

# Juries Act 2000

## Act No. 53/2000

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Victoria

**No. 53 of 2000**

## **Juries Act 2000<sup>†</sup>**

[Assented to 12 September 2000]

**The Parliament of Victoria enacts as follows:**

### **PART 1—PRELIMINARY**

#### **1. *Purpose***

The purpose of this Act is to provide for the operation and administration of a system of trial by jury that—

- (a) equitably spreads the obligation of jury service amongst the community; and
- (b) makes juries more representative of the community; and

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- (c) permits the timely adoption of new technologies for the selection of persons for jury service.

## **2. Commencement**

- (1) Section 1 and this section and Part 12 come into operation on the day after the day on which this Act receives the Royal Assent.
- (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 before 1 January 2001, it comes into operation on that day.

## **3. Definitions**

- (1) In this Act—

**"circuit town"** means a place, other than Melbourne, at which sittings of the Supreme Court or County Court are held;

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

**"court"** means the Supreme Court or County Court;

**"criminal trial"** means trial on indictment or presentment for an indictable offence or the trial of an issue by a court sitting in the exercise of a criminal jurisdiction and includes an investigation and a special hearing under the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997**;

**"Deputy Juries Commissioner"** means a Deputy Juries Commissioner employed under

section 60(b) or a person referred to in section 61;

**"Electoral Commissioner"** means the person appointed under section 144 of **The Constitution Act Amendment Act 1958**;

**"Juries Commissioner"** means the Juries Commissioner employed under section 60(a);

**"jury list"** means a list prepared under section 25;

**"jury roll"** means the roll prepared under section 19 for a jury district;

**"jury service period"** means the period for which the jury roll is prepared;

**"panel"** means a group of persons attending for jury service that is selected or allocated in accordance with section 30 and from which a jury may be struck;

**"pool"** means a group of persons attending for jury service that is constituted in accordance with section 29 and from which a panel may be constituted;

**"pool supervisor"** means the Juries Commissioner, a Deputy Juries Commissioner or a person appointed under sub-section (2);

**"proper officer"** means the person authorised by a trial judge under section 30(4);

**"prothonotary"** means the prothonotary of the Supreme Court;

**"publish"** includes disseminate, broadcast and transmit;

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**"questionnaire"** means the questionnaire referred to in section 20;

**"registered medical practitioner"** means—

- (a) a registered medical practitioner within the meaning of the **Medical Practice Act 1994**; 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 registered psychologist within the meaning of the **Psychologists Registration Act 1987**;

**"trial"** means civil trial or criminal trial;

**"view"** includes inspection.

- (2) At any time, the Juries Commissioner may appoint a person to be in charge of, or assist with, a pool.

#### **4. *Selection to be random***

If this Act requires that one or more persons be selected, the selection must be random.

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**PART 2—LIABILITY FOR JURY SERVICE**

**5. *Persons qualified and liable for jury service***

- (1) Subject to this Act, every person aged 18 years or above who is enrolled as an elector for the Legislative Assembly and Legislative Council 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.

**6. *Reasons for impeaching a verdict***

The fact that a person is disqualified from or is ineligible for jury service is not a ground for impeaching a verdict unless that fact is submitted before the person is sworn as a juror.

**7. *Deferral of jury service***

- (1) A person, or another person on their behalf, may—
    - (a) after receipt of a questionnaire; or
    - (b) at any time prior to becoming a member of a panel—apply to the Juries Commissioner for deferral of jury service to another period within the next 12 months.
  - (2) On an application under sub-section (1), the Juries Commissioner may defer a person's jury service to a date within the next 12 months.
  - (3) If the Juries Commissioner decides to refuse an application for deferral, the Juries Commissioner must notify the person in respect of whom the application was made.
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**8. *Juries Commissioner may excuse for good reason***

- (1) A person, or another person on their behalf, may, at any time before the person becomes a member of a panel, apply to the Juries Commissioner for the person to be excused from jury service for the whole or any part of the jury service period.
- (2) On an application under sub-section (1), the Juries Commissioner may 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.
- (3) For the purposes of sub-section (2), good reason includes any of the following—
  - (a) illness or poor health;
  - (b) incapacity;
  - (c) the distance to travel to the place at which the person would be required to attend for jury service is—
    - (i) if the place is in Melbourne, over 50 kilometres; or
    - (ii) if the place is outside Melbourne, over 60 kilometres;
  - (d) travel to the place at which the person would be required to attend for jury service would take excessive time or cause excessive inconvenience;
  - (e) substantial hardship to the person would result from the person attending for jury service;
  - (f) substantial financial hardship would result from the person attending for jury service;

- (g) substantial inconvenience to the public would result from the person attending for jury service;
  - (h) the person has the care of dependants and alternative care during the person's attendance for jury service is not reasonably available for those dependants;
  - (i) the advanced age of the person;
  - (j) the person is a practising member of a religious society or order the beliefs or principles of which are incompatible with jury service;
  - (k) any other matter of special urgency or importance.
- (4) In order to excuse a person under this section, the Juries Commissioner must be satisfied—
- (a) by evidence on oath, whether oral or by affidavit; or
  - (b) by statutory declaration; or
  - (c) if the Juries Commissioner considers it appropriate, by any other means.
- (5) If the Juries Commissioner decides to refuse an application to be excused from jury service, the Juries Commissioner must notify the person in respect of whom the application was made.

**9. *Juries Commissioner may permanently excuse person***

- (1) A person, or another person on their behalf, may apply to the Juries Commissioner for the person to be permanently excused from jury service.
  - (2) An application may be made under this section at any time, whether or not the person in respect of whom it is made has been summoned for jury service.
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- (3) On an application under sub-section (1), the Juries Commissioner may permanently excuse a person from jury service if satisfied that there is good reason for doing so.
  - (4) For the purposes of sub-section (3), good reason includes, but is not limited to—
    - (a) continuing poor health;
    - (b) disability;
    - (c) advanced age.
  - (5) In order to excuse a person under this section, the Juries Commissioner must be satisfied—
    - (a) by evidence on oath, whether oral or by affidavit; or
    - (b) by statutory declaration; or
    - (c) if the Juries Commissioner considers it appropriate, by any other means.
  - (6) If the Juries Commissioner decides to refuse an application to be permanently excused from jury service, the Juries Commissioner must notify the person in respect of whom the application was made.

**10. *Appeal against decision of Juries Commissioner***

- (1) A person aggrieved by a decision of the Juries Commissioner under section 7, 8 or 9 may appeal against the decision within 14 days after notification of the decision or before the date on which the person is required to attend for jury service (whichever is the sooner).
- (2) An appeal must be lodged with the Juries Commissioner and shall be determined, in accordance with the rules, by the Supreme Court or the County Court.

- (3) The Supreme Court or County Court may extend the time within which an appeal may be instituted.

**11. *Court may excuse person from jury service***

- (1) A court may, by order, excuse a 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) A court may make an order under sub-section (1)—
- (a) on an appeal under section 10; or
  - (b) if the Juries Commissioner refers the matter to the court—
- if the court is satisfied that there is good reason for the person to be excused from jury service.
- (3) For the purposes of sub-section (2), good reason includes the matters set out in section 8(3).

**12. *Court may determine that a person not perform jury service***

- (1) If a court thinks it is just and reasonable to do so, the court may, on its own motion, or on an application under sub-section (2), order that a person not perform jury service—
- (a) for the whole or part of the jury service period; or
  - (b) for a longer period specified by the court; or
  - (c) permanently.
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- (2) If the Juries Commissioner considers that a person may not be able to perform the duties of a juror, the Juries Commissioner may apply to a court for an order under sub-section (1).

**13. *Persons may be exempted from jury service in certain circumstances***

- (1) The Juries Commissioner may grant to a person who attends for jury service or serves on a jury an exemption from jury service for any period, not exceeding 3 years, that the Juries Commissioner thinks fit.
- (2) When a juror or a jury is discharged during or at the conclusion of a trial, the court may determine that the juror is, or jurors are, exempt from jury service—
- (a) if the trial has required the attendance of the juror or jurors for a lengthy period; or
  - (b) for other good reason.
- (3) An exemption under sub-section (2) is for the period specified by the court.

**14. *Juries Commissioner to be notified if court exempts or excuses from, or orders person not to perform, jury service***

If, under this Part, a court exempts or excuses a person from jury service or orders that a person not perform jury service, whether permanently or otherwise, the court must cause the Juries Commissioner to be notified of that fact and the period for which the person is exempted, excused or ordered not to perform jury service.

**15. *Person may waive exemption or excuse***

A person who has been—

- (a) exempted from jury service under section 13;  
or
- (b) excused from jury service under section 8  
or 9—

may waive that exemption or excuse by written notice to the Juries Commissioner.

**16. *Court may enlarge jury list, pool or panel***

- (1) A court may order that a jury list, pool or panel be enlarged.
- (2) If a court makes an order under sub-section (1), it may direct the manner in which the persons may be summoned for jury service.

**17. *Reduction of jury list or pool***

- (1) If it appears to the Juries Commissioner, 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 that will actually be required, the Juries Commissioner 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 at any sittings of a court exceeds the number reasonably required, the Juries Commissioner or the court may defer or cancel the jury service of all or a selected number of those persons.
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**PART 3—JURY DISTRICTS AND JURY ROLLS**

**18. *Jury districts***

- (1) There shall be a jury district for Melbourne and each circuit town.
- (2) A jury district is the area comprising the electoral districts for the Legislative Assembly assigned in accordance with sub-section (3).
- (3) The Governor in Council—
  - (a) on the recommendation of the Electoral Commissioner; and
  - (b) after consultation with the Juries Commissioner; and
  - (c) having regard to the needs of the courts in Melbourne or a circuit town, as the case requires, for jurors—

shall, by order published in the Government Gazette, assign electoral districts for the Legislative Assembly as the jury district for that city or circuit town.

**19. *Preparation of jury rolls by Electoral Commissioner***

- (1) The Juries Commissioner—
  - (a) must, at intervals of not more than 12 months; and
  - (b) may at any shorter interval—notify the Electoral Commissioner of the number of persons that the Juries Commissioner estimates will be required for jury service in a jury district.
- (2) On receipt of a notification under sub-section (1), the Electoral Commissioner must, as soon as practicable, select from the electoral rolls for the electoral districts for the Legislative Assembly in



that jury district the number of persons apparently qualified and liable for jury service in that district required for the jury service period.

- (3) On completion of the selection under sub-section (2), the Electoral Commissioner must, without delay, send to the Juries Commissioner a roll of the persons selected under sub-section (2) and the address and date of birth of each person.
  - (4) The roll referred to in sub-section (3) is the jury roll for the jury district concerned until a new jury roll is prepared in accordance with this Act, despite any alteration in the boundaries of the jury district during the jury service period.
  - (5) A person selected for the jury roll is not eligible to be selected again during the next 12 months or any longer period that the Juries Commissioner directs.
  - (6) The Juries Commissioner may provide to the Electoral Commissioner any information that the Juries Commissioner thinks relevant for the preparation of jury rolls.
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**PART 4—PRE-SELECTION OF PERSONS FOR JURY  
SERVICE**

**20. *Questionnaire***

- (1) The Juries Commissioner must, from time to time, cause a questionnaire to be sent to—
  - (a) all persons on a jury roll; or
  - (b) as many persons selected from a jury roll as the Juries Commissioner thinks necessary—for the purpose of determining their qualification and liability for jury service for the jury service period.
- (2) A person who receives a questionnaire referred to in sub-section (1) must complete it in the manner specified and return it to the Juries Commissioner within 14 days after receipt or the time specified by the Juries Commissioner, whichever is later.
- (3) If a person fails to complete and return a questionnaire as required by this section, the person remains liable for jury service.

**21. *Juries Commissioner to determine liability for jury service***

On receipt of a completed questionnaire from a person, the Juries Commissioner must determine the qualification and liability of the person for jury service.

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**PART 5—SUMMONING OF JURORS**

**22. *Civil and criminal juries***

- (1) If a civil trial is to be tried by a jury, the jury is to comprise 6 jurors or, if the court makes an order in accordance with section 23, not more than 8 jurors.
- (2) A criminal trial is to be tried by a jury of 12 or, if the court makes an order in accordance with section 23, by a jury of not more than 15.

**23. *Empanelment of additional jurors***

Before the jury is empanelled in a trial, the court may order the empanelment of—

- (a) in a criminal trial, up to 3 additional jurors;  
and
- (b) in a civil trial, up to 2 additional jurors.

**24. *Fees for civil juries***

- (1) A party requiring a civil case to be tried by a jury must pay the prescribed fee—
  - (a) if the case is to be tried in the Supreme Court, to the prothonotary; and
  - (b) if the case is to be tried in the County Court, to the registrar of that court.
- (2) The party that required a civil case to be tried by a jury must pay to the prothonotary or the registrar (as the case requires) the prescribed fee for a jury for the second and each subsequent day of the trial.

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- (3) Subject to sub-section (4), the fee required to be paid under this section for the second and each subsequent day of a trial must be paid before the trial resumes on the day in respect of which the fee is payable.
  - (4) The court may extend the time for payment of a fee required to be paid for any day of a trial, but not beyond the end of that day.
  - (5) If the prescribed fee is not paid by any party by the time required for payment, the court must discharge the jury and continue to hear and determine the case without a jury.
  - (6) If, on the last day of a trial, the jury serves for more than 8 hours, the party that is required to pay the fees for the jury for that day must pay a further day's fee for the jury before the end of the next day on which the court is open for business.
  - (7) If a party cancels a requirement for trial by a jury not less than 14 days before the trial is listed to commence, a refund of the fees paid under this section less prescribed administrative expenses may, on application, be made to the party and the Consolidated Fund is, to the necessary extent, appropriated accordingly.
  - (8) No fees are payable if the court, on its own motion, orders that a jury is required in a civil trial.

**25. *Preparation of jury list***

- (1) The Juries Commissioner must, as often as necessary, prepare a list of persons selected from, or comprising, those recorded by the Juries Commissioner as liable for jury service in a jury district.
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- (2) The list must include sufficient numbers of persons to constitute—
  - (a) a panel to be summoned to a particular court; or
  - (b) a pool from which persons may be selected and allocated for the purpose of striking juries for trials in one or more courts.
- (3) The list must contain the name, address, date of birth and, if known, the occupation of each person selected.
- (4) The Juries Commissioner may make any enquiries he or she considers necessary to determine whether—
  - (a) a person included on a jury list is disqualified from, or ineligible for, jury service; or
  - (b) information contained in a jury list is correct.
- (5) The Juries Commissioner may, at any time, amend a jury list to correct an error or to remove a person named on the jury list who is disqualified or ineligible to serve as a juror.

**26. Chief Commissioner of Police to make enquiries**

- (1) The Juries Commissioner must provide to the Chief Commissioner of Police a copy of each jury list.
  - (2) The Chief Commissioner of Police—
    - (a) must cause enquiries to be made as to whether a person named on the jury list has, or is alleged to have, committed an offence in Victoria in order to determine whether the person is disqualified under section 5(2) from jury service; and
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(b) may cause enquiries to be made as to whether a person named on the jury list has, or is alleged to have, committed an offence outside Victoria in order to determine whether the person is disqualified under section 5(2) from jury service—

and report the result of those enquiries to the Juries Commissioner.

(3) If an enquiry under sub-section (2) reveals that a person named on a jury list is disqualified, the Juries Commissioner must remove the person's name from the list.

### **27. *Summons***

- (1) The Juries Commissioner must issue a summons to—
- (a) a sufficient number of persons selected from a jury list; or
  - (b) all persons on a jury list.
- (2) A summons issued under sub-section (1) must—
- (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) be served not less than 10 days before the person is required to attend for jury service.
- (3) The Juries Commissioner may—
- (a) recall and cancel a summons; and
  - (b) issue a fresh summons for the same purpose as that for which the recalled summons was issued.

**28. Attendance for jury service**

- (1) A person shall not be compelled to attend for jury service for more than 5 consecutive court days unless—
- (a) on the last of those days, the trial in which the person is serving as juror has not concluded; or
  - (b) in special circumstances, the court otherwise orders.
- (2) A person—
- (a) who does not attend for jury service when summoned; or
  - (b) whose jury service is deferred or cancelled under section 17—
- remains liable for jury service.
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**PART 6—JURY TRIALS**

**29. *Jury pool***

- (1) On the day and at the time named in the summons or the day and time to which jury service has been deferred, the person named in the summons must attend the place referred to in the summons unless the person's service is further deferred or cancelled under section 17.
- (2) A pool of persons attending for jury service is in the charge and under the control of the Juries Commissioner and pool supervisors, subject to the general control and direction of the court.
- (3) For each person called to a pool, the Juries Commissioner must cause to be prepared a document bearing the name and occupation of the person and, if there are 2 or more persons in the pool with the same name and occupation, their date of birth.
- (4) The Juries Commissioner or a pool supervisor may require a person called to a pool to produce evidence of his or her identity.
- (5) The persons whose names are documented under sub-section (3) constitute the pool from which persons may be selected or allocated to constitute a panel.

**30. *Selection of panels***

- (1) A trial judge must cause a pool supervisor to be notified when a panel is required by the court.
- (2) The pool supervisor must then either—
  - (a) select from the pool a sufficient number of persons to empanel a jury for that trial; or
  - (b) allocate all the pool.



- (3) The persons selected or allocated constitute the panel for that trial.
- (4) The trial judge must authorise a person to assist in the calling of the panel and the selection of the jury, and the names of the persons constituting the panel must be delivered to that person.

### **31. *Calling of panel***

- (1) When the panel is present in the court, the proper officer must—
  - (a) call out their names or, if the court makes a direction under sub-section (3), their number, one after another; and
  - (b) document those who answer to their names or numbers.
- (2) If 2 or more persons have the same name, the proper officer must call out their occupations and if 2 or more persons have the same name and occupation, the proper officer must call out their dates of birth.
- (3) If the court considers that for security or other reasons the names on a panel should not be read out in open court, the court may, either before or after the panel is present in the court, direct that each person be identified by number only.

### **32. *Information for panel***

- (1) The court must inform the panel, or cause them to be informed, of the following information—
    - (a) the type of action or charge;
    - (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;
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- (e) any other information that the court thinks relevant.
  - (2) The court must then call on persons on the panel to seek to be excused from jury service on the trial.
  - (3) The court may excuse a person from jury service on the trial if the court is satisfied that the person—
    - (a) will be unable to consider the case impartially; or
    - (b) is unable to serve for any other reason.
  - (4) Unless the court otherwise orders, a person excused from jury service under sub-section (3) must return to the jury pool and may be selected or allocated to a panel in another trial.

**33. *Procedure for selecting jury in civil trials***

- (1) After the procedures set out in sections 31 and 32 have been completed in a civil trial, the proper officer must—
  - (a) select persons from the panel and call out the name or number and occupation of those persons and, if there are 2 or more persons with the same name and occupation, their dates of birth until a sufficient number, after allowing for all challenges for cause that have been upheld, is selected; and
  - (b) make a list of the persons selected; and
  - (c) provide the list—
    - (i) first, to the plaintiff or petitioner; and
    - (ii) next, to the defendant or respondent—

who may each strike from the list the name or number of any person to whom they object in accordance with section 35.

- (2) The persons whose names or numbers remain on the list are the jury to try the issues in the trial.

**34. *Challenges for cause in civil trials***

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

**35. *Peremptory challenges in civil trials***

- (1) In a civil trial, each party is allowed to challenge peremptorily 3 potential jurors.
- (2) A peremptory challenge in a civil trial is made by striking the name or number of the potential juror from the list of persons selected under section 33.
- (3) If several plaintiffs or defendants are represented in a civil trial by the same legal practitioner, they must, for the purpose of a peremptory challenge, be deemed to be one plaintiff or defendant, as the case requires.
- (4) If several plaintiffs or defendants are not represented in a civil trial by the same legal practitioner—
  - (a) they may consent to join in their peremptory challenges;
  - (b) if they do not consent, each is allowed to challenge peremptorily as provided by subsection (1).

**36. *Procedure for selecting jury in criminal trials***

- (1) After the procedures set out in sections 31 and 32 have been completed in a criminal trial, the proper officer must select persons from the panel and call out the name or number and occupation of those persons and, if there are 2 or more persons with
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the same name and occupation, their date of birth until the required number, after allowing for all challenges for cause that have been upheld and each arraigned person's right of challenge under section 39, is selected.

- (2) The persons selected are the jury to try the issues in the trial.

**37. *Challenges for cause in criminal trials***

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

**38. *Crown right to stand aside jurors in criminal trials***

- (1) The Crown may require to stand aside—
- (a) 6 potential jurors, if only 1 person is arraigned in the trial; or
  - (b) 10 potential jurors, if 2 persons are arraigned in the trial; or
  - (c) 4 potential jurors for each person arraigned in the trial, if 3 or more persons are arraigned.
- (2) The requirement to stand aside must be made as the potential juror comes to take his or her seat and before he or she takes it.
- (3) A potential juror who has been required to stand aside by the Crown under this section continues to be a member of the panel selected or allocated by the pool supervisor for the trial.
- (4) If a potential juror who has been required to stand aside by the Crown is selected again by the proper officer in accordance with the procedure set out in section 36, the Crown may not require that 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 **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997**.

**39. *Peremptory challenges in criminal trials***

- (1) Each person arraigned is allowed to challenge peremptorily—
- (a) 6 potential jurors, if only 1 person is arraigned in the trial; or
  - (b) 5 potential jurors, if 2 persons are arraigned in the trial; or
  - (c) 4 potential jurors, if 3 or more persons are arraigned in the trial.
- (2) In a criminal trial, each peremptory challenge must be made as the potential juror comes to take his or her seat and before he or she takes it.
- (3) On the application of a person arraigned, the court must permit a legal practitioner who represents the person, or the clerk of the legal practitioner, to assist the person in making a peremptory challenge.
- (4) This section does not apply to an investigation under the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997**.

**40. *Determination of challenges for cause***

- (1) A challenge to a potential juror for cause must be tried by the judge before whom the jury is being empanelled.
- (2) If a challenge to a potential juror for cause is upheld, the person challenged must not be empanelled on the jury in that trial.
- (3) Unless the court otherwise orders, a potential juror in respect of whom a challenge for cause has been
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upheld must return to the jury pool and may be selected or allocated to a panel in another trial.

**41. *Supplementary jurors***

- (1) If a trial is likely to be delayed because there is an insufficient number of persons available for the selection of a jury, the court may, on its own motion or on application by a party, direct the Juries Commissioner to supplement a panel by selecting a sufficient number from among persons who are qualified and liable for jury service and instructing them to attend for jury service.
- (2) The number of persons to be selected, and the method of selection, is as directed by the court.
- (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.

**42. *Swearing of jury*<sup>1</sup>**

On being empanelled, jurors must be sworn in open court in the form of Schedule 3 applicable to the case.

**43. *Judge may discharge juror***

A judge may, during a trial, discharge a juror without discharging the whole jury if—

- (a) it appears to the judge 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
- (d) it appears to the judge that, for any other reason, the juror should not continue to act as a juror.

**44. *Continuation of trial with reduced jury***

- (1) Subject to sub-sections (2) and (3), if a juror dies or is discharged during a trial, the judge may direct that the trial shall continue with the remaining jurors.
- (2) A civil trial cannot continue with less than 5 jurors.
- (3) A criminal trial cannot continue with less than 10 jurors.
- (4) The verdict of the remaining jurors is a sufficient verdict.

**45. *Court may order view in civil trials***

- (1) If, during a civil trial, the judge considers it desirable for the jury to view a particular place or object, the judge may order a view and may give any necessary directions for that purpose.
- (2) The validity of the proceeding is not affected by a failure to comply with any direction given under sub-section (1) but if the fact is discovered before the verdict is given, the court may discharge the jury and direct that a new trial shall take place.
- (3) If a party to a civil trial applies for a view, the party must pay to the Juries Commissioner the expenses of the view determined by the Juries Commissioner.

**46. *Failure to reach unanimous verdict in criminal trials***

- (1) In this section, "**majority verdict**" means—
  - (a) if, at the time of returning its verdict, the jury consists of 12 jurors—a verdict on which 11 of them agree;
  - (b) if, at the time of returning its verdict, the jury consists of 11 jurors—a verdict on which 10 of them agree;

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- (c) if, at the time of returning its verdict, the jury consists of 10 jurors—a verdict on which 9 of them agree.
- (2) If, after deliberating for at least 6 hours a jury in a criminal trial—
- (a) is unable to agree on its verdict; or
- (b) has not reached a unanimous verdict—
- the court may discharge the jury or, subject to sub-sections (3) and (4), take a majority verdict as the verdict of the jury.
- (3) A court must refuse to take a majority verdict if it considers that the jury has not had a period of time for deliberation that the court thinks reasonable, having regard to the nature and complexity of the trial.
- (4) A verdict that the accused is guilty or not guilty of murder or treason or an offence against a law of the Commonwealth must be unanimous.
- (5) If in a criminal trial—
- (a) it is possible for a jury to return a verdict of not guilty of the offence charged but guilty of another offence 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 offence charged; and
- (c) the jury is unable to agree on its verdict on the alternative offence after a cumulative total of at least 6 hours deliberation on both offences—

a majority verdict on the alternative offence may be taken as the verdict of the jury.



**47. *Failure to reach unanimous verdict in civil trials***

- (1) If—
- (a) the jury in a civil trial has not reached a unanimous verdict after at least 3 hours deliberation; and
  - (b) at the time of returning its verdict, the jury consists of 6 jurors—
- the court may, subject to sub-section (3), take a verdict on which 5 of them agree as the verdict of the jury.
- (2) If, after deliberating for at least 6 hours, 5 of the jury in a civil trial are unable to agree on their verdict, the judge may discharge the jury.
- (3) A court must refuse to take a majority verdict if it considers that the jury has not had a period of time for deliberation that the court thinks reasonable, having regard to the nature and complexity of the trial.

**48. *Ballot where additional jurors on jury***

- (1) If—
- (a) in a criminal trial, more than 12 jurors; or
  - (b) in a civil trial, more than 6 jurors—
- have been empanelled and remain at the time at which the jury is required to retire to consider its verdict, a ballot must be conducted by selecting the number of jurors necessary to reduce the jury to 12 or 6, as the case requires, before the jury retires to consider its verdict.
- (2) If the foreperson is selected in the ballot, that selection is to be disregarded and the foreperson remains on the jury.
- (3) If a criminal trial is not concluded after the verdict is given (whether because it is not in respect of all
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the accused persons or not in respect of all the counts in the presentment), the jurors selected in the ballot must then return to the jury, and continue as part of it, for the continuation of the trial.

- (4) A fresh ballot must be conducted each time the jury is required to retire to consider its verdict.
- (5) Subject to sub-sections (2) and (3), the jurors who are selected in the ballot must be discharged but remain liable for further jury service, unless the court otherwise orders.
- (6) The jurors who, after a ballot, remain on the jury until a verdict has been given or until the jurors are discharged, remain liable for further jury service, unless the court otherwise orders.

**49. *Oath for jurykeeper*<sup>2</sup>**

If a jurykeeper is required in a trial, the jurykeeper must be sworn in the form of Schedule 4.

**50. *Court may allow jury to separate after retiring to consider verdict***

- (1) Subject to sub-section (2) but despite any rule of law or practice to the contrary, the court 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—

after the jury has retired to consider its verdict and before the verdict is given or the jurors are discharged.

- (2) A court may allow a jury or juror to separate in accordance with sub-section (1) only if each

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separating juror has been sworn in the form of  
Schedule 5<sup>3</sup>.

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**PART 7—REMUNERATION AND ALLOWANCES FOR JURY SERVICE**

**51. *Remuneration and allowances for jury service***

(1) Subject to sub-sections (2) and (3), the prescribed rate of remuneration and allowances shall be paid to—

- (a) each person who has attended for jury service in response to a summons; and
- (b) each person who has attended court in response to selection under section 41 to supplement a panel—

whether or not the person has actually served as a juror.

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

- (a) the person was aware of a circumstance that may constitute a reason for excusal under this Act and the person did not apply to the Juries Commissioner to be excused from jury service at the first reasonable opportunity after becoming aware of the circumstance; or
- (b) the person knowingly made an untrue or misleading statement in the questionnaire he or she returned to the Juries Commissioner.

(3) If a juror is not required to attend during the course of a trial, the judge may direct that the juror be paid remuneration and allowances at the prescribed rate for any day on which the juror is not required to attend court—

- (a) to a maximum of 5 days for each 40 days on which the juror has attended court, whether

or not the juror has lost income as a result of serving as a juror; and

- (b) for any further days in respect of which the juror has lost income as a result of serving as a juror.

**52. Employer to make up pay**

- (1) In this section and section 53, "**employee**" does not include an independent contractor.
- (2) Despite any inconsistent term in a contract of employment, an employee who has been summoned for jury service and who has attended court, whether or not he or she has actually served on a jury, is entitled to be reimbursed by his or her employer an amount equal to the difference between the amount of remuneration paid under section 51 and the amount that he or she could reasonably expect to have received from the employer as earnings for that period had he or she not been performing jury service.

**53. Employee must notify employer of date etc. of jury service**

An employee must—

- (a) notify his or her employer as soon as possible of the date on which he or she is required to attend for jury service; and
- (b) give his or her employer written details of—
- (i) the date on which the employee attended for jury service; and
  - (ii) the duration of the period of jury service; and
  - (iii) any remuneration paid to the employee under section 51; and
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- (c) give his or her employer any other information as directed by the Juries Commissioner.
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## PART 8—COMPENSATION OF JURORS

### **54. Definition**

In this Part, "**Authority**" means the Victorian WorkCover Authority under the **Accident Compensation Act 1985**.

### **55. Compensation for injury during jury service**

- (1) If a person suffers personal injury arising out of or in the course of jury service, compensation is to be paid in accordance with this Part.
  - (2) An injury is deemed to arise out of or in the course of a person's jury service if the injury occurs while the person—
    - (a) is in attendance at a pool of jurors or at a court or place, in response to a summons or other lawful direction; or
    - (b) having been present at a pool of jurors, court or place on a day, is temporarily absent on that day from the pool, court or place during an adjournment of the court or with the express permission of the court or the Juries Commissioner and, during the absence, does not voluntarily subject himself or herself to any abnormal risk of injury; or
    - (c) is travelling between his or her place of residence, business or employment and the pool, court or place where the person is required to attend for jury service, but not during or after a break in the person's journey which the Authority, the County Court or the Magistrates' Court considers would ordinarily have materially added to the risk of injury.
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- (3) For the purposes of this section, service as a juror includes attendance at a pool of jurors or at a court or place in response to a summons to attend for jury service, whether or not the person so attending—
- (a) is qualified and liable for jury service; or
  - (b) is excused by the court or Juries Commissioner from further attendance; or
  - (c) is sworn as a juror; or
  - (d) is empanelled on a jury—
- but does not include attendance by a person who has knowingly made an untrue or misleading statement in a questionnaire in respect of which the person has been recorded as liable for jury service.
- (4) The person to whom or for whose benefit compensation is payable are those persons to whom or for whose benefit compensation would be payable under the **Accident Compensation Act 1985** if—
- (a) the person attending for jury service were a worker within the meaning of that Act; and
  - (b) the personal injury were caused in the person's employment arising out of or in the course of the employment.
- (5) A claim for compensation under this section must be made to the Authority in accordance with this Part.
- (6) All matters relating to compensation must be determined in accordance with this Part by the Authority, the County Court or the Magistrates' Court, as the case requires.
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- (7) In making a determination in relation to any matter referred to in sub-section (4), the Authority, the County Court or the Magistrates' Court must, as far as practicable, be guided by reference to the applicable provisions of the **Accident Compensation Act 1985** governing the corresponding matter in that Act.
- (8) A person is not debarred from compensation in respect of personal injury caused to a person attending for jury service by reason only that the person attending for jury service was not, at the relevant time, a worker within the meaning of **Accident Compensation Act 1985**.
- (9) For the purpose of assessing compensation, the average weekly earnings of a person attending for jury service is to be computed by the Authority, the County Court or the Magistrates' Court—
- (a) by reference to his or her employment by any employer or employers during the relevant period before the accident; or
  - (b) if he or she was not then working under a contract of service, on any basis that, in the opinion of the Authority, the County Court or the Magistrates' Court, is best calculated to give the appropriate compensation for his or her loss of earning capacity—
- but so that any relevant maximum limits imposed by the **Accident Compensation Act 1985** are not exceeded.
- (10) If compensation is paid under this Part, the payment has the same legal effects as follow from the payment of compensation under the **Accident Compensation Act 1985**.
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- (11) For the purposes of enabling the return to work of a person who suffers a personal injury while attending for jury service, the Authority may—
- (a) prepare a return to work plan under the **Accident Compensation Act 1985**;
  - (b) approve a provider of occupational rehabilitation services for the purposes of a return to work plan prepared under paragraph (a);
  - (c) provide alternative assistance or programs to the worker or in respect of the employment of the worker.
- (12) Any costs and expenses incurred as a result of sub-section (11) are to be paid by the Authority under section 59(2) as if the costs and expenses were a payment of compensation and section 59(3) applies accordingly.

**56. *Compensation otherwise payable***

If a person is entitled to compensation in respect of personal injury otherwise than in accordance with this Part, there is payable to that person the amount, if any, by which the amount of compensation in respect of the injury determined under this Part exceeds the amount to which the person is entitled.

**57. *Jurisdiction***

If any question or matter arises under this Part, the County Court and the Magistrates' Court have, under this Act, the same jurisdiction to hear and determine the question or matter as if it were a question or matter arising under the **Accident Compensation Act 1985** and that Act applies with the necessary adaptations and modifications.

**58. Authority to represent Crown**

In all proceedings under this Part, the Authority represents the Crown and has the same powers, rights and authorities as the Authority has under the **Accident Compensation Act 1985** in regard to the corresponding matter relating to a worker under that Act.

**59. Payments**

- (1) The Authority is entitled to the reimbursement of its reasonable costs and expenses incurred in representing the Crown under section 58.
  - (2) The Authority must make any payment of compensation under this Part out of the WorkCover Authority Fund under the **Accident Compensation Act 1985**.
  - (3) There is to be paid into the WorkCover Authority Fund out of the Consolidated Fund, which is to the necessary extent appropriated accordingly—
    - (a) the amounts to be reimbursed under subsection (1); and
    - (b) the amount of any payments under subsection (2).
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**PART 9—JURIES COMMISSIONER**

**60. *Juries Commissioner***

For the purpose of this Act, there are to be employed under Part 3 of the **Public Sector Management and Employment Act 1998**—

- (a) a Juries Commissioner; and
- (b) as many Deputy Juries Commissioners as are required to assist the Juries Commissioner.

**61. *Certain employees to be deputies***

A person employed in the public service with a classification that is prescribed for the purposes of this section is, by virtue of that employment, a Deputy Juries Commissioner.

**62. *Power to administer oaths***

The Juries Commissioner and each Deputy Juries Commissioner is a person duly authorised to administer oaths under Division 2 of Part IV of the **Evidence Act 1958** and, subject to that Division, may administer any oaths that appear to that person to be proper for the purposes of this Act.

**63. *Functions and powers of deputies***

Subject to the direction and control of the Juries Commissioner, a Deputy Juries Commissioner has the same functions and powers as the Juries Commissioner has under this Act.

**64. *Directions***

The Juries Commissioner may give directions to all or any Deputy Juries Commissioners as to any matter concerning the administration of this Act.

**PART 10—OFFENCES AND ENFORCEMENT**

**Division 1—Offences**

**65. Secrecy**

- (1) A person who is or has been any of the following is bound by this section—
- (a) the Juries Commissioner or a Deputy Juries Commissioner;
  - (b) the Chief Commissioner of Police, any other member of the police force or any other person performing a function under section 26(2);
  - (c) the Director of Public Prosecutions or a member of staff of the Office of Public Prosecutions or a legal practitioner prosecuting on behalf of the Crown;
  - (d) any other person performing a function or exercising a power under this Act;
  - (e) any person, other than a person referred to in sub-section (4), gaining access to information enabling the identification of persons on any jury roll, list, pool, panel or jury under this Act.
- (2) A person bound by this section must not, either directly or indirectly, make a record of, or disclose or communicate to any person any information enabling the identification of persons on any jury roll, list, pool, panel or jury under this Act except—
- (a) as provided by or under this Act; or
  - (b) in connection with the performance of functions or exercise of powers under this Act; or
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(c) as otherwise provided by law.

Penalty: 120 penalty units or imprisonment for 12 months.

- (3) Nothing in sub-section (2) prevents a person who is or has been a juror from producing a document or divulging information that enables the identification of persons on any jury roll, list, pool, panel or jury under this Act to—
- (a) a judge or court; or
  - (b) a board or commission appointed by the Governor in Council; or
  - (c) the Attorney-General; or
  - (d) the Director of Public Prosecutions for Victoria or the Director of Public Prosecutions for the Commonwealth; or
  - (e) a member of the police force in connection with the investigation of an offence at the request of the Director of Public Prosecutions for Victoria or the Director of Public Prosecutions for the Commonwealth.
- (4) Nothing in sub-section (2) prevents a person who has been a juror from disclosing information enabling the identification of persons on any jury roll, list, pool, panel or jury under this Act to a registered medical practitioner or a registered psychologist in the course of treatment in relation to issues arising out of the person's service as a juror.
- (5) A registered medical practitioner or a registered psychologist to whom information referred to in sub-section (4) has been disclosed must not disclose or communicate that information to any other person.

Penalty: 120 penalty units or imprisonment for 12 months.

(6) In this section—

**"court"** includes the Magistrates' Court;

**"produce"** includes permit access to.

#### **66. Offences by officials**

(1) A person who performs a function or exercises a power under this Act must not, without lawful excuse—

- (a) cause an alteration, omission, insertion or misdescription in a record made or kept under this Act; or
- (b) falsely certify to the correctness of a record made or kept under this Act; or
- (c) fail to do, or obstruct or interfere with the doing of, anything required by or under this Act to be done; or
- (d) excuse a person from jury service; or
- (e) include in a jury list, pool or panel the name of a person who is not liable for jury service; or
- (f) directly or indirectly receive any payment or reward for excusing or pretending to excuse a person from jury service; or
- (g) obstruct or interfere with the proper administration of this Act.

Penalty: 600 penalty units or imprisonment for 5 years.

(2) An offence against this section is an indictable offence.

#### **67. Questionnaire**

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A person must not, without reasonable excuse, fail to complete and return a questionnaire as required by section 20(2).

Penalty: 30 penalty units.

**68. *Obligation to answer questions or produce document***

(1) A person to whom a question is lawfully put under this Act by a court or the Juries Commissioner must not, without reasonable excuse—

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

Penalty: 30 penalty units or imprisonment for 3 months.

(2) The court or the Juries Commissioner may request a person to produce a document in order to determine whether the person is qualified for jury service.

(3) A person must not, without reasonable excuse, fail to comply with a request under sub-section (2).

Penalty: 30 penalty units or imprisonment for 3 months.

**69. *Failure to inform Juries Commissioner of disqualification or ineligibility***

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, as soon as practicable, inform the Juries Commissioner of that fact and the reason for the disqualification or ineligibility.

Penalty: 30 penalty units.

**70. *Supply of false or misleading information***

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A person must not cause or permit any representation, whether by act or omission, that the person knows to be false or misleading in a material respect to be made to the Juries Commissioner on the person's behalf or on behalf of another person, for the purpose of evading jury service.

Penalty: In the case of a body corporate,  
150 penalty units;

In any other case, 30 penalty units.

**71. *Failing to attend for jury service***

- (1) A person who is summoned for jury service must not, without reasonable excuse, fail to comply with the summons.

Penalty: 30 penalty units or imprisonment for 3 months.

- (2) It is a reasonable excuse for the purposes of subsection (1) if—
- (a) a person has applied under section 7 for the deferral of their jury service, or under section 8 or 9 to be excused from jury service; and
  - (b) the person has not been notified of the Juries Commissioner'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.
- (3) A person who has been empanelled on a jury must not, without reasonable excuse, fail to attend as a juror until discharged by the court.

Penalty: 60 penalty units or imprisonment for 6 months.

**72. *Failure to attend as supplementary juror***

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A person who is instructed under section 41 to attend for jury service must not, without reasonable excuse, fail to comply with the instruction.

Penalty: 30 penalty units or imprisonment for 3 months.

***73. Refusal to be sworn or to make affirmation***

A person selected to serve on a jury must not refuse to be sworn or to make an affirmation.

Penalty: 30 penalty units or imprisonment for 3 months.

***74. Impersonation of person for the purpose of jury service***

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

Penalty: 120 penalty units or imprisonment for 12 months.

***75. Extra payment for jury service***

A person must not receive any payment from—

- (a) a party to a proceeding; or
- (b) any other person—

for their attendance for jury service, except as provided by or under this Act.

Penalty: 120 penalty units or imprisonment for 12 months.

***76. Employment not to be terminated or prejudiced because of jury service***

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- (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 will be absent from employment on jury service.
- Penalty: In the case of a body corporate,  
600 penalty units;
- In any other case, 120 penalty units or imprisonment for 12 months.
- (2) In proceedings for an offence against sub-section (1), if all the facts constituting the offence other than the reason for the defendant's action are proved, the onus of proving that the termination, threat or prejudice was not actuated by the reason alleged in the charge lies on the defendant.
- (3) If an employer is found guilty of an offence against sub-section (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.
- (4) If the court considers that it would be impracticable to re-instate the employee, the court may order the employer to pay the employee an amount of compensation not exceeding the amount of remuneration of the employee during the 12 months immediately before the employee's employment was terminated.
- (5) An order under sub-section (3)(a) or (4) must be taken to be a judgment debt due by the employer
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to the employee and may be enforced in the court by which it was made.

- (6) 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 give effect to an order under sub-section (3)(b) is recoverable as a debt due to the employee by the employer in any court of competent jurisdiction.

**77. *Restriction on publishing names of jurors etc.***

- (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 body corporate,  
3000 penalty units;

In any other case, 600 penalty units or imprisonment for 5 years.

- (2) For the purposes of sub-section (1), a person who holds a licence for a broadcasting service that publishes any information or image that identifies or is capable of identifying a person attending for jury service is deemed to have caused the publication of that information or image.
- (3) In sub-section (2), "**licence**" means a licence under the Broadcasting Services Act 1992 of the Commonwealth or a licence preserved under the Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992 of the Commonwealth.
- (4) An offence against this section is an indictable offence.
- (5) This section does not apply to the publication of information or images in respect of a proceeding under this section.
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**78. Confidentiality of jury's deliberations**

- (1) A person must not—
- (a) publish, or cause to be published, any statements made, opinions expressed, arguments advanced or votes cast in the course of the deliberations of a jury; or
  - (b) solicit or obtain the disclosure by a person who is or has been a juror of statements made, opinions expressed, arguments advanced or votes cast in the course of the deliberations of that jury.

Penalty: In the case of a body corporate,  
3000 penalty units;

In any other case, 600 penalty units or  
imprisonment for 5 years.

- (2) A person who is or has been a juror must not disclose any statements made, opinions expressed, arguments advanced or votes cast in the course of the deliberations of that jury if the person has reason to believe that any of that information is likely to be or will be published to the public.

Penalty: 600 penalty units or imprisonment for  
5 years.

- (3) Nothing in this section prevents—

- (a) a person who is or has been a juror disclosing to—
    - (i) a judge or court; or
    - (ii) a board or commission appointed by the Governor in Council; or
    - (iii) the Attorney-General; or
    - (iv) the Director of Public Prosecutions for Victoria or the Director of Public Prosecutions for the Commonwealth—
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- any information about the deliberations of a jury; or
- (b) the investigation by a member of the police force at the request of the Director of Public Prosecutions for Victoria, 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 person who is or has been a member of a jury to the police in the course of the investigation; or
  - (c) the investigation by a person authorised by 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 person who is or has been a member of a jury to the authorised person in the course of that investigation.
- (4) The Director of Public Prosecutions for Victoria may request the Chief Commissioner of Police to investigate a complaint about the deliberations of a jury or the disclosure of information about those deliberations by a person who is or has been a member of a jury.
  - (5) Nothing in sub-section (1)(b) or (2) prevents a person who has been a juror from disclosing any statements made, opinions expressed, arguments advanced or votes cast in the course of the deliberations of that jury to a registered medical practitioner or a registered psychologist in the course of treatment in relation to issues arising out of the person's service as a juror.
  - (6) A registered medical practitioner or registered psychologist must not disclose information referred to in sub-section (5) to any other person.
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Penalty: 600 penalty units or imprisonment for 5 years.

- (7) Nothing in this section prevents 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.
  - (8) This section does not apply to the disclosure of information about a proceeding for an offence against this section if, before the proceeding was commenced, the information had been published generally to the public.
  - (9) This section does not prohibit 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.
  - (10) An offence against this section is an indictable offence.
  - (11) A prosecution for an offence against this section may only be brought with the consent in writing of the Director of Public Prosecutions for Victoria or of a person authorised by the Director of Public Prosecutions for Victoria to give consent for the purposes of this sub-section.
  
  - (12) In this section—
    - "court"** includes the Magistrates' Court;
    - "deliberations"** includes any discussions between two or more jurors at any time during a trial of matters relevant to that trial.
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**79. *Offence by body corporate***

- (1) If, in proceedings for an offence against 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.
- (2) If an offence against this Act committed by a body corporate is proved to have been committed with the consent or connivance of a person who is a director, manager, secretary or other officer of the body corporate, that person is deemed to have committed the offence also and is liable to be proceeded against and punished accordingly.

**Division 2—Summary Enforcement by Court**

**80. *Supply of false or misleading information***

The court may in a summary way impose a fine not exceeding 30 penalty units (or, in the case of a body corporate, not exceeding 150 penalty units) on a person who causes or permits any representation, whether by act or omission, that the person knows to be false or misleading in a material respect to be made to the Juries Commissioner or the court on the person's behalf or on behalf of another person, for the purpose of evading jury service.

**81. *Failing to attend, be sworn or give evidence and giving false answers***

- (1) The court may in a summary way impose a fine not exceeding 30 penalty units, or imprisonment for a term not exceeding 3 months, on a person who—



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- (a) without reasonable excuse, fails to comply with a summons for jury service; or
  - (b) without reasonable excuse, fails to comply with an instruction under section 41 to attend for jury service; or
  - (c) without reasonable excuse—
    - (i) fails to answer a question lawfully put to them under this Act by the court; or
    - (ii) fails to produce a document on request by the court in order to determine whether the person is qualified for jury service; or
  - (d) without reasonable excuse, gives an answer that is false or misleading in a material respect to a question lawfully put to them under this Act by the court; or
  - (e) having been selected to serve on a jury, refuses to be sworn or to make an affirmation.
- (2) It is a reasonable excuse for the purposes of subsection (1)(a) if—
- (a) a person has applied under section 7 for the deferral of their jury service, or under section 8 or 9 to be excused from jury service; and
  - (b) the person has not been notified of the Juries Commissioner'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.
- (3) The court may in a summary way impose a fine not exceeding 60 penalty units, or imprisonment for a term not exceeding 6 months, on a person who, having been empanelled on a jury, fails
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without reasonable excuse to attend as a juror until discharged by the court.

**82. *Impersonation of jurors and extra payment for jury service***

The court may in a summary way impose a fine not exceeding 120 penalty units, or imprisonment for a term not exceeding 12 months, on a person who—

- (a) impersonates or attempts to impersonate another person for the purpose of jury service as that other person; or
- (b) receives any payment from—
  - (i) a party to a proceeding; or
  - (ii) any other person—

for their attendance for jury service, except as provided for by or under this Act.

**83. *Employers***

- (1) The court may in a summary way impose a fine not exceeding 120 penalty units, or imprisonment for a term not exceeding 12 months, (or, in the case of a body corporate, a fine not exceeding 600 penalty units) on an employer who—

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

- (b) otherwise prejudices the position of the employee—

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

- (2) If the court imposes a fine or imprisonment under sub-section (1), sub-sections (3) to (6) of section 76 apply as if the employer had been found guilty of an offence against section 76(1).

### **Division 3—General**

#### **84. Contempt of court**

Nothing in this Part affects the power of a court to deal with a contempt of court summarily of its own motion.

#### **85. Enforcement of fines**

If a court fines a person under Division 2 or for contempt of the court, the fine is enforceable under the **Sentencing Act 1991** as if the person had been found guilty of an offence.

#### **86. Double jeopardy**

If an act or omission constitutes any two or more of the following—

- (a) an offence against this Act;
- (b) an offence against the common law; or
- (c) conduct that the court may deal with summarily under Division 2;
- (d) a contempt of the court—

the offender is liable to be prosecuted or dealt with in any or all of the applicable ways but is not liable to be punished more than once for the same act or omission.

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**PART 11—GENERAL**

**87. *Proof of service***

- (1) The production of a certificate signed by the Juries Commissioner or a Deputy Juries Commissioner that a questionnaire or a summons has been posted or otherwise dispatched to a person is proof, in the absence of evidence to the contrary, that the questionnaire or summons, as the case requires, has been delivered 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 sub-section (1) or other evidence of service must identify the questionnaire or summons served and state the date and place of posting.

**88. *Rules of Court***

- (1) The judges of the Supreme Court may make rules for or with respect to any matter or thing that may be necessary for the purpose of giving effect to this Act.
- (2) The judges of the County Court may make rules for or with respect to any matter or thing that may be necessary for the purpose of giving effect to this Act.

**89. *Common law offence of embracery not affected***

The repeal of section 70 of the **Juries Act 1967** does not affect the continued existence of the common law offence of embracery.

**90. *Regulations***

- (1) The Governor in Council may make regulations for or with respect to—
  - (a) prescribing forms;

- (b) prescribing fees;
  - (c) prescribing administrative expenses in respect of refunds of fees for juries in civil trials;
  - (d) pools of jurors;
  - (e) jury lists;
  - (f) generally prescribing any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The regulations—
- (a) may be of general or limited application;
  - (b) may differ according to differences in time, place or circumstances.
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**PART 12—AMENDMENT OF THE JURIES ACT 1967**

**91. *Information supplied to DPP***

After section 21(3) of the **Juries Act 1967**  
**insert—**

"(4) Any information given by the Chief Commissioner of Police to the Director of Public Prosecutions for Victoria or the Director of Public Prosecutions for the Commonwealth on or before 30 September 1999 concerning a person on a panel is deemed to have been lawfully given."

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No.  
7651/1967.  
Reprint No. 4  
as at  
16 January  
1997. Further  
amended by  
Nos 46/1998,  
52/1998 and  
24/1999.

**PART 13—CONSEQUENTIAL AND TRANSITIONAL  
PROVISIONS**

**92. *Repeal of Juries Act 1967***

No.  
7651/1967.  
Reprint No. 4  
as at  
16 January  
1997. Further  
amended by  
Nos 46/1998,  
52/1998 and  
24/1999.

The **Juries Act 1967** is **repealed**.

**93. *County Court Act 1958***

No.  
6230/1958.  
Reprint No. 9  
as at 1 August  
1998. Further  
amended by  
No. 10/1999.

Section 69 of the **County Court Act 1958** is  
**repealed**.

**94. *Crimes Act 1958***

No.  
6231/1958.  
Reprint No. 15  
as at  
1 September  
1999. Further  
amended by  
No. 26/1999.

- (1) In section 2A(1) of the **Crimes Act 1958**, after the definition of "incite" **insert**—
  - ' "**Juries Commissioner**" has the same meaning as in the **Juries Act 2000**;'.
- (2) In section 354 of the **Crimes Act 1958**—
  - (a) for "sheriff" (wherever occurring) **substitute** "Juries Commissioner";
  - (b) for "jury book" **substitute** "jury roll";
  - (c) for "name place of abode and addition" **substitute** "name, occupation and date of birth".
- (3) In section 437 of the **Crimes Act 1958**, for "sheriff" **substitute** "Juries Commissioner".

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**95. Crimes (Mental Impairment and Unfitness to be Tried) Act 1997**

- (1) In section 11 of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997**, for subsection (2) **substitute**—

No. 65/1997.  
Reprint No. 1  
as at  
18 February  
1999.

"(2) The **Juries Act 2000** applies to an investigation as if the investigation were a criminal trial."

- (2) In section 16 of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997**, for subsection (1) **substitute**—

"(1) A special hearing is to be conducted as nearly as possible as if it were a criminal trial and, for that purpose, the **Juries Act 2000** applies, subject to this section."

**96. Crimes (Criminal Trials) Act 1999**

In section 23 of the **Crimes (Criminal Trials) Act 1999**, for "sheriff within the meaning of the **Juries Act 1967**" **substitute** "Juries Commissioner within the meaning of the **Juries Act 2000**".

No. 35/1999.

**97. Magistrates' Court Act 1989**

In Schedule 4 to the **Magistrates' Court Act 1989**, after clause 62 **insert**—

"63. **Juries Act 2000**

Offences under sections 66(1), 77(1), 78(1), 78(2) and 78(6) of the **Juries Act 2000**."

No. 51/1989.  
Reprint No. 6  
as at 1 July  
1999. Further  
amended by  
No. 35/1999.

**98. Transport Accident Act 1986**

- (1) In section 37(1) of the **Transport Accident Act 1986**, for paragraph (c) **substitute**—

"(c) Part 8 of the **Juries Act 2000**; or"

- (2) In section 137(1) of the **Transport Accident Act 1986**, for paragraph (e) **substitute**—

No. 111/1986.  
Reprint No. 6  
as at  
26 August  
1999.



s. 99

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"(e) Part 8 of the **Juries Act 2000**;"

**99. *Saving and transitional provisions***

Schedule 6 has effect.

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**SCHEDULES**

**SCHEDULE 1**

Section 5(2)

**PERSONS DISQUALIFIED FROM SERVING AS JURORS**

1. A person who has been convicted, in Victoria or another jurisdiction, of treason or one or more indictable offences and sentenced to—
  - (a) imprisonment for a term or terms in the aggregate of 3 years or more; or
  - (b) a period of detention, for 3 years or more, under a hospital security order made under section 93 of the **Sentencing Act 1991** or an equivalent order in another jurisdiction—but any conviction of an offence in respect of which a free pardon has been granted must be disregarded.
2. A person who within the last 10 years has been, in Victoria or another jurisdiction—
  - (a) imprisoned for a term or terms in the aggregate of 3 months or more; or
  - (b) detained, for a period of 3 months or more, under a hospital security order made under section 93 of the **Sentencing Act 1991** or an equivalent order in another jurisdiction—but any conviction of an offence in respect of which a free pardon has been granted must be disregarded.
3. A person who within the last 5 years, in Victoria or another jurisdiction—
  - (a) has been imprisoned for a term or terms in the aggregate of less than 3 months; or
  - (b) has been detained, for a period of less than 3 months under a hospital security order made under section 93 of the **Sentencing Act 1991** or an equivalent order in another jurisdiction; or
  - (c) has served a sentence of imprisonment by way of intensive correction in the community, or an equivalent sentence in another jurisdiction; or
  - (d) has been sentenced to a suspended sentence of imprisonment; or

(e) has served a sentence of detention in a youth training centre or youth residential centre or an equivalent sentence in another jurisdiction—

but any conviction of an offence in respect of which a free pardon has been granted must be disregarded.

4. A person in respect of whom a court in Victoria (including the Magistrates' Court) or another jurisdiction, has, within the last 5 years, made a community-based order, or an equivalent order in another jurisdiction, but any conviction, or finding of guilt, of an offence in respect of which a free pardon has been granted must be disregarded.
  5. A person who within the last 2 years—
    - (a) has been sentenced by a court, in Victoria (including the Magistrates' Court) or another jurisdiction, for an offence; or
    - (b) has been released on the giving of an undertaking under section 72 or 75 of the **Sentencing Act 1991**, or an equivalent undertaking in another jurisdiction.
  6. A person who has been charged with an indictable offence and is released on bail in respect of that offence.
  7. A person who is remanded in custody in respect of an alleged offence.
  8. A person who has been declared bankrupt and has not obtained a discharge.
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**SCHEDULE 2**

Section 5(3)

**PERSONS INELIGIBLE TO SERVE AS JURORS**

1. A person who is or, within the last 10 years, has been—
  - (a) the Governor or the Official Secretary to the Governor;
  - (b) a judge, a magistrate or the holder of any other judicial office;
  - (c) a member of the Police Appeals Board;
  - (d) a bail justice;
  - (e) admitted to legal practice in Victoria;
  - (f) a person whose duties or activities, whether paid or voluntary, are connected with the investigation of offences, the administration of justice or the punishment of offenders;
  - (g) a member of the police force;
  - (h) the Secretary to the Department of Justice or the Department of Human Services;
  - (i) a member of the Legislative Assembly or Legislative Council;
  - (j) the Auditor-General;
  - (k) the Ombudsman, the Acting Ombudsman, the Deputy Ombudsman or the Acting Deputy Ombudsman;
  - (l) an employee of the Ombudsman;
  - (m) a person employed as a Government shorthand writer or court reporter or in connection with any court recording service.
2. A person who is—
  - (a) the Electoral Commissioner;
  - (b) the Legal Ombudsman or an acting Legal Ombudsman;
  - (c) employed by a person admitted to legal practice in Victoria in connection with legal practice.
3. A person who—
  - (a) has a physical disability that renders the person incapable of performing the duties of jury service;
  - (b) is a patient within the meaning of the **Mental Health Act 1986**;

- (c) has an intellectual disability within the meaning of the **Intellectually Disabled Persons' Services Act 1986**;
  - (d) is a represented person within the meaning of the **Guardianship and Administration Act 1986**;
  - (e) is subject to a supervision order under the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997**;
  - (f) is unable to communicate in or understand the English language adequately.
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**SCHEDULE 3**

Section 42

**SWEARING OF JURORS ON EMPANELMENT**

**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 relation to all charges brought against [*name of accused*] in this trial and give a true verdict according to the evidence.

**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 the cause brought before you for trial or inquiry and give a true verdict according to the evidence.

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**SCHEDULE 4**

Section 49

**SWEARING OF JURYKEEPERS**

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.

\* Delete if inapplicable

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**SCHEDULE 5**

Section 50(2)

**SWEARING OF JURORS SEPARATING DURING  
DELIBERATIONS**

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.

\* Delete if inapplicable

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**SCHEDULE 6**

Section 99

**SAVING AND TRANSITIONAL PROVISIONS****1. Application of Acts**

- (1) This Act applies to a trial in which a jury is empanelled after the commencement of section 92, irrespective of when the offence to which the trial relates is alleged to have been committed or when the cause of action arose.
- (2) The **Juries Act 1967** as in force immediately before the commencement of section 92 of this Act continues to apply to a trial in which a jury was empanelled before that commencement.

**2. Jury lists under the Juries Act 1967**

The last jury list prepared for a jury district under section 8 of the **Juries Act 1967** immediately before the commencement of section 19 of this Act is, on that commencement, deemed to be the first jury roll prepared for the corresponding jury district under section 19 of this Act.

**3. Questionnaires issued under the Juries Act 1967**

A questionnaire issued under section 10 of the **Juries Act 1967** is, on the commencement of section 20 of this Act, deemed to be a questionnaire issued under section 20 of this Act.

**4. Panels under the Juries Act 1967**

A panel prepared under section 20 of the **Juries Act 1967** is, on the commencement of section 25 of this Act, deemed to be a jury list prepared under section 25 of this Act.

**5. Summonses issued under the Juries Act 1967**

A summons to serve as a juror issued under section 23 of the **Juries Act 1967** returnable on a date after the commencement of section 27 of this Act is, on that commencement, deemed to be a summons issued under section 27 of this Act.

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**6. *Disqualification and ineligibility criteria under this Act apply to persons summoned before or after commencement of this Act***

- (1) Schedule 1 applies to persons summoned for jury service, whether the summons was issued before or after the commencement of section 92.
- (2) Schedule 2 applies to persons summoned for jury service, whether the summons was issued before or after the commencement of section 92.

**7. *Certificate of exemption issued under the Juries Act 1967***

A certificate of exemption issued under the **Juries Act 1967** continues to have the same effect as it would have had if that Act had not been repealed.

**8. *Deferrals of and excuses from jury service***

- (1) A deferral of excusal from service as a juror under the **Juries Act 1967** continues to have the same effect as it would have had if that Act had not been repealed.
- (2) A person referred to in Schedule 4 to the **Juries Act 1967** is not entitled to be excused from jury service as of right under this Act.

**9. *Certain persons continue to be bound by secrecy provisions***

A person who would, but for the repeal of the **Juries Act 1967**, be subject to section 21(2) of that Act is, on the commencement of section 92 of this Act, a person bound by section 65 of this Act in respect of the performance of functions or exercise of powers by that person under that Act.

**10. *Compensation for personal injuries***

Part VII of the **Juries Act 1967**, as in force immediately before the commencement of section 92 of this Act, continues to apply on and after that commencement in respect of a personal injury arising out of or in the course of jury service before that date.

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**ENDNOTES**

<sup>†</sup> *Minister's second reading speech—*

*Legislative Assembly: 16 December 1999*

*Legislative Council: 22 March 2000*

The long title for the Bill for this Act was "to re-enact with amendments the law relating to juries, to repeal the **Juries Act 1967** and for other purposes."

<sup>1</sup> S. 42: Section 102 of the **Evidence Act 1958** provides for the circumstances when an affirmation may be made instead of an oath.

<sup>2</sup> S. 49: See note 1.

<sup>3</sup> S. 50(2): See note 1.