

Appendices

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Appendix A: List of proposals

1 PROPOSAL 1 _____ Page 22

Remove requirement that jury lists be printed

That s 14(3) of the *Juries Act 1957* (WA) be amended to permit the Electoral Commissioner to submit the jury lists for each jury district to the sheriff in electronic form.

2 PROPOSAL 2 _____ Page 23

Withdrawal of juror summons

That s 32E(2) of the *Juries Act 1957* (WA) be amended to permit the summoning officer to randomly select names by computerised process for the purposes of reducing the number of persons required to attend the jury pool.

3 PROPOSAL 3 _____ Page 34

Equal number of peremptory challenges between the state and all accused

That s 104 of the *Criminal Procedure Act 2004* (WA) should be amended to provide that in trials involving more than one accused, the state should have the same number of peremptory challenges as the total number of peremptory challenges available to all co-accused.

4 PROPOSAL 4 _____ Page 38

Jury vetting and the provision of information concerning prospective jurors

1. That the Criminal Procedure Rules 2005 (WA) be amended to provide that lawyers employed by or instructed by the Office of the Director of Public Prosecutions are not authorised to check the criminal background of any person contained on the jury pool list as provided under s 30 of the *Juries Act 1957* (WA).
2. That s 30 of the *Juries Act 1957* (WA) be amended to provide that instead of being available for four clear days before the applicable criminal sittings or session commences, a copy of every panel or pool of jurors who have been summoned to attend at any session or sittings for criminal trials is to be available for inspection by the parties (and their respective solicitors) from 8.00 am on the morning of the day on which the trial is due to commence.

5 PROPOSAL 5 _____ Page 40

Information available about prospective jurors: addresses

That the *Juries Act 1957* (WA) be amended to provide that the jury panel or pool list made available to the parties to a criminal proceedings (and their respective solicitors) under s 30 should not contain the street address but instead list the suburb or town for each person included in the list.

6 PROPOSAL 6 _____ Page 43

Change of address notification forms

1. That the Department of Transport 'Change of Personal Details' form include advice that people are also required to update their details with the Electoral Commission after they have resided at their new address for at least one month and that the Electoral Enrolment forms be available at licensing centres.
2. That the Western Australian Electoral Commission continue to develop strategies to encourage Western Australians to update their electoral details including a dual notification form so that people can notify a change of address to the Electoral Commission at the same time as notifying the Department of Transport for the purposes of licensing details.

7 PROPOSAL 7 _____ Page 43

Amending Jury Lists and Jurors' Books

1. That s 14(9) of the *Juries Act 1957* (WA) be inserted to provide that if a person who has been removed from a jury list pursuant to s 14(8) the sheriff can add that person's name to another jury list if it appears that the person currently resides in the jury district to which that list relates.
2. That s 34A(4) of the *Juries Act 1957* (WA) be inserted to provide that if a person has been removed from a jurors' book under s 34A(3), the sheriff can add that person's name to another jurors' book if it appears that the person currently resides in the jury district to which that jurors' book relates.

8 PROPOSAL 8 _____ Page 44

Jury service awareness raising – regional areas

That the Western Australian government provide resources to the Sheriff's Office to undertaken regular jury service awareness campaigns throughout regional Western Australia.

9 PROPOSAL 9 _____ Page 53

Overseas and itinerant electors not liable for jury service

That provision be made in s 4 of the *Juries Act 1957* (WA) to remove the liability for jury service of people who are registered under the *Electoral Act 1918* (Cth) as eligible overseas electors or as electors with no fixed address and are recognised as such pursuant to ss 17A or 17B of the *Electoral Act 1907* (WA).

10 PROPOSAL 10 _____ Page 55

Raise the maximum age for jury service

1. That the excuse as of right for persons who have reached the age of 65 years currently found Part II of the Second Schedule to the *Juries Act 1957* (WA) be abolished.
2. That the maximum age for liability for jury service be raised to 75 years.

11 PROPOSAL 11 _____ Page 56

Amend juror liability provision

That s 4 of the *Juries Act 1957* (WA) be amended to read:

Liability to serve as juror

1. Each person residing in Western Australia —
 - (a) who is enrolled on any of the rolls of electors entitled to vote at an election of members of the Legislative Assembly of the Parliament of the State; and
 - (b) who is not above the age of 75 years,is, subject to this Act, liable to serve as a juror at trials in the jury district in which the person is shown to live by any of those rolls of electors.
2. A person who is an elector who has left Australia and who is enrolled pursuant to s 17A of the *Electoral Act 1907* (WA) or an elector with no fixed address and who is enrolled pursuant to s 17B of the *Electoral Act 1907* (WA) is not liable to serve as a juror.

12 PROPOSAL 12 _____ Page 61

Permanence of occupational eligibility

That no occupation or office should render a person permanently ineligible for jury service.

13 PROPOSAL 13 _____ Page 65

Ineligibility for jury service – judicial officers

1. That judges and magistrates should remain ineligible for jury service while holding office and for a period of five years from the date of the termination of their last commission as a judicial officer.
2. That this same ineligibility should extend to those holding acting or auxiliary judicial commissions in any of the state's courts and to commissioners of the Supreme Court and District Court.

14 PROPOSAL 14 _____ Page 66

Ineligibility for jury service – masters

That masters of the Supreme Court and those holding acting commissions as masters of the Supreme Court should remain ineligible for jury service while holding office and for a period of five years from the date of the termination of their last commission as a master.

15 PROPOSAL 15 _____ Page 67

Ineligibility for jury service – state coroner

That the state coroner should be ineligible for jury service while holding office and for a period of five years from the date of the termination of his or her commission as state coroner.

16 PROPOSAL 16 _____ Page 68

Ineligibility for jury service – justices of the peace

That the exclusion of justices of the peace from jury service be confined to justices of the peace who have exercised the jurisdiction of the Magistrates Court at any time within a period of five years before being summoned to serve as a juror.

17 PROPOSAL 17 _____ Page 70

Ineligibility for jury service – practising lawyers

That the exclusion of lawyers from jury service be confined to Australian legal practitioners, within the meaning of that term in the *Legal Profession Act 2008* (WA) s 5(a).

18 PROPOSAL 18 _____ Page 71

Ineligibility for jury service – Supreme Court and District Court registrars

That registrars, and those holding acting commissions as registrars, in the Supreme Court or District Court should remain ineligible for jury service while holding office.

19 PROPOSAL 19 _____ Page 71

Eligibility for jury service – Family Court registrars

That Family Court registrars be removed from the list of ineligible occupations in the Second Schedule, Part I, clause 1(b) of the *Juries Act 1957* (WA).

20 PROPOSAL 20 _____ Page 72

Ineligibility for jury service – judges’ associates and ushers of the Supreme Court and District Court

That associates and ushers of judges of the Supreme Court or District Court should remain ineligible for jury service during their term of employment.

21 PROPOSAL 21 _____ Page 72

Eligibility for jury service – judges’ associates and ushers of the Family Court

That judges’ associates and ushers of the Family Court be removed from the list of ineligible occupations in the Second Schedule, Part I, clause 2(g) of the *Juries Act 1957* (WA).

22 PROPOSAL 22 _____ Page 72

Ineligibility for jury service – Sheriff and sheriff’s officers

That the Sheriff of Western Australia and deputies or officers of the Sheriff of Western Australia should remain ineligible for jury service during their term of employment and for a period of five years following termination of their employment as Sheriff or deputy sheriff.

23 PROPOSAL 23 _____ Page 73

Ineligibility for jury service – bailiffs and assistant bailiffs

That a bailiff or assistant bailiff appointed under the *Civil Judgments Enforcement Act 2004* (WA) should remain ineligible for jury service during their term of employment.

24 PROPOSAL 24 _____ Page 73

Ineligibility for jury service – Members of Parliament

That a duly elected member of the Legislative Assembly or Legislative Council should remain ineligible for jury service during their term of office and for a period of five years thereafter.

25 PROPOSAL 25 _____ Page 73

Eligibility for jury service – officers of Parliament

That officers of the Legislative assembly and Legislative Council be removed from the list of ineligible occupations in the Second Schedule, Part I, clause 2(a) and 2(b) of the *Juries Act 1957* (WA).

Ineligibility for jury service – Commissioner of Police and police officers

1. That the Commissioner of Police should be ineligible for jury service during his or her term as Commissioner of Police and for a period of five years thereafter.
2. That a police officer should remain ineligible for jury service during his or her term of employment as a police officer and for a period of five years thereafter.

Ineligibility for jury service – Corruption and Crime Commission

That the following officers of the Corruption and Crime Commission be ineligible for jury service during their term of employment, secondment or contract for services and for a period of five years thereafter:

- the Commissioner of the Corruption and Crime Commission (or any person acting in this role);
- the Parliamentary Inspector of the Corruption and Crime Commission (or any person acting in this role); and
- officers, seconded employees and contracted service providers of the Corruption and Crime Commission and of the Parliamentary Inspector of the Corruption and Crime Commission who are, in the opinion of the Commissioner of the Corruption and Crime Commission, directly involved in the detection and investigation of crime, corruption and misconduct or the prosecution of charges.

Ineligibility for jury service – members of review boards

That members of the Mentally Impaired Accused Review Board, the Prisoners Review Board and the Supervised Release Review Board should be ineligible for jury service for the term of their membership of the relevant board and for a period of five years thereafter.

Ineligibility for jury service – officers and employees of the Department of the Attorney General and the Department of Corrective Services

That those officers, employees and contracted service providers of the Department of the Attorney General and the Department for Corrective Services, other than clerical, administrative and support staff, whose work involves:

- the detection, investigation or prosecution of crime;
- the management, transport or supervision of offenders;
- the security or administration of criminal courts or custodial facilities;
- the direct provision of support to victims of crime; and
- the formulation of policy or legislation pertaining to the administration of criminal justice

should be ineligible for jury service during the term of their employment or contract for services and for a period of five years following termination of their employment or contract for services.

30 PROPOSAL 30 _____ Page 77

Eligibility for jury service – ombudsman

That the Parliamentary Commissioner for Administrative Investigations (the ombudsman) be removed from the list of ineligible occupations in the Second Schedule, Part I, clause 1(d) of the *Juries Act 1957* (WA).

31 PROPOSAL 31 _____ Page 78

Eligibility for jury service – officers of the Department for Child Protection

That officers of the Department for Child Protection be removed from the list of ineligible occupations in the Second Schedule, Part I, clause 2(k) of the *Juries Act 1957* (WA).

32 PROPOSAL 32 _____ Page 88

Qualification for jury service: unconvicted accused

That s 5(b) of the *Juries Act 1957* (WA) be amended to provide that an accused who is currently remanded on bail or in custody awaiting trial is not qualified for jury service.

33 PROPOSAL 33 _____ Page 88

Qualification for jury service: unsentenced offenders

That s 5(b) of the *Juries Act 1957* (WA) be amended to provide that a convicted accused who is currently on bail or remanded in custody awaiting sentence is not qualified for jury service.

34 PROPOSAL 34 _____ Page 88

Current orders

That s 5(b) of the *Juries Act 1957* (WA) be amended to provide that a person is not qualified for jury service if he or she is currently subject to an ongoing court-imposed order following conviction for an offence (excluding compensation or restitution but) including any of the following orders:

- (a) a Conditional Release Order or a Community Based Order (with community work only) under the *Sentencing Act 1995* (WA);
- (b) a Pre-Sentence Order under the *Sentencing Act 1995* (WA); and
- (c) A Good Behaviour Bond or a Youth Community Based Order (with community work only) imposed under the *Young Offenders Act 1994* (WA).

Traffic offenders

That s 5(b) of the *Juries Act 1957* (WA) be amended to provide that a person is not qualified for jury service if he or she is currently subject to a drivers licence disqualification for a period of 12 months or more.

Disqualification from jury service on the basis of criminal history

That ss 5(b)(i) and 5(b)(ii) of the *Juries Act 1957* (WA) be amended to provide that a person is not qualified for jury service if he or she:

1. Has *at any time* been convicted of an indictable offence (whether summarily or on indictment) and been sentenced to death; strict security life imprisonment; life imprisonment; or imprisonment for a term exceeding 2 years or for an indeterminate period.
2. Has in the *past 10 years* been convicted of an indictable offence (dealt with either summarily or on indictment) and been the subject of a sentence of imprisonment (including an early release order such as parole, suspended imprisonment or conditional suspended imprisonment).
3. Has in the *past 5 years*:
 - (a) been convicted of an offence on indictment (ie, by a superior court);
 - (b) been the subject of a sentence of imprisonment (including parole or another early release order, suspended imprisonment or conditional suspended imprisonment); or
 - (c) been subject to a sentence of detention (including a supervised release order) of 12 months or more in a juvenile detention centre
4. Has in the *past 3 years*:
 - (a) been subject to a community order under the *Sentencing Act 1995* (WA); or
 - (b) been subject to a sentence of detention (including a supervised release order).
5. Has in the *past 2 years* been convicted of an offence and been subject to a Youth Community Based Order, an Intensive Youth Supervision Order or a Youth Conditional Release Order under the *Young Offenders Act 1994* (WA).
6. Is *currently*:
 - (a) on bail or in custody in relation to an alleged offence;
 - (b) on bail or in custody awaiting sentence;
 - (c) subject to imprisonment for unpaid fines; or
 - (d) subject to an ongoing court-imposed order following conviction for an offence (excluding compensation or restitution) but including:
 - (i) a Conditional Release Order or a Community Based Order (with community work only) under the *Sentencing Act 1995* (WA);
 - (ii) a Pre-Sentence Order under the *Sentencing Act 1995* (WA);
 - (iii) a Good Behaviour Bond or a Youth Community Based Order (with community work only) imposed under the *Young Offenders Act 1994* (WA); or
 - (iv) a drivers licence disqualification for a period of 12 months or more.

Taking into account convictions, sentences and court-imposed orders in other Australian jurisdictions

That a new s 6 of the *Juries Act 1957* (WA) be inserted to provide that for the purposes of s 5(b) a person is not qualified for jury service in Western Australia

1. if he or she has been sentenced to or placed on an order that is of a similar nature to any one of the sentences or orders referred to in s 5(b) provided that the person was subject to that similar sentence or order in the relevant time period as set out above;
2. if he or she has been convicted of an offence on indictment in the past five years in another Australian jurisdiction; or
3. if he or she is currently on bail in relation to an alleged offence or awaiting sentence in another Australian jurisdiction.

37 PROPOSAL 37 _____ Page 94

English language requirement

That section 5(b)(iii) of the *Juries Act 1957* (WA) be amended to provide that a person is not qualified to serve as a juror if he or she is unable to understand and communicate in the English language.

38 PROPOSAL 38 _____ Page 95

Provision of information in different languages

That the jury summons and the Juror Information Sheet be updated to provide that if the person summoned does not understand or cannot read English, translated versions are available online or by telephoning the Sheriff's Office and that this information should be provided in at least the 10 most commonly spoken languages in Western Australia.

39 PROPOSAL 39 _____ Page 95

Jury service awareness raising – people from culturally and linguistically diverse backgrounds

That the Western Australian government provide resources for the Sheriff's Office to conduct regular jury service awareness raising strategies specifically targeted to people from culturally and linguistically diverse backgrounds.

40 PROPOSAL 40 _____ Page 95

Guidelines for assessing English language requirements

1. That the sheriff develop guidelines to assist staff and judges in assessing whether prospective jurors can understand and communicate in English to a sufficient degree to enable them to discharge their duties as jurors.
2. That these guidelines include standardised questions to be asked if a person self-identifies as not understanding English; circumstances where further inquiries might be warranted (eg, juror appears unable to follow verbal instructions from jury officers); and specific processes to be used in cases involving a significant amount of documentary or written evidence.

Statistics in relation to jurors from culturally and linguistically diverse backgrounds

That the Sheriff's Office should revise its juror feedback questionnaire to ensure that data is recorded in relation to the number of jurors who state that they speak a language other than English at home. For those people who respond that they do speak a language other than English at home, there should be an additional question asking if the other language is their first language.

Disqualification for mental incapacity

That s 5(b) be amended to read:

Notwithstanding that a person is liable to serve as a juror by virtue of section 4 that person –

- ...
- (b) is not qualified to serve as a juror if he or she –
- ...
- (iv) is an involuntary patient within the meaning of the *Mental Health Act 1996* (WA);
- (v) is a mentally impaired accused within the meaning of Part V of the *Criminal Law (Mentally Impaired Accused) Act 1996* (WA); or
- (vi) is the subject of a Guardianship Order under s 43 of the *Guardianship and Administration Act 1990* (WA).

Physical incapacity

1. That a person should not be disqualified from serving on a jury on the basis that he or she suffers from a physical disability. However, a physical disability that renders a person unable to discharge the duties of a juror in a particular trial will constitute a sufficient reason to be excused from jury service by the summoning officer or the trial judge under the Third Schedule to the *Juries Act 1957* (WA).
2. That a person who has a physical disability that may impact upon his or her ability to discharge the duties of a juror—including mobility difficulties and severe hearing or visual impairment—must notify the summoning officer upon receiving the summons so that, where practicable, reasonable adjustments may be considered to accommodate the disability.
3. That the sheriff should develop guidelines for the provision of reasonable adjustments, where practicable, to accommodate a prospective juror's physical disability.
4. That, where a physically disabled juror for whom relevant facilities to accommodate the disability have been provided is included in the jury pool, the court should be made aware of, in advance of empanelment, the nature of the disability and the facilities provided to accommodate or assist in overcoming the disability.

Child care or other carer expenses

- That the *Juries Regulations 2008* (WA) be amended to insert a new regulation 5B to cover reimbursement of child care and other carer expenses.
- That this regulation provide that, for the purpose of s 58B of the *Juries Act 1957* (WA), the reasonable out-of-pocket expenses incurred for the care of children who are aged under 14 years, or for the care of persons who are aged, in ill health, or physically or mentally infirm are prescribed as an expense provided that those expenses were incurred solely for the purpose of jury service.

Abolition of ‘excuse as of right’

That Part II of the Second Schedule of the *Juries Act 1957* (WA) be abolished.

Third Schedule: grounds on which a person may be excused from jury service

That the Third Schedule of the *Juries Act 1957* (WA) be amended to provide that the grounds on which a person summoned to attend as a juror may be excused from such attendance by the summoning officer or the court are:

- Where service would cause substantial inconvenience to the public or undue hardship or extreme inconvenience to a person.
- Where a person who, because of an inability to understand and communicate in English or because of sickness, infirmity or disability (whether physical, mental or intellectual), is unable to discharge the duties of a juror.
- Where a conflict of interest or some other knowledge, acquaintance or friendship exists that may result in the perception of a lack of impartiality in the juror.

Guidelines

That the Sheriff’s Office in consultation with Supreme Court and District Court judges should prepare guidelines for determining whether a person summoned for jury service should be excused from further attendance and that these guidelines should include:

1. guidance for determining applications to be excused by persons summoned for jury service on the basis of substantial inconvenience to the public or undue hardship or extreme inconvenience to a person including specific examples of applications that should ordinarily be granted and examples of applications that should ordinarily be rejected;
2. that applications for excuse should be assessed with reference to two guiding principles – that juries should be broadly representative and that jury service is an important civil duty to be shared by the community;

3. guidance for determining if a person summoned for jury service should be excused from further attendance because he or she is unable to understand and communicate in English, including guidelines for dealing with literacy requirements in trials involving significant amounts of documentary evidence;
4. guidance for determining whether a person summoned is unable to discharge the duties of a juror because of sickness, infirmity or disability (whether physical, mental or intellectual) bearing in mind the nature of the particular trial or the facilities available at the court;
5. guidance for determining whether a conflict of interest or some other knowledge, acquaintance or friendship exists that may result in the perception of a lack of impartiality in the juror;
6. guidance about the type and nature of evidence required to support an application to be excused (eg, medical certificate, copies of airline tickets, student identification card); and
7. relevant procedures such as enabling prospective jurors to record their reasons for seeking to be excused where those reasons are of a private nature.

48 PROPOSAL 48 _____ page 122

Deferral of jury service

1. That the *Juries Act 1957* (WA) be amended to provide that:
 - (a) The summoning officer may, instead of excusing a person from further attendance on the grounds specified in the Third Schedule defer a person's jury service to a specified time within the next 12 months.
 - (b) When the person whose jury service has been deferred is summoned to attend on the specified date, the summoning officer is not permitted to again defer that person's jury service unless the date on which the person is due to attend is not a date on which the relevant court is sitting.
 - (c) When the person whose jury service has been deferred is summoned to attend on the specified date, the court or the summoning officer may excuse that person from further attendance on the grounds specified in the Third Schedule.
2. The Sheriff's Office in consultation with Supreme Court and District Court judges prepare guidelines for determining whether a person summoned for jury service should be permitted to defer jury service and that these guidelines should include guidance about the circumstances in which it would be appropriate to excuse a person from further attendance on the subsequent deferral date.

49 PROPOSAL 49 _____ Page 127

Jury service awareness raising – reimbursement of lost income

That the Western Australian government provide resources for the Sheriff's Office to conduct regular jury service awareness raising strategies in metropolitan and regional areas to dispel any misconceptions that performing jury service will impose a financial burden on the juror or the juror's employer.

Protection of employment

That a new provision be inserted into the *Juries Act 1957* (WA) modelled on the *Juries Act 2000* (Vic) s 76 and making it an offence for an employer or anyone acting on behalf of an employer to terminate, threaten to terminate or otherwise prejudice the position of an employee because the employee is, was or will be absent from employment on jury service.

Penalties for non-compliance with a juror summons

That the *Juries Act 1957* (WA) be amended to provide that:

1. It is an offence to fail to comply with a juror summons without reasonable excuse.
2. If the summoning officer has reason to believe that a person has, without reasonable excuse, failed to comply with a juror summons, the summoning officer may issue an infringement notice in the prescribed form.

Appendix B: List of invitations to submit

A INVITATION TO SUBMIT A _____ Page 34

The number of peremptory challenges available in trials involving more than one accused

The Commission invites submissions about the number of peremptory challenges that should be available to each accused and the prosecution in trials involving more than one accused. In other words, should each accused continue to have the right to five peremptory challenges each or should the number available to each co-accused be reduced?

B INVITATION TO SUBMIT B _____ Page 35

Power to discharge whole jury

The Commission invites submissions about whether the *Criminal Procedure Act 2004* (WA) should be amended to provide that a trial judge has the power to discharge the whole jury if it appears that, because of the exercise of the right to make peremptory challenges, the composition of the jury is or appears to be unfair.

C INVITATION TO SUBMIT C _____ Page 40

Information available about prospective jurors: names

The Commission invites submissions about whether, taking into account the arguments presented above, the jury panel or pool list made available to the parties to a criminal proceeding (and their respective solicitors) under s 30 of the *Juries Act 1957* (WA) should continue to contain the full name, of each person included in the list.

D INVITATION TO SUBMIT D _____ Page 44

Jury Districts

1. The Commission invites submissions about whether the current jury districts should be extended to reach beyond 80 km from the courthouse in Broome, Derby, Carnarvon and Kununurra and, if so, to what extent?
2. The Commission also invites submissions about whether the jury districts across the entire state should be extended so that all Western Australians are equally liable for jury service. If so, what is the best way to ensure that people for whom jury service would be extremely difficult as a result of excessive travelling requirements could be excused from jury service?

E INVITATION TO SUBMIT E _____ Page 67

Ineligibility for jury service – industrial relations commissioners

Taking into account the desire for broad participation in jury service and the proposition that occupational ineligibility should be confined to those occupations that have an integral connection to the administration of justice, most particularly criminal justice, should the president and commissioners of the Industrial Relations Commission remain ineligible for jury service while holding office? If so, why?

F INVITATION TO SUBMIT F _____ Page 70

Length of lawyers' ineligibility for jury service

Should lawyers remain ineligible for jury service for a five-year period after they cease practising law? If so, why?

G INVITATION TO SUBMIT G _____ Page 86

Permanent disqualification from jury service

The Commission invites submissions about whether s 5(b)(i)(IV) of the *Juries Act 1957* (WA) (which currently provides that a person is not qualified for jury service if he or she has been convicted of an offence in Western Australia and sentenced to imprisonment for a term exceeding two years) should be amended and the period of two years increased (eg, to three years).

H INVITATION TO SUBMIT H _____ Page 97

Participation in jury service by people from culturally and linguistically diverse backgrounds

That Commission invites submissions about the best way to increase the opportunity for people from culturally and linguistically diverse backgrounds to participate in jury service.

I INVITATION TO SUBMIT I _____ Page 119

Right to apply to the court to be excused from jury service before the jury summons date

The Commission invites submissions about whether the *Juries Act 1957* (WA) should be amended to enable a person who has been summoned for jury service to apply to the court (either a judge or magistrate) to be excused at a time before the date on which the person is due to attend court in response to the summons.

J INVITATION TO SUBMIT J _____ Page 127

Reimbursement of lost income

The Commission invites submissions on whether there are any issues with the current system for reimbursement of lost income or the process of application for reimbursement.

K INVITATION TO SUBMIT K _____ Page 129

Protection of employment – independent contractors

The Commission invites submissions about whether independent contractors who provide services on a continuing basis equivalent to employment should be statutorily protected from termination of their contract for service or from any prejudice to their position as contractor where they are required to perform jury service? Are there any matters to which the Commission should have particular regard in relation to protection of employment for independent contractors?

L INVITATION TO SUBMIT L _____ Page 130

Penalty for employers

The Commission invites submissions as to what level of fine is appropriate for employers who breach the offence created under Proposal 50 by terminating, threatening to terminate or otherwise prejudicing the position of an employee because the employee is, was or will be absent from employment on jury service? Should the penalty include an alternative term of imprisonment?

M INVITATION TO SUBMIT L _____ Page 134

Penalty for failing to comply with a juror summons

The Commission invites submissions about what level of fine should be prescribed for an infringement notice issued by the Sheriff or the summoning officer to a person who has failed to comply with a juror summons. Further, what level of fine should be available for the offence of failing to comply with a juror summons if that offence is dealt with by a court?

Appendix C: Summons

JURIES ACT 1957 CRIMINAL PROCEDURE RULES 2005
 Sheriff's Office, Level 2, 500 Hay Street
 PERTH WA 6000
 Tel: (08) 9425 2481 Fax: (08) 9425 4406

JURY DUTY
*Your valued
 contribution to justice
 in Western Australia*

SUMMONS TO JUROR

Please do not
 detach this slip

NAME	ATTENDANCE DATE	
------	-----------------	--

Summons number:



ATTENDANCE DETAILS	<p>You are hereby summoned to attend on the date and at the time and place specified below to serve as a juror at the criminal sittings of the Supreme Court and the District Court:</p> <p>Location: <i>District Court Building Level 2, 500 Hay Street, Perth WA 6000</i></p> <p>Date: _____ Time: _____</p> <p>and to attend daily from then on at that place until you are discharged.</p> <p style="text-align: right;"><i>Date of birth:</i> _____</p> <p>Failure to attend may result in a fine</p>
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IMPORTANT INFORMATION	<ol style="list-style-type: none"> You are to bring this summons and valid identification (e.g. photo ID) with you on the date above. You will be required to attend until you are discharged - usually for between one to five days. You should advise your employer of this summons and the dates of service as soon as possible. You should contact the Sheriff's Office if you no longer live in the metropolitan area (contact details below). You should read the attached juror information sheet carefully. It will answer most of the questions you may have about this summons.
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INELIGIBILITY, LACK OF QUALIFICATION AND EXCUSE	<p>Some people may be ineligible, not qualified or excused from jury duty. In some cases, people have a right to be excused. More information is available on the back of the summons.</p> <p>If you wish to apply to be excused (whether or not as a matter of right) or believe that you are ineligible or not qualified, you must complete the statutory declaration on the back of this summons.</p> <p>This must be signed, witnessed by an authorised person and sent to: The Sheriff Level 2, 500 Hay Street PERTH WA 6000 or by email or fax (details below) - send both sides of the page.</p>
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ENQUIRIES	<p>Questions not answered in this summons or the enclosed juror information sheet, can be directed to the Sheriff's Office.</p> <p>Phone: 9425 2481 Email: jurors@justice.wa.gov.au Fax: 9425 4406 Website: www.justice.wa.gov.au/ag</p>
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PERSONAL BANK DETAILS ONLY (please complete for payments)	
Bank/Credit union name	Branch address
Branch code or BSB	Account number
Account name	Your daytime phone number
EMPLOYER'S NAME	

SUMMONS TO JUROR

Date of issue: _____ Sheriff / District Court Registrar

Ineligibility, lack of qualification and excuse

Some people may be ineligible, not qualified or excused from jury duty. In some cases, people have a right to be excused. Some examples for each category are provided below.

Ineligible

You are not permitted to serve as a juror if you:

- are aged 70 years or older.
- are, or have been in the last five years, a justice of the peace; a member or officer of the Legislative Assembly or Legislative Council; a member of the Prisoners Review Board; a police officer; an employee of the Department of the Attorney General (unless working for the Public Trust office or the Registry of Births, Deaths and Marriages), Department of Corrective Services or Department for Community Development.
- an Australian lawyer (within the meaning of that term in the *Legal Profession Act 2008 Section 3*).

Not qualified

You are not permitted to serve as a juror if you:

- do not understand English.
- have any disease or infirmity of mind or body that will affect your ability to be a juror.
- have been convicted of an offence and sentenced to more than two years of imprisonment.
- have in the last five years, been the subject of a probation order or community order, been imprisoned or been detained in a juvenile institution.

Excused as of right

You have the right to be excused for reasons of:

- being a registered and practising medical practitioner, dentist, osteopath, nurse, midwife, vet, chiropractor, pharmacist, physiotherapist or psychologist.
- being an emergency services staff member.
- religion – people in holy orders.
- family – pregnancy; a person living with and providing full-time care to A) children aged under 14 years B) an aged person or C) a person in ill-health or who is physically or mentally infirm.
- age – between 65 and 70 years.

Other circumstances

You may be excused for the following reasons:

- illness (medical certificate required)
- undue hardship to yourself or another person due to jury service (evidence required)
- circumstances of sufficient importance or urgency (evidence required)
- recent jury duty.

TO APPLY TO BE EXCUSED FROM JURY DUTY OR IF YOU BELIEVE YOU ARE INELIGIBLE OR NOT QUALIFIED, YOU MUST COMPLETE THE STATUTORY DECLARATION BELOW.

STATUTORY DECLARATION	
I (print full name)	Date of birth / /
of (address)	Occupation
Date summoned	Daytime phone number
I sincerely declare, I claim not to be eligible, not qualified or apply to be excused from attending jury duty on the following grounds (please state whether you are applying to be excused as a matter of right or other circumstances):	
This declaration is true and I know that it is an offence to make a declaration knowing that it is false in a material particular. This declaration is made under the <i>Oaths, Affidavits and Statutory Declarations Act 2005</i> .	
At (place)	Signature of summoned person
This day of 20	Before me (witness)

This declaration must be made before a justice of the peace or other authorised person such as a teacher, chemist, accountant, bank manager, doctor or post office manager. For a full list of authorised persons go to www.dotag.wa.gov.au then click on Jury Duty, Excusal from Jury Duty and Statutory Declaration forms.

Please send completed, signed and witnessed form to:
The Sheriff, Level 2, 500 Hay Street, PERTH WA 6000 or Fax: 9425 4406 (fax both sides of the page).

Appendix D: Information sheet for jurors



Government of Western Australia
Department of the Attorney General



JURY DUTY Your valued contribution to justice in Western Australia

about jury duty

Your name has been randomly selected from the Western Australian electoral roll for possible participation in jury duty.

- You must attend jury selection at the time and place stated on the summons.
- If you think you have a good reason to be excused from jury duty, you can apply using the statutory declaration found on the back of the jury summons and lodge it in person or by mail to the Sheriff's Office. This should be done as soon as possible.
- The statutory declaration must be completed, signed, witnessed by an authorised person and lodged before you are due to attend for service.
- Failure to attend jury selection or to submit a statutory declaration may result in a court fine.

jury selection – how it works

What is a jury?

A jury is a group of 12 people who are randomly chosen to decide if an accused person is 'guilty' or 'not guilty', based on evidence given in a criminal trial.

Who is eligible to serve on a jury?

People aged between 18 and 70 years, who are listed on the electoral roll in each jury district can be selected for jury duty. There are 15 jury districts in Western Australia.

How long does jury duty last?

Jury duty may last from one to five days, but sometimes a trial may run longer. The judge will advise you of how long the hearing is expected to take. Courts usually sit on weekdays during normal business hours, with lunch and other breaks. Under normal circumstances, jurors are not required to stay over night and are expected to provide their own lunch.

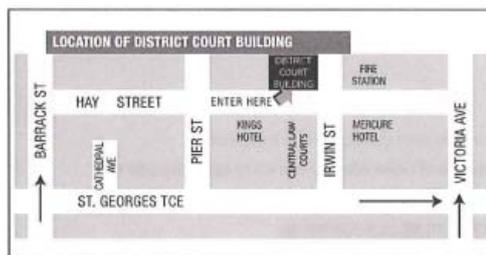
How are jurors selected on the day?

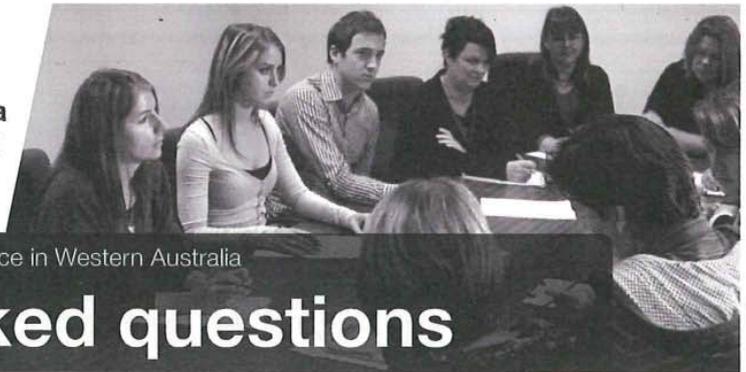
- A number of potential jurors are selected from the jury assembly room and escorted to the courtroom by a jury officer. If an accused person pleads 'not guilty', 12 jurors are then chosen randomly for the trial.
- On some occasions, up to six extra jurors may be selected if a lengthy trial is expected.
- A lawyer may challenge the selection of any juror. No reason will be given for a juror challenge so you should not be concerned if it happens to you.
- After all jurors are chosen, the remaining participants will return to the jury assembly room for instructions regarding further jury duty during the week.

Where do I go?

The District Court Building is located at 500 Hay Street, Perth. When you enter you will be required to move through a security checkpoint before attending the Jury Assembly Room on level 2. If you are carrying any unauthorised items, such as drugs or weapons, they will be detected at the checkpoint. See map left.

A jury officer will greet you when you arrive on level 2 and ask for identification to support the details shown on your summons.





JURY DUTY Your valued contribution to justice in Western Australia

frequently asked questions

Will I get paid for jury duty?

- In accordance with the *Juries Act 1957* your employer is required to continue to pay you your normal wages while you attend jury duty.
- Your employer may then apply to be reimbursed those wages. Please complete your employer's details on the front of the summons.
- Claim forms will be made available when you attend or they can be downloaded from our website, www.dotag.wa.gov.au
- Self-employed people may apply to be reimbursed loss of income that can be substantiated.
- If you are not working you will receive a small attendance fee for your time served as a juror.
- An attendance certificate for your employer will be provided on request.
- Public transport costs are reimbursed based on your current address. The money will be deposited in your bank account when you have completed jury duty. You will not be reimbursed for parking fees or fines incurred during jury duty.
- You need to complete your bank account details on the jury summons to ensure that payments are processed quickly.
- If you are not selected to attend court as a juror, you are expected to return to work as soon as possible.

What if my work commitments prevent me from attending jury duty?

If you believe you have a good reason for being excused from jury duty because of work commitments, you should:

- describe the hardship that would be caused if you were absent from work.
- use the statutory declaration on the back of the jury summons to record this information and apply to be excused.

- list your ABN if you are self-employed, otherwise you must attach a letter from your employer that supports your claim.

What if I have children to care for?

If you have children under the age of 14 you may be excused from jury duty. You must complete the statutory declaration on the back of the jury summons. If you wish to attend jury duty, childcare costs may be reimbursed – call the Sheriff's Office to discuss this further.

What if I am not well enough to attend jury duty?

If you are not well you must state this in the statutory declaration on the back of the jury summons, and attach a medical certificate. If you are ill on the date you are required in court, you must contact the Sheriff's Office for further instructions.

What if I will be away at the time I am required?

If you will be away at the time of jury duty you must state this in the statutory declaration and attach a copy of a travel itinerary or ticket.

What should I wear?

A neat standard of dress, including shoes, is required in court. The air-conditioning is quite cool in some courtrooms, so you may wish to bring a jacket.

What if I do not have a good understanding of English?

If you do not have a good understanding of English you must state this in the statutory declaration on the back of the jury summons.

IF YOU ARE UNABLE TO READ THIS INFORMATION, TAKE THIS PAGE AND THE JURY SUMMONS TO AN INTERPRETER

Nếu không đọc được, xin mang tờ giấy này cùng với giấy triệu tập làm bồi thẩm đến nhờ một thông ngôn viên giúp đỡ.

如果你无法阅读本篇讯息的话, 请你拿着本页及陪审团传票, 找口译员帮忙。

若你不明白這些資料, 就拿着這張紙和陪審團傳票去找翻譯員

SE NON POTETE LEGGERE QUESTA INFORMAZIONE, PORTATE QUESTA PAGINA E LA CITAZIONE DELLA GIURIA AD UN INTERPRETE

SHOALING

Appendix E: List of people consulted

The Commission thanks the following people for their input during the initial consultation phase of this reference.

Andrew Marshall, Department of the Attorney General (WA)
Ann Brown, Associate to Master Sanderson, Supreme Court of Western Australia
Associate Professor Judith Fordham, University of Western Australia
Carl Campagnoli, Jury Manager, Sheriff's Office (WA)
Chief Judge Antoinette Kennedy, District Court of Western Australia
Debbie Cooper, Aboriginal Fines Liaison Officer, Kununurra Magistrates Court
Gavan Jones, Director Higher Courts, Department of the Attorney General (WA)
Gavin Whittome, Operations Manager District Court Building, Western Liberty Group
Ian Norrish, Jury Summoning Officer, Jury Central Summoning Bureau, Her Majesty's Court Service (UK)
Jim Adair, Regional Manager, Broome Magistrates Court
Jim Johnson, Deputy Juries Commissioner (Victoria)
Joanne Edwards, Project Officer, Sherriff's Office (SA)
Joseph Waugh, Legal Officer, New South Wales Law Reform Commission
Judge Mary Ann Yeats, District Court of Western Australia
Judge Robert Mazza, District Court of Western Australia
Justice John McKechnie, Supreme Court of Western Australia
Keith Chapman, Principal Registrar, Supreme Court of Western Australia
Mary Anne Warren, Jury Manager (NT)
Michael Gething, Principal Registrar, District Court of Western Australia
Mike Silverstone, Executive Director, Corruption and Crime Commission of Western Australia
Neil Iversen, Jury Manager, Sherriff's Office (SA)
Owen Deas, Clerk of Courts, Kununurra Magistrates Court
Paul Calabrese, Jury Supervisor, Sheriff's Office (WA)
Peta Smallshaw, Clerk of Courts, Derby Magistrates Court
Peter Graham, Jury and Security Coordinator, Supreme Court of Tasmania (Hobart)
Peter Hennessy, Executive Officer, New South Wales Law Reform Commission
Peter Scotchmer, A/Manager, Justice of the Peace Branch, Department of the Attorney General (WA)
Professor Michael Tilbury, Commissioner, New South Wales Law Reform Commission
Richard Hooker, Barrister, Francis Burt Chambers
Rick Pugh, Registry Manager, Broome Magistrates Court
Robert Cock QC, Director of Public Prosecutions (WA)
Rudy Monteleone, Juries Commissioner (Victoria)
Teresa Sullivan, Jury Officer, Sheriff's Office (WA)
Tony Mylotte, Administrative Officer, Legal Practice Board (WA)
Vicki Wilson, Operations and Performance Officer, Juror Branch, Her Majesty's Court Service (UK)
Warren Richardson, Manager Enrolment Group, Electoral Commission (WA)

Appendix F: List of abbreviations used

ABS	Australian Bureau of Statistics
ALRC	Australian Law Reform Commission
DPP	Office of the Director of Public Prosecutions
LRCWA	Law Reform Commission of Western Australia
NSWLRC	New South Wales Law Reform Commission
NZLC	New Zealand Law Commission
QCJC	Queensland Criminal Justice Commission
QLRC	Queensland Law Reform Commission
VPLRC	Victorian Parliament Law Reform Committee