



New South Wales

Jury Amendment Bill 2007

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Jury Act 1977* (the **Principal Act**):

- (a) to enable up to 3 additional jurors to be selected for certain criminal trials in the Supreme Court or District Court, and
- (b) to ensure that only 12 members of a jury that is expanded with additional jurors may retire to consider the jury's verdict.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the Principal Act set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced, the

proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

Selection of additional jurors for lengthy criminal trials

Schedule 1 [1] substitutes section 19 of the Principal Act to provide for the Supreme Court or District Court to order that up to 3 jurors in addition to the usual 12 jurors be selected for a jury in criminal proceedings before it if the Court is satisfied that:

- (a) the trial of the proceedings is of a kind prescribed by the regulations, and
- (b) the selection of the additional jurors is an appropriate means of ensuring that there will be sufficient jurors remaining on the jury when the jury is required to consider its verdict, and
- (c) appropriate facilities to accommodate the additional jurors are available.

Until the regulations provide otherwise, a trial of proceedings the duration of which is likely to be more than 3 months will be taken to be a kind of trial of proceedings prescribed by the regulations.

Schedule 1 [2] amends section 42 of the Principal Act to confer an additional peremptory challenge on both the Crown and each defendant in criminal proceedings where the court has ordered that the jury include additional jurors.

Schedule 1 [8] inserts a new section 55G in the Principal Act to ensure that if the jury in criminal proceedings consists of more than 12 persons immediately before the jury is required to retire to consider its verdict, the jury for the purpose of considering and returning the verdict is to be constituted by only 12 of those persons as follows:

- (a) if the expanded jury has chosen one of its members to speak on behalf of the jury as a whole (a *foreperson*)—the foreperson and 11 other persons selected by ballot,
- (b) if there is no foreperson—12 persons selected by ballot.

Schedule 1 [3]–[7] make amendments to sections 48 and 55F of the Principal Act that are consequential on the substitution of section 19 and the insertion of proposed section 55G.

Savings and transitional provisions

Schedule 1 [9] amends clause 1A of Schedule 8 to the Principal Act to enable the Governor to make regulations of a transitional or savings nature consequent on the enactment of the proposed Act.

Schedule 1 [10] inserts a new Part in Schedule 8 to the Principal Act containing provisions of a savings or transitional nature consequent on the enactment of the proposed Act. The new Part provides that the amendments made to the Principal Act by the proposed Act apply to criminal proceedings only if the jury is empanelled after the commencement of those amendments.