



THE JURY RULES 1990

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 3rd day of September 1990

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 35 of the Juries Act 1981, His Excellency the Governor-General, acting on the advice of the Minister of Justice tendered after consultation with the Chief Justice, the Chief District Court Judge, and the President of the New Zealand Law Society, and by and with the advice and consent of the Executive Council, hereby makes the following rules.

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 RULES

1. Title and commencement—(1) These rules may be cited as the Jury Rules 1990.

(2) These rules shall come into force on the 28th day after the date of their notification in the *Gazette*.

2. Interpretation—(1) In these rules, unless the context otherwise requires,—

“The Act” means the Juries Act 1981:

“Coextensive jury districts” means a jury district constituted under subsection (1) of section 5 of the Act and a District Court jury district constituted under subsection (2) of that section, the 2 districts comprising the same area:

“Jury list”, in relation to coextensive jury districts, includes a copy of the jury list for those districts:

“Secretary” means the Secretary for Justice.

(2) For the purposes of rules 15 to 23 of these rules, the term “Registrar” includes any officer of a Court who is deputed by a Registrar of that Court to perform the functions of the Registrar for the purposes of a particular trial.

Jury Lists

3. Registrar to require preparation of list—The Registrar of the Court in every jury district shall, on or before the date fixed for the purpose and notified to the Registrar of the Court by the Secretary (being a date not later than the 1st day of November) in every year, forward to the Secretary a notice on a form supplied by the Secretary requesting the preparation of a list of jurors for the jury district, and stating the number of persons that in the Registrar’s estimate will be required for the new jury list.

4. Secretary to call upon Chief Registrar of Electors to prepare jury lists—(1) The Secretary shall, on or before the 1st day of November in every year, send to the Chief Registrar of Electors a notice calling upon the Chief Registrar of Electors to prepare a list of jurors for each jury district specified in the notice.

(2) The Secretary shall, in the notice,—

(a) Clearly describe each jury district for which a jury list is required; and

(b) State the number of persons to be included in each such list, being—

(i) In the case of coextensive jury districts, the sum of the numbers specified in respect of those districts by the Registrar of

the High Court and the Registrar of the District Court under rule 3 of these rules; or

(ii) In any other case, the number specified in respect of that district by the Registrar under that rule; and

(c) State the address of the Registrar to whom each jury list is to be sent.

5. Chief Registrar of Electors to prepare lists and forward to Registrars—(1) As soon as practicable after receipt of the notice under rule 4 of these rules, the Chief Registrar of Electors shall, in respect of each jury district specified in the notice, compile a jury list in accordance with subsections (2) to (4) of section 9 of the Act.

(2) The Chief Registrar of Electors, on completing a jury list, shall number the names on it consecutively, commencing with the number “1”.

(3) Having complied with subclauses (1) and (2) of this rule, the Chief Registrar of Electors shall,—

(a) In the case of coextensive jury districts, forward the jury list for those districts to the Registrar of the High Court, and a copy of that list to the Registrar of the District Court, in those districts; or

(b) In any other case, forward each jury list to the appropriate Registrar.

6. Registrar to prepare numbered cards—(1) On receipt of the jury list from the Chief Registrar of Electors under rule 5 (3) of these rules, the Registrar shall, in respect of each name on the list, prepare a card bearing the number assigned to that name by the Chief Registrar of Electors under rule 5 (2) of these rules.

(2) In the case of coextensive jury districts, the Registrar of the High Court only (and not the Registrar of the District Court) shall comply with subclause (1) of this rule.

7. Registrar to ensure confidentiality of jury list—The Registrar shall ensure that, when a jury list is not in use, it is kept in the Court safe, and generally shall take all such steps as the Registrar considers necessary to protect the confidentiality of the list, having regard to the provisions of section 9 (6) of the Act.

Jury Panels

8. Registrar to prepare provisional panel—(1) Whenever, under section 13 (1) of the Act, the Registrar is required to prepare a panel from the jury list, the Registrar shall place all the numbered cards prepared under rule 6 of these rules in a suitable container and shall draw from the container, in such a manner as to ensure random selection, a sufficient number of cards to ensure enough jurors for the period in respect of which the panel is to be used.

(2) As each card is drawn, the number on it shall be recorded, and the card kept separate until sufficient cards have been drawn.

(3) When the Registrar has drawn sufficient cards, the Registrar shall record in writing, in alphabetical order of surname, the names of persons corresponding to the numbers drawn, and their addresses, occupations, and dates of birth.

9. Registrar to check provisional panel and draw up final panel—(1) After preparing the written record required by rule 8 (3) of these rules but before summoning the jurors in accordance with rule 10 of these rules, the Registrar shall check the record, and shall strike out the name and other particulars of any person who, according to the Registrar’s

information, is dead or has left New Zealand or is over the age of 65 years, or who is otherwise prevented from serving on a jury by the Act or excused by an order of a Judge from jury service for a period not yet expired.

(2) After complying with subclause (1) of this rule, the Registrar shall set out the remaining names, addresses, and occupations (but not dates of birth) in a fresh record, and that record shall constitute the jury panel.

Attendance and Excusal

10. Registrar to summon jurors—(1) The Registrar shall summons each juror on the panel at least 10 clear days before the date on which the juror is required to attend the Court.

(2) Every such summons shall be in form 1 in the First Schedule to these rules.

(3) Service of a summons may be effected in any of the following ways:

(a) By personal service:

(b) By ordinary post, addressed to the juror at the address shown on the jury list, or by leaving it at that address:

(c) By registered post, addressed to the juror at that address.

(4) Personal service may be proved by affidavit or upon oath at the hearing.

(5) Where service is effected by registered post, the summons shall, in the absence of evidence to the contrary, be deemed to have been served on the juror when the letter would have been delivered in the ordinary course of post; and in proving service it shall be sufficient to prove that the summons was properly addressed and posted.

11. Excusal from jury service—(1) Where any person summoned for jury service applies to the Registrar to be excused from service under section 15 of the Act, the Registrar shall consider the matter and inform the applicant of the Registrar's decision as soon as practicable.

(2) If the Registrar declines the application, the Registrar shall also inform the applicant of the applicant's right of appeal against that decision under section 15 (4) of the Act.

(3) Where the applicant wishes to appeal, the applicant may—

(a) Make oral submissions on the matter to a Judge; or

(b) Require the Registrar to place a written application before a Judge, in which case the Registrar shall refer the document to a Judge as soon as practicable.

(4) When an appeal is determined, the Judge shall give or cause his or her decision to be given to the appellant in such manner as the Judge thinks fit.

(5) Every person who is summoned for jury service shall, notwithstanding any application or appeal under section 15 of the Act and this rule, remain liable to attend at the appointed time unless informed by a Judge or the Registrar that he or she has been excused from jury service.

12. Registrar to keep record of jurors summoned or excused—The Registrar shall keep a record of the names of persons summoned for jury service, and of those excused from service, for a period of at least 2 years.

13. Registrar to prepare jury cards—The Registrar shall prepare a separate jury card in respect of each juror summoned for, and not excused from, jury service, and shall place the cards in a suitable receptacle, to be known as the principal ballot box.

14. Jurors to assemble in Court precincts—The jurors summoned to attend a Court at a particular time shall assemble at that time in the area of the Court precincts designated for the purpose by the Registrar.

Constitution of Juries

15. Preliminary balloting of jurors—(1) Subject to rule 18 of these rules, where a jury is required for a particular trial, the Registrar shall, in the presence of the available jurors and of any party who wishes to be present, draw out of the principal ballot box, in such a manner as to ensure random selection, a sufficient number of jury cards.

(2) The cards drawn out of the principal ballot box in accordance with subclause (1) of this rule shall, at the place where they are so drawn out, be placed by the Registrar in the courtroom ballot box.

16. Escorting of jurors to courtroom—Where the preliminary balloting of jurors under rule 15 of these rules takes place out of the courtroom in which the trial is to be held, the Registrar shall, when that balloting has been completed, escort the balloted jurors to that courtroom.

17. Balloting of jurors—Where cards drawn out of the principal ballot box, have, in accordance with rule 15 (2) of these rules, been placed in the courtroom ballot box, the Registrar shall in open Court, and in the presence of the parties, draw out of the courtroom ballot box, in such a manner as to ensure random selection, the number of jury cards sufficient to constitute the jury.

18. Judge may dispense with preliminary balloting—(1) The trial Judge may in respect of any particular trial direct that the provisions of rule 15 of these rules shall not apply, in which case the provisions of subclause (2) of this rule shall apply.

(2) Where the trial Judge directs, in respect of any particular trial, that the provisions of rule 15 of these rules shall not apply, the Registrar shall in open Court, and in the presence of the available jurors and of the parties, draw out of the principal ballot box, in such a manner as to ensure random selection, the number of jury cards sufficient to constitute the jury.

19. Calling of jurors—(1) Each juror shall be called as his or her name is drawn in accordance with rule 17 or rule 18 (2) of these rules.

(2) As a juror is called, he or she shall move forward and take his or her seat unless challenged or ordered to stand by.

20. Insufficiency of jurors—If, after all proper challenges have been allowed, there are insufficient jurors to constitute a jury, the Registrar shall ballot further jurors in accordance with—

(a) Rules 15 and 17 of these rules; or

(b) Rule 18 of these rules,—

as the case may require, and so on until sufficient jurors remain after all such challenges have been allowed.

21. Excess of jurors—The jury cards balloted in accordance with rule 15 (1) or rule 18 (2) of these rules but not required for a particular trial shall be returned to the principal ballot box.

22. Swearing of jurors—The persons who constitute the jury shall be sworn in open Court in form 2 in the First Schedule to these rules.

23. Cards kept apart until verdict recorded or jury discharged—The cards of the persons who constitute the jury shall be kept apart until the jury’s verdict has been given or the jury has been discharged.

24. Secretary may prescribe and supply information to accompany jury summons—Notwithstanding anything in rule 10 of these rules, the Secretary may from time to time prescribe such information as the Secretary considers necessary or desirable for the purposes of the Act and these rules to be printed on or delivered with every summons served under that rule; but the service of any such summons shall not be deemed ineffectual merely because any such information so prescribed was not printed on or delivered with the summons.

Miscellaneous Provisions

25. Security for costs of view in civil case—The Registrar shall fix the amount of a deposit required under section 29 (1) of the Act to be made in respect of the expenses of a view in a civil case as the sum that the Registrar reasonably considers to be sufficient to cover the travelling expenses of the Judge, the jurors, the parties and their counsel, and any other person that the Judge directs to attend the view.

26. Fee for jury in civil cases—The fee payable in a civil case under section 31 of the Act for every day or part of a day on which the jury serves shall be as follows:

	\$	
(a) For the first day or part of a day	700.00
(b) For each subsequent day or part of a day	350.00.

27. Accommodation, refreshment, and meals—During any trial, the Registrar shall provide the jurors with such accommodation, refreshment, and meals as the Judge may think fit to direct.

28. Fees and expenses—(1) Every juror shall be paid a fee for attendance at any sitting of the Court at the rate specified in Part A of the Second Schedule to these rules.

(2) Every juror shall be entitled to travelling expenses fixed in accordance with Part B of the Second Schedule to these rules.

29. Fees inclusive of goods and services tax—The fees fixed by these rules are inclusive of goods and services tax under the Goods and Services Tax Act 1985.

30. Revocations—(1) The rules specified in the Third Schedule to these rules are hereby revoked.

(2) The Fees Regulations 1987* are hereby amended by revoking so much of the Schedule as relates to the Jury Rules 1982, Amendment No. 3.

*S.R. 1987/68



SCHEDULES

FIRST SCHEDULE

FORMS

Rule 10 (2)

Form 1

JURY SUMMONS

..... Court
at
Telephone:

To: [Full name and address]

YOUR NAME HAS BEEN DRAWN AT RANDOM FROM THE JURY LIST.

You are summoned to attend as a juror at the High (or District) Court foyor, [Street], [Town] on theday of19... at 9.45 a.m. for that day and the rest of that week.

If your address has changed from that given above, please inform me right away.

If you are not listed in the telephone book, please give me a contact number so you can be told if there are any changes to the sitting times of the Court.

If you wish to be excused from jury service at the time specified above, please write to me immediately.

If you require any further information, please telephone the number shown above and ask for the Jury Officer.

.....
Registrar

Form 2

JUROR'S OATH

Rule 22

Members of the Jury:

Do each of you swear by Almighty God (or solemnly and sincerely affirm) that you will try the case before you to the best of your ability and give your verdict according to the evidence?

SECOND SCHEDULE

FEES AND EXPENSES

PART A

Fees

1. The rates at which fees shall be paid to jurors for attendance at sittings of the Court, whether in civil or criminal cases, shall be as follows:

	\$
(a) For every day on which attendance is required for a period not exceeding 3 hours	17.00
Provided that the fees prescribed by paragraph (b) of this clause may be paid in any case where the Registrar is satisfied that the juror, through attendance at Court, will be absent from work for a full day:	
(b) For every day on which attendance is required for a period exceeding 3 hours	34.00
Provided that where attendance is required after 6 o'clock in the afternoon but not later than 9 o'clock in the evening, the fee shall be	
	48.00
And provided further that where attendance is required after 9 o'clock in the evening, the fee shall be	
	69.00

2. Notwithstanding clause 1 of this Part of this Schedule, the Secretary may authorise the sums payable under that clause to be increased in any case where the Secretary considers that, by reason of exceptional circumstances, it is desirable to do so.

PART B

Expenses

The expenses to be paid to jurors for travelling to and returning from any sittings of the Court shall be as follows:

- (a) The actual cost of travelling by public conveyance:
- (b) In special circumstances, where the Registrar thinks fit, the cost of travelling by taxi:
- (c) Where no public conveyance is available, and no allowance is made under paragraph (b) of this Part of this Schedule, if the distance travelled exceeds 3 kilometres one way, an allowance at the rate of 38c a kilometre."

THIRD SCHEDULE
RULES REVOKED

Rule 30

Title	Serial Number
The Jury Rules 1982	1982/77
The Jury Rules 1982, Amendment No. 5 ..	1987/195
The Jury Rules 1982, Amendment No. 6 ..	1988/145
The Jury Rules 1982, Amendment No. 6 ..	1989/17

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the rules, but is intended to indicate their general effect.

These rules, which come into force on the 28th day after the date of their publication in the *Gazette*, are a consolidation of the Jury Rules 1982 and their amendments. Those rules prescribe the procedure to be followed for the compilation of jury lists and jury panels, the constitution of juries, the swearing of jurors, the payment of fees and expenses to jurors, and various other matters for the purposes of the Juries Act 1981.

Regulations 15 to 20 represent the only substantive change to the 1982 rules. They amend the procedure to be followed for the constitution of juries. Under the Jury Rules 1982 it is not clear whether a balloting procedure must take place in all cases before the calling of jurors in the courtroom. The purpose of the amendment is to make clear provision for an alternative method of jury selection. This enables the trial Judge to stipulate in relation to a particular trial that the preliminary balloting procedure will not apply. In such cases, the balloting and calling of jurors is instead conducted contemporaneously.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 6 September 1990.

These rules are administered in the Department of Justice.