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| POL 79 | Version 2 |
| Date effective | 03 June 2020 |
| Application | All registry staff within the Supreme and District Courts |
| Contact | Procedure Owner: Sheriff of Queensland |
| Review date | 03 June 2022 |

1. Purpose

To provide guidance to registry staff when considering applications for excusal from jury service in the Supreme and District Courts under sections 21 & 22 of the [Jury Act 1995 \(Queensland\)](#).

2. Background

Prospective jurors are sent a notice and questionnaire for completion under section 18 of the [Jury Act 1995](#) (the Act). The questionnaire obtains information that may lead to a person being ineligible for jury service pursuant to section 4(3) of the Act and, if those grounds apply, there is no decision to be made.

Additionally, section 21 of the Act requires that the sheriff may excuse a person from jury service on a limited number of grounds upon application by that person or as permitted by Practice Direction. Note that this section does not mandate that the excusal must be granted; only that the sheriff may do so.

This policy provides guidance from the Sheriff regarding how registry staff should approach exercising the discretion of the Sheriff as delegated to staff by the Sheriff.

Further, section 22 of the Act provides that a person who has complied with a summons for jury service no less than one year before the current proposed period of service may request to be excused from jury service and is then entitled to be excused on that occasion.

Supreme Court Practice Directions [4 of 1997](#) and [5 of 2016](#) and District Court Practice Direction [3 of 2016](#) provide for additional grounds for granting specific or permanent excusals from jury service.

3. Policy Statement

Jury service is an important component of the community's acceptance and respect for the entire criminal justice system.

Community members should be encouraged and supported to participate in jury service.

3.1. Principles

- 3.1.1. Registry staff must consider the criteria set out in s.21 (and as extended by relevant practice directions) when an application is received from a person seeking excusal from jury service.
- 3.1.2. Except as provided in s.22 of the Act, it is not mandatory that an excusal be granted because it has been requested on one of the specified grounds; only that it must be considered. The person must be able to demonstrate how their application for excusal satisfies the criteria.
- 3.1.3. Suitable documentary or other evidence to substantiate the applicant's claimed grounds for excusal may be requested where appropriate.
- 3.1.4. The following information is provided for the guidance of registry staff in exercising their discretion to grant excusals:
- 3.1.4.1. **Substantial hardship because of employment or personal circumstances (see s.21(1)(a))**

“Substantial hardship” is not defined in legislation, therefore the ordinary dictionary meaning applies. The Macquarie Dictionary defines *substantial* as ‘material, real or actual, of ample or considerable amount, etc.’ *Hardship* is defined as ‘a condition that bears hard upon one; severe toil, trial, oppression or need’.

Therefore, a suitable meaning when assessing these excusals is whether the person demonstrates that jury service would cause suffering of a material and considerable nature. It has to go beyond mere inconvenience to them.

Some examples of an application which may satisfy this sub-section. The applicant:

- Provides an elderly, infirm or other ‘at risk’ person with social support or other assistance and needs to take steps to reduce their own exposure to possible contagion to appropriately continue to do so e.g. during COVID 19 pandemic;
- Is a student who cannot change schedules to attend necessary lectures outside of business hours, is marked on compulsory attendance or cannot get the notes from anyone else;
- Is a student who has to sit examinations;
- Has prearranged/prepaid training which is difficult to access at an alternative time in the near future;
- Does not have a means of transport to attend court or not without lengthy travel and/or complex arrangements;
- Has encountered unplanned personal circumstances such as death or participation in other court proceedings;
- Has planned to take a holiday to celebrate a special event such as an anniversary, birthday or graduation.

Some examples which may not satisfy this sub-section. The applicant:

- Would need to use public transport to attend;
- Had planned to take a holiday when required for jury service (except as above or in 3.1.4.2 below);
- Is a student who would rather not attend lectures outside of business hours or use someone else's notes.

Suitable supporting documentary evidence need not always be sought and depends on the specific ground of the request but could include documents such as:

- Evidence of enrolment and course requirements from a lecturer or university materials;
- Enrolment evidence and exam timetable;
- A letter from the employer confirming the importance and timing of the booked training and difficulty in undertaking at a suitable future date;
- A print out from Transinfo or similar site confirming the difficulty of accessing public transport; or
- Booking information confirming planned travel and copies of relevant life event certificates.

3.1.4.2 Substantial financial hardship to the person (see s.21(1)(b))

The applicant must be able to identify that they will suffer 'substantial' (see above) financial 'hardship' (see above)

Some examples which may satisfy this sub-section. The applicant:

- Has made expensive holiday or travel bookings for which refunds cannot be obtained;
- Is a newly engaged employee undergoing training or induction which it is difficult for them to access at a suitable alternative time;
- Is employed as a shift worker, or on a casual basis and will lose significant sums of money through their absence;
- Is a corporate professional such as a project manager or engineer with contractual obligations that could not be met if they perform jury service;
- Is a self-employed tradesperson or business owner whose income is based on them performing services;
- Is a parent who stays at home to care for young children or works part-time and would incur substantially increased child care costs to perform jury service.

Some examples which may not satisfy this sub-section. The applicant is:

- A permanent employee whose employer indicates they will be sacked for absence to perform jury service (this is not permitted by the Act);
- A part-time employee as their employer is still obliged to pay their wages.
- Suitable supporting documentary evidence need not always be sought and depends on the specific ground of the request but could include documents such as:
- Booking information confirming planned travel and that it is not refundable;
- A letter from the employer confirming the induction and training requirements;
- Pay slips showing shift allowances that will be lost;
- Copy of contract;
- ABN confirming is sole trader with supporting letter that income is based on services performs;
- Birth certificates of children and letter from provider of cost of additional child care.

3.1.4.3 Substantial inconvenience to the public (see s.21(1)(c))

The applicant must establish that their performance of jury service would result in substantial inconvenience to the public or a section of the public. This requires the prospective juror to demonstrate how their personal absence would create substantial inconvenience to the public or a section of it.

‘Public’ is defined by the Macquarie Dictionary as relating to or affecting the people as a whole or the community, state, or nation. So a section of the community must be affected rather than only one or a few people.

It will be difficult for most people to demonstrate that their personal absence for a 2-3 week period will cause substantial inconvenience to the public.

Some examples which may satisfy this subsection. The applicant is:

- A General Practitioner who is the only doctor for a town, and no locum is available;
- The only veterinary practitioner in a location;
- A specialist medical practitioner with patient appointments already booked in for the period.

Some examples which may not satisfy this subsection. The applicant is a:

- Teacher unless there is firm evidence that it will be impossible (not just costly or difficult) for the school to employ a relief teacher;
- Nurse at a hospital where shifts can be re-allocated;

- Accountant engineer or similar employed by a large public corporation.

Suitable supporting documentary evidence need not always be sought and depends on the specific ground of the request but could include documents such as a:

- Letter from the Department of Education or other employer confirming that no suitable teacher can be found for this period;
- Letter with information about the availability of a locum;
- Letter advising of how far in advance appointments are booked.

3.1.4.4. Others are dependent for care and no suitable alternative care available (s.21(1)(d))

The Macquarie dictionary defines ‘dependent’ a one who depends on or looks to another for support or favour. ‘Depend’ can be clarified as to rely on support, maintenance or help. When assessing excusals under this category, the Applicant should demonstrate that jury service inhibits their ability to provide continuous or necessary care for a dependent, such as a child for who they are a legal guardian or a person requiring specialist care for physical or mental impairment.

Some examples which may satisfy this subsection. The applicant is a:

- Stay at home parent or works part-time, has no relatives or friends willing or able to take care of their children and cannot identify or afford suitable paid child care while required for jury service;
- Parent who is unable to reliably access additional care for children if court days go after normal business hours;
- Grandparent or other relative who routinely cares for grandchildren or other children in the circumstances outlined in dot point one above;
- Carer for relatives who are aged or otherwise unable to care for themselves and cannot access suitable or sufficient respite care assistance.

Some examples which may not satisfy this subsection. The applicant is:

- A relative who occasionally babysits;
- Someone who lives with or regularly visits an elderly or infirm person but is not responsible for their care (except as indicated in section 3.1.4.1. of this policy).

Suitable supporting documentary evidence need not always be sought and depends on the specific ground of the request but could include documents such as:

- Carer’s pension card;
- Medical certificate or letter from medical practitioner;

- Birth certificate.

3.1.4.5. The applicant's state of health (s.21(1)(e))

The applicant must suffer from a condition or health related circumstance such as a disability that would create a significant degree of hardship or additional effort that is either unreasonable to expect or prevents them from being able to participate in jury service.

Some examples which may satisfy this subsection. The applicant:

- Has a disability that prevents them from being able to access public transport or drive themselves to the courthouse and does not have any other way of getting to the courthouse;
- Is undergoing specialist treatment such as chemotherapy or dialysis;
- Has scheduled surgery or their recovery from surgery will occur during the jury service period;
- Provides a medical certificate that they are unable to perform jury service.
- Should self- isolate during the COVID 19 pandemic because they:
 - Are 70 years of age or older;
 - Are 65 years of age or older with a chronic medical condition;
 - Are an Aboriginal or Torres Strait Islander person with a chronic medical condition; or
 - Have a weakened immune system.
- Is required to undertake quarantine due to possible or actual exposure to the COVID 19 virus.

Some examples which may not satisfy this subsection. The applicant:

- Has mobility issues that require adjustment by the registry to accommodate.

Suitable supporting documentary evidence need not always be sought and depends on the specific ground of the request but could include documents such as:

- Medical certificate or letter from doctor;
- Booking documentation for hospital admission.

Note: An applicant who indicates that they may require support or adjustment to facilitate their participation because of their medical condition or disability should NEVER be encouraged or forced to seek an excusal. If it is impossible or extremely difficult to provide that support or adjustment, the applicant is ineligible for jury service and should be advised accordingly

3.1.4.6. The applicant's health condition is such that they should permanently be excused (s.21(1)(f) & PD 4 of 1997)

The applicant must suffer from a condition that is expected to prevent them from participating in jury service permanently. In such cases, medical evidence to corroborate the claim should usually be obtained. A permanent excusal can then be granted.

Some examples which may satisfy this criteria: The applicant has:

- Cancer or other condition which is expected to be terminal;
- Dementia;
- A mental health or developmental condition that irreversibly impairs their judgement or decision making capacity;
- A medical certificate to the effect that they have a health condition which renders them permanently unfit for jury service.

Some examples which may not satisfy this criteria. The applicant has:

- Cancer that is not terminal;
- Any other health condition that is temporary albeit requiring lengthy treatment.

Suitable supporting documentary evidence need not always be sought and depends on the specific ground of the request but could include documents such as:

- Medical certificate or letter from doctor

3.1.4.7. Contrary to or incompatible with genuine religious belief or conscientious position held (s.21(1)(f) & PD 4 of 2016)

The applicant must claim a religious belief or conscientious position

The Macquarie dictionary defines 'conscientious' as controlled by or done according to conscience. That is the faculty which decides upon the moral quality of one's actions and motives, enjoining one to conformity with the moral law OR the internal recognition of right and wrong as regards one's actions and motives.

Jury service is contrary to that belief or position or that it is incompatible with it.

Some examples which may satisfy this criteria. The applicant:

- Belongs to a religion that is opposed to members sitting in judgment on others;
- Is able to identify their non-religious belief system and how jury service would be contrary or incompatible with it.

Some examples which may not satisfy this criteria: The applicant:

- Claims a generalised prejudice or bias against either the police or defendants in proceedings;

- Is abusive or aggressive in advising they do not intend to perform jury service;
- Claims a conflict of interest by knowing participants in forthcoming proceedings before the court at that location.

Suitable supporting documentary evidence need not always be sought and depends on the specific ground of the request but could include documents such as:

- A letter from a religious leader confirming the belief and, where appropriate, how it is seen as contrary or inconsistent with that belief to participate in jury service.

3.1.4.8. Result in substantial financial hardship to a business which employs (s.21(1)(f) & PD 4 of 2016)

See definitions of ‘substantial’ and ‘hardship’ in paragraph 4.1.2 above.

The hardship must be financial and cannot simply be a matter of inconvenience for the employer.

Some examples which may meet this criteria: The applicant works for a business that:

- Depends solely or largely on the applicant’s skills or knowledge to meet its contractual obligations;
- Cannot afford to employ another person with the applicant’s skills to replace them while performing jury service.

Some examples which may not meet this criteria. The applicant works for a:

- Business whose profits will be reduced by the applicant’s absence but will not face substantial financial hardship as a result;
- Business which will have to re-schedule work to enable the applicant to participate in jury service;
- Government department.

3.1.4.9. Entitled to excusal for prior jury service (s.22)

If the applicant was summonsed for jury service anywhere in Queensland that ended in the last 12 months; and they

- attended as required; or
- if excused for part of the period and attended as required for the balance of the period.

The applicant must be excused from the current jury service period if they request to be excused.

If they do not request an excusal, they may participate in jury service as usual.

Roles and responsibilities

Registry staff are responsible for considering and deciding applications for excusal from jury service under s.21 Jury Act.

Regional Directors and Deputy Principal Registrars are to ensure compliance with this policy.

Glossary

For the purpose of this policy, the following definitions shall apply:

| Term | Definition |
|----------------|---|
| Registry staff | A Queensland Courts' registry staff member who has been appointed as a sheriff, deputy sheriff or registrar, and has had sheriff's duties delegated to them under ss.6 or 7 <i>Jury Regulation 2007</i> . |

Relevant forms

- NIL

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| Related Policy and Procedure | Nil |
| Relevant legislation | Jury Act 1995 Jury Regulation 2007 |
| Relevant practice direction | Supreme Court 4 of 1997 Supreme Court 5 of 2016 District Court 3 of 2016 |