



AUSTRALIAN CAPITAL TERRITORY

## **Evidence (Closed-Circuit Television) (Amendment) Act (No. 2) 1994**

No. 96 of 1994

---

---

### **An Act to amend the *Evidence (Closed-Circuit Television) Act 1991***

*[Notified in ACT Gazette S280: 15 December 1994]*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

#### **Short title**

1. This Act may be cited as the *Evidence (Closed-Circuit Television) (Amendment) Act (No. 2) 1994*.

#### **Commencement**

2. This Act commences on the day on which it is notified in the *Gazette*.

#### **Principal Act**

3. In this Act, “Principal Act” means the *Evidence (Closed-Circuit Television) Act 1991*.<sup>1</sup>

#### **Interpretation**

4. Section 2 of the Principal Act is amended by inserting in subsection (1) the following definitions:

“ ‘complainant’, in relation to the alleged commission of a sexual offence, means a person—

- (a) upon whom the offender is alleged to have inflicted, assisted in inflicting, attempted to inflict or threatened to inflict grievous or actual bodily harm with intent that the offender or another person engage in sexual intercourse with, or commit an act of indecency upon or in the presence of, the first-mentioned person;
- (b) whom the offender is alleged to have assaulted or attempted to assault, with intent that the offender or another person engage in sexual intercourse with, or commit an act of indecency upon or in the presence of, the first-mentioned person;
- (c) with whom the offender is alleged to have engaged in or attempted to engage in sexual intercourse;
- (d) with whom the offender is alleged to have maintained a sexual relationship;
- (e) upon whom or in whose presence the offender is alleged to have committed or attempted to commit an act of indecency; or
- (f) whom the offender is alleged to have abducted or detained with intent that the offender or another person engage in sexual intercourse with the first-mentioned person;

as the case requires;

‘prescribed witness’ means a witness prescribed under subsection 3A (1);

‘sexual offence’ means an offence against section 92A, 92B, 92C, 92D, 92E, 92EA, 92F, 92G, 92H, 92J, 92K, 92L or 92M of the *Crimes Act 1900* or an offence of attempting to commit an offence against any of those sections;”.

### **Insertion**

5. After section 3 of the Principal Act the following section is inserted:

#### **Prescribed witnesses**

“3A. (1) For the purposes of this Act, the following witnesses are prescribed:

- (a) a child;

- (b) in relation to proceedings of a kind referred to in paragraph 4 (1) (a), (b), (e) or (ea) in respect of the alleged commission of a sexual offence—the complainant.

“(2) Paragraph (1) (b) ceases to have effect at the expiration of 18 months after the day on which the *Evidence (Closed-Circuit Television) (Amendment) Act (No. 2) 1994* commences.

“(3) Notwithstanding subsection (2), this Act continues to apply in relation to an order made under this Act in respect of a person referred to in paragraph (1) (b) in proceedings that had not been determined before the date on which that paragraph is repealed as if that person continued to be a prescribed witness.”.

#### **Location of prescribed witness giving evidence**

6. Section 4A of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “child” and substituting “prescribed witness”;
- (b) by omitting from subsection (1) “child” (last occurring) and substituting “witness”;
- (c) by omitting from paragraph (2) (a) “child” and substituting “prescribed witness”; and
- (d) by omitting from subsection (4) “child” and substituting “prescribed witness”.

#### **Consequential orders**

7. Section 5 of the Principal Act is amended—

- (a) by omitting from subsection (1) “child” (first occurring) and substituting “prescribed witness”;
- (b) by omitting from subsection (1) “child” (last occurring) and substituting “witness”;
- (c) by omitting from paragraph (3) (a) “child concerned” and substituting “prescribed witness”;
- (d) by omitting from paragraphs (3) (b), (c) and (d) “child” (wherever occurring) and substituting “witness”;
- (e) by omitting from subsection (3A) “child” (first occurring) and substituting “prescribed witness”;
- (f) by omitting from paragraphs (3A) (b) and (c) “child” and substituting “witness”; and

- (g) by omitting from subsection (4) “child concerned” and substituting “prescribed witness”.

#### **Jury warning about adverse inference**

**8.** Section 6 of the Principal Act is amended—

- (a) by omitting “child” (first occurring) and substituting “prescribed witness”; and
- (b) by omitting “child” (last occurring) and substituting “witness”.

#### **Court’s discretions re orders**

**9.** Section 8A of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

“(1) An order under this Act may be made of the court’s own motion or on application—

- (a) by a party to the proceedings;
- (b) by or on behalf of a prescribed witness; or
- (c) in relation to a person who is a prescribed witness by reason of being or having been a child—by a parent or guardian of the person.”.

#### **Failure to comply with Act**

**10.** Section 10 of the Principal Act is amended by omitting from subsection (1) “child” and substituting “prescribed witness”.

#### **Substitution**

**11.** Section 11 of the Principal Act is repealed and the following section substituted:

#### **Attainment of majority during proceedings**

“11. If a person who was a prescribed witness in proceedings by reason of having been a child attains the age of 18 years before those proceedings are determined, that person continues to be a prescribed witness for the purpose of those proceedings.”.

---

#### **NOTE**

1. Reprinted as at 31 August 1993. See also No. 24, 1994.

*[Presentation speech made in Assembly on 10 November 1994]*

© Australian Capital Territory 1994