

Jury selection review

I, Kerry Shine, Attorney-General and Minister for Justice and Attorney-General and Minister Assisting the Premier in Western Queensland, having regard to:

- The critical role juries have in the justice system in Queensland to ensure a fair trial;
- The fact that jury duty is an important civic duty and those who become involved in criminal trials have an expectation that they will be determined by a judge and jury;
- It is an essential feature of the institution of juries that a jury is a body of persons representative of the wider community, to be composed in a way that avoids bias or the apprehension of bias and that one of the elements of the principle of representation is that the panel of jurors be randomly or impartially selected rather than chosen by the prosecution or the State;
- The importance of ensuring and maintaining public confidence in the justice system;
- The recent reports released by the New South Wales Law Reform Commission report on Jury Selection (Report 117, 2007) and Blind or deaf jurors (Report No 114, 2006) which make a number of recommendations;
- The review of the selection, eligibility and exemption of jurors currently being undertaken by the Western Australia Law Reform Commission;
- Reforms concerning the composition of juries and conditions of jury service which have occurred in other jurisdictions;¹
- The Australian, New South Wales and Victorian Law Reform Commissions' Report on *Uniform Evidence Law* recommended that the Standing Committee of Attorneys-General should initiate an inquiry into the operation of the jury system, including matters such as eligibility, empanelment, warnings and directions to juries.
- The provisions in the *Jury Act 1995* (Qld) prescribing those persons who are ineligible for jury service have not been reviewed or amended since 2004.

refer to the Queensland Law Reform Commission (the Commission) pursuant to section 10 of the *Law Reform Commission Act 1968* (Qld), a review of the

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For example, Victoria and Tasmania have removed a juror's right to claim exemption from jury service and limit the categories of people who are ineligible to serve on a jury. The United Kingdom has also removed exemptions for most people and the only people who are disqualified include people in prison or in mental institutions or who have served lengthy prison sentences within a certain period.

operation and effectiveness of the provisions in the *Jury Act 1995* (Qld) relating to the selection (including empanelment), participation, qualification and excusal of jurors.

The scope of this review does not include review by the Commission of Part 6 of the *Jury Act 1995* which contains provisions about jury trial in Queensland, including, for example:

- consideration of whether juries should have a role in sentencing;
- the merits or desirability of trial by jury; or
- the requirement for majority verdicts in Queensland.

In undertaking this review, the Commission is to have particular regard to:

- Whether the current provisions and systems relating to qualification, ineligibility and excusals for jury service are appropriate, including specifically whether:
 - (a) there are any additional categories of persons who should be ineligible for jury service, such as:
 - (i) a person employed or engaged in the public sector in law enforcement, criminal investigation, the provision of legal services in criminal cases, the administration of justice or penal administration; and
 - (ii) local government chief executive officers.
 - (b) there are any categories of persons currently ineligible for jury service which are no longer appropriate;
 - (c) the ineligibility of a person who has a physical or mental disability that makes the person incapable of effectively performing the functions of a juror remains appropriate, particularly in the context of persons who are profoundly deaf or have a significant hearing or sight impairment, having regard to the *Anti-Discrimination Act 1991* (Qld), the *Disability Discrimination Act 1992* (Cth), and the need to maintain confidence in the administration of justice in Queensland.
- Possible improvements to proceedings for offences and a review of the appropriateness of maximum penalties under the *Jury Act 1995* (Qld), including:
 - Whether the Act should be amended to specifically allow a prosecution for an offence against the Act to be commenced by

complaint of the Sheriff of Queensland or someone else authorised by the Minister or Chief Executive; and

- Review the current level of maximum penalties for offences in the *Jury Act 1995* (Qld), particularly relating to the return of notices by prospective jurors and compliance with a summons requiring a person to attend for jury service and, if selected as a member of a jury, to attend as instructed by the court until discharged and whether the maximum penalties should be increased and having regard to the level of penalties for similar offences in Queensland and in other Australian jurisdictions;
- Possible alternative options for excusing a person from jury service, such as deferment;
- The extent to which juries in Queensland are representative of the community and to which they may have become unrepresentative because of the number of people who are ineligible for service or exercise their right to be excused from service, including whether there is appropriate representation of minority groups (such as Aboriginal people and Torres Strait Islanders), the factors which may contribute to under-representation and suggestions for increasing representation of these groups;
- Recent developments in other Australian and international jurisdictions in relation to the selection of jurors; and
- Any other related matters.

In performing its functions under this reference, the Commission is asked to prepare, if relevant, any legislation based on the Commission's recommendations and undertake consultation with stakeholders.

The Commission is to provide a report to the Attorney-General and Minister for Justice and Minister Assisting the Premier in Western Queensland on its review by 31 December 2010.

Dated the 7 day of April 2008

Kerry Shine MP
Attorney-General Minister for Justice
And Minister Assisting the Premier in Western Queensland