

AUSTRALIAN CAPITAL TERRITORY

EVIDENCE ORDINANCE 1971

EXPLANATORY MEMORANDUM

No. 4 of 1971

The purpose of this Ordinance is to introduce up-to-date rules relating to the admission of evidence in the courts of this Territory.

The Ordinance is the result of some years' part-time work by a small Committee, comprising Mr. Justice Fox, the former Solicitor-General, Mr. A.F. Mason, Q.C., and two officers of the Attorney-General's Department. When Mr. Mason was appointed to the New South Wales Court of Appeal, Mr. D.E. Harding, Senior Lecturer in law at the Australian National University, joined the committee.

The provisions of the Ordinance are designed to facilitate the admission of evidence, subject to proper safeguards. The Ordinance is not a complete code of the law of evidence, and will have to be read not only with certain common law rules of evidence, but also with other legislation in force in the Territory containing evidentiary provisions. It will replace the Evidence Act, 1898, the Royal Commissioners Evidence Act, 1901 and the Witnesses Examination Act, 1900 and certain sections of the Crimes Act, 1900 of New South Wales in their application in the Territory.

New rules of evidence are to be found in Part VI. – Admissibility of statements in documents; Part VII. – Admissibility of documents produced by computers; and Part XI. – Admissibility of convictions in civil proceedings. These are all based on recent English legislation. Many other changes have been made to the existing law.

The rules apply to all proceedings, civil and criminal, except where specifically provided otherwise.

The draft Ordinance has been considered, and was very favourably received by the Australian Capital Territory Law Society and the Advisory Council.