

## CHAPTER 38.

## JURORS AND ASSESSORS.

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## CHAPTER 38.

## JURORS AND ASSESSORS.

**An Ordinance to Consolidate and Amend the Law relating to Jurors and Assessors, and to Trial by Jury and Assessors.**

[13TH NOVEMBER, 1905.]

35 of 1905.  
49 of 1932.  
17 of 1935.  
Sec. 65 of  
39 of 1932.  
30 of 1946.  
2 of 1955.  
34 of 1959.  
Short title.

1. This Ordinance may be cited as the Jurors and Assessors Ordinance.

2. In this Ordinance, unless the context otherwise requires—  
“ Court ” means the Supreme Court, as constituted by the Courts Ordinance, and any Ordinance amending or replacing the same.

Interpreta-  
tion.

Cap. 7.

“ assessors ” means assessors under this Ordinance.

“ employer ” means any person who has entered into a contract to employ any person and includes the agent, manager or factor of such person, and includes the Government and any officer of the Government who has entered into a contract of service on behalf of the Government.

34 of 1959.

## PART I.—QUALIFICATIONS OF JURORS, AND PREPARATION OF JURORS' LISTS.

3. From and after the passing of this Ordinance, the following male persons, whether British subjects or not, shall be qualified, and, subject to the provisions contained in section 4 of this Ordinance, liable to serve on any jury for the trial of any cause, in the criminal jurisdiction of the Court in the Colony; namely, every man between the ages of twenty-one and sixty years, both inclusive, residing in any part of the Colony—

Property and  
other quali-  
fications of  
jurors.

2 of 1955

(a) who shall be *bona fide* owner in his own right or name of any freehold property in the said Colony producing or worth on the average, one year with another, the sum of sixty pounds or more per annum; or

(b) who shall pay any rent amounting or equivalent to eighty pounds or more per annum for any lands or tenements within the Colony; or

(c) who shall be owner and pay rent conjointly as aforesaid to an annual amount of eighty pounds or more; or

(d) whose average annual income from all sources amounts to two hundred pounds or more:

Provided always, that if more than one person shall jointly be owners of such property, or jointly pay such rent as aforesaid, then one of such persons, if a male, shall serve on such jury for every sixty pounds of such annual value or eighty pounds of such annual rent as aforesaid:

Provided also, that no man who does not sufficiently understand and speak the English language, and no man who has been or shall be convicted of any treason or felony, or of any crime that is infamous, unless he shall have obtained a free pardon, shall serve, or be qualified to serve, as a juror in any Court of law in the said Colony.

Exemptions.  
34 of 1959.

4. The following persons shall be exempted from serving on any jury—

(i) Members of the Executive Council and Members of the House of Representatives;

(ii) Salaried officials of any foreign government;

(iii) The Mayor of Freetown;

(iv) Barristers and Solicitors of the Supreme Court in actual practice and their clerks;

(v) Medical Practitioners and Dentists in actual practice and registered as such and their Dispensers and Assistants;

(vi) Druggists in actual practice registered and licensed as such;

(vii) Clerks in Holy Orders, Priests and Ministers of religion;

(viii) Teachers in any public or private school;

(ix) Masters of vessels;

(x) Pilots in actual practice and licensed as such;

(xi) Telegraphists in the employ of any Telegraph Company;

(xii) The Managers and Cashiers of any Banks, but so that not more than four persons (to be designated by name on the list furnished under sub-section (3) of section 5 of this

Ordinance) from any one branch of each bank shall be so exempted;

(xiii) Officers and men of Her Majesty's Army and Navy on service in Sierra Leone;

(xiv) Magistrates, Justices of the Peace, officers of the Court and other persons employed in the Judicial Department;

(xv) Clerks and other persons employed in the Legal Department;

(xvi) Police officers and constables and other persons employed in the Police Department;

(xvii) Prison officers and warders and other persons employed in the Prisons Department;

(xviii) Holders of such other offices under the Crown, as the Governor may, from time to time, require to be exempted.

5. (1) The Magistrates shall prepare and settle the jurors' lists for their respective districts for the year commencing on the first of January, in accordance with the provisions of sections 8 to 13 inclusive of this Ordinance.

Preparation  
of jurors'  
lists.

34 of 1959.

(2) The Principal Immigration Officer shall during the first week of August in each year furnish the Senior Police Magistrate, Freetown, with a list of the names of all aliens known by him to be resident in the Colony.

(3) The employer of every person resident in the Colony in receipt of a salary of two hundred pounds or more per annum shall during the first week of August in each year furnish the Senior Police Magistrate, Freetown, with a list of the names and addresses of all such employees, and upon failure to do so shall be liable on summary conviction to a fine not exceeding five pounds for every such person whose name he has failed to furnish as aforesaid.

(4) The Establishment Secretary shall during the first week of August in each year furnish the Senior Police Magistrate, Freetown, with a list of the names of all office-holders who have been exempted under item (xviii) of section 4 of this Ordinance.

(5) The Town Clerk of the Freetown Municipality and, if called upon by the appropriate Magistrate, the Presidents of the Rural Area Council and of the Sherbro Urban District Council, shall, during the first week of August in every year, send to the Magistrate a list of all owners of premises having an assessed annual value of sixty pounds or more and of all occupiers whose rent is eighty pounds or more per annum according to the Valuation Roll for the time being in force.

(6) The Magistrates may use the information furnished under this section as evidence, but without prejudice to their taking other evidence, for the purpose of preparing and settling the jurors' lists.

Publication  
of jurors'  
lists.

6. The Magistrate in charge of each judicial district of the Colony shall, between the first day of August and the first day of September in every year, make lists of the persons resident in each town or place within his district who are, in his opinion, qualified and fit to serve as jurors, setting out the name and the occupation and place of abode, and the nature of the qualification of each person, and shall (within ten days thereafter) cause true copies of such lists to be posted in some conspicuous place on his Court House, on the police stations and churches and chapels in their district, for the inspection of the public, where they shall be permitted to remain for a period of three weeks, to the end that any persons may apply to him by notice in writing, to have their names either added to or struck off such lists upon cause duly assigned in such notice.

Information  
to be given to  
Magistrate,  
when  
required.

7. The Magistrate shall have the like powers and authority for summoning persons to give on oath their full names, occupations, places of abode, and true answers relating to their qualifications as jurors when required for the purposes of this Ordinance, for committing to the common gaol any person refusing to take an oath or affirmation, or to give evidence as aforesaid, for ordering any persons to be taken into custody who shall wilfully insult or interrupt the Magistrate, or otherwise misbehave, and for committing every such offender to the common gaol or house of correction, as are possessed by the Magistrate, in such and the like cases under any Ordinance in force, and all other powers and authority of the Magistrate under such Ordinance, which the Magistrate may find it necessary to exercise for the purpose of carrying out and enforcing the provisions of this Ordinance, and which may be applicable thereto.

Settlement  
of lists by  
Magistrate.

8. On the first day of October in every year, which is not a Sunday or Public Holiday, the Magistrate, together with such Justices of the Peace as may be able to attend, shall hold a public sitting in the Court House of his district, for considering and disposing of all such notices as he shall have then received, and shall then revise and settle the lists by the addition to, or taking away therefrom, of names, and by correcting any error as to the names, occupations or places of abode, and the nature of the qualification of any persons included therein. The

persons named in such notices, and such other persons as the Magistrate may require, shall be bound to attend such sitting.

9. Any person, who on any examination on oath under any of the provisions of this Ordinance wilfully and corruptly gives false evidence, shall be liable to the pains and penalties of perjury. Perjury.

10. The Magistrate in settling the lists shall mark off the names of such persons as he shall deem suitable to serve as special jurors in each district. No person shall be exempted from serving as a common juror by reason of being marked as a special juror. Special jurors.

11. The Magistrate, upon the lists being so settled, shall send signed copies thereof to the Sheriff or under-Sheriff. Each list so prepared and delivered as aforesaid shall constitute the jurors' list for the district for which the same has been prepared, and shall come into operation on the first day of January in the next following year. The Sheriff shall keep such lists amongst the records of his office and shall also, at every sitting of the Supreme Court, have there a fair copy of such lists for the then current year for the inspection of any person whose name is borne on the said lists, or by any public officer, or by any legal practitioner in actual practice. Despatch of copies of lists to be sent to Sheriff.

12. Whenever, in the exercise of any of the duties hereinbefore imposed upon the Magistrate, he may consider it expedient so to do, he may call to his aid any Justice or Justices of the Peace having jurisdiction within his district, and such Justice or Justices shall thereupon, unless they are prevented from attending by good and sufficient reasons, attend at the time and place named by such Magistrate, and aid and assist him in his duties as aforesaid. Justices of the Peace to assist Magistrate.

13. In the case of the inability of the Magistrate from any cause to perform the duties and to exercise the powers and authorities conferred by Part I of this Ordinance, it shall be lawful for the Governor, from time to time, to appoint in writing any other person to perform the said duties and to exercise the said powers and authorities. Appointment of other persons to perform duties of Magistrate.

14. The Governor may at any time exempt and exclude by public notice any district or districts of the Colony from returning jurors. Exemption of districts from returning jurors.

## PART II.—PANEL OF JURORS.

Formation  
of jury  
panel.

15. Whenever it shall be necessary to form a panel of jurors to serve at any session, the Sheriff, in conjunction with an officer nominated by the Judge, shall cause the names of the jurors in the list, resident at and near the district, to be written on separate cards or pieces of paper of equal size and placed in ballot boxes to be kept for that purpose, and shall draw from the said boxes such number of names, as the Court may direct, of special jurors and common jurors to form a panel, and the cards or slips so drawn shall thereupon be locked up in separate boxes until the whole of the names of the jurors, except those who may have served at the last preceding session, shall be returned to the ballot boxes, and, when required, the names shall be re-drawn in manner aforesaid.

Names to be  
passed over.

16. The names of jurors, who shall be dead, disqualified, or no longer resident in the district, shall be passed over by the Sheriff in forming a panel.

Addition and  
removal of  
names.

17. In the event of any person liable and suitable to serve as a juror being found at any district after the lists are settled for the year, it shall be lawful for the Magistrate to place the name of such person on the list, either as a special or common juror, as the case may be, and such person shall be liable to serve as such juror till fresh lists are brought into force; and whenever any juror on the lists may have become disqualified, his name shall be expunged.

Sheriff to  
summon  
jurors.

18. The Sheriff, before the sitting of any Court whereat a jury shall be necessary, shall, on receiving from the Court a precept, issue summonses requiring the attendance thereat of the persons so drawn as aforesaid from the ballot box, and every such summons shall be personally served upon, or left at the usual or last known place of abode of, the person so summoned, two clear days, or such other time as the Court may direct, before the day appointed for the sitting of the Court.

Summonses  
to additional  
jurors.

19. If any of such persons cannot be found, the Sheriff shall obtain so many additional names drawn in the aforesaid manner as may be necessary to make up the jurors to the proper number, and shall issue summonses to such persons in like manner.

Delivery of  
panel to  
Master.

20. The Sheriff shall cause to be delivered to the Master of the Court a panel containing the names, occupations and places of abode of the persons so summoned, a copy of which shall be affixed by the Master in a conspicuous place in the Court Hall.

21. If a Sessions shall be held at any place for which a jurors' list may not have been prepared under this Ordinance, the Sheriff may prepare a temporary jurors' list for the purpose of such Sessions, and all the provisions of this Ordinance shall, as far as applicable, apply in the case of the persons whose names are entered, whether as common jurors or as special jurors upon such temporary list.

Sessions at a place for which there is no jurors' list.

22. Any person summoned to attend the Court as a juror, who shall not without reasonable excuse (the burthen of proof whereof shall rest on such juror) duly attend and be present at the Court and at all times appointed by the Court for adjournments, and any person present in Court, who, being called to serve as a juror, shall without reasonable excuse refuse to serve till discharged by the Court, shall be guilty of contempt of Court, and be liable to a fine which may extend to twenty-five pounds.

Penalty on jurors not attending or refusing to serve.

23. Such punishment may be inflicted summarily on an order to that effect by the Court, and any fine imposed shall be recoverable by distress and sale of the movable and immovable property of the person fined, by warrant of distress to be signed by the Master of the Court, which warrant shall be issued by the Sheriff without further order of the Court, if the amount of fine is not paid within six days of its having come to his knowledge by notice or otherwise that the fine has been imposed, if imposed in his absence. In default of the recovery of the fine by such distress and sale, the person fined may be imprisoned:

Enforcement of penalty.

Provided always that it shall be lawful for the Court, if it shall deem fit, to remit any fine so imposed.

24. In cases where any person is so fined in his absence, the Master of the Court shall forthwith send him a written notice of the fact, requiring him to pay the fine or to show cause before the Court, within four days, for not paying the same.

Notice to persons fined in absence.

25. (1) Nothing herein contained shall prevent the Court from exempting any person from serving as a juror at any session or any trial for reasonable cause; a certificate bearing the signature of a Medical Officer in Her Majesty's Naval, Military or Overseas Service, or of any physician or surgeon registered as such under any Imperial Statute or local Ordinance, setting out that any person required to attend as a juror is unable from the state of his health to do so, may, on the Court being satisfied of the signature to such certificate, be received as *prima facie* evidence of reasonable cause.

Exemption of jurors.

(2) A Medical Officer shall, on any juror producing his summons to serve at any Session at any public Hospital between the hours of eight and ten a.m., and complaining of ill-health and inability to attend the Session, grant him gratuitously such certificate, should he be found unfit. Jurors resident outside Freetown shall be excused by the Court from serving on the ground of ill-health upon the testimony of two jurors.

Jurors at  
Coroner's  
inquests.

**26.** All persons qualified as jurors under this Ordinance shall be liable to serve as such, not only at any session of the Supreme Court within the district for which they shall have been appointed, but also upon any Coroner's jury, when summoned to attend thereon.

### PART III.—TRIAL WITH A JURY.

On capital  
charge  
verdict to be  
unanimous.

**27.** (1) On the trial of any person or persons for any offence punishable by death the verdict shall be unanimous.

Two-thirds  
majority to  
decide in  
other cases.

(2) On the trial of any person or persons for any offence not punishable by death, if, after deliberation, there be a majority of two-thirds of the jury, the verdict of the majority of two-thirds shall be held, taken to be, and received by every Court in the said Colony as the verdict of the whole jury in the cause:

Provided that where the number of the members of the jury has been reduced to eleven or ten under the provisions of section 37, the majority of eight and seven members of the jury respectively shall be deemed to be the verdict of the majority of two-thirds of the jury required by this section:

Provided further that, if the Court is not satisfied that the verdict of the said majority is in accordance with the weight of the evidence, the Court may refuse to accept it, and in each and every such case the verdict shall be unanimous.

Jury *de*  
*medietate*  
*linguae.*

**28.** No person shall be entitled to be tried by a jury *de medietate linguae.*

Selection of  
jury.

**29.** At the sitting of the Court, the names of all the jurors summoned, special or common, shall be written on separate pieces of card or paper of equal size and put into boxes, and whenever a jury is required, the Master of the Court shall in open Court draw from the proper box by lot until the required number of jurors appear, who, after all just causes of challenge allowed shall remain as fair and indifferent, and the same shall be done whenever it shall be necessary to form a new jury:

Provided that if a case be brought on for trial during the time that a jury in any other case may be deliberating, a new jury may be drawn from the residue of the cards in the boxes.



**30.** Whenever there shall be a deficiency, or when the number of trials before the Court render the attendance of jurors for the whole of any Session oppressive, it shall be lawful for the Court to issue fresh precepts, if necessary, and, subject to all rights of challenge, to put upon the jury as common or special jurors so many men of the bystanders as shall be sufficient to make up the full number thereof, and it shall not be an objection to any such talesman that his name is not upon any jurors' list.

Deficiency of jurors.

*Tales de circumstantibus.*

**31.** When the jurors are ready to be sworn, the Master or other officer of the Court shall address the accused person as follows—

Address by Master to accused before jurors are sworn.

“The jurors who are to try you are now about to be sworn; if you object to any of them, you must do so as they come to the book to be sworn, and before they are sworn, and you shall be heard.”

**32.** There shall be no challenge to the array, and no accused person shall be admitted to any peremptory challenge above the number of three.

Challenge to the array. Peremptory challenges.

**33.** Challenges for cause shall be allowed on any of the following grounds—

Challenges for cause.

(1) presumed or actual partiality or prejudice in the juror, as standing in the relation of husband, master or servant, landlord or tenant to the person accused or to the person supposed to have been injured or affected by the act complained of, or to the person on whose complaint the prosecution was instituted; being in the employment of either of such persons; being plaintiff or defendant against either of such persons in any civil suit, or having complained against or having been accused by either of such persons in any criminal prosecution, or entertaining prejudiced views on the case to be tried;

(2) some personal cause as infancy, old age, deafness, blindness, infirmity or ill-health;

(3) that the juror has been convicted of perjury or other offence, disqualifying him from acting as a juror;

(4) that the juror does not understand the English language, but this shall not be a ground of disqualification, if the juror understands the usual language of the place where trial is held, unless the Court shall think fit so to order.

Trial of challenges for cause.

34. Every challenge for cause, if objected to by the opposite party, shall be tried and determined by the Court without a jury, and the person challenged shall be examined on oath and shall be required to answer on oath, all lawful questions relating to the trial of the challenge.

When jury to be kept together.

35. It shall not be necessary in any case to keep the jury together during any adjournment previous to the close of the Judge's summing up, but it shall be lawful for the Court, if it should appear to it to be advisable in the interest of justice in any trial, to require the jury to be kept together during any adjournment.

Jurors to attend adjournments.

36. If a trial is adjourned, the jurors shall be required to attend at the adjourned sitting and at every subsequent sitting until the conclusion of the trial.

Provision for continuance of criminal trial where a juror dies or becomes incapable.

37. (1) Where in the course of a criminal trial any member of the jury dies or is discharged by the Court as being through illness incapable of continuing to act or for any other reason, the jury shall nevertheless, subject to assent being given in writing by or on behalf of both the prosecutor and the accused and so long as the number of its members is not reduced below ten, be considered as remaining for all the purposes of that trial properly constituted, and the trial shall proceed and a verdict may be given accordingly.

(2) If either the prosecutor or accused shall refuse to give his assent the Court may direct that a juror shall be added and the jury re-sworn, or that the jury shall be discharged and a new jury empanelled; and in either of these cases the trial shall commence anew.

Disagreement of jury.

38. In every case where a jury or the requisite majority cannot agree after deliberation, the Court may, if it shall deem fit, discharge the jury without giving a verdict.

#### PART IV.—TRIAL WITH ASSESSORS.

Trial by assessors on election of accused.

39. Any person or persons charged with any criminal offence not punishable by death may, at the time of being committed or referred for trial, or at any time thereafter up to three clear days at least before the trial of such person or persons, whether he or they had previously elected otherwise or not, elect to be tried by the Court with the aid of assessors, and, if any person or persons shall elect as aforesaid, such person or persons shall be tried by the Court with the aid of assessors instead of being tried by a Judge and jury.

40. The Attorney General, whenever he is of opinion that a more fair and impartial trial of any person or persons charged with any criminal offence, who has or have been committed for trial, can be obtained by such person or persons being tried by the Court with the aid of assessors instead of by a Judge and jury, may make an application to the Court for an order, which shall be made as of course, that any such person or persons shall be tried by the Court with the aid of assessors instead of by a Judge and jury.

Application by Attorney General for trial by assessors.

41. If any person or persons so charged as aforesaid shall elect to be tried by the Court with the aid of assessors, or if the Court shall order any person or persons so charged as aforesaid to be tried by the Court with the aid of assessors, the Judge who is to try the case shall select from the persons summoned to act as special jurors not less than three to assist him in such trial; and such persons shall be assessors within the meaning of this Ordinance and shall aid the Court in any such trial:

Selection of assessors.

Provided always that, whenever there shall be a deficiency of special jurors, it shall be lawful for the Court to issue fresh precepts if necessary.

42. If in the course of a trial with the aid of assessors at any time prior to the finding, any assessor shall, from any sufficient cause, be prevented from attending through the trial, the trial shall proceed with the aid of the remaining assessors or assessor.

Procedure if any assessor unable to attend.

43. The Court may in its discretion from time to time adjourn the trial if necessary. In the event of an adjournment, the assessors shall be required to attend at the adjourned sitting, and at every subsequent sitting till the conclusion of the trial.

Adjournment.

44. If all the assessors are prevented from attending through the trial, the proceedings shall be stayed and a new trial shall be held with the aid of fresh assessors.

Procedure of all assessors unable to attend.

45. (1) Upon any such trial the opinion of each assessor shall be obtained as to all matters arising thereupon which, in the case of a trial by jury, would be left to the decision of the jurors, and such opinions shall be given orally and shall be recorded in writing by the Court. If the assessors selected by the Judge, not being less than three, shall be unanimous, their opinions shall constitute the decision of the Court; but if they be not unanimous the decision shall be vested exclusively in the Judge, who shall record in writing his reasons for the decision.

Assessors' opinions and decision of the Court.

30 of 1946.

The decision of the assessors or of the Judge, as the case may be, shall have the same force and effect as the finding or verdict of a jury.

(2) Any assessor dissenting from any decision of the Court may record in the minutes his dissent and the grounds thereof.

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