

SOUTH AUSTRALIA

JURIES ACT, 1927

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 March 1985.

The Commissioner of Statute Revision is authorised by the Acts Republication Act, 1967, to make textual alterations of various kinds to an Act in preparing it for reprint. These alterations do not affect the substantive law; they are designed to bring the form and language of the Act into conformity with contemporary standards of good drafting (so far as that object can be achieved without risk of semantic change).

A report has been prepared containing a comprehensive list of the textual alterations made under the Acts Republication Act, 1967, in the preparation of this reprint. Copies of the report are available, on request, from the office of the Commissioner of Statute Revision, 11th Floor, S.G.I.C. Building, Victoria Square, Adelaide.

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SCHEDULES

JURIES ACT, 1927

being

Juries Act, 1927, No. 1805 of 1927 [Assented to 30 November 1927]¹

as amended by

Juries Act Amendment Act, 1937, No. 2356 of 1937 [Assented to 10 November 1937];
Statute Law Revision Act, 1957, No. 42 of 1957 [Assented to 14 November 1957];
Juries Act Amendment Act, 1965, No. 28 of 1965 [Assented to 25 November 1965]²;
Juries Act Amendment Act, 1969, No. 74 of 1969 [Assented to 11 December 1969]³;
Juries Act Amendment Act, 1971, No. 31 of 1971 [Assented to 22 April 1971];
Local and District Criminal Courts Act Amendment Act, 1972, No. 54 of 1972 [Assented to 27 April 1972]⁴;
Juries Act Amendment Act, 1974, No. 30 of 1974 [Assented to 11 April 1974]⁵;
Juries Act Amendment Act, 1976, No. 11 of 1976 [Assented to 4 March 1976]⁶;
Statutes Amendment (Capital Punishment Abolition) Act, 1976, No. 115 of 1976 [Assented to 23 December 1976];
Juries Act Amendment Act, 1984, No. 81 of 1984 [Assented to 15 November 1984]⁷.

An Act to provide for the constitution, powers and duties of juries in relation to criminal inquests; and for other purposes.

Long title substituted by 81, 1984, (Sched.).

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "Juries Act, 1927".

Short title.
S. 1 substituted by 81, 1984, s. 3.

* * * * *

S. 2 amended by 28, 1965, s. 4; repeated by 81, 1984, s. 4.

3. (1) In this Act, unless inconsistent with the context or some other meaning is clearly intended—

Interpretation.

"civil inquest" means trial of any issue or inquiry of damages before a court of civil jurisdiction:

* * * * *

Def. of "Circuit Court" repealed by 42, 1957, s. 3 (2nd Sched.).

"criminal inquest" means trial before a court of criminal jurisdiction of any indictable offence:

Def. amended by 81, 1984, (Sched.).

"District Criminal Court" means District Criminal Court as defined by section 4 (3) of the Local and District Criminal Courts Act, 1926:

Def. inserted by 74, 1969, s. 3 (a).

¹ Part IV came into operation 30 November 1927: s. 1; remainder of Act came into operation 6 January 1928: *Gaz.* 5 January 1928, p. 1.

² Came into operation 2 December 1965: *Gaz.* 2 December 1965, p. 1953.

³ Came into operation 31 August 1970: *Gaz.* 20 August 1970, p. 696.

⁴ Came into operation 9 November 1972: *Gaz.* 9 November 1972, p. 2252.

⁵ Came into operation 12 September 1974: *Gaz.* 12 September 1974, p. 1736.

⁶ Came into operation 4 March 1976: *Gaz.* 4 March 1976, p. 940.

⁷ Came into operation 2 January 1985: *Gaz.* 13 December 1984, p.1811.

Def. inserted by 74, 1969, s. 3 (a).

“District Criminal Court district” means district as defined by section 4 (3) of the Local and District Criminal Courts Act, 1926:

Def. of “inquest” repealed by 81, 1984, (Sched.).

* * * * *

Def. of “Legislative Council Subdistrict” and “Subdistrict” repealed by 28, 1965, s. 5 (a).

* * * * *

Def. of “Recorder” inserted by 74, 1969, s. 3 (b); repealed by 54, 1972, s. 38 (a).

* * * * *

Def. inserted by 74, 1969, s. 3 (c).

“Senior Judge” means Senior Judge within the meaning of the Local and District Criminal Courts Act, 1926:

“sheriff” includes deputy sheriff and any other person for the time being performing the functions of the sheriff under this Act:

Def. of “Subdistrict roll” repealed by 28, 1965, s. 5 (b).

* * * * *

Def. inserted by 28, 1965, s. 5 (b).

“subdivision” means subdivision of any electoral district for the purpose of electing members of the House of Assembly:

Def. of “subdivision roll” inserted by 28, 1965, s. 5 (b); repealed by 81, 1984, (Sched.).

* * * * *

Def. substituted by 42, 1957, s. 3 (2nd Sched.).

“Supreme Court” means the Supreme Court of South Australia.

Subsec. (2) inserted by 42, 1957, s. 3 (2nd Sched.).

(2) For the purposes of this Act, the Supreme Court sitting in circuit sessions shall be deemed to be the Circuit Court for each circuit district in which such circuit sessions are held.

S. 4 amended by 74, 1969, s. 4; 30, 1974, s. 3; repealed by 81, 1984, (Sched.).

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PART I

GENERAL PROVISIONS AS TO TRIAL BY JURY

5. No civil inquest shall be tried by a jury.

Civil inquests not to be tried by a jury.

S. 5 amended by 28, 1965, s. 6; substituted by 81, 1984, s. 5.

6. A criminal inquest in the Supreme Court or a District Criminal Court shall, subject to this Act, be tried by a jury of twelve persons qualified and liable to serve as jurors as provided by this Act.

Criminal inquests to be tried by a jury.
S. 6 amended by 28, 1965, s. 7; substituted by 81, 1984, s. 5.

7. (1) Subject to this section, where, in a criminal inquest before the Supreme Court or a District Criminal Court—

Trial without a jury.
S. 7 amended by 28, 1965, s. 8; 74, 1969, s. 5; substituted by 81, 1984, s. 5.

(a) the accused elects, in accordance with the rules of court, to be tried by the judge alone;

and

(b) the presiding judge is satisfied that the accused, before making the election, sought and received advice in relation to the election from a legal practitioner,

the inquest shall proceed without a jury.

(2) No election may be made under subsection (1) where the accused is charged with a minor indictable offence and has elected to be tried in a District Criminal Court.

(3) Where two or more persons are jointly charged, no election may be made under subsection (1) unless all of those persons concur in the election.

(4) Where a criminal inquest proceeds without a jury in pursuance of this section, the judge may make any decision that could have been made by a jury on the question of the guilt of the accused, and such a decision shall, for all purposes, have the same effect as a verdict of a jury.

PART II

JURY DISTRICTS

8. (1) The following jury districts are hereby constituted and annexed to the following courts:

Jury districts.
S. 8 substituted by 30, 1974, s. 4.

The Adelaide Jury District—Supreme Court and Central District Criminal Court;

The Northern Jury District—Port Augusta Circuit Court and Northern District Criminal Court;

The South-Eastern Jury District—Mount Gambier Circuit Court and South-Eastern District Criminal Court.

(2) Subject to this section, the jury districts constituted under subsection (1) shall consist of the subdivisions set out in the second schedule.

(3) Where a circuit district or District Criminal Court district is established pursuant to the Supreme Court Act, 1935, or the Local and District Criminal Courts Act, 1926, the Governor may, by proclamation, constitute a jury district, consisting of one or more complete subdivisions, in relation to courts exercising jurisdiction within that district.

(4) A jury district shall be unaffected by the alteration or abolition of any subdivision comprised in the district under the Electoral Act, 1929, or any other law.

(5) The Governor may from time to time, by proclamation, vary the area of any jury district, provided that the area of the district, as varied, consists of one or more complete subdivisions.

S. 9 amended by 42, 1957, s. 3 (2nd Sched.); 28, 1965, s. 9; 74, 1969, s. 6; repealed by 30, 1974, s. 4.	*	*	*	*	*	*	*	*	*	*
S. 10 amended by 42, 1957, s. 3 (2nd Sched.); repealed by 30, 1974, s. 4.	*	*	*	*	*	*	*	*	*	*
Part IIA comprising ss. 10a-10c and heading inserted by 74, 1969, s. 7; repealed by 30, 1974, s. 5.	*	*	*	*	*	*	*	*	*	*

PART III QUALIFICATION OF JURORS

Qualification of jurors.

S. 11 amended by 28, 1965, s. 10 (a); 81, 1984, s. 6 (a).

Para. (a1) inserted by 28, 1965, s. 10 (b); repealed by 81, 1984, s. 6 (a).

11. Every person residing in South Australia—

(a) who is enrolled on the roll of electors entitled to vote at the election of members of the House of Assembly;

* * * * * * * * * *

and

Para. (b) amended by 81, 1984, s. 6 (b).

(b) who is not above the age of seventy years,

shall, subject to the exceptions mentioned in this Act, be qualified and liable to serve as a juror.

Disqualification from jury service, 1290, 1917, s. 9.

S. 12 amended by 28, 1965, s. 11; substituted by 81, 1984, s. 7.

12. (1) A person is disqualified from jury service if, either in this State or elsewhere—

(a) he has been convicted of an offence for which death or life imprisonment is a mandatory, or the maximum, penalty;

(b) he has been sentenced to imprisonment for a term exceeding two years;

(c) within the period of ten years immediately preceding the relevant date—

(i) he has served the whole, or a part, of a term of imprisonment;

(ii) he has served the whole, or a part, of a term of detention in an institution for the correction or training of young offenders;

or

(iii) he has been on probation or parole;

(d) within the period of five years immediately preceding the relevant date—

(i) he has been convicted of an offence punishable by imprisonment;

or

(ii) he has been disqualified by order of a court from holding or obtaining a driver's licence for a period exceeding six months;

(e) he is, at the relevant date, bound by a recognizance to be of good behaviour;

or

(f) he has been charged with an offence punishable by imprisonment and the charge has not yet been determined.

(2) In this section, a reference to the relevant date is a reference to the date on which the qualification of a prospective juror for jury service falls to be determined.

13. A person is ineligible for jury service if—

(a) he is mentally or physically unfit to carry out the duties of a juror;

(b) he has insufficient command of the English language to enable him properly to carry out the duties of a juror;

or

(c) he is one of those persons declared by the third schedule to be ineligible for jury service.

Ineligibility for jury service.
1290, 1917, s. 11.
S. 13 substituted by 81, 1984, s. 8.

14. Subject to section 69, a person shall not be liable to serve as a juror in any court unless he resides within the jury district for that court.

Residence qualification.
S. 14 substituted by 74, 1969, s. 8; 30, 1974, s. 6; amended by 81, 1984, s. 9.

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S. 14a inserted by 28, 1965, s. 12; amended by 30, 1974, s. 7; repealed by 11, 1976, s. 3.

15. No verdict shall be impeached on the ground that a member of the jury was disqualified from, or ineligible for, jury service unless the allegation of disqualification or ineligibility was made before the juror was sworn.

Verdict not to be impeached on ground of disqualification or ineligibility of juror except in certain cases.
1290, 1917, s.13.
S. 15 substituted by 81, 1984, s. 10.

16. (1) If the sheriff is satisfied, on the basis of information verified by statutory declaration, that a person summoned for jury service ought to be excused from attendance in compliance with the summons by reason of ill health, conscientious objection or any other reasonable cause, he may excuse that juror from attendance in compliance with the summons.

Power of sheriff to excuse prospective juror from attendance.
S. 16 amended by 28, 1965, s. 13; substituted by 31, 1971, s. 2; amended by 30, 1974, s. 8; substituted by 81, 1984, s. 11.

(2) If the sheriff declines to excuse a prospective juror under subsection (1), the prospective juror may apply to a judge for review of the sheriff's decision and, on such a review, the judge may confirm or reverse that decision.

Power to excuse partner.
1290, 1917, s. 16.
S. 17 amended by 30, 1974, s. 9; 81, 1984, s. 12.

17. A judge presiding at a criminal inquest, on proof to his satisfaction, in chambers or in open court, that two or more partners, members of the same co-partnership, or two or more persons employed in the same establishment, have been summoned to attend as jurors on the same days, may excuse one of those jurors during one or more of those days.

Power to excuse on condition of subsequent service.
S. 18 amended by 30, 1974, s. 10; 81, 1984, s. 13, (Sched.).

18. Where an application to excuse a person from attendance as a juror is made to a judge pursuant to section 16 or 17, the judge may, as a condition of granting the application, order that the name of the applicant be included amongst the names of jurors to be summoned for jury service at some subsequent time mentioned in the order. When any such order is made, the judge shall notify the sheriff and the applicant shall be summoned as a juror in accordance with the order.

Power of sheriff to excuse in certain cases.
S. 19 amended by 74, 1969, s. 9; substituted by 30, 1974, s. 11; amended by 81, 1984, s. 14.

19. If the sheriff is satisfied that any person has been summoned to attend as a juror within three years from a date on which he previously served as a juror, the sheriff may, upon application made by or on behalf of that person, excuse that person from attendance in compliance with the summons.

PART IV
ANNUAL JURY LISTS

Heading amended by 81, 1984, (Sched.).

Duty of sheriff to prepare annual jury lists.
Subsec. (1) amended by 28, 1965, s. 14; 74, 1969, s. 10 (a), (b); 30, 1974, s. 12; 81, 1984, (Sched.).

20. (1) The sheriff shall, before the thirty-first day of December in each year, prepare an annual jury list for each jury district in accordance with this Part.

Subsec. (2) amended by 74, 1969, s. 10 (c); 81, 1984, (Sched.).

(2) It shall be the duty of the Electoral Commissioner and his deputy, officers and servants to render to the sheriff all such assistance in preparing the annual jury lists and jury panels under this Act as the sheriff may reasonably require.

Number of jurors on each list.
S. 21 substituted by 74, 1969, s. 11; 30, 1974, s. 13.

21. (1) Every annual jury list for the Adelaide Jury District shall contain such number of names as the sheriff considers necessary, but not less than three thousand.

(2) Every annual jury list for a jury district other than the Adelaide Jury District shall contain such number of names as the sheriff considers necessary, but not less than five hundred.

S. 22 amended by 28, 1965, s. 15; substituted by 74, 1969, s. 12; amended by 31, 1971, s. 4; substituted by 30, 1974, s. 14; repealed by 81, 1984, (Sched.).

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Selection of names to be included in annual jury list.
S. 23 amended by 42, 1957, s. 3 (2nd Sched.); 28, 1965, s. 16; 74, 1969, s. 13; 31, 1971, s. 4; 30, 1974, s. 15; substituted by 81, 1984, s. 15.

23. (1) The names of the persons to be included in an annual jury list must be drawn from the names appearing on the rolls for the electoral subdivisions contained in the jury district and the list must include names from each such roll.

(2) The selection of names from the electoral roll for a subdivision—

(a) must be made by ballot or by use of a computer programmed to make a random selection;

and

(b) must be made so that the ratio of the number of names drawn from the roll for the subdivision to the total number of names to be included in the jury list for the jury district is equal, or approximately equal, to the ratio of the number of names on the roll for the subdivision to the total number of names on the rolls for all the subdivisions contained in the jury district.

(3) Where it appears from information contained in an electoral roll that a person whose name has been selected for inclusion in an annual jury list is ineligible for jury service, the name of that person must be rejected and the process of selection must continue until the number of names to be drawn from the electoral roll is complete.

(4) Where names for inclusion in an annual jury list are to be selected by ballot, the ballot must be conducted under the supervision of the Electoral Commissioner.

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S. 23a inserted by 31, 1971, s. 5; amended by 30, 1974, s. 16; repealed by 81, 1984, s. 15.

24. Every annual jury list shall come into force on the first day of January next after the preparation of the list.

Coming into operation of lists. S. 24 amended by 28, 1968, s. 17; 81, 1984, (Sched.).

25. (1) At any time after the preparation of an annual jury list, the sheriff may send to any person whose name appears on the list a questionnaire relating to matters contained in this Act in the prescribed form, to be completed and returned by that person.

Questionnaire to be completed and returned by prospective jurors.

S. 25 amended by 74, 1969, s. 14; repealed by 30, 1974, s. 17; inserted by 81, 1984, s. 16.

(2) A person—

(a) who, without reasonable excuse, fails to fill in and return the questionnaire in accordance with the accompanying directions of the sheriff;

or

(b) who includes in the questionnaire information that is false or deliberately misleading,

shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

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S. 26 repealed by 30, 1974, s. 17.

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S. 27 amended by 74, 1969, s. 15; repealed by 30, 1974, s. 17.

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S. 28 repealed by 30, 1974, s. 17.

PART V
SUMMONING OF JURORS AND JURY PANELS

Part V comprising ss. 29-41 and heading amended by 28, 1965, ss. 18-21; 74, 1969, ss. 16-20; 31, 1971, ss. 6, 7; 54, 1972, s. 38 (b)-(f); substituted by 30, 1974, s. 18.

Summoning of jurors.
S. 29 substituted by 74, 1969, s. 16; amended by 54, 1972, s. 38 (b)-(d); substituted by 30, 1974, s. 18.
Subsec. (1) amended by 81, 1984, s. 17 (a).

Subsec. (2) amended by 81, 1984, s. 17 (b).

Subsec. (5) amended by 81, 1984, s. 17 (c), (Schd.).

Summons.
S 30 amended by 74, 1969, s. 17; 54, 1972, s. 38 (c); substituted by 30, 1974, s. 18.

Subsec. (2) repealed by 11, 1976, s. 4 (a).

Para. (b) amended by 11, 1976, s. 4 (b).

29. (1) The sheriff shall, from time to time as occasion requires, make such inquiries as are necessary to ascertain whether, and if so, how many, jurors are required for proposed criminal inquests commencing in each jury district in each month.

(2) The sheriff shall, in respect of each month, summon such jurors (if any) as are necessary for the purposes of criminal inquests commencing in each jury district in that month.

(3) The names of jurors to be summoned in respect of any month in a jury district shall be determined—

(a) by ballot;

or

(b) by random selection made by computer.

(4) The names from which the ballot or random selection is made shall comprise the names of all jurors included on the jury list for the appropriate year, excluding the names of those who have previously been summoned for jury service in that year.

(5) Where the number of jurors on a jury list is not sufficient to provide jurors for all criminal inquests occurring in the course of the year for which the list was compiled, the names of jurors who have previously been summoned for jury service during the year, but not less than six months earlier, shall be again included amongst the names from which the ballot or random selection is made.

30. (1) A summons under this Part shall be in the form of the fifth schedule.

* * * * *

(3) Every such summons—

(a) shall be served by a member of the police force at least seven clear days before the day on which the person summoned is required to attend as a juror by delivering the summons personally to the person summoned or, where the person is absent from his usual place of residence, by leaving the summons with some person who is resident there;

or

(b) shall be served by the sheriff forwarding the summons by ordinary pre-paid post to the address of that person as it appears on the annual jury list, so that the summons would, in the ordinary course of post, be delivered to that address at least seven clear

days before the day on which that person is required to attend as a juror.

31. (1) The sheriff shall cause a list of the names of every juror summoned to render jury service in any jury district for any month to be kept in his office for at least seven clear days before the first day of that month.

Duty of sheriff to keep list of persons summoned.
S. 31 amended by 74, 1969, s. 18; 54, 1972, s. 38 (f); substituted by 30, 1974, s. 18.

(2) The sheriff shall, at the request of the Crown Solicitor, or of the accused or the solicitor or agent of the accused in a criminal inquest, provide him with a copy of the list without fee.

Subsec. (2) substituted by 81, 1984, s. 18.

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Subsecs. (3) and (4) repealed by 81, 1984, s. 18.

32. (1) Where a single criminal inquest is to commence in a jury district on a certain day, either—

Jury panels.
S. 32 amended by 28, 1965, s. 18; 31, 1971, s. 6; substituted by 30, 1974, s. 18.
Subsec. (1) amended by 81, 1984, s. 19 (a).

(a) all the jurors from the jury district who attend on that day in obedience to the summons shall constitute the jury panel for that inquest;

or

(b) the sheriff shall, by ballot, constitute a jury panel for the inquest from amongst those who attend in obedience to the summons.

(2) Where two or more criminal inquests are to commence on a certain day, the sheriff shall, by ballot, divide the jurors who attend on that day in obedience to the summons into separate panels, and appropriate each panel to an inquest.

Subsec. (2) amended by 81, 1984, s. 19 (b).

(3) Where jurors from any jury panel are not included in a jury for a criminal inquest, the sheriff may excuse them from further jury service on the day on which that inquest commences, but they shall attend again, in accordance with their respective summonses, at a time and place directed by the sheriff.

Subsec. (3) amended by 81, 1984, s. 19 (c).

(4) Where a criminal inquest is to commence otherwise than on the day on which jurors summoned for a particular month are first required to attend, the sheriff shall direct—

Subsec. (4) substituted by 11, 1976, s. 5 (a); amended by 81, 1984, s. 19 (c).

(a) the jurors summoned for that month (except those released from jury service and those comprising juries for uncompleted inquests);

or

(b) a section, or sections, of the jurors summoned for that month (except those released from jury service and those comprising juries for uncompleted inquests), determined by ballot,

to attend on the day on which that inquest commences for the purpose of rendering jury service.

(4a) The sheriff may conduct a ballot for the purposes of subsection (4) (b) before or after the day on which the jurors summoned for the particular month are first required to attend.

Subsec. (4a) inserted by 11, 1976, s. 5 (a).

(5) Subject to subsection (6), where a jury is discharged by a court before the last day of the month for which they were summoned to render jury service, the jurors comprising that jury shall return in compliance with their summonses, at a time and place directed by the sheriff, for the purpose of rendering further jury service.

(6) A court before which a jury has served may release any of the jurors constituting the jury from further jury service in compliance with their respective summonses.

Subsec. (7) amended by 11, 1976, s. 5 (b).

(7) A ballot under this section shall be conducted in a room open to the public.

Oath or affirmation. S. 33 amended by 28, 1965, s. 19; substituted by 30, 1974, s. 18.

33. The sheriff shall cause all jurors who attend in obedience to the summons to take an oath or affirmation in the form of the sixth schedule.

Ss. 34 and 35 repealed by 30, 1974, s. 18.

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S. 35a inserted by 31, 1971, s. 7; repealed by 30, 1974, s. 18.

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S. 36 amended by 28, 1965, s. 20; repealed by 30, 1974, s. 18.

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S. 37 amended by 28, 1965, s. 21; substituted by 74, 1969, s. 19; repealed by 30, 1974, s. 18.

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Ss. 38 and 39 repealed by 30, 1974, s. 18.

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S. 40 amended by 74, 1969, s. 20; repealed by 30, 1974, s. 18.

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S. 41 repealed by 30, 1974, s. 18.

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PART VI

PROCEEDINGS UPON TRIAL

Sheriff to return panel with cards. S. 42 substituted by 30, 1974, s. 19; amended by 81, 1984, s. 20 (a).

42. Upon the day appointed for the commencement of a criminal inquest for which a jury is required, the sheriff shall, in open court—

(a) deliver to the proper officer of the court a list containing the names of the jury panel for that inquest;

and

(b) furnish the proper officer of the court with the names of the jurors comprising the panel written upon separate cards that are, as nearly as practicable, of equal size and shape.

Para. (b) amended by 81, 1984, s. 20 (b).

43. The proper officer shall, upon receipt of the cards, keep them together in the ballot box provided for the purpose.

Cards to be kept in ballot box. 1290, 1917, s. 96. S. 43 substituted by 81, 1984, s. 21.

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Ss. 44 and 45 repealed by 30, 1974, s. 20.

46. When it is necessary to constitute a jury for the purposes of a criminal inquest, the proper officer shall, in open court, draw out of the ballot box, one after the other, a number of cards equal to the number of jurors required to constitute the jury and, if any of the persons whose names are so drawn do not appear, or are challenged and set aside, then such further number shall be drawn until the full number of jurors is drawn and appears after all just causes of challenge are allowed.

Balloting for trial. 1290, 1917, s. 99. S. 46 amended by 28, 1965, s. 22; 81, 1984, s. 22.

47. The full number of jurors so first drawn and appearing shall be the jury to try the issues on the inquest.

Constitution of jury. 1290, 1917, s. 100. S. 47 amended by 81, 1984, s. 23.

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S. 48 amended by 28, 1965, s. 23; repealed by 30, 1974, s. 21.

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S. 49 repealed by 30, 1974, s. 21.

50. Where no objection is made on behalf of any party, the court may try any issue with the same jury that has previously tried, or been drawn to try, any other issue.

Same jury may try several issues if no objection by parties. 1290, 1917, s. 103. S. 50 amended by 30, 1974, s. 22.

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S. 51 amended by 28, 1965, s. 24; repealed by 30, 1974, s. 23.

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Ss. 52 and 53 repealed by 30, 1974, s. 23.

54. The sheriff shall make reasonable provision for the comfort and refreshment of the jury.

Duty of sheriff to provide for jury. 1290, 1917, s. 107. S. 54 amended by 30, 1974, s. 24; substituted by 81, 1984, s. 24.

55. In any criminal inquest, the court may, if it thinks fit, at any time before the jury considers its verdict, permit the jurors to separate.

Court may permit jury to separate. S. 55 substituted by 28, 1965, s. 25; amended by 81, 1984, (Schd.).

* * * * *

S. 55a inserted by 2356, 1937, s. 3; amended by 115, 1976, s. 16; repealed by 81, 1984, s. 25.

Continuation of inquest with less than full number of jurors.
1290, 1917, s. 109.

S. 56 amended by 2356, 1937, s. 4; 115, 1976, s. 16; substituted by 81, 1984, s. 25.

56. (1) If during the course of a criminal inquest the presiding judge is satisfied that, by reason of the ill health of a juror or a matter of special urgency or importance, a juror should be excused from further attendance, the judge may order that the juror be excused from further attendance during that inquest and for such further period (if any) as the judge determines.

(2) If during the course of a criminal inquest a juror dies or is excused under subsection (1), or fails to attend without lawful excuse, the inquest shall, subject to any contrary direction by the presiding judge, continue with the reduced number of jurors, provided that the number of jurors has not been reduced to less than ten.

Majority and alternative verdicts.

S. 57 amended by 115, 1976, s. 16; substituted by 81, 1984, s. 26.

57. (1) Subject to subsection (2), where a jury, having retired to consider its verdict, has remained in deliberation for at least four hours and the jurors have not then reached a unanimous verdict—

(a) if a sufficient number agrees to enable the jury to return a majority verdict—a majority verdict shall be returned;

but

(b) otherwise—the jury may be discharged from giving a verdict.

(2) No verdict that an accused person is guilty of murder or treason shall be returned by majority.

(3) Where an accused person is charged with a particular offence (the major offence) and it is possible for a jury to return a verdict of not guilty of the offence charged but guilty of some other offence for which he has not been charged (the alternative offence)—

(a) the jury shall consider whether the accused is guilty of the major offence before considering whether he is guilty of the alternative offence;

and

(b) if the jury reaches a verdict (either unanimously or by majority) that the accused is not guilty of the major offence but then, having been in deliberation for at least four hours, is unable to reach a verdict on the question of whether the accused is guilty of the alternative offence—

(i) the accused shall be acquitted of the major offence;

(ii) the jury may be discharged from giving a verdict in respect of the alternative offence;

and

(iii) fresh proceedings may be taken against the accused on a charge of the alternative offence.

(4) In this section—

“majority verdict” means—

(a) where the jury, at the time of returning its verdict, consists of twelve jurors—a verdict in which ten or eleven jurors concur;

(b) where the jury, at the time of returning its verdict, consists of eleven jurors—a verdict in which ten jurors concur;

(c) where the jury, at the time of returning its verdict, consists of ten jurors—a verdict in which nine jurors concur, and “by majority” has a corresponding meaning.

* * * * *

S. 58 repealed by 81, 1984, s. 27.

59. (1) Whenever a jury is discharged from giving a verdict, fresh proceedings may be taken as if there had been no inquest before the jury so discharged.

Fresh proceedings may be taken. 1290, 1917, s. 112. S. 59 redesignated s. 59 (1) by 30, 1974, s. 25; substituted by 81, 1984, s. 28 (a).

(2) Subject to subsection (3), a jury shall, for the purposes of section 57, be deemed to remain in deliberation for the total duration of any period between the time at which the jury retires to consider its verdict and the time at which the jury returns to the court room for the purpose of delivering its verdict.

Subsec. (2) inserted by 30, 1974, s. 25; amended by 81, 1984, s. 28 (b).

(3) Where there has been a prolonged interruption of the deliberation of a jury, the presiding judge may, by order, determine that a period fixed in the order shall not be taken into account as a period for which the jury has remained in deliberation, and any such order shall have effect according to its terms.

Subsec. (3) inserted by 30, 1974, s. 25.

60. If at the time of any such discharge the court thinks proper so to order, another inquest may forthwith, or at some other time during the same or some future sittings, be commenced and proceeded with as if the first mentioned inquest had not been commenced; but no member of the jury so discharged shall be qualified to serve as a juror on that other inquest.

Court may order another inquest. 1290, 1917, s. 113. S. 60 amended by 30, 1974, s. 26.

60a. (1) If at the trial of any issue the court is of the opinion that, by reason of the nature of the evidence to be given or the issue to be tried—

Jury may consist of men or women only. S. 60a inserted by 28, 1965, s. 26.

(a) the jury should consist of men only;

or

(b) the jury should consist of women only,

the court may, notwithstanding anything contained in this Part, order that the jury for the trial of that issue be empanelled accordingly.

(2) An order under subsection (1) may be made upon application by one of the parties to the inquest or by the court of its own motion.

* * * * *

S. 60b inserted by 28, 1965, s. 26; repealed by 11, 1976, s. 6.

PART VII
CHALLENGE AND TALES

61. In all criminal inquests by a jury in the Supreme Court or a District Criminal Court, each party (including the Crown) may challenge three jurors preemptorily.

Challenge. 1290, 1917, s. 114. S. 61 amended by 74, 1969, s. 21; 81, 1984, s. 29, (Sched.).

* * * * *

S. 62 repealed by 81, 1984, s. 30.

Peremptory challenges above numbers allowed void.
1290, 1917, s.116.
S. 63 amended by 81, 1984, (Sched.).

63. Every peremptory challenge above the numbers allowed under this Act shall be void, and the inquest shall proceed as if no such challenge had been made.

Time for challenging.
1290, 1917, s.117.

64. Every challenge shall be made as the juror comes to take his seat and before he takes it.

Rights to peremptory challenge where persons jointly charged.
1290, 1917, s.118.
S. 65 substituted by 81, 1984, s. 31.

65. Where two or more persons are jointly charged, each shall be entitled to challenge three jurors peremptorily.

Challenge on ground of ineligibility or disqualification.
1290, 1917, s.119.
S. 66 amended by 28, 1965, s. 27; substituted by 81, 1984, s. 31.

66. A juror may be challenged on the ground that he is ineligible to act, or disqualified from acting, as a juror and, if the court is satisfied of the ineligibility or disqualification, the juror shall be discharged.

Common law rights of challenge preserved.
1290, 1917, s.121.
S. 67 substituted by 81, 1984, s. 31.

67. Nothing in this Act affects a right of challenge that exists at common law.

Trial of challenge for cause.
S. 68 amended by 74, 1969, s. 22; 54, 1972, s. 38 (g); substituted by 81, 1984, s. 31.

68. Where a juror is challenged for cause and it is necessary to determine whether he has been properly challenged for that cause, the matter shall be tried by the presiding judge.

Tales.
1290, 1917, s.122.
S. 69 amended by 28, 1965, s. 28; 74, 1969, s. 23; substituted by 81, 1984, s. 31.

69. (1) Where a jury for a criminal inquest cannot be constituted because there are insufficient jurors in attendance, the sheriff shall, if the presiding judge so directs, summon further persons who are eligible to serve as jurors to attend as jurors at the inquest.

(2) The persons to be summoned under subsection (1) shall be chosen as the presiding judge may direct.

Part VIII comprising ss. 70-77 amended by 28, 1965, s. 29; 74, 1969, s. 24; 30, 1974, ss. 27, 28; substituted by 81, 1984, s. 32.

PART VIII
FEES

Payment of jurors.
S. 70 amended by 74, 1969, s. 24; substituted by 81, 1984, s. 32.

70. (1) Every juror who is summoned and punctually attends a court in compliance with the summons is entitled to be remunerated for his service in accordance with a scale prescribed by regulation.

(2) The remuneration shall be paid out of the General Revenue of the State, which is appropriated to the necessary extent.

Ss. 71 and 72 repealed by 81, 1984, s. 32.

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S. 73 amended by 30, 1974, s. 27; repealed by 81, 1984, s. 32.

* * * * *

S. 74 amended by 28, 1965, s. 29; repealed by 81, 1984, s. 32.

* * * * *

*	*	*	*	*	*	*	*	*	*	S. 75 repealed by 81, 1984, s. 32.
*	*	*	*	*	*	*	*	*	*	S. 76 amended by 30, 1974, s. 28; repealed by 81, 1984, s. 32.
*	*	*	*	*	*	*	*	*	*	S. 77 repealed by 81, 1984, s. 32.

PART IX
OFFENCES AND PENALTIES

78. (1) A person who—

(a) having been duly summoned to attend as a juror, does not attend in obedience to the summons or, having been thrice called, does not answer to his name;

Offence by jurors.
S. 78 amended by 28, 1965, s. 30; substituted by 30, 1974, s. 29.

*	*	*	*	*	*	*	*	*	*	Para. (b) repealed by 81, 1984, s. 33.
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(c) impersonates, or attempts to impersonate, a juror for the purpose of sitting as a juror;
or

(d) having been summoned as a juror, takes any sum beyond the scale allowed by this Act under pretence that he is entitled to that sum as a fee or remuneration for attendance as a juror,

shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

(2) The Supreme Court or a District Criminal Court may, if it thinks fit, proceed to deal with an offence, or alleged offence, under subsection (1) summarily and without formality.

*	*	*	*	*	*	*	*	*	*	S. 79 amended by 28, 1965, s. 31; 74, 1969, s. 25; 54, 1972, s. 38 (b); repealed by 30, 1974, s. 29.
*	*	*	*	*	*	*	*	*	*	S. 80 amended by 28, 1965, s. 32; 74, 1969, s. 26; 30, 1974, s. 30; repealed by 81, 1984, s. 34.
*	*	*	*	*	*	*	*	*	*	S. 81 amended by 74, 1969, s. 27; repealed by 81, 1984, s. 34.
*	*	*	*	*	*	*	*	*	*	S. 82 amended by 74, 1969, s. 28; repealed by 81, 1984, s. 34.

83. A person who unlawfully influences, or unlawfully attempts to influence, a juror, or consents thereto, shall be guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years.

Penalty for corruptly influencing jurors.
S. 83 substituted by 74, 1969, s. 29; 30, 1974, s. 31.

84. Except as otherwise provided in this Act, proceedings for offences against this Act shall be disposed of summarily.

Proceedings for offences.
1290, 1917, s. 157.
S. 84 substituted by 81, 1984, (Sched.).

PART X
MISCELLANEOUS

Jury *de medietate linguae* abolished. 1290, 1917, s. 158.

85. No alien shall be entitled to be tried by a jury one-half of which consists of aliens (formerly known as a jury *de medietate linguae*), but he shall be triable in the same manner as if he were a natural born subject.

Abolition of jury *de ventre inspiciendo*.

86. No jury to inquire whether a woman be with child or not (formerly known as a jury *de ventre inspiciendo*) shall be empanelled or sworn.

S. 87 repealed by 115, 1976, s. 17.

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View during trial. 1290, 1917, s.132. S. 88 amended by 74, 1969, s. 30; 54, 1972, s. 38 (i); 81, 1984, s. 35 (a).

88. In any criminal inquest, the court or judge may, at any time before verdict, order a view of any place or property by the jury and may make such orders upon the sheriff or any other person and give such directions as the court or judge thinks necessary for the purposes of the view, and the view shall be held accordingly.

Subsec. (2) repealed by 81, 1984, s. 35 (b).

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Power to make rules. S. 89 amended by 42, 1957, s. 3 (2nd Sched.); 28, 1965, s. 33; 74, 1969, s. 31; substituted by 30, 1974, s. 32.

89. (1) The Chief Justice of the Supreme Court and the Senior Judge of the Central District Criminal Court may jointly make such rules as they consider necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of the provisions of subsection (1), those rules may—

- (a) prescribe the minimum number of jurors to comprise a jury panel from which a jury may be constituted;
- (b) make any provision in relation to the conduct of a ballot by the sheriff under this Act;
- (c) make any provision in relation to the time and manner in which jurors are to be sworn;

and

- (d) make any provision that will conduce to the proper and efficient administration of this Act.

S. 90 amended by 74, 1969, s. 32; repealed by 81, 1984, s. 36.

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S. 91 substituted by 74, 1969, s. 33; repealed by 81, 1984, s. 36.

* * * * *

Effect of this Act on Coroner's Act, 1975.

92. Nothing in this Act shall alter or affect any of the laws in force in the State relating to coroners inquests.

1290, 1917, s.165. S. 92 amended by 42, 1957, s. 3 (2nd Sched.); 81, 1984, (Sched.).

SCHEDULES

* * * * *

1st Sched.
repealed by 81,
1984, (Sched.).

SECOND SCHEDULE

Section 9.
2nd Sched.
substituted by 30,
1974, s. 33; *Gaz.*
20 October, 1977,
p. 1180; *Gaz.* 26
January, 1978,
p. 368; *Gaz.* 4
October, 1984,
p. 1035; amended
by *Gaz.* 29
November, 1984,
p. 1700.

JURY DISTRICTS

Jury District	Subdivisions Constituting Jury Districts	Districts In the House of Assembly
Jury District	Subdivision of	District of
The Adelaide Jury District . . .	Adelaide	Adelaide
	Adelaide West	
	Albert Park	Albert Park
	Ascot Park	Ascot Park
	Baudin North	Baudin
	Baudin South	
	Bragg East	Bragg
	Bragg West	
	Brighton East	Brighton
	Brighton North	
	Brighton South	
	Coles	Coles
	Davenport East	Davenport
	Davenport North	
	Davenport South	
	Elizabeth	Elizabeth
	Elizabeth East	
	Fisher East	Fisher
	Fisher West	
	Florey	Florey
	Florey East	
	Gilles East	Gilles
	Gilles South	
	Gilles West	
	Glenelg North	Glenelg
	Glenelg South	
	Hanson	Hanson
	Hartley	Hartley
	Henley Beach	Henley Beach
	Mawson	Mawson
	Mitcham	Mitcham
	Mitchell	Mitchell
	Morphett	Morphett
	Morphett East	
	Napier East	Napier
	Napier West	
	Newland	Newland
	Newland North	
	Newland West	Norwood
	Norwood North	
Norwood South	Peake	
Peake		
Peake North	Playford	
Playford		
Playford North		
Playford South	Price	
Price		
Ross Smith East	Ross Smith	
Ross Smith North		
Ross Smith West		
Salisbury	Salisbury	
Salisbury South		
Semaphore	Semaphore	
Spence East	Spence	
Spence North		
Spence South		
Todd North	Todd	
Todd South		
Torrens	Torrens	
Unley East	Unley	
Unley West		
The Northern Jury District . . .	Rocky River West	Rocky River
	Stuart	Stuart
	Whyalla	Whyalla
The South-Eastern Jury District	Mount Gambier	Mount Gambier
	Victoria	Victoria

Section 13.
3rd Sched.
amended by 2356,
1937, s. 5; 28,
1965, s. 34;
substituted by 31,
1971, s. 8;
amended by 30,
1974, s. 34; 11,
1976, s. 7;
substituted by 81,
1984, s. 37.

THIRD SCHEDULE

The following persons are ineligible for jury service:

- The Governor, the Lieutenant Governor and their spouses;
- Members of Executive Council and their spouses;
- Members of Parliament;
- Members of the judiciary or magistracy and their spouses;
- Justices of the peace who perform court duties and their spouses;
- Legal practitioners actually practising as such;
- Members of the police force and their spouses;
- Persons employed in a department of the Government that is concerned with the administration of justice or the punishment of offenders;
- Persons employed in the administration of courts or in the recording or transcription of evidence taken before courts.

4th Sched.
amended by 28,
1965, s. 35;
repealed by 30,
1974, s. 35.

* * * * *

Section 30.
5th Sched.
substituted by 30,
1974, s. 36.

FIFTH SCHEDULE
SUMMONS TO JUROR

The Sheriff's Office
Adelaide

To [insert full name]
[Address]

You are hereby summoned to render jury service for the month of

Your attendance is required at the hour of _____ on the _____ day
of _____, 19____, at _____ and at such further times and places as the sheriff
may direct.

If you are empanelled as a member of a jury for an inquest commencing during the month of
_____, you are required to render jury service until discharged by the court before which
the inquest is held.

Sheriff

NOTE—If you do not obey this summons, or any lawful direction given in relation thereto by the
sheriff, you are liable to a heavy penalty.

Section 33.
6th Sched.
substituted by 30,
1974, s. 37.

SIXTH SCHEDULE
OATH OR AFFIRMATION

I (or we) do swear (or solemnly, sincerely and truly affirm and declare) that I (or we) will honestly,
conscientiously and to the best of my (or our) ability try the issues at any inquest at which I (or we)
may be required to serve and will render a true and honest verdict in accordance with the evidence.

7th Sched.
repealed by 30,
1974, s. 37.

* * * * *

8th Sched.
repealed by 28,
1965, s. 36.

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