

1992
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Evidence (Amendment) Bill 1992

**A BILL
FOR
An Act to amend the *Evidence Act 1971*, and for
related purposes**

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

Short title

1. This Act may be cited as the *Evidence (Amendment) Act 1992*.

5 **Commencement**

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

Principal Act

3. In this Act, "Principal Act" means the *Evidence Act 1971*.¹

Substitution

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4. Section 2 of the Principal Act is repealed and the following section substituted:

Validation

"2. Notwithstanding the disallowance of the provisions of the *Evidence Ordinance 1971* by the Senate of the Commonwealth Parliament, this Act is to be taken for all purposes—

- 5 (a) to have continued in force as an Ordinance from the time of that disallowance until the expiration of 30 June 1992; and
- (b) on and after 1 July 1992—to have been, and to be, an enactment."

Substitution

- 10 5. Section 63 of the Principal Act is repealed and the following sections are substituted:

Evidence in writing

- 15 "63. In a proceeding, a party or a witness may give evidence in writing if the court is satisfied that he or she is unable to communicate effectively otherwise than in writing, even with the assistance of a competent interpreter within the meaning of section 63A.

Interpreters

"63A. (1) In a proceeding, where a party or a witness is—

- (a) unable to communicate effectively in English; or
- 20 (b) unable to hear, or to speak, effectively;

the court shall permit the party or witness to be assisted by a competent interpreter, subject to subsection (2).

- 25 "(2) A court shall not permit a party or a witness in a proceeding to be assisted by an interpreter where the court considers that it would not be in the interests of justice to do so.

"(3) A competent interpreter shall be provided for the purposes of subsection (1) by—

- (a) in the case of a criminal proceeding—the prosecutor; or
- 30 (b) in any other case—the party requiring the assistance of the interpreter, or the party whose witness requires that assistance, as the case may be.

"(4) In this section—

- 35 'competent interpreter', in relation to assistance required by a party or a witness, means any person competent to provide assistance of the type required."

Unsworn evidence of young children

6. Section 64 of the Principal Act is amended by omitting subsection (3).

Abolition of rules about corroboration

5 7. Section 76F of the Principal Act is amended by omitting subsection (4).

Amendment of *Evidence (Closed-Circuit Television) Act 1991*

8. Section 11 of the *Evidence (Closed-Circuit Television) Act 1991* is repealed.

10 **Amendment of *Magistrates Court Act 1930***

9. (1) Section 54 of the *Magistrates Court Act 1930* is amended by omitting "Subject to section 54AA, if" and substituting "If".

(2) Section 54AA of the *Magistrates Court Act 1930* is repealed.

15 **Repeal of *Australian Capital Territory Evidence (Temporary Provisions) Act 1971***

10. The *Australian Capital Territory Evidence (Temporary Provisions) Act 1971* is repealed.

NOTE

1. Reprinted as at 31 May 1989.