

1998

**THE LEGISLATIVE ASSEMBLY OF
THE AUSTRALIAN CAPITAL TERRITORY**

**EVIDENCE (CLOSED CIRCUIT TELEVISION)
(AMENDMENT) BILL 1998**

EXPLANATORY MEMORANDUM

Circulated by the authority of the Attorney General

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EVIDENCE (CLOSED CIRCUIT TELEVISION) (AMENDMENT) BILL 1998

Explanatory Memorandum

Outline

The Evidence (Closed Circuit Television) (Amendment) Bill 1998 (the Bill) amends the *Evidence (Closed Circuit Television) Act 1991* (the Act) to revive the operation of a provision which enables complainants in sexual offence matters to give evidence in an ACT court using closed circuit television.

The Act

The Act enables evidence in proceedings before an ACT court to be given by certain classes of witness by closed circuit television (CCTV). The Act, in giving effect to recommendations of the Australian Law Reform Commission, was, initially, limited in its operation to child witnesses (other than where the child is the accused).

In 1994 the Act was amended, consistent with a recommendation of the, then, ACT Community Law Reform Committee (CLRC), to extend the operation of the Act to complainants in sexual offence matters. The extension of the Act to complainants in sexual offence matters was expressed to be for a trial period of 18 months during which the impact of the technology on trials was to be evaluated under the auspices of the CLRC.

In June 1996, at the expiration of the trial period, the application of the Act to complainants in sexual offence matters was extended for a further two years (expiring on 15 June 1998) because it had not been possible to evaluate the impact of the technology in trials - no trials had been conducted using CCTV at that stage.

As of 15 June 1998 complainants in sexual offence matters (other than those in respect of whom a court had made an order permitting the use of CCTV before that date) ceased to be able to give evidence using CCTV

The Bill

The Bill amends the Act to enable complainants in sexual offence matters to give evidence to an ACT court by way of CCTV.

Financial Implications

There are no financial implications arising from the Bill.

Details

Clauses 1, 2 and 3 are formal provisions dealing with the short title of the Bill, once enacted, the commencement of its provisions and references in the Bill to the term 'Principal Act'.

Subclause 4(1) amends section 3A of the Act. Section 3A of the Act describes the categories of witnesses who are 'prescribed witnesses'. Only prescribed witnesses may use CCTV to give evidence pursuant to the Act.

The amendment omits subsections 3A(2) and (3). Subsection 3A(2) is a spent provision. It is the sunset clause which had the effect of repealing paragraph 3A(1)(b) on 15 June 1998. The effect of paragraph 3A(1)(b) was that complainants in relation to sexual offences were prescribed witnesses.

Subsection 3A(3) is also a spent provision. It ensured that once paragraph 3A(1)(b) was impliedly repealed by the operation of subsection 3A(2), complainants in respect of whom a court had, before 15 June 1998, made an order enabling evidence to be given by CCTV, could continue to give evidence using that medium.

Subclause 4(2) has the effect of reviving the operation of paragraph 3A(1)(b), which renders complainants in sexual offence matters prescribed witnesses.