an oath or make an affirmation.

(2) A jurykeeper is to take an oath by answering “I swear” or make an affirmation by answering “I affirm” in reply to the oath or affirmation being tendered in accordance with Part 1 or 2 of Schedule 4.

Jury separation after retiring to consider verdict

46. (1) After the jury has retired to consider its verdict and before the verdict is given or jurors are discharged, the court, despite any rule of law or practice to the contrary, may –

- (a) allow the jury to separate; or
- (b) allow an individual juror to separate from the jury if, in the opinion of the court, there is good reason to do so.

(2) The court may allow a jury or juror to separate only if each separating juror has taken an oath or made an affirmation.

(3) A juror is to take an oath by answering “I swear” or make an affirmation by answering “I affirm” in reply to the oath or affirmation being tendered in accordance with Part 1 or 2 of Schedule 5.

Jury separation during adjournment

47. (1) The court, on the adjournment of a trial, may –

- (a) allow the jury to separate; or

- (b) direct that the jury be kept together until it has given its verdict or has been discharged.

(2) A jury that is subject to a direction under subsection (1)(b) may, during any adjournment of the trial, be taken under the charge of any officer of the court or police officer sworn for that purpose.

(3) A member of a jury that is subject to a direction under subsection (1)(b) must not communicate with any person except –

- (a) another member of that jury; or
- (b) an officer in charge of that jury, in connection with that officer's duties.

(4) An officer in charge of a jury that is subject to a direction under subsection (1)(b) must not communicate with a member of that jury except in the performance of that officer's duties.

(5) An officer of the court or police officer who is to be in charge of a jury that is subject to a direction under subsection (1)(b) must take the oath or make the affirmation specified in Schedule 4.

(6) A member of a jury, before leaving the court, must take the oath or make the affirmation specified in Schedule 5.

Jury separation during argument

48. The court may permit the jury in a trial to separate while a question that the court has directed be determined in its absence is argued and determined notwithstanding that there has not been an adjournment of the trial.

Retirement of jury on argument as to evidence

49. If a question arises in a trial as to the admissibility of any evidence tendered, or about to be tendered, the court may direct the jury to retire until the question is determined if of the opinion that a party in that trial might be prejudiced if the evidence is given or the argument on the question takes place in the presence of the jury.

Temporary absence of juror

50. The temporary absence of a jury in a trial necessitated by illness or other unavoidable cause is not a separation of the jury for the purpose of this Act if the court permits that absence subject to any conditions and under any safeguards the court considers necessary.

Misconduct concerning jurors

51. (1) If a person contravenes section 47, any direction made under section 47 or any condition imposed under section 50 –

- (a) the person is guilty of contempt of court and may be punished accordingly; and
- (b) the contravention invalidates the proceedings unless the court decides otherwise on being satisfied that the contravention is of a trivial nature and is not likely to prejudice the fair trial of the case.

(2) If the contravention is discovered before judgment, the court may –

- (a) discharge the jury if it has not already been discharged and order another jury to be sworn

for the trial at the same sittings of the court;
or

(b) adjourn the trial.

(3) The decision of the court under subsection (1)(b) is subject to appeal.

View

52. (1) If a judge makes an order under section 53(1) of the *Evidence Act 2001*, the judge, subject to section 53(4) of that Act, may direct that the jury, at any time before their verdict is delivered, is to be taken under the charge of officers of the court or police officers to view the demonstration or experiment or undertake the inspection.

(2) The judge may appoint 2 persons or, if the accused person declines to ask for a shower, one person to accompany the jury.

(3) A person appointed under subsection (2) must take the oath or make the affirmation specified in Schedule 6 or 7 as appropriate.

Allowances and remuneration for jury service

53. (1) The following persons are entitled to be paid prescribed allowances and remuneration whether or not they have actually served as a juror:

- (a) any person who attended for jury service in response to a summons;
- (b) any person who attended for jury service as a supplementary juror.

(2) A person who attends for jury service and is excused from jury service is not to be paid any allowances or remuneration if the person –

- (a) was aware of a circumstance that may constitute a reason for being excused under this Act and did not apply to the Sheriff to be excused at the first reasonable opportunity after becoming so aware; or
- (b) knowingly made a false or misleading statement in the questionnaire.

PART 6 – OFFENCES AND ENFORCEMENT**Answering questions**

54. A person to whom a question is lawfully put under this Act by the court or the Sheriff, without reasonable excuse, must not –

- (a) fail to answer the question; or
- (b) give an answer to the question that is false or misleading.

Penalty: Fine not exceeding 30 penalty units or imprisonment for a term not exceeding 3 months.

Informing disqualification or ineligibility

55. A person summoned to attend for jury service who knows that he or she is disqualified from jury service or is ineligible for jury service must inform the Sheriff as soon as practicable –

- (a) of that fact; and
- (b) of the reason for the disqualification or ineligibility.

Penalty: Fine not exceeding 30 penalty units.

Termination of employment because of jury service

56. (1) An employer must not –

- (a) terminate or threaten to terminate the employment of an employee; or

- (b) otherwise prejudice the position of the employee –

because the employee is, was or is to be absent from employment on jury service.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 600 penalty units; or
- (b) a natural person, a fine not exceeding 120 penalty units or imprisonment for a term not exceeding 12 months.

(2) If an employer is found guilty of an offence under subsection (1), the court may –

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

(3) If the court considers that it is impracticable to reinstate the employee, the court may order the employer to pay the employee an amount of compensation not exceeding the amount of remuneration paid to the employee by the employer during the 12 months immediately before the employee's employment was terminated.

(4) An order under subsection (2)(a) or subsection (3) –

- (a) is taken to be a judgment debt due by the employer to the employee; and
- (b) may be enforced in the court by which it was made.

(5) The amount of salary or wages that would have been payable to an employee in respect of any period that his or her employer fails to comply with an order under subsection (2)(b) is recoverable as a debt due to the employee by the employer in any court of competent jurisdiction.

Restriction on publication

57. (1) A person must not publish or cause to be published any information or image that identifies, or is capable of identifying, a person attending for jury service.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 3 000 penalty units; or
- (b) a natural person, a fine not exceeding 600 penalty units or imprisonment for a term not exceeding 2 years.

(2) For the purpose of subsection (1), a person who holds a licence under the *Broadcasting Services Act 1992* of the Commonwealth or a licence continued in force under the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992* of the Commonwealth for a broadcasting service that publishes any information or image that identifies, or is capable of identifying, a person attending for jury service is taken to have caused the publication of that information or image.

(3) This section does not apply to –

- (a) the publication of information or images in respect of a proceeding under this section; or
- (b) the provision of a report under section 24(b); or

- (c) the provision of the list as referred to in section 27(6); or
- (d) the publication of information or images of a prescribed kind.

Disclosure of certain matters

58. (1) A person must not –

- (a) publish, or cause to be published, any prohibited matter; or
- (b) solicit or obtain the disclosure by a juror or former juror of any prohibited matter.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 3 000 penalty units; or
- (b) a natural person, a fine not exceeding 600 penalty units or imprisonment for a term not exceeding 2 years.

(2) A juror must not disclose any prohibited matter during the course of a trial except in the course of deliberations with another juror in that trial.

Penalty: Fine not exceeding 600 penalty units or imprisonment for a term not exceeding 2 years.

(3) A former juror must not disclose any prohibited matter if the person has reason to believe that the disclosure may result in the prohibited matter being published to the public.

Penalty: Fine not exceeding 600 penalty units or imprisonment for a term not exceeding 2 years.

(4) The provisions of subsection (1) or subsection (3) do not prevent a former juror from disclosing, in relation to issues arising out of the person's service as a juror, any prohibited matter to –

- (a) a registered medical practitioner or a registered psychologist in the course of treatment; or
- (b) a legal practitioner in the course of seeking professional legal advice.

(5) A registered medical practitioner or registered psychologist must not disclose any information referred to in subsection (4) to any other person.

Penalty: Fine not exceeding 600 penalty units or imprisonment for a term not exceeding 2 years.

(6) The provisions of this section do not prevent –

- (a) a juror or former juror disclosing any information about the deliberations of a jury to –
 - (i) a judge, the court or the Magistrates Court; or
 - (ii) a board or commission appointed by the Governor; or
 - (iii) the Attorney-General; or
 - (iv) the Director of Public Prosecutions for Tasmania for the purpose of an investigation and prosecution relating to

- a criminal offence involving a juror or former juror; or
- (v) the Director of Public Prosecutions for the Commonwealth for the purpose of an investigation and prosecution relating to a criminal offence involving a juror or former juror; or
- (b) the investigation by a police officer at the request of the Director of Public Prosecutions for Tasmania or the Director of Public Prosecutions for the Commonwealth of a complaint about the deliberations of a jury or the disclosure of information about those deliberations by a juror or former juror to the police in the course of the investigation; or
- (c) the investigation by a person authorised by the court sitting as the Court of Appeal in relation to an appeal to that Court of an allegation about the deliberations of a jury or the disclosure of information about those deliberations by a juror or former juror to the authorised person in the course of that investigation; or
- (d) the publication or disclosure by a person of any information about the deliberations of a jury if that publication or disclosure is not capable of identifying a juror or the relevant legal proceeding; or
- (e) a person from soliciting information from a juror or former juror in accordance with an authority granted by the Attorney-General for the conduct of a research project into matters relating to juries or jury service.

(7) This section does not apply to the disclosure of information about a proceeding for an offence under this section if, before the proceeding was commenced, the information had been published generally to the public.

(8) A prosecution for an offence under this section may only be brought with the consent in writing of the Director of Public Prosecutions or a person authorised by the Director of Public Prosecutions to give consent for the purposes of this subsection.

(9) An offence under this section is an indictable offence.

Investigation of certain complaints

59. The Director of Public Prosecutions may request the Commissioner of Police to investigate a complaint about the deliberations of a jury or the disclosure of information about those deliberations by a juror or former juror.

Offence by body corporate

60. If, in proceedings for an offence under this Act, it is necessary to establish the intention or knowledge of a body corporate, it is sufficient to show that an officer, employee or agent of the body corporate had that intention or knowledge.

False and misleading information

61. A person, in providing any information or making a representation for the purpose of evading jury service, must not –

- (a) provide it or make it knowing it to be false or misleading; or
- (b) omit any matter knowing that without that matter the information or representation is false or misleading.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 100 penalty units; or
- (b) a natural person, a fine not exceeding 50 penalty units.

Impersonation of jurors

62. A person must not impersonate or attempt to impersonate another person for the purpose of performing jury service as that other person.

Penalty: Fine not exceeding 120 penalty units or imprisonment for a term not exceeding 12 months.

Influencing or threatening jurors

63. A person must not –

- (a) influence any juror or potential juror by any means, other than the production of evidence and argument in open court; or
- (b) injure or threaten to injure, or cause or threaten any detriment to, any other person on account of anything done by the person as a juror or for the purpose of influencing the person as a juror; or

- (c) accept or agree to accept any benefit on account of anything done or to be done by the person as a juror or potential juror; or
- (d) prevent, obstruct or dissuade another person from attending as a juror or potential juror.

Penalty: Fine not exceeding 500 penalty units or a term of imprisonment not exceeding 5 years, or both.

Extra payment for jury service

64. A person must not receive any payment for attendance for jury service, except as provided for under this Act, from any person.

Penalty: Fine not exceeding 120 penalty units or imprisonment for a term not exceeding 12 months.

Summary offences dealt with by court

65. (1) A summary offence under this Act may be dealt with by the court in a manner determined by the court.

(2) If the court fines a person for an offence under this Act, the fine is enforceable under Part 6 of the *Sentencing Act 1997*.

PART 7 – MISCELLANEOUS**Proof of service**

66. (1) The production of a certificate signed by the Sheriff that a questionnaire or a summons was posted or otherwise dispatched to a person is proof, in the absence of evidence to the contrary, that the questionnaire or summons was served at the address of the person named in the questionnaire or summons.

(2) If a questionnaire or summons is served by post, the certificate referred to in subsection (1) or other evidence of service is to –

- (a) identify the questionnaire or summons served; and
- (b) state the date and place of posting.

Rules of Court

67. The judges of the Supreme Court may make Rules of Court in respect of any matter or thing that may be necessary for the purpose of giving effect to this Act.

Regulations

68. (1) The Governor may make regulations for the purpose of this Act.

- (2)** Regulations may be made in relation to –
- (a) fees and remuneration; and
 - (b) panels of jurors; and

(c) jury lists.

(3) Regulations may be made so as to apply differently according to any matter, condition, limitation, restriction, exception or circumstance specified in the regulations.

(4) The regulations may be of a savings or transitional nature consequent on the enactment of this Act.

(5) Regulations under subsection (4) may take effect from the commencement of this Act or on a later day.

Savings and transitional provisions

69. The savings and transitional provisions set out in Schedule 8 have effect.

Amendment of Schedules

70. (1) The Governor, by order, may amend, repeal or substitute a Schedule in whole or in part.

(2) The provisions of section 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* apply to an order under this section as if it were regulations within the meaning of that Act.

Administration of Act

71. Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Justice and Industrial Relations; and
- (b) the department responsible to the Minister for Justice and Industrial Relations in relation to the administration of this Act is the Department of Justice and Industrial Relations.

Consequential amendments

72. The legislation specified in Schedule 9 is amended as specified in that Schedule.

***Jury Act 1899* repealed**

73. The *Jury Act 1899* is repealed.

Miscellaneous amendments

74. (1) The *Jury (Exemption) Regulations 1984* are rescinded.

(2) The *Jury Regulations 1998* are rescinded.

**SCHEDULE 1 – PERSONS DISQUALIFIED FROM
JURY SERVICE**

Section 6(2)

Prison for indictable offences

1. (1) A person is disqualified from jury service if the person has been convicted in Tasmania or another jurisdiction of one or more indictable offences and sentenced to –

- (a) imprisonment for a term or terms in the aggregate of 3 years or more in respect of any one or more of those offences; or
- (b) a period of detention for 3 years or more under a restriction order made under section 75 of the *Sentencing Act 1997* or an equivalent order in another jurisdiction.

(2) A conviction in respect of which a free pardon has been granted is to be disregarded for the purpose of subclause (1).

(3) A person who has been convicted in Tasmania or another jurisdiction of one or more indictable offences and sentenced to imprisonment for a term or terms in the aggregate of not less than 3 months is disqualified from jury service for a period of 5 years from the completion of the term of imprisonment.

(4) A person who is under parole is taken to be serving a term of imprisonment.

Community service order

2. A person who is subject to a community service order, a probation order or an undertaking to appear under the *Sentencing Act 1997* is disqualified from jury service.

Prison for offences

3. A person who is undergoing a term of imprisonment, whether or not the imprisonment is wholly or partly suspended, is disqualified from jury service.

Remanded in custody

4. A person who is remanded in custody is disqualified from jury service.

SCHEDULE 2 – PERSONS INELIGIBLE FOR JURY SERVICE

Section 6(3)

1. The Governor.
2. A person who is, or has been within the last 10 years –
 - (a) a judge; or
 - (b) a magistrate; or
 - (c) a justice approved as constituting a court of summary jurisdiction under section 23AB of the *Justices Act 1959*; or
 - (d) the holder of any other judicial office.
3. A practising legal practitioner.
4. A person whose duties or activities, whether paid or voluntary, are connected with the investigation of indictable offences, the administration of justice or the punishment of offenders.
5. A police officer or a person who has been a police officer within the last 10 years.
6. A member of the House of Assembly or Legislative Council.
7. The Secretary of the responsible Department.
8. The Secretary of the department responsible for the administration of the *Youth Justice Act 1997*.
9. A person who has a physical, intellectual or mental disability that renders the person incapable of effectively performing the duties of a juror.

2003

Juries

No.

sch. 2

10. A person who is unable to communicate in, or understand, the English language adequately.

**SCHEDULE 3 – OATH OR AFFIRMATION FOR
JURORS**

Section 38

PART 1 – OATH IN CRIMINAL TRIAL

You and each of you swear by Almighty God that you will faithfully and impartially try the issues between the Crown and [*name of accused*] in this trial and give a true verdict according to the evidence.

PART 2 – AFFIRMATION IN CRIMINAL TRIAL

You and each of you affirm that you will faithfully and impartially try the issues between the Crown and [*name of accused*] in this trial and give a true verdict according to the evidence.

PART 3 – OATH IN CIVIL TRIAL

You and each of you swear by Almighty God that you will faithfully and impartially try the issues and assess the damages in this trial or inquiry and give a true verdict according to the evidence.

PART 4 – AFFIRMATION IN CIVIL TRIAL

You and each of you affirm that you will faithfully and impartially try the issues and assess the damages in this trial or inquiry and give a true verdict according to the evidence.

**SCHEDULE 4 - OATH OR AFFIRMATION FOR
JURYKEEPERS**

Section 45(2) and 47(5)

PART 1 - OATH

You **[and each of you]* swear by Almighty God that you will well and truly keep this jury and each of its members committed to your charge and that, except on the order of the court, while they are in your charge, you will not allow any of them to communicate with any other person, or any other person with any of them, whether directly or indirectly, and that you will not, either during the trial or after it has finished, communicate with any juror about any evidence given or issues raised, directly or indirectly, at the trial.

PART 2 - AFFIRMATION

You **[and each of you]* affirm that you will well and truly keep this jury and each of its members committed to your charge and that, except on the order of the court, while they are in your charge, you will not allow any of them to communicate with any other person, or any other person with any of them, whether directly or indirectly, and that you will not, either during the trial or after it has finished, communicate with any juror about any evidence given or issues raised, directly or indirectly, at the trial.

**SCHEDULE 5 - OATH OR AFFIRMATION FOR
JURORS SEPARATING**

Section 46(3) and 47(6)

PART 1 - OATH

You and each of you swear by Almighty God that you will not discuss with any person other than another member of this jury any matter relating directly or indirectly to the evidence in this trial or the deliberations.

PART 2 - AFFIRMATION

You and each of you affirm that you will not discuss with any person other than another member of this jury any matter relating directly or indirectly to the evidence in this trial or the deliberations.

**SCHEDULE 6 - OATH OR AFFIRMATION FOR
JURYKEEPERS ON A VIEW**

Section 52(3)

PART 1 - OATH

You **[and each of you]* swear by Almighty God that you will take the jury in this case to the place and in the manner as directed and bring the jury back into court as soon as the view has been concluded, or, if the court has adjourned, as soon as the court resumes the trial (whichever is the later), that you will not allow any of them to communicate with any other person or any other person with any of them, other than the showers, whether directly or indirectly, and that you will not communicate with any juror, other than any communication necessary in the performance of your duties.

PART 2 - AFFIRMATION

You **[and each of you]* affirm that you will take the jury in this case to the place and in the manner as directed and bring the jury back into court as soon as the view has been concluded, or, if the court has adjourned, as soon as the court resumes the trial (whichever is the later), that you will not allow any of them to communicate with any other person or any other person with any of them, other than the showers, whether directly or indirectly, and that you will not communicate with any juror, other than any communication necessary in the performance of your duties.

**SCHEDULE 7 - OATH OR AFFIRMATION FOR
SHOWERS ON A VIEW**

Section 52(3)

PART 1 - OATH

You **[and each of you]* swear by Almighty God that you will well and truly show to the jury in this case all demonstrations and experiments or assist the jury to undertake all inspections as directed and that you will not communicate with any juror other than any communication necessary in the performance of your duties.

PART 2 - AFFIRMATION

You **[and each of you]* affirm that you will well and truly show to the jury in this case all demonstrations and experiments or assist the jury to undertake all inspections as directed and that you will not communicate with any juror other than any communication necessary in the performance of your duties.

**SCHEDULE 8 – SAVINGS AND TRANSITIONAL
PROVISIONS**

Section 69

Interpretation

1. In this Schedule –

“commencement day” means the day on which
this Act commences;

“repealed Act” means the *Jury Act 1899*.

Trials

2. The repealed Act continues to apply after the commencement day in respect of a trial in which a jury was empanelled before that day.

Jury lists

3. A jury list prepared for a jury district under the repealed Act and in effect immediately before the commencement day is, on that day, the jury list prepared for the corresponding jury district under this Act.

Summonses

4. (1) A summons to attend for jury service served under the repealed Act and returnable on a date after the commencement day is, on that day, taken to be a summons issued under this Act.

(2) Schedule 1 applies to persons summoned to attend for jury service, whether the summons was issued before or after the commencement day.

(3) Schedule 2 applies to persons summoned to attend for jury service, whether the summons was issued before or after the commencement day.

Exemptions

5. An exemption in force under section 7B or 7C of the repealed Act immediately before the commencement day continues, on that day, to be in force as it would have continued under the repealed Act.

SCHEDULE 9 – CONSEQUENTIAL AMENDMENTS
Section 72

Criminal Code Act 1924

1. Schedule 1 is amended as follows:

- (a) by omitting section 93;
- (b) by omitting sections 364, 365, 366 and 367;
- (c) by omitting sections 370 and 370A;
- (d) by omitting sections 372, 374, 375, 376, 377, 378 and 379;
- (e) by omitting Appendix D.

Criminal Justice (Mental Impairment) Act 1999

- 1. Section 12(2) is amended by omitting “*Jury Act 1899*” and substituting “*Juries Act 2003*”.
- 2. Section 15(4) is amended by omitting “*Jury Act 1899*” and substituting “*Juries Act 2003*”.

Supreme Court Civil Procedure Act 1932

- 1. Sections 30 and 31 are repealed.