

THE NORTHERN TERRITORY OF AUSTRALIA

No. 123 of 1979

AN ACT

To amend the Juries Act

[Assented to 15 October 1979]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

- | | |
|--|-------------------|
| 1. This Act may be cited as the <u>Juries Act 1979</u> . | Short title |
| 2. This Act shall come into operation on a date to be fixed by the Administrator by notice in the <u>Gazette</u> . | Commencement |
| 3. The <u>Juries Act</u> is in this Act referred to as the Principal Act. | Principal Act |
| 4. Section 3 of the Principal Act is repealed. | Repeal |
| 5. Section 4 of the Principal Act is amended by omitting sub-section (3). | Repeal and saving |
| 6.(1) Section 5(1) of the Principal Act is amended - | Definitions |

(a) by inserting after the definition of "ballot box" the following definitions:

"'capital offence' means an offence the penalty for which under a law in force in the Territory is prescribed to be life imprisonment, with or without hard labour, and in respect of which the court imposing the sentence may not vary or mitigate the sentence and includes murder;

'Chief Justice' means Chief Justice within the meaning of the Supreme Court Act;

'Electoral District' means division within the meaning of the Electoral Act;"

Juries

- (b) by inserting after the definition of "jury precept" the following definition:

"'Master' means Master within the meaning of the Supreme Court Act";;

- (c) by omitting from the definition of "proper officer" the words "the Judge" and substituting "a Judge";

- (d) by omitting the definition of "Roll of Electors for the Northern Territory" and substituting the following definition:

"'roll' means a roll within the meaning of the Electoral Act";;

- (e) by omitting from the definition of "the Court" the words "of the Northern Territory of Australia"; and

- (f) by omitting the definition of "the Judge".

(2) Section 5 of the Principal Act is amended by omitting sub-section (2).

7. Section 10 of the Principal Act is repealed and the following section substituted:

Persons not
qualified

"10.(1) For the purposes of this section, a person who has been sentenced to a term of imprisonment has not completed the sentence -

- (a) if he has been released from prison on parole - until the expiration of the period of parole;
- (b) if the sentence has been wholly or partly remitted under section 56 of the Criminal Law and Procedure Act subject to conditions - until the conditions have been satisfied and no longer apply in relation to him; or
- (c) if that sentence has been suspended -
- (i) subject to conditions - until the conditions have been satisfied and no longer apply in relation to him; or
- (ii) unconditionally - until the expiration of the period during which the sentence remains suspended.

Juries

"(2) For the purposes of this section, a person shall be deemed never to have been under sentence of imprisonment for an offence if he has been granted a free pardon in respect of the offence.

"(3) A person who -

(a) has been sentenced to a term of imprisonment (whether within the Territory, in a State or another Territory or in a prescribed country) for an offence other than a capital offence and -

(i) has not completed the sentence; or

(ii) a period of less than 7 years has elapsed since he completed the sentence;

(b) has been sentenced to a term of imprisonment (whether within the Territory, in a State or another Territory or in a prescribed country) for a capital offence;

(c) is unable to read, write and speak the English language;

(d) is of unsound mind or is -

(i) in a hospital; or

(ii) undergoing treatment,

under the Mental Health Act; or

(e) is a protected person within the meaning of the Aged and Infirm Persons' Property Act,

is not qualified to serve as a juror."

8. Sections 11 and 11A of the Principal Act are repealed and the following sections substituted:

"11. A person specified in the Seventh Schedule is exempt from serving as a juror and the name of any such person shall not be included in a jury list.

Persons
exempt

"11A. On proof on oath or by affidavit or statutory declaration to the satisfaction of a Judge or the Master that a person summoned to attend as a juror or a person appointed as a talesman -

Court may
excuse persons
in control of
children

(a) has a child not more than 12 years of age living with him for whom he ordinarily cares or assists in caring; and

Juries

(b) is unable, without hardship either to himself or any other person, to make suitable arrangements for the care of the child during the period or part of the period for which he has been summoned to attend,

the Judge or Master may order that the person shall be excused from further attendance on the Court or from attendance on the Court for any period during the sittings of the Court.

9. The Principal Act is amended by inserting in Part III after section 18 the following section:

Master to
exercise
powers

"18A. Without limiting the power of a Judge, the Master may exercise any or all of the powers conferred upon a Judge under sections 15, 16, 17 and 18 in relation to a juror at any time before the name of the juror is called under section 37 or 39."

10. The Principal Act is amended by inserting after section 27 the following section:

Sheriff's
power to
question

"27A.(1) A Deputy Sheriff shall not exercise any power under this section unless he has been expressly authorized in writing by a Judge to exercise that power.

"(2) The Sheriff and each Deputy Sheriff shall, in the exercise of any power under this section, comply with such directions as are given from time to time by the Chief Justice.

"(3) The Sheriff and a Deputy Sheriff may, at any time before the juror's name is called in accordance with section 37 or 39, question any juror chosen under section 27 to ascertain whether that juror is able to read, write and speak the English language.

"(4) If the Sheriff or Deputy Sheriff is not satisfied that a juror referred to in sub-section (3) is able to read, write and speak the English language, he shall thereupon report the fact to a Judge."

11. Section 48 of the Principal Act is repealed and the following section substituted:

Disagreement
in criminal
cases

"48.(1) Where, upon the trial of a criminal issue other than the trial of a capital offence -

(a) a period of not less than 6 hours has elapsed since the jury retired; and

Juries

- (b) the jurors are not unanimously agreed upon their verdict,

the Court may -

- (c) if the jury consists of 11 or 12 jurors and 10 of those jurors are agreed upon a verdict to be given, take and enter that verdict as the verdict of them all;
- (d) if the jury consists of 10 jurors and 9 of those jurors are agreed upon a verdict to be given, take and enter that verdict as the verdict of them all; or
- (e) discharge the jury.

"(2) Where, upon a trial for a capital offence -

- (a) a period of not less than 6 hours has elapsed since the jury retired; and
- (b) the jurors are not unanimously agreed upon their verdict,

the Court may discharge the jury."

12. Section 62 of the Principal Act is amended -

Reduction
of jury

- (a) by inserting in sub-section (2)(a) after "criminal issue" the words "(a trial in respect of a capital offence excepted)"; and
- (b) by omitting from sub-section (2) "sub-section (3) of section 48 applies, the decision of 9" and substituting "section 48(1) applies, the decision of 9, 10 or 11, as the case may be,".

13.(1) Section 67 of the Principal Act is repealed.

Repeal of
section 67

(2) Notwithstanding the repeal effected by sub-section (1), Rules of Court relating to juries and in force immediately before the commencement of this Act continue in force as Rules of Court but may be repealed or amended by Rules of Court made under the Supreme Court Act.

14. The Principal Act is amended by inserting after the Sixth Schedule the following Schedule:

Seventh
Schedule

Juries

"SEVENTH SCHEDULE

Section 11

PERSONS EXEMPT FROM SERVICE AS JURORS

the Administrator

the Administrator's official secretary

the secretary of the Executive Council

a person who holds, or has, within the previous 10 years, held, a judicial office

the spouse of a Judge

a member of the Legislative Assembly

a person regularly employed on duties on board aircraft used in aerial ambulance services

a practising barrister or solicitor

the clerk of a practising barrister or solicitor

a clergyman in holy orders, a priest of the Roman Catholic faith and a minister of religion having an established congregation

a monk, nun or other vowed member of a religious community

a practising dentist registered under the Dentists Registration Act

a practising medical practitioner

a member of the Parole Board within the meaning of the Parole of Prisoners Act

the secretary of the Parole Board within the meaning of the Parole of Prisoners Act

a parole officer within the meaning of the Parole of Prisoners Act

a member of the Police Force of the Northern Territory

the Director of Correctional Services appointed under the Prisons Act

Juries

an officer within the meaning of the Prisons Act

"an employee within the meaning of the Public Service Act who is in the Department of Law

a person who is blind, deaf or dumb or otherwise incapacitated by disease or infirmity from discharging the duties of a juror

a person over the age of 65 years who, at the revision of a jury list in pursuance of this Act, claims exemption".

15. The Principal Act is amended by omitting from the sections of that Act specified in Column 1 of Schedule 1 the words shown opposite that section in Column 2 of that Schedule and substituting the words, if any, specified in Column 3 of that Schedule opposite the words so specified.

Minor
amendment

16.(1) The jury lists prepared under the Principal Act shall continue to be the jury lists for the purposes of that Act as amended by this Act until new lists are prepared in pursuance of sections 21 and 22 of the Principal Act.

Transitional

(2) The Principal Act as in force before the commencement of this Act shall continue to apply to and in relation to -

(a) jurors summoned before the commencement of this Act to attend as jurors;

(b) trials to be held at sittings for which jurors referred to in paragraph (a) have been so summoned; and

(c) trials commenced but not completed before the commencement of this Act.

(3) Any order, notice, summons, precept or other document made or issued under the Principal Act shall continue in force as if this Act had not been made.

17. The obligation of the Sheriff under section 21(1) of the Principal Act to prepare jury lists in the year 1979 shall be construed as an obligation to prepare those jury lists not later than 31 December 1979 or such later date as may be fixed by the Minister by notice in the Gazette.

Preparation
of certain
lists

Juries

SCHEDULE 1

Section 15

Column 1	Column 2	Column 3
Section	Words omitted	Words substituted
5(1)	sub-section (2) of section 33 paragraph (b) of section 32 paragraph (a) of section 32 sub-section (2) of section 37, or sub-section (2) of section 39	section 33(2) section 32(b) section 32(a) section 37(2) or 39(2)
8(1) 9	sub-section (3) of section 7 the Roll of Electors for the Northern Territory	section 7(3) a roll
15	The Judge	A Judge
16(1)	the Judge (first occurring)	a Judge
16(2)	the Judge (first occurring)	a Judge
	the Judge (second occurring)	he
17	the Judge	a Judge
18	the Judge (first occurring)	a Judge
24	Judge	Chief Justice
25	7 clear days	14 clear days
26	the Judge (first occurring)	the Chief Justice
	the Judge (second and third occurring)	he
27(1)(a)	the Judge	the Chief Justice
28(2)	paragraph (a) of sub-section (1) of section 27	section 27(1)(a)
30	4 clear days	7 clear days
31(1)	the Judge (first occurring)	a Judge
	the Judge (second occurring)	he
31(2)	the Judge	a Judge
	of the Court	—
32(c)	paragraph (c) of sub-section (1) of section 27	section 27(1)(c)
33(1)(c)	paragraph (c) of section 32	section 32(c)
33(2)	the Judge	the Chief Justice
36	the Judge (first occurring)	a Judge
40(2)	paragraph (b) of sub-section (1)	sub-section (1) (b)
41	sub-section (4) of section 39	section 39(4)
51(a)	Judge	Court
53(1)	of the Supreme Court	—
and (2)		
61(1), (2)	Judge (wherever occurring)	Court
and (3)		