



# Jury Act 1995

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## Queensland

# Jury Act 1995

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# Jury Act 1995

## An Act about juries

### Part 1 Preliminary

#### 1 Short title

This Act may be cited as the *Jury Act 1995*.

#### 2 Commencement

This Act commences on a day to be fixed by proclamation.

#### 3 Definitions—the dictionary

The dictionary in schedule 3 defines particular words used in this Act.

### Part 2 Citizen's obligation to perform jury service

#### 4 Qualification to serve as juror

(1) A person is qualified to serve as a juror at a trial within a jury district (*qualified for jury service*) if—

- (a) the person is enrolled as an elector; and
- (b) the person's address as shown on the electoral roll is within the jury district; and

- (c) the person is eligible for jury service.
- (2) A person who is enrolled as an elector is eligible for jury service unless the person is mentioned in subsection (3).
- (3) The following persons are not eligible for jury service—
- (a) the Governor;
  - (b) a member of Parliament;
  - (c) a local government mayor or other councillor;
  - (d) a person who is or has been a judge or magistrate (in the State or elsewhere);
  - (e) a person who is or has been a presiding member of the Land and Resources Tribunal;
  - (f) a lawyer actually engaged in legal work;
  - (g) a person who is or has been a police officer (in the State or elsewhere);
  - (h) a detention centre employee;
  - (i) a corrective services officer;
  - (j) a person who is 70 years or more, if the person has not elected to be eligible for jury service under subsection (4);
  - (k) a person who is not able to read or write the English language;
  - (l) a person who has a physical or mental disability that makes the person incapable of effectively performing the functions of a juror;
  - (m) a person who has been convicted of an indictable offence, whether on indictment or in a summary proceeding;
  - (n) a person who has been sentenced (in the State or elsewhere) to imprisonment.
- (4) A person who is 70 years or more may elect to be eligible for jury service in the way prescribed under a regulation.



## **5 Obligation to perform jury service**

A person who is qualified for jury service is liable to perform jury service unless the person is excused from jury service by a judge or the sheriff.

*Editor's note—*

For power to excuse from jury service, see sections 19 to 23.

## **6 Verdict not to be questioned on ground of qualification of juror**

The fact that a person who is not qualified for jury service serves on a jury is not a ground for questioning the verdict.

# **Part 3 Jury districts and jury rolls**

## **Division 1 Jury districts**

### **7 Jury districts—establishment and boundaries**

- (1) A jury district may be established or abolished under a regulation.
- (2) The boundaries of a jury district are as defined under a regulation.

### **8 Assignment of responsibility for jury districts to other sheriffs and persons**

- (1) Responsibility for carrying out the sheriff of Queensland's functions under this Act for a particular jury district may be assigned under a regulation to—
  - (a) a deputy sheriff; or
  - (b) another officer or person specified under a regulation.

*Editor's note—*

The deputy sheriffs are appointed under the *Supreme Court of Queensland Act 1991*.

- (2) However, despite an assignment of responsibility under this section, the sheriff of Queensland—
- (a) remains responsible for keeping jury rolls and preparing lists of prospective jurors for all jury districts; and
  - (b) may, by agreement with the person to whom responsibility for a particular jury district has been assigned, issue notices and summonses to prospective jurors for the jury district.

*Editor's note—*

See sections 18 (Notice to prospective jurors) and 27 (Summons for jury service).

## **Division 2                      Jury rolls**

### **9                      Keeping of jury rolls**

- (1) The sheriff of Queensland must keep a jury roll for each jury district.
- (2) A jury roll may be kept in any way, including, for example, by computer.

### **10                      Jury roll for a jury district**

- (1) The jury roll for a particular jury district must consist of a list of the names, addresses and occupations of electors whose addresses, as recorded in an electoral roll, are within the jury district.
- (2) However, the sheriff of Queensland must exclude from the jury roll the names of persons who are, to the sheriff's knowledge, not qualified for jury service.

- (3) The sheriff of Queensland may make reasonable inquiries to find out which persons enrolled as electors for addresses in a particular jury district should be excluded from the jury roll.

## **11 Electoral commission to give information**

If asked by the sheriff of Queensland, the electoral commission must—

- (a) give the sheriff information reasonably required for keeping a jury roll; and
- (b) allow the sheriff access to any information the commission has relevant to the keeping of jury rolls.

## **12 Arrangements with commissioner of the police service**

- (1) For keeping a jury roll, the sheriff or the electoral commission may arrange with the commissioner of the police service for the police service to—
  - (a) make inquiries reasonably required for keeping a jury roll; or
  - (b) give other reasonable help relevant to keeping a jury roll.
- (2) The sheriff or the electoral commission must give a police officer helping under the arrangement any information the sheriff or commission has that may help the officer conduct the inquiries.
- (3) Subsection (1) does not limit the help the sheriff or the electoral commission may require.
- (4) The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the disclosure of information for inquiries, or to the sheriff or the electoral commission, under this section.

## **Part 4                      Assembly of jurors**

### **Division 1                      General powers of Senior Judge Administrator**

#### **13           Practice directions**

After consulting with the Chief Judge of the District Court and the President of the Childrens Court, the Senior Judge Administrator may issue directions under the *Supreme Court of Queensland Act 1991* about—

*Editor's note—*

The *Supreme Court of Queensland Act 1991*, section 51, deals with the responsibility of the Senior Judge Administrator for the administration of the Supreme Court in the Trial Division. The section empowers the Senior Judge Administrator, among other things, to issue directions about the practices and procedures of the Supreme Court in the Trial Division (s 51(2)).

- (a) the preparation of lists of prospective jurors for each jury district and, in particular, how often a fresh list is to be prepared for each jury district; and
- (b) summoning and assembling prospective jurors for jury service; and
- (c) forming panels of prospective jurors from the available persons who have been summoned for jury service in a jury district so juries may be selected for civil and criminal trials that are to begin in the jury district; and
- (d) the criteria for excusing from jury service and the circumstances in which a person may be excused permanently from jury service; and
- (e) jury members being informed of the names of the parties and any witnesses to be called.

## **14 Administrative directions**

After consulting with the Chief Judge of the District Court, the Senior Judge Administrator may give administrative directions for the proper and efficient administration of this Act to sheriffs and other persons engaged in the administration of this Act.

## **Division 2 Preparation of lists of prospective jurors**

### **15 Lists of prospective jurors**

- (1) The sheriff of Queensland must prepare lists of prospective jurors for each jury district.
- (2) The sheriff of Queensland may decide how often a list of prospective jurors is to be prepared for each jury district and the number of persons to be included in each list according to the sheriff's estimate of the likely need for jurors in the jury district.
- (3) However—
  - (a) the sheriff of Queensland must comply with requirements under the practice directions about how often fresh lists of prospective jurors are to be prepared for each jury district; and
  - (b) subject to the practice directions, the sheriff of Queensland must comply with the request of another sheriff—
    - (i) for the preparation of lists of prospective jurors for the jury district for which the other sheriff is responsible; and
    - (ii) about the number of prospective jurors to be included in each list.

## **16 Selection of persons to be included in list of prospective jurors**

- (1) The names of persons to be included in the list of prospective jurors are to be drawn from the jury roll for the relevant jury district.
- (2) The selection must be made—
  - (a) by a computer programmed to make a random selection of names from the jury roll; or
  - (b) by random selection of cards bearing the names of, or numbers representing, the persons whose names are on the jury roll.

## **17 Copies of list must be given to other sheriffs**

When the sheriff of Queensland prepares a list of prospective jurors for a jury district for which another sheriff is responsible, the sheriff of Queensland must give a copy of the list to the other sheriff.

## **Division 3 Notice to prospective jurors**

### **18 Notice to prospective jurors**

- (1) The sheriff must give each prospective juror a written notice (*a notice to prospective jurors*) stating—
  - (a) the person may be summoned for jury service; and
  - (b) the jury service period for which the person may be summoned.
- (2) Without limiting the ways the notice to prospective jurors may be given, the notice may be given by email or other electronic means.
- (3) The notice to prospective jurors must—
  - (a) include or be accompanied by, or give instructions for accessing, the following documents—

- 
- (i) a questionnaire (a *prospective juror questionnaire*) to find out whether the person is qualified to serve as a juror and, if the person claims not to be qualified to serve as a juror, the ground of the claim;
  - (ii) a form (an *application form*) to enable the person to apply to be excused from jury service; and
- (b) state the ways the completed documents may be returned to the sheriff.
- (4) A person to whom the notice is given must not fail to return the completed prospective juror questionnaire to the sheriff within the reasonable time allowed in the notice, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units or 2 months imprisonment.

- (5) If the person wants to be excused from jury service, the person must return the completed application form to the sheriff.
- (6) Unless permitted by the practice directions, the sheriff may excuse a person from jury service only on an application form that states the reasons for asking to be excused from jury service.
- (7) A person must not state something the person knows is false in response to a prospective juror questionnaire, or in an application to be excused from jury service.

Maximum penalty for subsection (7)—10 penalty units or 2 months imprisonment.

## **Division 4                    Power to excuse from jury service**

### **19            Sheriff's power to excuse from jury service**

- (1) On an application to be excused from jury service, the sheriff may excuse the applicant from jury service—

- (a) for a particular jury service period (or part of a particular jury service period); or
  - (b) permanently.
- (2) In exercising the power to excuse from jury service, the sheriff must comply with procedural requirements imposed under the practice directions.

## **20 Power of judge to excuse from jury service**

- (1) A judge may excuse a person from jury service—
- (a) for a particular jury service period (or part of a particular jury service period); or
  - (b) permanently.
- (2) A judge may exercise the power to excuse from jury service—
- (a) on the judge's own initiative; or
  - (b) on application by a member of a jury panel who wants to be excused from jury service.
- (3) A judge may hear an application under this section with or without formality.
- (4) If the judge's decision on an application under this section is inconsistent with the sheriff's decision on an earlier application made to the sheriff by the same applicant, the judge's decision prevails.

## **21 Criteria to be applied in excusing from jury service**

- (1) In deciding whether to excuse a person from jury service, the sheriff or judge must have regard to the following—
- (a) whether jury service would result in substantial hardship to the person because of the person's employment or personal circumstances;
  - (b) whether jury service would result in substantial financial hardship to the person;



- (c) whether the jury service would result in substantial inconvenience to the public or a section of the public;
  - (d) whether others are dependent on the person to provide care in circumstances where suitable alternative care is not readily available;
  - (e) the person's state of health;
  - (f) anything else stated in a practice direction.
- (2) A person may be permanently excused from jury service only if the person is eligible to be permanently excused from jury service in the circumstances stated in the practice directions.

## **22 When prospective juror entitled to be excused from jury service**

- (1) This section applies to a prospective juror if the prospective juror—
- (a) has been summoned to perform jury service for a particular jury service period, or is on a list of prospective jurors who may be summoned to perform jury service for a particular jury service period; and
  - (b) has earlier been summoned for jury service and has attended as required by the summons for a jury service period (or, if excused from jury service for part of a jury service period, the balance of the jury service period) ending less than 1 year before the jury service period mentioned in paragraph (a).
- (2) The prospective juror is entitled to be excused from jury service for the jury service period.

## **23 Time for exercising power to excuse**

A prospective juror may be excused from jury service before or after the prospective juror is summoned for jury service.

## **Division 5                      Revision of list of prospective jurors**

### **24            Revision of list**

- (1) After the end of the time allowed in the notices to prospective jurors for the return of prospective juror questionnaires, the sheriff must revise the list of prospective jurors.
- (2) The revision is made by noting on the list the exclusion from the list of the name of each person—
  - (a) who, in the sheriff's opinion—
    - (i) can not be located within a reasonable time; or
    - (ii) is not qualified for jury service; or
  - (b) who has been excused from jury service.
- (3) The sheriff may make reasonable inquiries to find out whether the name of a person on the list of prospective jurors should be excluded from the list because the person is not qualified for jury service.

### **25            Effect of revised list**

- (1) On revision of the list of prospective jurors, the list (the *revised list of prospective jurors*) becomes the basis for issuing summonses for jury service in the relevant jury district for the jury service period concerned.
- (2) However, an unrevised list of prospective jurors may be used as the basis for issuing summonses for jury service, if the sheriff considers there is not enough time to allow the list to be revised before the summonses are issued.
- (3) A prospective juror selected from an unrevised list of prospective jurors may be summoned for jury service only if the notice to prospective jurors has been given to the prospective juror, or is given to the prospective juror together with the summons.

*Editor's note—*

See section 18(1) (Notice to prospective jurors).

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## **Division 6                      Summoning for jury service**

### **26            Selection of persons for summons**

- (1) The sheriff must from time to time (as the sheriff considers necessary) select for summons enough prospective jurors to enable the selection of juries for trials starting in the relevant jury district in the jury service period concerned.
- (2) The persons to be summoned must be selected—
  - (a) by a computer programmed to make a random selection of names from the revised list of prospective jurors; or
  - (b) by random selection of cards bearing the names of, or numbers representing, the persons whose names are on the revised list of prospective jurors.
- (3) However, the selection may be made from the unrevised list of prospective jurors, if the sheriff considers there is not enough time to allow for the list to be revised before the summonses are issued.

*Editor's note—*

See section 25(2) (Effect of revised list).

### **27            Summons for jury service**

- (1) The sheriff must give to each person selected for summoning a summons requiring the person—
  - (a) to attend for jury service as instructed by the sheriff at places and times to be stated in the instructions; and
  - (b) if selected as a member of a jury, to attend as instructed by the court until discharged by the court.
- (2) Without limiting the ways the summons may be given, the summons may be given by email or other electronic means.
- (3) A person summoned for jury service may only be instructed by the sheriff to attend for jury service at a time that falls within a period stated in the summons as the jury service period.

- (4) The sheriff must instruct a sufficient number of persons to attend for jury service on each day on which a trial or trials are to start in the jury district to enable the selection of juries for the trial or trials.
- (5) An instruction to attend for jury service may be given—
  - (a) personally, whether directly or indirectly; or
  - (b) by notice in a newspaper circulating generally in the jury district; or
  - (c) by telephone, radio, television or other form of distance communication; or
  - (d) in a way—
    - (i) authorised under a regulation; or
    - (ii) agreed between the sheriff and the person to whom the instruction is given.
- (6) The persons required to attend on the sheriff's instructions may be identified in the instructions in a way stated in the summons.

*Example—*

The summons might allocate an identifying number to the person to whom the summons is given.

## **28 Obligation to comply with summons**

- (1) A person must not fail to comply with a summons under this division, unless the person has a reasonable excuse.  

Maximum penalty—10 penalty units or 2 months imprisonment.
- (2) If a person fails, without reasonable excuse, to attend before a court as instructed by the sheriff or the court under this division, the failure may be dealt with either as an offence against subsection (1) or as a contempt of the court.

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## 29 List of persons summoned for jury service

- (1) For each jury service period, the sheriff must prepare and keep up to date a list of the persons summoned for jury service in a jury district and not later excused from jury service (the *list of persons summoned for jury service*).
- (2) The list of persons must state the name, address and occupation, as mentioned in section 37, of each person on the list.
- (3) If asked by a party to a civil or criminal trial that is to take place in the jury district in the jury service period, or a lawyer or other person representing a party, the sheriff must—
  - (a) give the party, lawyer or other person a copy of the list of persons summoned for jury service; and
  - (b) identify or provide a means of identifying each person who has been instructed by the sheriff to attend on the day the jury for the relevant trial is to be selected.
- (4) The request may be made no earlier than 4.00pm on the business day immediately before the day on which the jury for the trial is to be selected.
- (5) A person who has received a copy of the list must return the copy to the sheriff as soon as practicable after the jury for the trial is selected, unless the person has disposed of it in the way directed by a judge under subsection (6).

Maximum penalty—10 penalty units or 2 months imprisonment.
- (6) A judge may direct a person who has received a copy of the list to dispose of it as the judge directs.
- (7) The sheriff must destroy copies of the list returned to the sheriff.

## 30 Reproduction of list of persons summoned for jury service

- (1) A person who receives a copy of the list of the persons summoned for jury service must not—

- (a) reproduce the list or permit its reproduction; or
- (b) give the list, or disclose any information in the list, to a person other than a party, or a lawyer or other person representing a party, to the civil or criminal trial to which the list relates.

Maximum penalty—10 penalty units or 2 months imprisonment.

- (2) However, the sheriff or a person acting under the sheriff's authority may—
  - (a) reproduce the list or permit its reproduction; or
  - (b) give a copy of the list, or disclose information in the list, to a person who is not a party or the representative of a party;

if it is reasonably necessary for the proper administration of this Act.

*Example—*

The sheriff or a person acting under the sheriff's authority might have a copy of the list made and give it to the judge who is to preside at the trial or the judge's associate.

### 31 Questions relating to jury service

- (1) A person must not ask questions of a person who has been summoned for jury service to find out how the person is likely to react to issues arising in a trial or for other purposes related to the selection or possible selection of the person as a juror in a trial unless—
  - (a) the questioning is authorised or required under another provision of this Act; or
  - (b) a judge authorises the questioning under this section.

Maximum penalty—2 years imprisonment.

- (2) A person must not ask questions of anyone about a person (the *other person*) who has been summoned for jury service to find out how the other person is likely to react to issues arising in a trial or for other purposes related to the selection or

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possible selection of the other person as a juror in a trial unless the questioning is authorised or required under another provision of this Act.

Maximum penalty—2 years imprisonment.

- (3) Subsection (2) does not apply to discussions between a party and the party's lawyer.
- (4) A judge may, on conditions the judge considers appropriate, authorise a person to ask questions of a person who has been summoned for jury service.
- (5) A person must not contravene a condition under subsection (4).

Maximum penalty for subsection (5)—2 years imprisonment.

## **Part 5                      Formation of juries**

### **Division 1                Number of jurors in trials**

#### **32        Juries for civil trials**

The jury for a civil trial consists of 4 persons.

#### **33        Juries for criminal trials**

The jury for a criminal trial consists of 12 persons.

#### **34        Reserve jurors**

- (1) The judge before which a civil or criminal trial is to be held may direct that not more than 3 persons be chosen and sworn as reserve jurors.
- (2) Reserve jurors—

- (a) are to be selected in the same way as ordinary jurors; and
  - (b) are liable to be challenged and discharged in the same way as ordinary jurors; and
  - (c) must take the same oath as ordinary jurors; and
  - (d) are otherwise subject to the same arrangements as other jurors during the trial.
- (3) If a juror dies or is discharged after a trial starts but before the jury retires to consider its verdict, and a reserve juror is available, the reserve juror must take the vacant place on the jury.

*Editor's note—*

See section 56 (Discharge or death of individual juror).

- (4) If 2 or more reserve jurors are available, the juror to take the place on the jury must be decided by lot or in another way decided by the judge.
- (5) When a jury retires to consider its verdict, a reserve juror who has not been called on to take a place on the jury must be discharged from further attendance at the trial.
- (6) The death or discharge of a reserve juror before the juror has been called on to take a vacant place on the jury does not affect the validity of the trial.

## **Division 2                      Suitability of jurors**

### **35            Information about prospective jurors to be exchanged between prosecution and defence in criminal trials**

- (1) If a party to a criminal trial obtains information about a person who has been summoned for jury service that may show the person is unsuitable to serve as a juror in the trial, the party must disclose the information to the other party as soon as practicable.



- (2) The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the disclosure of information under this section.

*Editor's note—*

The *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6, places restrictions on disclosure of the criminal history of a person by someone if the rehabilitation period under the Act has come to an end.

## Division 3                      Attendance of jury panel

### 36                      Sheriff to arrange for attendance of jury panel

- (1) When a civil or criminal trial is about to begin, the sheriff must arrange for the attendance of a jury panel before the court.
- (2) The panel must be formed from among the persons (the *relevant prospective jurors*) who—
- (a) have been summoned for jury service for the relevant jury service period; and
  - (b) have not, after being summoned, been excused from jury service or excluded from the list of prospective jurors because they are not qualified for jury service; and
  - (c) are not currently serving on a jury.
- (3) The panel must be formed by selection from among the relevant prospective jurors in a way decided by the sheriff subject to any relevant direction issued by the Senior Judge Administrator under section 13(c).
- (4) When the panel is formed, the sheriff must give the instructions to the members of the panel necessary to ensure their attendance before the court.

### **37 Materials to be given by sheriff**

- (1) Before the attendance of the jury panel before the court, the sheriff must give the judge's associate—
  - (a) a list stating the names, locality addresses and occupations of all persons on the panel; and
  - (b) 1 card (a *jury card*) for each member of the panel that states—
    - (i) the name of, or a number representing, the member; and
    - (ii) the locality address and occupation of the member.
- (2) The jury cards for the members of a panel—
  - (a) may be given by electronic means; and
  - (b) if not given by electronic means—must be of identical size and shape.
- (3) If a person has no present remunerative occupation and is not engaged in domestic duties, the person's occupation is taken to be the person's last remunerative occupation and, if the person has never had a remunerative occupation and is not engaged in domestic duties, a note to that effect must appear in place of a statement of occupation.
- (4) In this section—

*locality address*, of a person, means the city, town, suburb or other locality in which the person resides.

## **Division 4 Supplementary jurors**

### **38 Supplementary jurors**

- (1) If a trial is likely to be delayed because there are no persons or not enough persons, who have been summoned for jury service, available for the selection of a jury, the judge may, on application by a party to the proceeding, direct the sheriff to make up or supplement a jury panel by selecting from among

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persons who are qualified for jury service and instructing them to attend for jury service.

- (2) The number of persons to be selected, and the way the selection is to be made, must be as directed by the judge.
- (3) The persons instructed to attend for jury service under this section become (subject to being excused or discharged under this Act) members of the jury panel from which the jury for the trial is to be selected.
- (4) Unless the person has a reasonable excuse, a person must not fail to comply with—
  - (a) an instruction to attend for jury service under this section; or
  - (b) a further instruction about jury service given by the sheriff or the judge.

Maximum penalty—10 penalty units or 2 months imprisonment.

- (5) A contravention of subsection (4) may be dealt with either as an offence or a contempt of the court.

## **Division 5 Preliminaries to jury selection**

### **39 Defendant to be informed of right of challenge**

Before the selection of a jury for a criminal trial begins, the court must inform the defendant that—

- (a) the persons whose names are to be called may be sworn as jurors for the defendant's trial; and
- (b) if the defendant wants to challenge any of them, the defendant, or the defendant's lawyer or other representative, must make the challenge before the person is sworn as a juror.

#### **40 Challenge to jury panel as a whole**

- (1) A party to a civil or criminal trial who objects to the entire jury panel may challenge the entire jury panel by informing the judge of the reasons for the objection before any juror is sworn for the trial.
- (2) The judge must decide the challenge before proceeding with the selection of the jury for the trial.

### **Division 6 Selection of jury**

#### **41 Procedure for jury selection**

- (1) When a jury is to be selected for a civil or criminal trial—
  - (a) a selection must be made, as directed by the judge, from among the members of the jury panel by random selection of jury cards, including, for example, by a computer programmed to make a random selection; and
  - (b) as each person is selected an officer of the court must call aloud the name of the person selected.
- (2) However, the judge may direct that persons selected be identified by numbers only if the judge considers that, for security or other reasons, the persons' names should not be read out in open court.
- (3) The judge's associate must inform the sheriff as soon as practicable of—
  - (a) the names of the persons sworn to serve on the jury or as reserve jurors; and
  - (b) if the judge orders that a juror or prospective juror be excused, discharged or fined—the name of the person and the terms of the order.

#### **42 Peremptory challenges**

- (1) In a civil trial, each party is entitled to 2 peremptory challenges.

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- (2) If reserve jurors are to be selected for a civil trial, each party is entitled to—
    - (a) if 1 or 2 reserve jurors are to be selected—1 additional peremptory challenge; and
    - (b) if 3 reserve jurors are to be selected—2 additional peremptory challenges.
  - (3) In a criminal trial, the prosecution and defence are each entitled to 8 peremptory challenges.
  - (4) If reserve jurors are to be selected for a criminal trial, the prosecution and defence are each entitled to—
    - (a) if 1 or 2 reserve jurors are to be selected—1 additional peremptory challenge; and
    - (b) if 3 reserve jurors are to be selected—2 additional peremptory challenges.
  - (5) If there are 2 or more defendants in a criminal trial—
    - (a) each defendant is entitled to the number of peremptory challenges allowed to the defence under subsections (3) and (4); and
    - (b) the prosecution is entitled to a number of peremptory challenges equal to the total number available to all defendants.

### **43 Challenges for cause**

- (1) A party to a civil or criminal trial may challenge for cause against a person selected to serve on the jury or as a reserve juror.
- (2) A challenge for cause under this section is made by objecting to the selection of the person against whom the challenge is made on either or both of the following grounds—
  - (a) the person is not qualified for jury service;
  - (b) the person is not impartial.
- (3) A party who makes a challenge for cause must inform the judge of the reasons for the challenge and give the judge

information and materials available to the party that are relevant to the challenge.

- (4) If the judge is satisfied there are proper grounds to inquire into the qualification or impartiality of the person against whom the challenge is made, the judge may—
  - (a) permit the party to put questions to the person in a way and in a form decided by the judge; and
  - (b) if the person's answers to the questions give grounds for further inquiry—permit the examination or cross-examination of the person on oath.
- (5) The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the disclosure of information in response to questions asked under this section.

*Editor's note—*

The *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6, places restrictions on disclosure of the criminal history of a person by someone if the rehabilitation period under the Act has come to an end.

- (6) After considering the evidence and submissions of parties, the judge must uphold or dismiss the challenge.
- (7) The judge's decision under this section is not subject to interlocutory appeal but, if the final judgment of the court is liable to appeal, may be considered on an appeal against the final judgment of the court.
- (8) A challenge for cause does not reduce the number of peremptory challenges available to the party who makes the challenge.

#### **44 Time for challenges**

- (1) A peremptory challenge must be made before the officer assigned by the court to administer the oath begins to recite the words of the oath to the person challenged.
- (2) A challenge for cause must be made before the officer assigned by the court to administer the oath begins to recite the words of the oath to the person challenged.

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- (3) A challenge for cause may also be made during a proceeding under section 47.

## **Division 7                      Final stage of jury selection process**

### **45                      Final stage of jury selection process**

The court reaches the final stage of the jury selection process when all jurors and reserve jurors have been selected and sworn but the jury panel has not yet been discharged.

### **46                      Judge's discretion to discharge juror in final stage of jury selection process**

- (1) When the judge reaches the final stage of the jury selection process, the judge may discharge a person who has been selected as a juror or a reserve juror if the judge considers there is reason to doubt the impartiality of the person.
- (2) The judge may discharge a person under this section whether or not a challenge for cause is made.
- (3) If a person is discharged under this section, another person must be selected from the jury panel to take the person's place as a juror or reserve juror.

### **47                      Special procedure for challenge for cause in certain cases**

- (1) If a judge who is to preside at a civil or criminal trial is satisfied, on an application by a party under this section, that there are special reasons for inquiry under this section, the judge may authorise the questioning of persons selected to serve as jurors and reserve jurors when the court reaches the final stage of the jury selection process.

*Example—*

Prejudicial pre-trial publicity may be a special reason for questioning persons selected as jurors or reserve jurors in the final stage of the jury selection process.

- (2) The application must be made to the judge at least 3 days before the date fixed for the trial to start unless the judge, for special reasons, dispenses with the requirement.
- (3) On the application, the applicant may suggest, and the judge may decide, questions that are to be put to persons selected to serve as jurors or reserve jurors for the trial.
- (4) The judge must put the questions in a way decided by the judge.

*Example—*

The judge might decide that the questions are to be put to the persons selected to serve as jurors or reserve jurors in each other's presence in open court, or that the questions are to be put to each person individually.

- (5) If, after hearing the answers of a person questioned under this section, the judge considers further inquiry is justified, the judge may give the parties leave to cross-examine the person on oath (under limits fixed by the judge) to find out whether the person is impartial.
- (6) When a person has answered the questions put under this section and any further examination allowed by the judge has finished, a party may make a challenge for cause against the person on the ground that the person is not impartial.
- (7) A party who makes a challenge under this section must inform the judge of the reasons for the challenge and, if the party has information or materials relevant to the challenge in addition to the information or materials already before the court, give the judge the information and materials.
- (8) After considering the evidence and submissions of the parties the judge must—
  - (a) uphold the challenge and discharge the person selected to serve as a juror (or reserve juror); or
  - (b) dismiss the challenge.
- (9) If the judge upholds the challenge and discharges the selected person, another person must be selected from the jury panel to fill the vacancy.



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- (10) When a person is selected to fill a vacancy under subsection (9)—
- (a) a party may—
    - (i) if the party has not already exhausted the party's rights of peremptory challenge—challenge the person peremptorily; or
    - (ii) challenge the person for cause;in the same way as on the original selection of persons to serve as jurors (or reserve jurors); and
- Editor's note—*
- See sections 42 (Peremptory challenges) and 43 (Challenges for cause).
- (b) the person is also liable to be questioned, cross-examined and challenged under this section in the same way as the other persons selected as jurors or reserve jurors.
- (11) A decision of the judge under this section is not subject to interlocutory appeal but, if the final judgment of the court is liable to appeal, may be considered on an appeal against the final judgment of the court.

#### **48 Judge's discretion to discharge entire jury**

- (1) Before the court finishes the final stage of the jury selection process, the judge may discharge all the persons selected to serve as jurors if the judge considers that the challenges made to persons selected to serve on the jury or as reserve jurors have resulted in a jury of a composition that may cause the trial to be, or appear to be, unfair.
- (2) If all the persons selected to serve as jurors are discharged, another jury must be selected from the jury panel.

## **Division 8                      Presumption of authority**

### **49            Presumption of authority for challenge**

If a challenge to a person selected as a juror or reserve juror is made by a lawyer or other representative of a party, the challenge is presumed in the absence of evidence to the contrary to have been made on the party's authority.

## **Part 6                              Jury trials**

### **Division 1                      Procedure following selection of jury**

#### **50            Jury to be sworn**

The members of the jury must be sworn to give a true verdict, according to the evidence, on the issues to be tried, and not to disclose anything about the jury's deliberations except as allowed or required by law.

*Editor's note—*

For the form of the oath, see the *Oaths Act 1867*, sections 21 (Swearing of jurors in civil trials) and 22 (Swearing of jurors in criminal trials). Under the *Oaths Act 1867*, section 17, a juror may make an affirmation instead of an oath in certain cases (see also section 5 of that Act).

#### **51            Jury to be informed of charge in criminal trial**

When the jury for a criminal trial has been sworn, the judge must ensure the jury is informed—

- (a) in appropriate detail, of the charge contained in the indictment; and
- (b) of the jury's duty on the trial.

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## **Division 1A            Duty of judge and jury in civil cases**

### **51A    Duty of judge and jury**

In a civil trial—

- (a) it is the jury's duty to answer any question of fact that is left to the jury by the presiding judge; and
- (b) it is the presiding judge's duty to instruct the jury about the law applicable to the proceeding, with the observations on the evidence the judge considers appropriate to make.

## **Division 2            Inspections and views**

### **52       Inspections and views**

- (1) If, on a trial, the judge considers it desirable for the jury to have a view of a particular place or object, the judge may give the necessary directions.
- (2) The view must be held in the presence of the judge, and the parties and their lawyers or other representatives are entitled to be present.
- (3) The validity of proceedings is not affected by contravention of a direction but, if the contravention is discovered before the verdict is given, the judge may discharge the jury if the judge considers the contravention appears likely to prejudice a fair trial.

## **Division 3                    Segregation of jury in criminal cases**

### **53            Separation of jury**

- (1) After the jury in a criminal trial has been sworn, the jury must not separate until it has given its verdict or has been discharged by the judge.
- (2) However, a jury may separate in accordance with this section.
- (3) Before a jury retires to consider its verdict, the judge must allow the jury to separate during a lunch or dinner adjournment to obtain meals.
- (4) However, if the judge considers that allowing the jury to separate during a lunch or dinner adjournment may prejudice a fair trial, the judge may order the jury not to separate.
- (5) Subsection (6) applies subject to subsections (3) and (4).
- (6) Also, before a jury retires to consider its verdict, the judge may, if the judge considers that allowing the jury to separate would not prejudice a fair trial, allow the jury to separate—
  - (a) during an adjournment of the court; or
  - (b) while proceedings are held in the jury's absence.
- (7) After the jury has retired to consider its verdict, the judge—
  - (a) may allow the jury to separate, or an individual juror to separate from the jury, if the judge considers that allowing the jury or juror to separate would not prejudice a fair trial; and
  - (b) may impose conditions to be complied with by the jurors or juror.
- (8) A juror must comply with any conditions imposed by the judge under subsection (7)(b), unless the juror has a reasonable excuse.

Maximum penalty—10 penalty units or 2 months imprisonment.

- (9) If a juror separates from the rest of the jury in contravention of a provision of this section, the juror may be punished summarily for contempt of the court.
- (10) The validity of proceedings is not affected if a juror contravenes a provision of this section but, if the contravention is discovered before the verdict is given, the judge may discharge the jury if the judge considers that the contravention appears likely to prejudice a fair trial.

#### **54 Restriction on communication**

- (1) While a jury is kept together, a person (other than a member of the jury or a reserve juror) must not communicate with any of the jurors without the judge's leave.
- (2) Despite subsection (1)—
  - (a) the officer of the court who has charge of the jury may communicate with jurors with the judge's leave; and
  - (b) if a juror is ill—communication with the juror for arranging or administering medical treatment does not require the judge's leave.
- (3) A person who contravenes subsection (1) may be punished summarily for a contempt of the court.
- (4) The validity of proceedings is not affected by contravention of this section but, if the contravention is discovered before the verdict is given, the judge may discharge the jury if the judge considers that the contravention appears likely to prejudice a fair trial.

### **Division 4 Accommodation for jury**

#### **55 Accommodation for jury**

- (1) While a jury is kept together outside the courtroom, the jurors must be kept—

- (a) in a private place under the supervision of an officer of the court; or
  - (b) as the judge directs.
- (2) While a jury is kept together outside the courtroom, the jurors must be provided with accommodation, meals and refreshments as the judge directs.

## **Division 5                      Discharge of individual jurors or of whole jury**

### **56            Discharge or death of individual juror**

- (1) If, after a juror has been sworn—
- (a) it appears to the judge (from the juror’s own statements or from evidence before the judge) that the juror is not impartial or ought not, for other reasons, be allowed or required to act as a juror at the trial; or
  - (b) the juror becomes incapable, in the judge’s opinion, of continuing to act as a juror; or
  - (c) the juror becomes unavailable, for reasons the judge considers adequate, to continue as a juror;
- the judge may, without discharging the whole jury, discharge the juror.
- (2) If a juror dies or is discharged before the trial begins, the judge may direct that another juror be selected and sworn.

### **57            Continuation of trial with less than full number of jurors**

- (1) If a juror dies or is discharged after a trial begins, and there is no reserve juror available to take the juror’s place, the judge may direct that the trial continue with the remaining jurors.
- (2) However, a civil trial can not continue with less than 3 jurors and a criminal trial can not continue with less than 10 jurors.

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- (3) The verdict of the remaining jurors has the same effect as if all the jurors had continued present.

## **58 Failure to reach unanimous verdict in civil cases**

- (1) If after deliberating for 6 hours, a jury in a civil trial has not reached a verdict, the judge may discharge the jury.
- (2) However, if the jury has not reached a unanimous verdict after 6 hours deliberation, the court may, if the parties agree, take the verdict of 3 of the jurors as the verdict of the jury.

## **59 Verdict in criminal cases for particular offences must be unanimous**

- (1) This section applies to the following criminal trials on indictment—
- (a) a trial for any of the following offences—
- (i) murder;
  - (ii) an offence against the Criminal Code, section 54A(1) if, because of the circumstances of the offence, the offender is liable to imprisonment for life, which can not be mitigated or varied under the Criminal Code or any other law;
  - (iii) an offence against a law of the Commonwealth;
- (b) a trial before a jury consisting of only 10 jurors when it gives its verdict.
- (2) For subsection (1)(b), it does not matter that at any time before its verdict was given the jury consisted of more than 10 jurors.
- (3) The verdict of the jury must be unanimous.
- (4) However, if on the trial of an offence mentioned in subsection (1)(a)(i) or (ii)—
- (a) the jury is unable to reach a unanimous verdict; and

- (b) the defendant is liable to be convicted of another offence not mentioned in subsection (1)(a)(i) or (ii);

in relation to the conviction for the other offence, section 59A applies as if the defendant were originally charged with the other offence.

### **59A Verdict in criminal cases for other offences**

- (1) This section applies to a criminal trial on indictment other than the following trials—
  - (a) a trial for an offence mentioned in section 59(1)(a); or
  - (b) a trial before a jury as mentioned in section 59(1)(b).
- (2) If, after the prescribed period, the judge is satisfied that the jury is unlikely to reach a unanimous verdict after further deliberation, the judge may ask the jury to reach a majority verdict.
- (3) If the jury can reach a majority verdict, the verdict of the jury is the majority verdict.
- (4) For the definition in subsection (6), *prescribed period*, paragraph (a), the periods mentioned in subparagraphs (i), (ii) and (iii) are the periods reasonably calculated by the judge.
- (5) A decision of the judge under subsection (4) is not subject to appeal.
- (6) In this section—

*majority verdict* means—

  - (a) if the jury consists of 12 jurors—a verdict on which at least 11 jurors agree; or
  - (b) if the jury consists of 11 jurors—a verdict on which at least 10 jurors agree.

*prescribed period* means—

  - (a) a period of at least 8 hours after the jury retires to consider its verdict, not including any of the following periods—



- (i) a period allowed for meals or refreshments;
  - (ii) a period during which the judge allows the jury to separate, or an individual juror to separate from the jury;
  - (iii) a period provided for the purpose of the jury being accommodated overnight; or
- (b) the further period the judge considers reasonable having regard to the complexity of the trial.

## **60 Jury may be discharged from giving verdict**

- (1) If a jury can not agree on a verdict, or the judge considers there are other proper reasons for discharging the jury without giving a verdict, the judge may discharge the jury without giving a verdict.
- (2) If proceedings before a jury are to be discontinued because the trial is adjourned, the judge may discharge the jury.
- (3) A decision of a judge under this section is not subject to appeal.

## **61 Discharge of jury when judge dies or becomes incapacitated**

If the judge dies, or becomes incapable of proceeding with the trial, an appropriate officer of the court must discharge the jury.

## **62 What happens when jury is discharged**

- (1) When a jury is discharged, the judge may proceed immediately with the selection of a new jury, or may adjourn the trial.
- (2) If the defendant in a criminal trial is in custody when the jury is discharged, the defendant remains in custody unless granted bail.



- (a) the fee prescribed under a regulation before the trial begins; and
  - (b) the further fees required under a regulation as and when payment is required under the regulation.
- (2) If the court before which a civil trial is to be conducted requires a jury, the plaintiff must pay to the registrar of the court—
- (a) the fee prescribed under a regulation before the trial begins; and
  - (b) the further fees required under a regulation as and when payment is required under the regulation.
- (3) If the trial does not proceed and no person attends the court for jury service, the party who paid the fee is entitled to the return of the fee less any amount necessarily spent by the sheriff in arranging for the attendance, or cancelling the attendance, of prospective jurors at the proposed trial.

## **Part 8                      Miscellaneous**

### **65A    Civil trial without a jury**

A court may order a civil trial without a jury if the trial—

- (a) requires a prolonged examination of records; or
- (b) involves any technical, scientific or other issue that can not be conveniently considered and resolved by a jury.

### **66       Impersonation of members of jury panel or jury**

A person must not pretend to be a member of a jury panel, a juror or a reserve juror.

Maximum penalty—2 years imprisonment.

**67 Falsification of jury lists etc.**

- (1) A person must not falsify a record to be made or kept under this Act.

Maximum penalty—2 years imprisonment.

- (2) A person must not obstruct or interfere with the proper formation of a jury under this Act.

Maximum penalty—2 years imprisonment.

**68 Obligation to answer questions etc.**

- (1) The sheriff or a person authorised by the sheriff may ask a person reasonable questions to find out whether the person is qualified for jury service.

- (2) The person must not fail to answer a question, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units or 4 months imprisonment.

- (3) The person must answer any question truthfully.

Maximum penalty—20 penalty units or 4 months imprisonment.

- (4) The sheriff or a person authorised by the sheriff may ask a person to produce a document to find out whether the person is qualified for jury service.

- (5) The person must not fail to comply with the request, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units or 4 months imprisonment.

- (6) The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the disclosure of information in response to questions asked under this section.

*Editor's note—*

The *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6, places restrictions on disclosure of the criminal history of a person by someone if the rehabilitation period under the Act has come to an end.

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

A person must not terminate the employment of anyone, or prejudice anyone in employment, because the other person is, was, or will be, absent from employment on jury service.

Maximum penalty—1 year's imprisonment.

**69A Inquiries by juror about accused prohibited**

- (1) A person who has been sworn as a juror in a criminal trial must not inquire about the defendant in the trial until the jury of which the person is a member has given its verdict, or the person has been discharged by the judge.

Maximum penalty—2 years imprisonment.

- (2) Subsection (1) does not prevent a juror making an inquiry being made of the court to the extent necessary for the proper performance of a juror's functions.
- (3) In this section—
- inquire* includes—
- (a) search an electronic database for information, for example, by using the internet; and
- (b) cause someone else to inquire.

**70 Confidentiality of jury deliberations**

- (2) A person must not publish to the public jury information.

Maximum penalty—2 years imprisonment.

- (3) A person must not seek from a member or former member of a jury the disclosure of jury information.

Maximum penalty—2 years imprisonment.

- (4) A person who is a member or former member of a jury must not disclose jury information, if the person has reason to believe any of the information is likely to be, or will be, published to the public.

Maximum penalty—2 years imprisonment.

- (5) Subsections (2) to (4) are subject to the following subsections.
- (6) Information may be sought by, and disclosed to, the court to the extent necessary for the proper performance of the jury's functions.
- (7) If there are grounds to suspect that a person may have been guilty of bias, fraud or an offence related to the person's membership of a jury or the performance of functions as a member of a jury, the court before which the trial was conducted may authorise—
  - (a) an investigation of the suspected bias, fraud, or offence; and
  - (b) the seeking and disclosure of jury information for the purposes of the investigation.
- (8) If a member of the jury suspects another member (the *suspect*) of bias, fraud or an offence related to the suspect's membership of the jury or the performance of the suspect's functions as a member of the jury, the member may disclose the suspicion and the grounds on which it is held to the Attorney-General or the director of public prosecutions.
- (9) On application by the Attorney-General, the Supreme Court may authorise—
  - (a) the conduct of research projects involving the questioning of members or former members of juries; and
  - (b) the publication of the results of the research.
- (10) The Supreme Court may give an authorisation under subsection (9) on conditions the court considers appropriate.
- (11) Information identifying or likely to identify a person as, or as having been, a juror in a particular proceeding may be disclosed—
  - (a) in the course of the proceeding—by any person with the court's permission or with lawful excuse; or

- (b) after the proceeding has ended—by the juror or someone else with the juror’s consent.
- (12) A former member of a jury may disclose jury information to a health professional who is treating the former member in relation to issues arising out of the former member’s service on the jury.
- (13) The health professional may ask the former member to disclose jury information for the purpose of treating the former member in relation to issues arising out of the former member’s service on the jury.
- (14) The health professional must not disclose jury information to anyone else unless the health professional considers it necessary for the health or welfare of the former member.

Maximum penalty—2 years imprisonment.

- (15) Subsection (14) does not apply in as far as the health professional discloses information that identifies the health professional’s patient to the sheriff for the purpose of the sheriff advising whether the patient was a former member of a jury.
- (16) The sheriff may disclose to the health professional information advising whether the patient was a former member of a jury.
- (17) In this section—

***health professional*** means a person who practises a profession prescribed under a regulation for the definition, and includes a doctor and a psychologist.

***jury information*** means—

- (a) information about statements made, opinions expressed, arguments advanced, or votes cast, in the course of a jury’s deliberations; or
- (b) information identifying or likely to identify a person as, or as having been, a juror in a particular proceeding.

*psychologist* means a person registered under the Health Practitioner Regulation National Law to practise in the psychology profession, other than as a student.

*treat*, in relation to a patient of a health professional, means provide a service to the patient in the course of the patient's seeking or receiving advice or treatment.

## **72 Delegation by sheriff**

- (1) A sheriff may delegate the sheriff's powers under this Act.
- (2) However, a delegation may only be made to a person prescribed under a regulation.

## **73 Chief executive may approve forms**

The chief executive may approve forms for use under this Act.

*Examples—*

Forms may be approved for notices, questionnaires, summonses and applications.

## **74 Regulations**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may create offences and prescribe penalties of not more than 10 penalty units for each offence.

# **Part 9 Transitional provisions**

## **77 Jury Act 1929 references**

In an Act or document, a reference to the *Jury Act 1929* may, if the context permits, be taken to be a reference to this Act.



**78 Transitional provision for Guardianship and Administration and Other Acts Amendment Act 2008**

Section 53(7) and (8) applies only if a jury retires to consider its verdict on or after the commencement of this section.

**79 Transitional provision for Criminal Code and Jury and Another Act Amendment Act 2008—majority verdicts**

- (1) Section 59 as in force before the commencement continues to apply to a criminal trial begun but not completed before the commencement as if the amending Act had not been enacted.
- (2) For subsection (1), a trial has begun when all the members of the jury have been sworn.
- (3) Sections 59 and 59A as in force after the commencement apply to a criminal trial that begins after the commencement whether the offence was committed before or after the commencement.
- (4) In this section—

*amending Act* means the *Criminal Code and Jury and Another Act Amendment Act 2008*, part 3.

*commencement* means the commencement of the amending Act.

## Schedule 3 Dictionary

### section 3

***civil trial*** means a trial before a court sitting in the exercise of a jurisdiction other than a criminal jurisdiction.

***corrective services officer*** means a person who—

- (a) is or has been, in Queensland, a corrective services officer under the *Corrective Services Act 2006*; or
- (b) has been, in Queensland, a person with functions corresponding to those of a corrective services officer under the *Corrective Services Act 2006*; or
- (c) is or has been, under a law of another State, a person with functions corresponding to those of a corrective services officer under the *Corrective Services Act 2006*.

***court*** means a court with authority to conduct a trial.

***criminal trial*** means a trial on indictment or the trial of an issue by a court sitting in the exercise of a criminal jurisdiction.

***detention centre employee*** means a person who—

- (a) is or has been, in Queensland, a detention centre employee under the *Youth Justice Act 1992*; or
- (b) has been, in Queensland, a person with functions corresponding to those of a detention centre employee under the *Youth Justice Act 1992*; or
- (c) is or has been, under a law of another State, a person with functions corresponding to those of a detention centre employee under the *Youth Justice Act 1992*.

***elector*** means a person entitled to vote under the *Electoral Act 1992*.

***electoral roll*** means an electoral roll for an electoral district under the *Electoral Act 1992*.

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**judge** means a Supreme Court judge, a District Court judge, a Childrens Court judge or another judicial officer with authority to preside at a trial.

**jury card** see section 37(1)(b).

**jury district** means a jury district established under this Act.

**jury panel** means a group of persons from among whom a jury is to be formed for a particular civil or criminal trial.

**jury roll** means a list of the persons qualified to serve as jurors for a particular jury district.

**list of persons summoned for jury service** see section 29(1).

**member of Parliament** means—

- (a) a member of the Legislative Assembly; or
- (b) a member of the Commonwealth Parliament.

**notice to prospective jurors** see section 18(1).

**practice direction** means a practice direction under section 13.

**prospective juror** means a person whose name is included in a list of prospective jurors prepared under this Act.

**prospective juror questionnaire** see section 18(2)(a)(i).

**qualified for jury service** see section 4(1).

**revised list of prospective jurors** see section 25.

**sheriff** means—

- (a) the sheriff of Queensland; or
- (b) for a jury district for which someone (the *assignee*) other than the sheriff of Queensland is responsible under a regulation for carrying out the functions of the sheriff—the assignee.

*Editor's note—*

Under the regulations the responsibility for carrying out the sheriff's functions under this Act for a particular jury district may be assigned to the central sheriff, the northern sheriff, a deputy sheriff or another officer or person. However, the responsibility for preparing jury rolls and lists of prospective

jurors remains with the sheriff of Queensland. (See section 8 (Assignment of responsibility for jury districts to other sheriffs and persons)).

*trial* means a trial by jury.