

# JURY AMENDMENT BILL 1996

## EXPLANATORY NOTES

### GENERAL OUTLINE

#### Objectives of the legislation

The objectives of the Bill are to amend the *Jury Act 1995* to:

- extend the categories of persons not eligible for jury service to include:
  - Persons who are 70 years of age or over. (However, such persons may become eligible at their own election.)
  - Mayors and other councillors of local authorities;
  - Lawyers actually engaged in legal work; and
- insert certain technical amendments developed by the Office of the Sheriff of Queensland to remove specific anomalies which would affect the operation of the Act.

#### Reasons for the objectives and how they will be achieved

The extension of the categories of persons ineligible for jury service by the addition of the three classes listed above is grounded on appropriate policy reasons applying in respect of each group.

Automatic exemption of persons aged 70 years or over was recommended by the Litigation Reform Commission in its August 1993 Report on the Reform of the Jury System in Queensland. The qualification contained in this Bill allowing for such persons to elect to become eligible recognises that there are persons in that category who may wish to volunteer for, and are capable of undertaking, jury service. In this way, appropriate acknowledgment is accorded persons in this age category in the community.

Excluding mayors and other local authority councillors from eligibility for jury service puts them on a similar level to that occupied by Members of Parliament, with whom they share many significant characteristics.

The presence of practising lawyers on a jury has the potential, unintentionally or otherwise, for the decision of such a jury to be unduly influenced, given their special expertise in legal matters. For this reason, it

was considered the appropriate arrangement would be to exclude such persons from jury service.

The balance of the amendments in this Bill are purely technical in nature and have largely been inserted in the legislation on the recommendation of the Office of the Sheriff of Queensland. They are designed to enhance the administrative arrangements applying to the Act.

### **Administrative Cost**

These amendments in themselves will not represent a significant additional cost associated with the implementation of the new *Jury Act 1995*. There may be minor costs arising out of the processing of applications from persons aged 70 years or over to become eligible for jury service.

### **Fundamental Legislative Principles**

The Bill is consistent with fundamental legislative principles.

### **Consultation**

The essence of the substantive amendments made by this Bill are largely based on proposed amendments to the Jury Bill 1995 in its passage through the House, either moved by the Honourable the Attorney-General and Minister for Justice in his then capacity as Opposition Spokesperson on the legislation or, at least, were raised by him in the Parliamentary Debate. No additional consultation has, therefore, been carried out in relation to the Bill, apart from further discussions with the Office of the Sheriff of Queensland concerning the technical amendments put forward by him.

## **NOTES ON CLAUSES**

*Clause 1* Sets out the short title of the Bill.

*Clause 2* Provides for the amendment of the *Jury Act 1995* by this Bill.

*Clause 3* Re-enacts subsection (3) of section 4 (“Qualification to serve as juror”) and, in effect, adds the following categories of persons to those not eligible for jury service:

- a local government mayor or other councillor
- a lawyer actually engaged in legal work
- a person who is 70 years or more, unless that person has elected to be eligible.

This clause also adds section 4(4) to the Act allowing persons who are 70 years of age or more to elect to be eligible for jury service.

*Clause 4* Amends section 12 by omitting the expression “sheriff of Queensland” and inserting in its place the word “sheriff”. This will enable, in addition to the sheriff of Queensland, other sheriffs, for example, the central sheriff or the northern sheriff, who have been assigned, pursuant to section 8, the function of keeping a jury roll for a jury district to request police assistance in undertaking that task.

*Clause 5* Amends, in effect, section 29(5) of the Act to ensure that a person to whom a jury list has been given, pursuant to section 29(3), may be required to dispose of it in a way directed by the Court or a Judge, particularly in those situations where a trial does not proceed as far as the selection of a jury. The original requirement to return the list to the sheriff after jury selection remains.

*Clause 6* Amends section 36(3) of the Act to ensure that a sheriff, in determining the way in which a panel is to be formed, is to be bound by any relevant direction issued by the Senior Judge Administrator under section 13(c).

*Clause 7* Removes a possible drafting anomaly in clause 51.

*Clause 8* Provides a new transitional arrangement which ensures that the *Jury Act 1929* continues to apply to those jury processes initiated with the sending out of batches of prospective juror notices consequent upon the issue of jury precepts under section 22 of that Act prior to the commencement of the new 1995 Act and until they are completely finalised.