

Jury Exemption Regulations (Amendment) 1997 No. 316

EXPLANATORY STATEMENT

STATUTORY RULES 1997 No. 316

ISSUED BY THE AUTHORITY OF THE ATTORNEY-GENERAL

JURY EXEMPTION ACT 1965

JURY EXEMPTION REGULATIONS (AMENDMENT)

Subsection 4(2) of the *Jury Exemption Act 1965* (the Act) provides that the Governor-General may make regulations for or in relation to exempting a Commonwealth employee or a person included within a class of Commonwealth employees, specified in the regulations, from liability to serve as a juror in certain courts.

The purpose of the Regulations is to:

- * up-date existing jury exemptions, consequential on structural re-organisation and changed employment policies in a number of Commonwealth agencies;
- * remove existing jury exemptions for ACT Government and other employees who are no longer Commonwealth employees; and
- * provide for jury exemptions for some additional Commonwealth employees, in accordance with the existing policy on jury exemptions.

The Regulations also correct a number of minor drafting inconsistencies and errors.

Details of die Regulations are as follows:

Regulation 1 - Amendment

Regulation 1 provides that the Jury Exemption Regulations are amended as set out in the Regulations.

Under section 48 of the *Acts Interpretation Act 1901*, the Regulations commence on gazettal.

Regulation 2 - Regulation 4 (Exemption of certain Commonwealth employees)

Existing regulation 4 provides for exemption of certain Commonwealth employees from liability to serve as a juror in Federal courts, the courts of a specified Territory and in the courts of the States.

Regulation 2 corrects a drafting error, by adding "and" at the end of the first item in the list of courts.

Regulation 3 - Regulation 5 (Exemptions relating to the administration of justice)

Existing regulation 5 provides for exemptions relating to the administration of justice from liability to serve as a juror in Federal courts, the courts of a specified Territory and in the courts of the States.

Existing subparagraph 5(2)(a)(i) provides for exemption from liability to serve as a juror for an officer or employee of the Attorney-General's Department whose duties involve the provision of legal professional services.

There are also officers and employees of other Departments whose duties involve the provision of legal professional services.

Subregulation 3.3 provides for an exemption from liability to serve as a juror for officers and employees of any Department whose duties involve the provision of legal professional services.

There are also members of staff of the Australian Securities Commission (ASC) whose duties involved providing legal professional services, or investigating matters.

Subregulation 3.11 provides for exemption from liability to serve as a juror for these ASC staff members.

Existing subparagraphs 5(2)(b)(iv) and (v) and existing paragraphs 5(2)(d), (da), (db), (e), (f) and (1) exempt certain officers and employees in ACT Departments and instrumentalities from liability to serve as a juror. These officers and employees are no longer Commonwealth officers and employees. They are now employed by the ACT Government, which has enacted its own regulations to appropriately exempt its own employees from liability to serve as a juror.

Subregulations 3.5, 3.6 and 3.11 remove the exemptions from liability to serve as a juror for officers and employees of the ACT Government.

Existing paragraph 5(2)(g) provides an exemption from liability to serve as a juror for a person employed under section 16 of the Australian *Federal Police Act 1979*. Subregulation 3.7 amends this paragraph to refer to section 26B of that Act, consequentially upon legislative amendment.

Existing paragraph 5(2)(i) provides exemption from liability to serve as a juror for a protective service officer or special protective service officer of the Australian Protective Service (APS). The APS has advised that this exemption is too broad and that only the Director of the APS should be exempt from jury service. Subregulation 3.8 provides for this.

Existing paragraph 5(2)(k) provides exemption from liability to serve as a juror a member or member of the staff of the Administrative Appeals Tribunal.

Subregulation 3.11 provides a similar exemption for a member or a member of staff of the National Native Title Tribunal.

The Regulations (subregulations 3.1, 3.2, 3.4, 3.9 and 3.10) correct minor drafting errors, remove drafting inconsistencies and up-date drafting styles.

Regulation 4 - Regulation 6 (Exemptions relating to public need)

Subregulation 4.1 corrects a drafting inconsistency.

Existing paragraph 6(2)(b) provides exemption from liability to serve as a juror for certain persons employed in Repatriation Hospitals who, with the transfer of responsibility for Repatriation Hospitals to the State Governments, are no longer Commonwealth employees.

Subregulation 4.2, in effect, removes the exemptions for these employees.

Regulation 5 - Regulation 7 (Exemptions relating to public administration)

Existing paragraph 7(2)(d) provides exemption from liability to serve as a juror for a person constituting a Coal Industry Tribunal, which no longer exists.

Subregulation 5.1 omits paragraph 7(2)(d).

Paragraph 7(2)(e) contains a reference to the *Industrial Relations Act 1988*, which has been retitled the *Workplace Relations Act 1996*.

Subregulation 5.2 makes this amendment to the legislative reference.

Paragraphs 7(2)(g), 7(2)(h) and 7(2)(j) provide for exemptions from liability to serve as juror for certain employees of the Department of the House of Representatives, the Department of the Parliamentary Reporting Staff and the Department of Defence respectively.

Following structural re-organisations, some of the previously listed offices in those Departments have been re-named or abolished.

Subregulations 5.3, 5.4, 5.5, 5.6, 5.7 and 5.9 up-date the references to offices in the Department of the House of Representatives, the Department of the Parliamentary Reporting Staff and the Department of Defence respectively.

Paragraph 7(2)(1a) provides exemption from liability to server as a juror for persons holding certain offices in the Legislative Assembly of the Australian Capital Territory, who are no longer Commonwealth employees.

Subregulation 5.8 omits paragraph 7(2)(ia).