

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**EXPLANATORY MEMORANDUM**

***SUPREME COURT AMENDMENT BILL 2001 (NO. 2)***  
***A BILL TO AMEND THE SUPREME COURT ACT 1933***

**Distributed by  
Bill Stefa niak MLA  
December 2001**

## **Supreme Court Amendment Bill 2001 (No. 2)**

### **Outline**

This is an amending Bill to amend the Supreme Court Act 1933. The amending Bill introduces new Section 37R to provide for the Crown in certain circumstances to apply to the Court of Appeal for an order to review an acquittal of a defendant by the Supreme Court.

### **Formal Clauses**

#### **Clause 1 - Name of Act**

The Act is the Supreme Court Amendment Act 2001 (No. 2) as stated.

#### **Clause 2 – Commencement**

This Act will commence when Part 11 of the Crimes Legislation Amendment Act 2001 comes into force. This will not happen until Federal Parliament has passed its legislation, enabling this to occur. Part 11 of the Crimes Legislation Act 2001 provides for amendment to the Supreme Court Act and it amended s37E to allow for an “Order to review under s37R”. Section 37R was defeated, and this current Bill provides for an insertion to a new s37R in Part 11. The new section provides for “Orders to review acquittals”.

#### **Clause 3 - New Section 37R**

- (1) This proposed subsection states that the clause applies if a defendant has been acquitted of an offence following a trial in the ACT Supreme Court by either a judge sitting alone or in a jury trial.
- (2) This proposed subsection enables the Director of Public Prosecutions to make an application to the Court of Appeal and empowers a Court of Appeal to make an order known as an “Order to review an acquittal” to set aside the acquittal and for the Supreme Court to hold a new trial of the defendant for the offence.
- (3) This subsection restricts the grounds on which a Court of Appeal make an order to review an acquittal to the circumstances where
  - (a) the trial judge either sitting alone or sitting with a jury made an error of law during the course of the trial, or
  - (b) where a trial judge sitting with a jury misdirected the jury to acquit the defendant.

The example given in paragraph (a) is self explanatory.