

2003

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

GOVERNMENT AMENDMENTS

to the

EVIDENCE (MISCELLANEOUS PROVISIONS) AMENDMENT BILL 2003

SUPPLEMENTARY EXPLANATORY STATEMENT

Circulated by authority of the
Attorney General
Mr Jon Stanhope MLA

EVIDENCE (MISCELLANEOUS PROVISIONS) AMENDMENT BILL 2003

Amendments to be moved by the Attorney General on 28 August 2003.

The Scrutiny of Bills Committee's report gave rise to two proposed government amendments.

Amendment 1

On page 11 of the report the committee suggests that subclause 53(1) of the Bill might be read in a way to displace the general rule in section 103 of the *Evidence Act 1995* (the Evidence Act) on the admissibility of evidence to challenge a witnesses credibility. If the committee's suggestion is correct subclause 53(1) could have the unintended result of making it easier (rather than harder) to cross examine complainants in sexual offence trials on their past sexual history. This was not the intention and accordingly it is proposed to introduce an amendment to make it clear that section 103 of the Evidence Act is not displaced and that in sexual offence trials a more stringent rule will apply for allowing evidence on the past sexual history of complainants.

Amendments 2 to 5

The committee also made the point, at page 20 of its report, that the use of the term "victim" in Division 4.5 of the Bill (protection of counselling communications) is inappropriate. It has been agreed that the term is not appropriate for use in clauses 55 and 65 of the Bill and accordingly it is proposed to move an amendment to remove that word. Clause 62 also uses the term "victim" but in that context it is considered appropriate because the reference is to victims of sexual offences generally and not to a particular person.