

*Note*

*In order to give effect to the Cross-border Justice Act 2009, this law must be applied with the modifications mentioned in section 13 of the Cross-border Justice Act 2009 as if this law had been altered in that way.*

*For modifications of this law prescribed by regulation, see Part 3, Division 7 of the Cross-border Justice Regulations 2009.*

**NORTHERN TERRITORY OF AUSTRALIA**

**EVIDENCE ACT 1939**

As in force at 1 December 2018

**Table of provisions**

**Part 1 Preliminary matters**

1	Short title .....	1
4	Definitions .....	1
5	Application of Act .....	3
6	Relationship with Evidence (NUL) Act .....	3
6A	Application of Criminal Code 1983 .....	3
12	Medical privilege .....	3

**Part 3 Vulnerable witnesses**

21A	Evidence of vulnerable witnesses .....	3
21B	Evidence of vulnerable witnesses in cases of sexual or serious violence offences .....	7
21C	Evidence given outside the courtroom .....	8
21D	Principles in relation to child witnesses .....	9
21E	Audiovisual record of evidence of vulnerable witness .....	10
21F	Closure of court in certain cases .....	10

**Part 3A Domestic violence offence proceedings**

21G	Definitions .....	11
21H	Evidence of complainant .....	11
21J	Requirements for recorded statement .....	12
21K	Service of recorded statement on defendant's legal practitioner .....	13
21L	Access to recorded statement if defendant unrepresented .....	13
21M	Failure to comply with service or access requirements .....	14
21N	Transcript of recorded statement .....	14
21P	Editing or otherwise altering recorded statement .....	14

21Q	Offence to publish recorded statement .....	14
21R	Part does not affect other provisions .....	15

## **Part 4                    Miscellaneous rules of evidence**

24	Evidentiary certificate by reporting scientist.....	15
26E	Exception to rule against hearsay evidence .....	17

## **Part 5                    Communication links**

### **Division 1            Preliminary matters**

49	Interpretation .....	18
49B	Application of Part .....	19
49C	Procedural rules .....	19

### **Division 2            Use of communication links generally**

49D	Application of Division .....	19
49E	Territory entity may take evidence from another place.....	20
49F	Appearance, giving evidence or making submissions by audiovisual link .....	20
49G	Appearance, giving evidence or making submissions by audio link .....	21
49H	Appearance, giving evidence or making submissions by visual link .....	21
49I	Premises to be considered part of place where entity is sitting ....	21
49J	Expenses.....	22
49K	Administration of oaths.....	22
49L	Putting documents to remote person.....	23
49M	Putting objects to remote person.....	23

### **Division 3            Use of interstate audiovisual links or audio links in Territory proceedings**

49N	Application of Division .....	24
49P	Territory entity may take evidence and submissions from outside Territory.....	24
49Q	Giving evidence or making submissions by audiovisual link.....	25
49R	Giving evidence or making submissions by audio link.....	25
49S	Expenses.....	25
49T	Counsel entitled to practise .....	26

### **Division 4            Use of interstate audiovisual links or audio links in interstate proceedings**

49U	Application of Division .....	26
49V	Interstate entity may take evidence or receive submissions from persons in Territory .....	26

---

49W	Powers of interstate entity .....	26
49X	Orders made by interstate entity .....	27
49Y	Enforcement of order.....	27
49Z	Privileges, protection and immunity of participants in interstate proceedings.....	27
49ZA	Interstate entity may administer oath in Territory.....	28
49ZB	Assistance to interstate entity.....	28
49ZC	Contempt of interstate entity.....	28
49ZD	Conduct constituting contempt of interstate entity.....	29

## **Part 6 Evidence on commission**

### **Division 1 Taking outside Territory of evidence for Territory proceedings**

50	Order for taking of evidence .....	30
51	Admissibility of evidence .....	31

### **Division 2 Taking within Territory of evidence for proceedings elsewhere**

52	Application to Supreme Court for order to obtain evidence.....	32
53	Power of Supreme Court to give effect to application .....	33
54	Privilege of witnesses .....	34
55	Misleading testimony .....	35

## **Part 7 Confidential information**

56	Definitions.....	35
56A	Application of Part .....	36
56B	Protection of confidential communications .....	37
56C	Notice of intention to apply for leave to adduce or produce evidence of confidential communication.....	37
56D	Procedural matters relating to application for leave.....	37
56E	Giving leave to adduce or produce evidence of confidential communication .....	38
56F	Limitation on privilege under this Part .....	39
56G	Ancillary orders where evidence of confidential communication to be adduced or produced .....	39

## **Part 8 Publication of evidence**

57	Prohibition of the publication of evidence and of names of parties and witnesses .....	40
58	Temporary prohibition of the publication of evidence where witnesses ordered out of court .....	41
59	Contravention of order.....	42

---

<b>Part 9</b>	<b>Other matters</b>	
62	Proof of <i>public place</i> in certain cases .....	42
62A	Proof of place being within local government area etc. ....	42
65	Regulations.....	43
<b>Part 10</b>	<b>Transitional provisions</b>	
<b>Division 1</b>	<b>Transitional matters for Evidence Legislation (Authorised Persons) Amendment Act 2009</b>	
66	Savings – authorised officers .....	43
<b>Division 2</b>	<b>Transitional matters for Evidence (National Uniform Legislation) (Consequential Amendments) Act 2012</b>	
67	Definitions.....	43
68	Application of this Act linked to application of Evidence (NUL) Act .....	44
<b>Division 3</b>	<b>Justice Legislation Amendment (Vulnerable Witnesses) Act 2016</b>	
69	Definitions.....	44
70	Proceeding already commenced .....	44
71	Offence provisions – before and after commencement day .....	45
<b>ENDNOTES</b>		

# NORTHERN TERRITORY OF AUSTRALIA

---

As in force at 1 December 2018

---

## EVIDENCE ACT 1939

**An Act to make provision for evidentiary matters in addition to the  
*Evidence (National Uniform Legislation) Act 2011***

### **Part 1 Preliminary matters**

#### **1 Short title**

This Act may be cited as the *Evidence Act 1939*.

#### **4 Definitions**

In this Act:

***audio link***, for Part 5, see section 49.

***audiovisual link***, for Part 5, see section 49.

***audiovisual record***, for Part 3, see section 21A(1).

***authorised person***, for Part 3, see section 21A(1).

***child***, for Part 3, see section 21A(1).

***committal proceedings***, for Part 7, see section 56.

***communication link***, for Part 5, see section 49.

***complainant***, see section 21G

***confidential communication***, for Part 7, see section 56.

***counsellor***, for Part 7, see section 56.

***court***, see Part 1 of the Dictionary at the end of the Evidence (NUL) Act.

***document***, see Part 1 of the Dictionary at the end of the Evidence (NUL) Act.

***domestic violence***, see section 21G.

**domestic violence offence**, see section 21G.

**domestic violence offence proceeding**, see section 21G.

**Evidence (NUL) Act** means the *Evidence (National Uniform Legislation) Act 2011*.

**examination**, for Part 3, see section 21A(1).

**harm**, for Part 7, see section 56.

**interstate entity**, for Part 5, see section 49.

**interstate proceeding**, for Part 5, see section 49.

**judge**, see Part 1 of the Dictionary at the end of the Evidence (NUL) Act.

**participating State**, for Part 5, see section 49.

**party to a confidential communication**, for Part 7, see section 56.

**proceeding** means a civil proceeding or a criminal proceeding, each as defined in Part 1 of the Dictionary at the end of the Evidence (NUL) Act.

**recorded statement**:

(a) for Part 3 – see section 21A(1); or

(b) for Part 3A – see section 21G.

**serious violence offence**, for Part 3, see section 21A(1).

**sexual offence** means a sexual offence within the meaning of the *Sexual Offences (Evidence and Procedure) Act 1983*.

**special sitting**, for Part 3, see section 21A(1).

**statement** includes any representation of fact or opinion, whether made in words or otherwise.

**Territory entity**, for Part 5, see section 49.

**Territory proceeding**, for Part 5, see section 49.

**victim**, for Part 7, see section 56.

**visual link**, for Part 5, see section 49.

**vulnerable witness**, for Part 3, see section 21A(1).

## **5 Application of Act**

- (1) This Act applies to all proceedings to which the Evidence (NUL) Act applies.
- (2) Part 5 also applies to Territory proceedings and interstate proceedings (as defined in section 49).

## **6 Relationship with Evidence (NUL) Act**

This Act applies in addition to, and does not affect the operation of, the Evidence (NUL) Act.

## **6A Application of Criminal Code 1983**

Part IIAA of the Criminal Code 1983 applies to an offence against this Act.

*Note for section 6A*

*Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.*

## **Part 2 Privilege**

### **12 Medical privilege**

- (2) A medical practitioner shall not, without the consent of his or her patient, divulge in any civil proceeding (unless the sanity of the patient is the matter in dispute) any communication made to him or her in his or her professional character by the patient, and necessary to enable him or her to prescribe or act for the patient.
- (3) Nothing in this section shall protect any communication made for any criminal purpose, or prejudice the right to give in evidence any statement or representation at any time made to or by a medical practitioner in or about the effecting by any person of an insurance on the life of himself or herself or any other person.

## **Part 3 Vulnerable witnesses**

### **21A Evidence of vulnerable witnesses**

- (1) In this Part:

**audiovisual record** includes a recorded statement.

**authorised person** means any of the following:

- (a) a police officer with the rank of constable or above;
- (b) a member of the Australian Federal Police who is appointed as a special constable under the *Police Administration Act 1978*;
- (c) a member of a police force of a State or another Territory who is appointed as a special constable under the *Police Administration Act 1978*;
- (e) a person who is an authorised officer under section 304(1)(a) of the *Care and Protection of Children Act 2007*;
- (f) a member of a police force of a State or another Territory with the rank of constable or above;
- (g) a person prescribed by regulation.

**child** means a person who is under 18 years of age.

**examination** of a witness includes cross-examination and re-examination.

**recorded statement** means an interview, recorded on video-tape or by other audiovisual means, in which an authorised person elicits from a vulnerable witness statements of fact which, if true, would be of relevance to a proceeding.

**serious violence offence** means an offence against any of the following provisions of the Criminal Code that is punishable by imprisonment for 5 or more years:

- (a) Part V, Division 2;
- (b) Part VI, Divisions 3 to 6A;
- (c) section 211 or 212;
- (d) another provision prescribed by the Regulations.

**special sitting**, of a court, means a sitting of the court held for the purpose of conducting an examination, or part of an examination, of a vulnerable witness in proceedings for a sexual offence or serious violence offence.

**vulnerable witness** means a witness in proceedings:

- (a) who is a child; or



- (b) who has a cognitive impairment or an intellectual disability; or
  - (c) who is the alleged victim of a sexual offence to which the proceedings relate; or
  - (ca) who is a complainant in a domestic violence offence proceeding; or
  - (d) whom a court considers to be vulnerable.
- (1A) In considering whether a witness is vulnerable, as mentioned in subsection (1), definition **vulnerable witness**, paragraph (d), the court may have regard to the following matters:
- (a) any relevant condition or characteristic of the witness, including age, education, ethnic and cultural background, gender, language background and skills, level of maturity and understanding and personality;
  - (b) any mental or physical disability and to which the witness is, or appears to be, subject;
  - (c) any relationship between the witness and the defendant to the proceedings;
  - (d) any other matter the court considers relevant.
- (2) Subject to subsection (2A) and section 21B, a vulnerable witness is entitled to give evidence using one or more of the following arrangements as chosen by the witness:
- (a) that the evidence of the vulnerable witness be given at a place outside the courtroom and transmitted to the courtroom by means of closed circuit television where that facility is available;
  - (b) that a screen, partition or one-way glass be placed to obscure the witness's view of a party to whom the evidence relates but not so as to obstruct the view of the witness by the judge and the jury (if any);
  - (c) that the vulnerable witness be accompanied by:
    - (i) a relative;
    - (ii) a friend; or

- (iii) any other person who the vulnerable witness requests to accompany him or her and whom the court considers is in the circumstances appropriate to accompany the vulnerable witness;

for the purpose of providing the vulnerable witness with emotional support;

- (d) that the court be closed while evidence is being given by the vulnerable witness in the proceeding (including evidence given under cross-examination) and that no persons remain in or enter a room or place in which the court is being held, or remain within the hearing of the court, without its permission.

(2A) The court may make an order that the vulnerable witness is not to give evidence using an arrangement under subsection (2) if satisfied that:

- (a) it is not in the interests of justice for the witness's evidence to be given using that arrangement; or
- (b) the urgency of the proceeding makes the use of that arrangement inappropriate.

(2B) In determining whether or not it is in the interests of justice to use an arrangement under subsection (2), the court must have regard to the following matters:

- (a) the need to minimise the harm that could be caused to the vulnerable witness by giving evidence;
- (b) the interest in the vulnerable witness being able to give evidence effectively.

(2C) The court must state its reasons for making an order under subsection (2A).

(3) Where a vulnerable witness is to give evidence using an arrangement under subsection (2)(a) or (b), the judge must issue a warning to the jury (if any) to the effect that:

- (a) the procedure is a routine practice of the court; and
- (b) no adverse inference is to be drawn against the accused as a result of the use of the arrangement; and
- (c) the evidence of the witness is not to be given any greater or lesser weight because of the use of the arrangement.

- (4) If an arrangement under subsection (2)(c) is used, the person who accompanies the vulnerable witness is to be placed so he or she is visible to the judge and the jury (if any).
- (5) If an arrangement under subsection (2)(d) is used in a proceeding in which the defendant is or is apparently a child, nothing in subsection (2)(d) is to be taken to require the exclusion from the court or the place where the evidence is being given of a person who is required or permitted under the *Youth Justice Act 2005* to be present.
- (6) If the court is requested to determine whether a witness is a vulnerable witness, the witness is to be taken to be a vulnerable witness until the court makes the determination.

**21B Evidence of vulnerable witnesses in cases of sexual or serious violence offences**

- (1) This section applies to proceedings for the trial in respect of, or the hearing of a charge for, a sexual offence or a serious violence offence.
- (2) If a vulnerable witness is to give evidence in proceedings to which this section applies, the court may exercise one or both of the following powers:
  - (a) the court may admit a recorded statement in evidence as the witness's evidence in chief or as part of the witness's evidence in chief;
  - (b) the court may:
    - (i) hold a special sitting in relation to the witness; and
    - (ii) have an audiovisual recording made of the examination of the witness at the special sitting and admit the recording in evidence; and
    - (iii) re-play the recording to the jury as the witness's evidence or as part of the witness's evidence (as the case requires).
- (3) If the prosecutor asks the court to admit a recorded statement in evidence or to hold a special sitting under subsection (2), the court must accede to the request unless there is good reason for not doing so.

- (3A) Without limiting subsection (3), when considering the prosecutor's request to admit a recorded statement or to hold a special sitting, the court must take into account whether a recorded statement can be played or a special sitting can be held in the courtroom for the proceedings.
- (4) Before the court admits a recorded statement, or the recording of an examination conducted at a special sitting, in evidence under this section, the court may have it edited to remove irrelevant or otherwise inadmissible material.
- (5) A vulnerable witness may (but need not) be present in the courtroom when a recorded statement of evidence of the witness, or an audiovisual recording of the examination (or part of the examination) of the witness, is re-played in the courtroom.
- (6) The vulnerable witness's demeanour, and words spoken or sounds made by the vulnerable witness, during the re-play of a recorded statement of evidence or an audiovisual recording of the examination (or part of the examination) of the witness, are not to be observed or overheard in the courtroom unless the vulnerable witness elects to be present in the courtroom for that part of the proceedings.

### **21C Evidence given outside the courtroom**

- (1) If evidence is given outside the courtroom and contemporaneously transmitted to the courtroom, the following provisions apply:
- (a) the place where the vulnerable witness gives the evidence is taken to be within the precincts of the court;
- (b) the court will determine who is to be present in the same room as the witness while the evidence is given;
- (c) the court may give directions:
- (i) to ensure necessary communication between persons in the courtroom and the vulnerable witness; and
- (ii) to ensure that images of the defendant are not transmitted to the place where the vulnerable witness is giving evidence; and
- (iii) to ensure that the witness's evidence is audible in the courtroom and that the judge, counsel and jury can adequately observe the demeanour of the witness while giving evidence; and
- (iv) to deal with any incidental matter.

- (2) If the court holds a special sitting, the following provisions apply:
- (a) the court may hold the sitting wherever it thinks appropriate and, if it decides to sit outside the courtroom, the place where the sitting is held is taken to be within the precincts of the court;
  - (b) in the case of a trial by jury, the special sitting is to be held in the absence of the jury (and may be held before the jury is empanelled);
  - (c) during the examination of the witness, the defendant is not to be present in the same room as the witness, but, if the defendant wants to observe the examination, arrangements are to be made so that:
    - (i) the defendant can contemporaneously hear and observe the witness by audiovisual link; and
    - (ii) the defendant (if represented) can communicate with counsel for the defence during the course of the examination;
  - (d) the court will determine who is to be in the same room as the witness during the course of the examination;
  - (e) the court may give directions on any matter incidental to the examination or the recording of the examination.
- (3) If evidence is taken from a vulnerable witness from a place outside the courtroom, but it is necessary for the witness to attend in the courtroom to give identification evidence, the court must, unless there is good reason to the contrary, defer taking the identification evidence until the witness has completed giving all other evidence.

## **21D Principles in relation to child witnesses**

- (1) It is the intention of the Legislative Assembly that, as children tend to be vulnerable in dealings with persons in authority (including courts and lawyers), child witnesses be given the benefit of special measures.
- (2) If a witness is a child, the court must have regard to the following principles:
- (a) the court must take measures to limit, to the greatest extent practicable, the distress or trauma suffered (or likely to be suffered) by the child when giving evidence;

- (b) the child must be treated with dignity, respect and compassion;
  - (c) the child must not be intimidated when giving evidence;
  - (d) proceedings in which a child is a witness should be resolved as quickly as possible;
  - (e) all efforts must be made to ensure that matters that may delay or interrupt a child's evidence in a proceeding are determined before a special sitting or trial commences.
- (3) However, if the court is satisfied that a child witness is able, and wants, to give evidence in the presence of the defendant, special measures are not to be taken, contrary to the wishes of the child, to protect the child from the apprehended distress or trauma of giving evidence in the presence of the defendant.

#### **21E Audiovisual record of evidence of vulnerable witness**

- (1) If a vulnerable witness is to give evidence in criminal proceedings, and facilities are available for making an audiovisual record of the evidence, the court may direct that an audiovisual record be made of the witness's evidence.
- (2) An order may be made under this section whether or not special measures are taken for the protection of the witness.
- (3) An audiovisual record made under this section forms part of the records of the court.
- (4) If, in later civil or criminal proceedings, a court is satisfied that evidence of which an audiovisual record has been made under this section is relevant to the later proceedings, the court may admit the audiovisual record in evidence.
- (5) Before the court admits an audiovisual record in evidence, it may have the record edited to exclude irrelevant material or material that is otherwise inadmissible in the later proceedings.
- (6) If a court admits an audiovisual record in evidence under this section, the court may relieve the witness wholly or in part from an obligation to give evidence in the later proceedings.

#### **21F Closure of court in certain cases**

- (1) The court is to be closed, in a case involving a charge of a sexual offence or a serious violence offence, while the evidence of a vulnerable witness is being taken.

- (2) This section extends both to the examination of the vulnerable witness and to the re-play before the court of an audiovisual record of the witness's evidence.
- (3) While the court is closed under this section, a person must not remain in the courtroom, or a place from which the person can overhear the proceedings in the courtroom, without the court's permission.

## **Part 3A Domestic violence offence proceedings**

### **21G Definitions**

In this Part:

**complainant**, for a domestic violence offence proceeding, means an adult against whom a domestic violence offence the subject of the proceeding is alleged, or has been found, to have been committed.

**domestic violence**, see section 5 of the *Domestic and Family Violence Act 2007*.

**domestic violence offence** means:

- (a) an offence constituted by, or involving, conduct that is domestic violence; or
- (b) an offence against section 120(1) of the *Domestic and Family Violence Act 2007*.

**domestic violence offence proceeding** means a proceeding for a domestic violence offence.

**recorded statement** means an interview, recorded on video-tape or by other audiovisual means, in which a police officer elicits from a complainant statements of fact that, if true, would be of relevance to a domestic violence offence proceeding.

### **21H Evidence of complainant**

- (1) A recorded statement that complies with section 21J:
  - (a) may be played at the hearing of the charge for, or the trial in respect of, the domestic violence offence to which it relates; and

- (b) if it is played at the hearing or trial, may be admitted as the complainant's evidence in chief, or part of the complainant's evidence in chief, in the proceeding.
- (2) However, the court may refuse to admit all or part of the recorded statement if the court considers it is in the interests of justice to do so.
- (3) A complainant may (but need not) be present in the courtroom when a recorded statement of evidence of the complainant is played in the courtroom.
- (4) The complainant's demeanour, and words spoken or sounds made by the complainant, during the playing of a recorded statement of evidence of the complainant, are not to be observed or overheard in the courtroom unless the complainant elects to be present in the courtroom for that part of the proceeding.

#### **21J Requirements for recorded statement**

- (1) To be admissible, a recorded statement must be made:
  - (a) as soon as practicable after the events mentioned in the statement occurred; and
  - (b) with the informed consent of the complainant.
- (2) For subsection (1)(b), a recorded statement is made with informed consent if:
  - (a) the police officer informs the complainant that:
    - (i) the recorded statement may be used in evidence in a domestic violence offence proceeding; and
    - (ii) the complainant may be required to give further evidence in the proceeding; and
    - (iii) the complainant may refuse consent; and
  - (b) the complainant indicates in the recorded statement that the complainant consents.
- (3) A recorded statement:
  - (a) must include a statement by the complainant as to the complainant's age; and
  - (b) must be made as a statutory declaration in compliance with section 20 of the *Oaths, Affidavits and Declarations Act 2010*.



- (4) If any part of a recorded statement is in a language other than English:
  - (a) the recorded statement must contain an English translation of the part; or
  - (b) a separate written English translation of the part must accompany the recorded statement.

**21K Service of recorded statement on defendant's legal practitioner**

- (1) This section applies if:
  - (a) a recorded statement has been made for a domestic violence offence proceeding; and
  - (b) the defendant is represented by a legal practitioner in the proceeding.
- (2) The prosecution must serve a copy of the recorded statement on the defendant's legal practitioner as soon as practicable after the proceeding is commenced.
- (3) The defendant must not be given, or take a copy of, the recorded statement.

**21L Access to recorded statement if defendant unrepresented**

- (1) This section applies if:
  - (a) a recorded statement has been made for a domestic violence offence proceeding; and
  - (b) the defendant is not represented by a legal practitioner in the proceeding.
- (2) The prosecution must:
  - (a) serve an audio copy of the recorded statement on the defendant as soon as practicable after the proceeding is commenced; and
  - (b) give the defendant a reasonable opportunity to view the recorded statement on a day before the hearing of the charge for, or before the committal date in respect of, the domestic violence offence to which the recorded statement relates.

**21M Failure to comply with service or access requirements**

Evidence of a complainant given in the form of a recorded statement is not to be admitted if section 21K or 21L has not been complied with, unless the court is satisfied that:

- (a) the parties consent to the recorded statement being admitted; or
- (b) the defendant or the defendant's legal practitioner has been given a reasonable opportunity to listen to or view the recorded statement and it would be in the interests of justice to admit the recorded statement.

**21N Transcript of recorded statement**

- (1) Despite any other law, the prosecution in a domestic violence offence proceeding is not required to provide a transcript of a recorded statement for the proceeding to the defendant or the defendant's legal practitioner.
- (2) In a jury trial, the court may order that a transcript of all or part of the evidence given in the form of a recorded statement be supplied to the jury if the court considers that a transcript would be likely to help the jury understand the evidence.

**21P Editing or otherwise altering recorded statement**

A recorded statement may be edited or otherwise altered only if:

- (a) both parties consent to the edits or alterations; or
- (b) the court before which the domestic violence offence proceeding is taking place so orders.

*Example for section 21P*

*The court might order the editing of the statement to remove inadmissible material.*

**21Q Offence to publish recorded statement**

- (1) A person commits an offence if:
  - (a) the person intentionally publishes a recorded statement; and

- (b) the person does not have authority to publish the recorded statement and the person is reckless in relation to that circumstance.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

- (2) For subsection (1), a person has authority to publish a recorded statement only if the person publishes the recorded statement in connection with:
- (a) the investigation of, or a proceeding for, an offence in relation to which the recorded statement is prepared; or
- (b) a rehearing, retrial or appeal in relation to the proceeding.
- (3) In this section:

**person** includes the complainant who made the recorded statement.

**publish** means communicate or disseminate information in a way or to an extent that makes it available to, or likely to come to the notice of, the public or a section of the public or anyone else not lawfully entitled to the information.

## **21R Part does not affect other provisions**

This Part does not affect any other provisions of this Act.

*Example for section 21R*

*This Part does not affect the operation of Part 3 in relation to the complainant as a vulnerable witness.*

## **Part 4 Miscellaneous rules of evidence**

### **24 Evidentiary certificate by reporting scientist**

- (1) This section applies to a criminal proceeding.
- (2) A certificate purporting to be signed by a reporting scientist and stating any of the following matters is evidence of the matter:
- (a) that a stated thing was received at a stated laboratory on a stated day;
- (b) that the thing was tested at the laboratory on a stated day or between stated days;
- (c) that a stated DNA profile has been obtained from the thing;

- (d) that the reporting scientist:
  - (i) examined the laboratory's records relating to the receipt, storage and testing of the thing, including any test process that was done by someone other than the reporting scientist; and
  - (ii) confirms the records indicate all quality assurance procedures for the receipt, storage and testing of the thing that were in place in the laboratory at the time of the test were complied with.
- (3) If a party intends to rely on the certificate, the party must:
  - (a) at least 15 business days before the hearing day, give a copy of the certificate to each other party; and
  - (b) at the hearing, call the reporting scientist to give evidence unless the parties agree otherwise.
- (4) If the Commissioner of Police receives a written request from a party for a copy of the laboratory's records relating to the receipt, storage and testing of the thing, the Commissioner must give the party a copy of the records within 7 business days after receiving the request.
- (5) If a party intends to challenge a matter stated in the certificate, the party must, at least 3 business days before the hearing day, give the Commissioner of Police and each other party written notice of the matter to be challenged.
- (6) A party challenging a matter stated in the certificate may, with the leave of the court, require the party relying on the certificate to call any person involved in the receipt, storage or testing of the thing to give evidence at the hearing.
- (7) The court may give leave only if satisfied:
  - (a) an irregularity may exist in relation to the receipt, storage or testing of the thing about which the person to be called is able to give evidence; and
  - (b) it is in the interests of justice that the person be called to give evidence.
- (8) Any equipment used in testing the thing at the laboratory is to be taken to have given accurate results in the absence of evidence to the contrary.

- (9) A document required to be given under this section may be given personally or by post, facsimile or another form of electronic communication.
- (10) On application made to it, the court may, before or after a time fixed under this section expires, extend or abridge the time by an order fixing, extending or abridging the time, whether or not the application is made before the time expires.
- (11) In this section:

**business day** means a day that is not:

- (a) a Saturday or Sunday; or
- (b) a day that is declared to be a public holiday under the *Public Holidays Act 1981*.

**criminal proceeding**, see Part 1 of the Dictionary at the end of the Evidence (NUL) Act.

**DNA profile** means the result from a DNA analysis.

**hearing day** means the day fixed for the start of the hearing of a proceeding.

**laboratory** means a forensic science laboratory of the Commonwealth or a State or Territory.

**records**, of a laboratory, means records in the possession of the Commissioner of Police or to which the Commissioner has access.

**reporting scientist** means a person who holds a prescribed qualification.

## **26E Exception to rule against hearsay evidence**

- (1) In a proceeding arising from a charge of a sexual offence or a serious violence offence, the court may, despite the rule against hearsay evidence, admit evidence of a statement made by a child to another person as evidence of facts in issue if the Court considers the evidence of sufficient probative value to justify its admission.
- (2) In a preliminary examination under Part V, Division 1 of the *Local Court (Criminal Procedure) Act 1928*, the child whose evidence is admitted under subsection (1) cannot be cross-examined in relation to the statement.

- (3) An accused person cannot be convicted solely on the basis of hearsay evidence admitted under subsection (1).

## **Part 5            Communication links**

### **Division 1        Preliminary matters**

#### **49            Interpretation**

In this Part:

**audio link** means facilities (including telephone) that enable audio communication between persons at different places.

**audiovisual link** means facilities (including closed-circuit television) that enable audio and visual communication between persons at different places.

**communication link** means an audiovisual link, audio link or visual link.

**interstate entity** means:

- (a) a court of a participating State; or
- (b) a person or body authorised by or under a law of a participating State to take evidence on oath or affirmation;

that is authorised by the provisions of an Act of that State in terms substantially corresponding to Divisions 3 and 4 to direct that evidence be taken or submissions be made by audio link or audiovisual link from the Territory.

**interstate proceeding** means a proceeding in or before an interstate entity.

**participating State** means a State or Territory in which provisions of an Act in terms substantially corresponding to Divisions 3 and 4 are in force.

**Territory entity** means any of the following:

- (a) a court;
- (b) a coroner;
- (c) a person or body authorised by or under a law of the Territory to take evidence on oath;

- (d) in this Division and Division 2 – a person acting judicially, including the holder of a statutory office or a public sector employee with authority to examine evidence.

***Territory proceeding*** means a proceeding in or before a Territory entity.

***visual link*** means facilities that enable visual communication between persons at different places.

#### **49B        Application of Part**

Nothing in this Part prevents a person who is within or outside the Territory or Australia from appearing before or giving evidence or making submissions to a Territory entity for the purposes of a proceeding in the Territory in a manner provided for under:

- (a) another law of the Territory; or  
(b) a rule, regulation or matter of practice made under a law of the Territory.

#### **49C        Procedural rules**

A Territory entity may make rules or otherwise determine procedures for or with respect to:

- (a) appearance; or  
(b) giving of evidence in a proceeding; or  
(c) making a submission in a proceeding;

by a communication link provided for in this Part, including rules or procedures in respect of failure of a link.

### **Division 2        Use of communication links generally**

#### **49D        Application of Division**

- (1) This Division applies to any Territory proceeding.  
(2) Nothing in this Division limits the application of Division 3 or 4 to a proceeding.  
(3) Nothing in Division 3 or 4 limits the application of this Division to a proceeding.

**49E            Territory entity may take evidence from another place**

- (1) A Territory entity may, of its own motion or on the application of a party to a proceeding, direct (conditionally or unconditionally) that a person (whether or not a party to the proceeding) appear before, or give evidence or make a submission to, the entity by a communication link from any place within or outside the Territory (including outside Australia) that is outside the place where the entity is sitting.
- (2) The entity must not make the direction unless it is satisfied that:
  - (a) the necessary facilities are available or can reasonably be made available; and
  - (b) the evidence can more conveniently be given, or the appearance or submission can more conveniently be made, from the other place.
- (3) Without limiting the matters to which the entity may have regard, the entity must have regard to whether the making of the direction would be unfair to any person.
- (4) The entity may at any time vary or revoke an order made under this Division, either of its own motion or on application of a party to the proceeding.
- (5) A requirement by or under an Act that a person is to be present, or is to attend or be brought, before a Territory entity is to be taken to be satisfied if he or she is present, attends or is brought before the entity by way of a communication link in accordance with this Division.

**49F            Appearance, giving evidence or making submissions by audiovisual link**

A person must not appear, evidence must not be given and a submission must not be made, by audiovisual link under this Division unless:

- (a) the place where a Territory entity is sitting (**place A**); and
- (b) the place where the person would appear, the evidence would be given or the submission would be made (**place B**);

are equipped with audiovisual link facilities that enable:

- (c) all appropriate persons who are at place A to see and hear all appropriate persons at place B; and



- (d) all appropriate persons who are at place B to see and hear all appropriate persons at place A.

**49G        Appearance, giving evidence or making submissions by audio link**

A person must not appear, evidence must not be given and a submission must not be made, by audio link under this Division, unless:

- (a) the place where a Territory entity is sitting (**place A**); and
- (b) the place where the person would appear, evidence would be given or the submission would be made (**place B**);

are equipped with audio link facilities that enable:

- (c) all appropriate persons who are at place A to hear all appropriate persons at place B; and
- (d) all appropriate persons who are at place B to hear all appropriate persons at place A.

**49H        Appearance, giving evidence or making submissions by visual link**

A person must not appear, evidence must not be given and a submission must not be made, by visual link under this Division unless:

- (a) the place where a Territory entity is sitting (**place A**); and
- (b) the place where the person would appear, the evidence would be given or the submission would be made (**place B**);

are equipped with visual link facilities that enable:

- (c) all appropriate persons who are at place A to see all appropriate persons at place B; and
- (d) all appropriate persons who are at place B to see all appropriate persons at place A.

**49I        Premises to be considered part of place where entity is sitting**

- (1) Despite any provision to the contrary, any place at which a communication link is being used in accordance with this Division for the purpose of a person appearing before, or giving evidence or making a submission to, a Territory entity is taken to be part of the place where the entity is sitting for the purpose of conducting the

proceeding.

- (2) Subsection (1) has effect, for example, for the purposes of the laws relating to evidence, procedure, contempt of court and perjury.
- (3) Subsection (1) also has the effect that any offence committed at the place where the person appearing before the entity or giving the evidence or making the submission is located is to be taken to have been committed at the place where the entity is sitting for the purposes of the laws in force in the Territory.
- (4) If a communication link fails in relation to a proceeding, the entity may:
  - (a) adjourn the proceeding; or
  - (b) make other orders as are appropriate in the circumstances as if a person present at the place at which the communication link is located were in the presence of the entity.

#### **49J        Expenses**

If a Territory entity directs that a person appear, evidence be taken, or submissions be made, by a communication link from a person under this Division, the entity may make the orders it considers just for payment of the expenses incurred.

#### **49K        Administration of oaths**

An oath to be taken by a person giving evidence by a communication link under this Division may be administered:

- (a) by means of a communication link, as nearly as practicable in the same way as if the person were to give evidence in the place where the Territory entity is sitting; or
- (b) at the direction of, or on behalf of, the entity at the place where the person is giving the evidence, by a person authorised by the entity.

**49L            Putting documents to remote person**

- (1) If in the course of examination of a person by a communication link it is necessary to put a document to the person, a Territory entity may permit the document to be put to the person:
- (a) if the document is at the place where the entity is sitting:
    - (i) by transmitting by any means (including by the communication link itself) a video, electronic or other image of it to the place where the person is giving evidence or making a submission; and
    - (ii) by the image transmitted being then put to the person; or
  - (b) if the document is at the place where the person is giving evidence or making a submission:
    - (i) by putting the document to the person; and
    - (ii) by then transmitting by any means (including by the communication link itself) a video, electronic or other image of the document to the place where the entity is sitting.
- (2) A document put to a person in accordance with subsection (1) is admissible as evidence without proof that the transmitted video, electronic or other image of the document is a true copy of the document.

**49M            Putting objects to remote person**

- (1) If in the course of examination of a person by a communication link it is necessary to put an object, other than a document, to the person, a Territory entity may permit the object to be put to the person:
- (a) if the object is at the place where the entity is sitting:
    - (i) by transmitting by any means (including by the communication link itself) a video, electronic or other image of the object to the place where the person is giving evidence or making a submission; and
    - (ii) by the image transmitted being then put to the person; or

- (b) if the object is at the place where the person is giving evidence or making a submission:
  - (i) by putting the object to the person; and
  - (ii) by then transmitting by any means (including by the communication link itself) a video, electronic or other image of the object to the place where the entity is sitting.
- (2) The entity may permit the video, electronic or other image of the object transmitted to the place where the entity is sitting, or any copy of that image, to be admissible as evidence of the object.

### **Division 3            Use of interstate audiovisual links or audio links in Territory proceedings**

#### **49N            Application of Division**

This Division applies to any Territory proceeding.

#### **49P            Territory entity may take evidence and submissions from outside Territory**

- (1) A Territory entity may, on the application of a party to a proceeding, direct that evidence be taken or submissions be made, by audiovisual link or audio link, from a participating State.
- (2) The entity must not make the direction unless it is satisfied that:
  - (a) the necessary facilities are available or can reasonably be made available; and
  - (b) the evidence or submission can more conveniently be given or made from the participating State.
- (3) Without limiting the matters to which the entity may have regard, the entity must have regard to whether the making of the direction would be unfair to any person.
- (4) The entity may exercise in the participating State, in connection with taking evidence or receiving submissions by audiovisual link or audio link, any of its powers that the court is permitted under the law of the participating State to exercise in the participating State.

**49Q Giving evidence or making submissions by audiovisual link**

Evidence must not be given, and a submission must not be made, by audiovisual link under this Division unless:

- (a) the place where a Territory entity is sitting (**place A**); and
- (b) the place where the evidence would be given or the submission would be made (**place B**);

are equipped with audiovisual link facilities that enable:

- (c) all appropriate persons who are at place A to see and hear all appropriate persons at place B; and
- (d) all appropriate persons who are at place B to see and hear all appropriate persons at place A.

**49R Giving evidence or making submissions by audio link**

Evidence must not be given, and a submission must not be made, by audio link under this Division, unless:

- (a) the place where a Territory entity is sitting (**place A**); and
- (b) the place where the evidence would be given or the submission would be made (**place B**);

are equipped with audio link facilities that enable:

- (c) all appropriate persons who are at place A to hear all appropriate persons at place B; and
- (d) all appropriate persons who are at place B to hear all appropriate persons at place A..

**49S Expenses**

If a Territory entity directs evidence to be taken, or submissions to be made, by audiovisual link or audio link from a person in a participating State, the entity may make the orders it considers just for payment of expenses incurred in connection with taking the evidence or making the submissions.

**49T Counsel entitled to practise**

A person who is entitled to practise as a legal practitioner in a participating State is entitled to practise as a barrister, solicitor or both:

- (a) in relation to the examination-in-chief, cross-examination or re-examination of a witness in the participating State whose evidence is being given by audiovisual link or audio link in a Territory proceeding; and
- (b) in relation to the making of submissions by audiovisual link or audio link from the participating State in a Territory proceeding.

**Division 4 Use of interstate audiovisual links or audio links in interstate proceedings**

**49U Application of Division**

This Division applies to any interstate proceeding.

**49V Interstate entity may take evidence or receive submissions from persons in Territory**

An interstate entity may, for the purposes of an interstate proceeding, take evidence or receive submissions, by audiovisual link or audio link from a person in the Territory.

**49W Powers of interstate entity**

- (1) The interstate entity may, for the purposes of the proceeding, exercise in the Territory, in connection with taking evidence or receiving submissions by audiovisual link or audio link, any of its powers, except its powers:
  - (a) to punish for contempt; and
  - (b) to enforce or execute its judgments or process.
- (2) The laws of the participating State (including rules of court) that apply to the proceeding in that State also apply, by force of this subsection, to the practice and procedure of the interstate entity in taking evidence or receiving submissions, by audiovisual link or audio link from a person in the Territory.
- (3) For the purposes of the interstate entity exercising its powers, the place in the Territory where evidence is given or submissions are made is taken to be part of the place where the entity is sitting.

**49X Orders made by interstate entity**

Without limiting section 49W, the interstate entity may, by order:

- (a) direct that the proceeding, or a part of the proceeding, be conducted in private; or
- (b) require a person to leave a place in the Territory where the giving of evidence or the making of submissions is taking place or is going to take place; or
- (c) prohibit or restrict the publication of evidence given in the proceeding or of the name of a party to, or a witness in, the proceeding.

**49Y Enforcement of order**

- (1) An order of an interstate entity under this Division must be complied with.
- (2) Subject to rules of court, the order may be enforced by the Supreme Court of the Northern Territory as if the order were an order of that court.
- (3) Without limiting subsection (2), a person who contravenes the order:
  - (a) is taken to be in contempt of the Supreme Court of the Northern Territory; and
  - (b) is punishable accordingly;

unless the person establishes that the contravention should be excused.

**49Z Privileges, protection and immunity of participants in interstate proceedings**

- (1) A judge or other person presiding at or otherwise taking part in an interstate proceeding has, in connection with evidence being taken or submissions being received by audiovisual link or audio link from a person in the Territory, the same privileges, protection and immunity as a Supreme Court Judge.
- (2) A person appearing as a legal practitioner in an interstate proceeding has, in connection with evidence being taken or submissions being received by audiovisual link or audio link from a person in the Territory, the same protection and immunity as a barrister has in appearing for a party in a proceeding in the Supreme Court of the Northern Territory.

- (3) A person appearing as a witness in an interstate proceeding by audiovisual link or audio link from the Territory has the same protection as a witness in a proceeding in the Supreme Court of the Northern Territory.

**49ZA Interstate entity may administer oath in Territory**

- (1) An officer of an interstate entity may, for the purpose of obtaining in the proceeding, by audiovisual link or audio link, the testimony of a person in the Territory, administer an oath or affirmation in accordance with the practice and procedure of the interstate entity.
- (2) Evidence given by a person on oath or affirmation so administered is, for the purposes of the law of the Territory, testimony given in a judicial proceeding.

**49ZB Assistance to interstate entity**

An officer of a Territory entity may, at the request of an interstate entity:

- (a) attend at the place in the Territory where evidence is to be or is being taken, or submissions are to be or are being made, in the proceeding; and
- (b) take the action that the interstate entity directs to facilitate the proceeding; and
- (c) assist with the administering by an officer of the interstate entity of an oath or affirmation.

**49ZC Contempt of interstate entity**

- (1) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
- (b) the conduct results in contempt of the interstate entity (as defined in section 49ZD) and the person is reckless as to the result.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.



**49ZD Conduct constituting contempt of interstate entity**

- (1) A person's conduct results in **contempt** of the interstate entity if:
  - (a) the interstate entity has made an order requiring the person to do or not do something; and
  - (b) the order:
    - (i) was made orally to the person during proceedings; or
    - (ii) has been served on the person; and
  - (c) the person does not comply with the order.
  
- (2) Also, a person's conduct results in **contempt** of the interstate entity if the person, while evidence is being given or a submission is being made in the Territory, by audiovisual link or audio link, in an interstate proceeding:
  - (a) insults, threatens, intimidates or obstructs the following in relation to the person's performance of functions or exercise of powers under this Act:
    - (i) a judge or other person presiding at or otherwise taking part in the proceeding;
    - (ii) an Associate Judge or a Master, Registrar, Deputy Registrar or other officer of the interstate entity who is taking part in or assisting in the proceeding;
    - (iii) a person appearing in the proceeding as a legal practitioner;
    - (iv) a witness in the proceeding;
    - (v) a juror in the proceeding; or
  - (b) interrupts, obstructs or hinders a proceeding of the interstate entity; or
  - (c) engages in any other conduct that, under a law of the Territory, would constitute contempt in the face of the court if the interstate proceeding were a Territory proceeding.

## **Part 6 Evidence on commission**

### **Division 1 Taking outside Territory of evidence for Territory proceedings**

#### **50 Order for taking of evidence**

- (1) This section applies to any proceeding before the Supreme Court or the Local Court, other than a proceeding in which the court in question is exercising jurisdiction conferred on or vested in it by an Act of the Commonwealth.
- (2) Where on the application of a party to any proceeding to which this section applies it appears to the court that it is in the interests of justice to do so, the court may in its discretion make in relation to a person outside the Territory an order:
  - (a) for the examination of the person on oath at any place outside the Territory before a judge or justice of the peace, an officer of the court, or such other person as the court may appoint; or
  - (b) for the issue of a commission for the examination of the person on oath at any place outside the Territory; or
  - (c) for the issue to an appropriate judicial authority of a place outside the Territory of a letter of request to take, or cause to be taken, the person's evidence.
- (3) In subsection (2)(c):

**appropriate** judicial authority means:

  - (a) in relation to a place in Australia (including a place in any external Territory of the Commonwealth for the government of which as a Territory provision is made by any Act of the Commonwealth) – a court or authority prescribed as such for that place; and
  - (b) in relation to any other place – an authority appearing to the court to be appropriate having regard to the law of that place.
- (4) In determining whether it is in the interests of justice to make an order under subsection (2) in relation to the taking of evidence of a person, the matters to which the court shall have regard include:
  - (a) whether the person is willing or able to come to the Territory to give evidence in the proceeding; and

- (b) whether the person will be able to give evidence material to any issue to be tried in the proceeding; and
  - (c) whether, having regard to the interests of the parties to the proceeding, justice will be better served by granting the order or refusing it.
- (5) Where a court makes an order within subsection (2)(a) or (b), it may in its discretion (at the time of making the order or at a subsequent time) give such directions as it thinks just relating to the procedure to be followed in and in relation to the examination, including directions as to the time, place and manner of the examination and any other matter that the court thinks relevant.
- (6) Where a court makes an order within subsection (2)(c), it may in its discretion include in the order a request as to any matter relating to the taking of the person's evidence, including:
- (a) the examination, cross-examination or re-examination of the person, whether his or her evidence is given orally, upon affidavit or otherwise; and
  - (b) the attendance of the legal representative of each party to the proceeding in which the order is made, and the participation of those persons in the examination in appropriate circumstances; and
  - (c) any prescribed matter.

## **51 Admissibility of evidence**

- (1) Subject to subsection (2), the court by which an order is made under section 50(2) may on such terms as it thinks fit permit a party to the proceeding in which the order is made to tender as evidence in the proceeding:
- (a) the evidence of a person taken in an examination held as a result of the order; or
  - (b) a record of that evidence.
- (2) Evidence of a person so tendered is not admissible if:
- (a) it appears to the satisfaction of the court at the hearing of the proceeding that the person is in the Territory and able to attend the hearing; or
  - (b) the evidence would not have been admissible had it been given or produced at the hearing of the proceeding.

- (3) Where it is in the interests of justice to do so, the court may in its discretion exclude from a proceeding evidence taken in an examination held as a result of an order under section 50(2), notwithstanding that the evidence is otherwise admissible.
- (4) This section does not affect the power of a court in a criminal proceeding to exclude evidence that has been obtained illegally or would, if admitted, operate unfairly against the defendant.
- (5) In this section:
- examination** includes any proceeding for the taking of a person's evidence conducted in relation to a letter of request issued pursuant to an order within section 50(2)(c), and a reference to evidence taken in an examination includes a reference to:
- (a) a document produced at the examination; and
  - (b) answers made, whether in writing or orally and reduced to writing, to any written interrogatories presented at the examination.

## **Division 2 Taking within Territory of evidence for proceedings elsewhere**

### **52 Application to Supreme Court for order to obtain evidence**

- (1) Where an application is made to the Supreme Court for an order for evidence to be obtained in the Territory, and the Supreme Court is satisfied:
- (a) that the application is made in pursuance of a request issued by or on behalf of a court or tribunal exercising jurisdiction in a place outside the Territory, and relates to evidence to be obtained for the purposes of proceedings in a civil or commercial matter which have been instituted before that court or tribunal, or whose institution before that court or tribunal is contemplated; or
  - (b) that the application is made in pursuance of a request issued by or on behalf of a court of a place elsewhere in Australia (including a place in any external Territory of the Commonwealth for the government of which as a Territory provision is made by any Act of the Commonwealth), or by or on behalf of a court in New Zealand, and relates to evidence to be obtained for the purposes of proceedings in relation to the commission of an offence or alleged offence which have been instituted in or before that court, or whose institution in or before that court is contemplated;

the Supreme Court may give effect to the application in accordance with section 53.

- (2) The references in subsection (1) to a request issued by or on behalf of a court or tribunal include references to any commission, order or other process so issued.

### **53 Power of Supreme Court to give effect to application**

- (1) The Supreme Court has power on any such application as is mentioned in section 52(1) to make by order such provision for obtaining evidence in the Territory as may appear to the Supreme Court to be appropriate for the purpose of giving effect to the request in pursuance of which the application is made.
- (2) An order under this section may require a specified person to take such steps as the Supreme Court may consider appropriate for that purpose.
- (3) Without limiting the generality of subsections (1) and (2), an order under this section may in particular make provision for:
  - (a) the examination of witnesses, either orally or in writing; and
  - (b) the production of documents; and
  - (c) the inspection, photographing, preservation, custody or detention of any property, the taking of samples of any property, and the carrying out of any experiments on or with any property (**property** including in this paragraph any land, chattel or other corporeal property of any description); and
  - (d) the medical examination of any person; and
  - (e) without limiting paragraph (d), the taking and testing of samples of blood from any person.
- (4) An order under this section shall not require any particular steps to be taken unless they are steps which can be required to be taken by way of obtaining evidence for the purposes of proceedings in the Supreme Court (whether or not proceedings of the same description as those to which the application for the order relates).
- (5) Subsection (4) does not preclude the making of an order requiring a person to give testimony (either orally or in writing) otherwise than on oath, where this is asked for by the court or tribunal pursuant to whose request the application for the order was made.

- (6) An order under this section shall not require a person:
- (a) to state what documents relevant to the proceedings to which the application for the order relates are or have been in his or her possession, custody or power; or
  - (b) to produce any documents other than particular documents specified in the order and appearing to the Supreme Court to be, or to be likely to be, in his or her possession, custody or power.
- (7) If an order under this section requires a person to attend at a place:
- (a) section 194 of the Evidence (NUL) Act applies as if the order were a summons to attend; and
  - (b) the person is entitled to payment for other expenses and loss of time on attendance as a witness in a proceeding before the Supreme Court.

#### **54 Privilege of witnesses**

- (1) A person shall not be compelled by virtue of an order under section 53 to give any evidence which he or she could not be compelled to give:
- (a) in similar proceedings in the Territory; or
  - (b) in similar proceedings in the place in which jurisdiction is exercised by the court or tribunal pursuant to whose request the application for the order was made.
- (2) Subsection (1)(b) does not apply unless the claim of the person in question to be exempt from giving evidence is:
- (a) supported (whether unconditionally or subject to conditions that are fulfilled) by a statement contained in the request; or
  - (b) conceded by the applicant for the order.
- (3) Where such a claim by a person is not so supported or conceded, he or she may (subject to the other provisions of this section) be required to give the evidence to which the claim relates, but that evidence shall not be transmitted to the court or tribunal in question if that court or tribunal, on the matter being referred to it, upholds the claim.

- (4) In this section, references to giving evidence include references to answering any question and producing any document, and the reference in subsection (3) to the transmission of evidence given by a person shall be construed accordingly.

## **55 Misleading testimony**

- (1) A person who, in giving any testimony (either orally or in writing) otherwise than on oath where required to do so by an order under section 53, commits an offence if:
- (a) the person intentionally gives testimony to the court or tribunal; and
  - (b) the person knows the testimony is misleading.

Maximum penalty: Imprisonment for 14 years.

- (2) In this section:

***misleading***, in relation to testimony, means testimony that is misleading in a material particular or because of the omission of a material particular.

## **Part 7 Confidential information**

### **56 Definitions**

In this Part:

***committal proceedings*** means a preliminary examination under Part V of the *Local Court (Criminal Procedure) Act 1928*.

***confidential communication*** means:

- (a) a communication, whether oral or written, made in confidence by a victim to a counsellor or to a victim by a counsellor in the course of the relationship of counsellor and client and includes:
  - (i) a communication that is not made in connection with the sexual offence or alleged sexual offence or a condition arising from the sexual offence or alleged sexual offence; and
  - (ii) a communication made in the presence of a parent or carer of the victim or any other person who is present to facilitate communication between the victim and the counsellor or to otherwise further the counselling of the

victim; or

- (b) a communication, whether oral or written, made about the victim to the counsellor by the parent, carer or other person referred to in paragraph (a)(ii) or by the counsellor to the parent, carer or other person; or
- (c) a communication referred to in paragraph (a) or (b) that is made before or after the acts constituting the sexual offence committed against the victim occurred or are alleged to have occurred; or
- (d) a record (including an electronic record) kept by a party to a confidential communication or any other person of the confidential communication or of any observation, opinion, advice, recommendation or other matter relating to the confidential communication; or
- (e) part of a confidential communication.

**counsellor** means a person who is treating a victim for an emotional, psychological or psychiatric condition.

**harm** includes physical bodily harm, financial loss, stress or shock, damage to reputation or shame, humiliation, fear or other emotional, psychological or psychiatric harm.

**party to a confidential communication** means:

- (a) the victim to whom the confidential communication relates; or
- (b) the counsellor to whom or by whom the confidential communication is made; or
- (c) a parent, carer or other person referred to in paragraph (a)(ii) of the definition of **confidential communication**.

**victim** means a victim or alleged victim of a sexual offence.

## **56A Application of Part**

- (1) Subject to subsection (2), this Part applies in relation to a confidential communication whenever made.
- (2) This Part applies in relation to the following criminal proceedings:
  - (a) committal proceedings in respect of a sexual offence;
  - (b) the hearing of a charge for a sexual offence;
  - (c) a trial in respect of a sexual offence;



where those proceedings are commenced after the commencement of this Part, regardless of when the offence is alleged to have been committed.

- (3) For the purposes of subsection (2):
- (a) committal proceedings commence on the committal mention date; and
  - (b) the hearing of a charge commences on the taking of a formal plea from the accused; and
  - (c) a trial commences on the arraignment of the accused.

**56B Protection of confidential communications**

- (1) A confidential communication is a privileged communication to the extent provided by this section.
- (2) Evidence that discloses a confidential communication:
- (a) is not to be subject to discovery or any other form of pre-hearing or pre-trial disclosure or inspection; and
  - (b) is not admissible in committal proceedings; and
  - (c) is not to be adduced or produced as evidence at the hearing of a charge or at a trial except with the leave of the court.

**56C Notice of intention to apply for leave to adduce or produce evidence of confidential communication**

A party to criminal proceedings who intends to apply for leave to adduce or produce evidence of a confidential communication must give reasonable notice in writing of that intention to:

- (a) the court; and
- (b) each other party to the proceedings; and
- (c) each party to the confidential communication who is not a party to the proceedings.

**56D Procedural matters relating to application for leave**

- (1) An application for leave to adduce or produce evidence of a confidential communication is to be heard in the absence of the jury (if any).

- (2) A party to the confidential communication may appear at the hearing of the application for leave if the party:
  - (a) is not also a party to the criminal proceedings in which the evidence is sought to be adduced or produced; and
  - (b) is unlikely to be a witness in those proceedings; and
  - (c) is given leave by the court to appear at the hearing.
- (3) If the evidence to which the application for leave relates is a document or record, the court may order that the document or record be produced to it and may inspect the document or record but the court must not make the document or record available to, or disclose its contents to, the applicant for leave.
- (4) For the purposes of determining the application for leave, the court may order the counsellor:
  - (a) to provide written answers to questions; or
  - (b) to produce documents or records relating to the confidential communication; or
  - (c) to appear for oral examination.
- (5) Evidence that is not to be adduced or produced in a criminal proceeding because of section 56A(2) is not admissible in the hearing of an application for leave.

**56E Giving leave to adduce or produce evidence of confidential communication**

- (1) A court must not give leave to adduce or produce evidence of a confidential communication unless satisfied:
  - (a) that the evidence will, either by itself or together with other evidence that has been or will be adduced or produced, have substantial probative value in respect of a fact in issue; and
  - (b) that other evidence of a similar or greater probative value in respect of the matters to which the confidential communication relates is not available; and
  - (c) that the public interest in preserving the confidentiality of confidential communications and protecting the victim from harm is substantially outweighed by the public interest in admitting into evidence information, or the contents of a document or record, that is of substantial probative value.

- (2) Without limiting the matters the court may take into account for the purposes of subsection (1)(c), the court must take into account the likelihood, nature and extent of the harm that could be caused to the victim if the evidence is adduced or produced.
- (3) In giving leave to adduce or produce evidence of a confidential communication, the court may:
  - (a) allow evidence of part only of the confidential communication to be adduced or produced; or
  - (b) specify the manner in which the evidence is to be adduced or produced.
- (4) The court must state its reasons for giving or refusing to give leave to adduce or produce evidence of a confidential communication.

**56F Limitation on privilege under this Part**

- (1) Nothing in this Part prevents the adducing or producing of:
  - (a) evidence with the consent of a victim or, if the victim is under 14 years of age, the consent of a person the court considers appropriate to give consent; or
  - (b) evidence of information acquired by a medical practitioner or a registered nurse from a physical examination of a victim in connection with the commission or alleged commission of the sexual offence, including evidence of communications between the practitioner or nurse and the victim during the examination; or
  - (c) evidence of a criminal fraud or perjury.

- (2) In this section:

**registered nurse** means a person registered under the Health Practitioner Regulation National Law:

- (a) to practise in the nursing profession (other than as a student); and
- (b) in the registered nurses division of that profession.

**56G Ancillary orders where evidence of confidential communication to be adduced or produced**

- (1) Where the leave of the court or consent under section 56F(a) is given to adduce or produce evidence of a confidential communication, the court may take action to limit the harm likely to

be caused to the victim or any other person because of the disclosure of the confidential communication.

- (2) The action the court may take includes but is not limited to making one or more of the following orders:
- (a) an order that all or part of the evidence of the confidential communication be adduced or produced in camera;
  - (b) an order relating to the production and inspection of a document that in the opinion of the court is necessary to protect the safety and welfare of the victim, the counsellor or any other person who was a party to the confidential communication;
  - (c) an order relating to the suppression of publication of all or part of the evidence of the confidential communication that in the opinion of the court is necessary to protect the safety and welfare of the victim, the counsellor or any other person who was a party to the confidential communication;
  - (d) an order relating to the disclosure of information about the victim, the counsellor or any other person who was a party to the confidential communication (including information that enables a person to ascertain the party's private, business or official address, email address or telephone number) that in the opinion of the court is necessary to protect the party's safety and welfare.

## **Part 8                      Publication of evidence**

### **57                      Prohibition of the publication of evidence and of names of parties and witnesses**

- (1) Where it appears to any court:
- (a) that the publication of any evidence given or used or intended to be given or used, in any proceeding before the court, is likely to offend against public decency; or
  - (b) that, for the furtherance of, or otherwise in the interests of, the administration of justice, it is desirable to prohibit the publication of the name of any party or intended party to, or witness or intended witness in, the proceeding;

the court may, either before or during the course of the proceeding or thereafter, make an order:

- (i) directing that the persons specified (by name or otherwise) by the court, or that all persons, except the persons so specified, shall absent themselves from the place wherein the Court is being held while the evidence is being given; or
  - (ii) forbidding the publication of the evidence, or any specified part thereof, or of any report or account of the evidence, or any specified part thereof, either absolutely or subject to such conditions, or in such terms or form, or in such manner, or to such extent, as the court approves; or
  - (iii) forbidding the publication of the name of any such party or witness.
- (2) Where the court makes an order under subsection (1)(iii), the publication of any reference or allusion to any party or witness, the name of whom is by the order forbidden to be published, shall, if the reference or allusion is, in the opinion of the court hearing the complaint for the alleged offence, intended or is sufficient to disclose the identity of the party or witness, be deemed to be a publication of the name of the party or witness.
- (3) When the court makes an order under subsection (1)(ii) or (iii), forbidding the publication of any evidence or any report or account of any evidence, or the publication of any name, the court shall report the fact to the Director of Public Prosecutions, and shall embody in its report a statement of:
- (a) the evidence or name, as the case may be, by the order forbidden to be published; and
  - (b) the circumstances in which the order was made.

## **58 Temporary prohibition of the publication of evidence where witnesses ordered out of court**

Where, in the course of any proceeding before any court, witnesses are ordered out of court, and it appears to the court that, for the furtherance or otherwise in the interests of the administration of justice, it is desirable to prohibit for any period the publication of any evidence given or used in the proceeding, the court may make an order forbidding, for such period as the court thinks fit, the publication of the evidence or any specified part thereof.



## **65 Regulations**

The Administrator may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

## **Part 10 Transitional provisions**

### **Division 1 Transitional matters for Evidence Legislation (Authorised Persons) Amendment Act 2009**

#### **66 Savings – authorised officers**

- (1) An act of a person purportedly done as an authorised person because of an approval mentioned in the repealed regulation is taken to have been validly done by an authorised person for Part IIA of this Act.
- (2) The amendments made to this Act by the *Evidence Legislation (Authorised Persons) Amendment Act 2009* do not affect any decision of a court made before the commencement of this section.
- (3) In this section:

***repealed regulation*** means regulation 4 of the *Evidence Regulations 1991* as in force before its repeal by section 7 of the *Evidence Legislation (Authorised Persons) Amendment Act 2009*.

### **Division 2 Transitional matters for Evidence (National Uniform Legislation) (Consequential Amendments) Act 2012**

#### **67 Definitions**

In this Division:

***commencement day*** means the day on which section 4 of the Evidence (NUL) Act commences.

***Consequential Act*** means the *Evidence (National Uniform Legislation) (Consequential Amendments) Act 2012*.

**proceeding** includes part of a proceeding or something relating to a proceeding.

**68 Application of this Act linked to application of Evidence (NUL) Act**

- (1) If the Evidence (NUL) Act applies in relation to a proceeding, this Act, as amended by the Consequential Act, applies in relation to the proceeding.
- (2) If the Evidence (NUL) Act does not apply in relation to a proceeding, this Act as in force immediately before the commencement day applies in relation to the proceeding as if the Consequential Act had not commenced.
- (3) If subsection (2) applies in relation to a proceeding, any law amended or repealed by Part 4 or 5 of the Consequential Act that is relevant to the proceeding continues to apply in relation to the proceeding as it was in force immediately before the commencement day as if the Consequential Act had not commenced.

*Note for section 68*

*Chapter 6, and in particular section 199, of the Evidence (NUL) Act sets out the proceedings in relation to which the Evidence (NUL) Act does and does not apply.*

**Division 3 Justice Legislation Amendment (Vulnerable Witnesses) Act 2016**

**69 Definitions**

In this Division:

**amending Act** means the *Justice Legislation Amendment (Vulnerable Witnesses) Act 2016*.

**commencement day** means the commencement of Part 3 of the amending Act.

**70 Proceeding already commenced**

- (1) If a proceeding commenced before the commencement day, the amending Act applies to that part of the proceeding that takes place on or after the commencement day.
- (2) However, subsection (1) does not apply in relation to a trial or hearing in the proceeding that commenced before the commencement day and:
  - (a) continued on or after the commencement day; or



(b) was adjourned until the commencement day or after the commencement day.

(3) The provisions of this Act, as in force immediately before the commencement, apply to a trial or hearing mentioned in subsection (2).

## **71 Offence provisions – before and after commencement day**

(1) The offence provisions, as amended by the amending Act, apply only in relation to offences committed after the commencement day.

(2) The offence provisions, as in force before the commencement day, continue to apply in relation to offences committed before the commencement day.

(3) For this section, if any of the conduct constituting an offence occurred before the commencement day, the offence is taken to have been committed before the commencement day.

(4) In this section:

***offence provisions*** means the provisions of this Act that create or relate to offences committed against this Act (including in relation to criminal responsibility, defences and penalties).

---

**ENDNOTES**
**1****KEY**

Key to abbreviations

<b>amd</b> = amended	<b>od</b> = order
<b>app</b> = appendix	<b>om</b> = omitted
<b>bl</b> = by-law	<b>pt</b> = Part
<b>ch</b> = Chapter	<b>r</b> = regulation/rule
<b>cl</b> = clause	<b>rem</b> = remainder
<b>div</b> = Division	<b>renum</b> = renumbered
<b>exp</b> = expires/expired	<b>rep</b> = repealed
<b>f</b> = forms	<b>s</b> = section
<b>Gaz</b> = <i>Gazette</i>	<b>sch</b> = Schedule
<b>hdg</b> = heading	<b>sdiv</b> = Subdivision
<b>ins</b> = inserted	<b>SL</b> = Subordinate Legislation
<b>lt</b> = long title	<b>sub</b> = substituted
<b>nc</b> = not commenced	

**2****LIST OF LEGISLATION*****Evidence Ordinance 1939 (Act No. 18, 1939)***

Assent date	3 August 1939
Commenced	3 August 1939

***Evidence Ordinance (No. 2) 1939 (Act No. 24, 1939)***

Assent date	16 November 1939
Commenced	16 November 1939 (s 2)

***Evidence Ordinance 1960 (Act No. 1, 1961)***

Assent date	8 February 1961
Commenced	8 February 1961

***Evidence Ordinance 1965 (Act No. 64, 1965)***

Assent date	17 December 1965
Commenced	14 February 1966 (s 2)

***Evidence Ordinance 1967 (Act No. 30, 1967)***

Assent date	23 August 1967
Commenced	23 August 1967

***Evidence Ordinance 1970 (Act No. 47, 1970)***

Assent date	3 December 1970
Commenced	18 Dec 1970 (s 2, s 2 <i>Records of Depositions Ordinance 1970</i> (Act No. 44, 1970) and Gaz No. 50A, 18 December 1970, p 365)

**Ordinances Revision Ordinance 1973 (Act No. 87, 1973)**

Assent date 11 December 1973  
 Commenced 11 December 1973 (s 12(2))

**Amending Legislation**

**Ordinances Revision Ordinance 1974 (Act No. 34, 1974)**

Assent date 26 August 1974  
 Commenced 11 December 1973 (s 3(2))

**Ordinances Revision Ordinance (No. 2) 1974 (Act No. 69, 1974)**

Assent date 24 October 1974  
 Commenced 11 December 1973 (s 3)

**Ordinances Revision Ordinance 1976 (Act No. 27, 1976)**

Assent date 28 June 1976  
 Commenced ss 1, 2 and 6: 28 June 1976 (s 6(2));  
 ss 3 and 4: 11 December 1973; s 5: 24 October 1974

**Transfer of Powers (Further Provisions) Ordinance 1977 (Act No. 51, 1977)**

Assent date 9 December 1977  
 Commenced 1 January 1978 (s 2)

**Transfer of Powers (Self-Government) Ordinance 1978 (Act No. 54, 1978)**

Assent date 1 July 1978  
 Commenced 1 July 1978 (s 8)

**Law Officers Ordinance 1978 (Act No. 61, 1978)**

Assent date 1 July 1978  
 Commenced 1 July 1978

**Statute Law Revision Act (No. 2) 1979 (Act No. 128, 1979)**

Assent date 15 October 1979  
 Commenced 15 October 1979

**Evidence Amendment Act 1982 (Act No. 23, 1982)**

Assent date 27 April 1982  
 Commenced 27 April 1982

**Evidence (Criminal Code) Amendment Act 1983 (Act No. 61, 1983)**

Assent date 28 November 1983  
 Commenced 1 January 1984 (s 2, s 2 *Criminal Code Act 1983* (Act No. 47, 1983), Gaz G46, 18 November 1983, p 11 and Gaz G8, 26 February 1986, p 5)

**Evidence Amendment Act 1984 (Act No. 20, 1984)**

Assent date 12 July 1984  
 Commenced 1 August 1984 (Gaz S40, 1 August 1984)

**Statute Law Revision Act 1985 (Act No. 49, 1985)**

Assent date 1 October 1985  
 Commenced 1 October 1985

**Law Officers Amendment Act (No. 2) 1986 (Act No. 48, 1986)**

Assent date 10 December 1986  
 Commenced 19 December 1986 (Gaz S87, 17 December 1986)

---

**Statute Law Revision Act 1989 (Act No. 60, 1989)**

Assent date 2 October 1989  
Commenced 2 October 1989

**Director of Public Prosecutions (Consequential Amendments) Act 1990 (Act No. 29, 1990)**

Assent date 11 June 1990  
Commenced 21 January 1991 (s 2, s 2 *Director of Public Prosecutions Act 1990* (Act No. 35, 1990) and *Gaz G2*, 16 January 1991, p 9)

**Evidence Amendment Act 1990 (Act No. 36, 1990)**

Assent date 22 June 1990  
Commenced 9 July 1990 (*Gaz S42*, 6 July 1990)

**Financial Institutions (NT) (Consequential Amendments) Act 1992 (Act No. 23, 1992)**

Assent date 2 June 1992  
Commenced 1 July 1992 (s 2, s 2 *Financial Institutions (NT) Act 1992* (Act No. 22, 1992) and *Gaz S35*, 30 June 1992)

**Local Government (Consequential Amendments) Act 1993 (Act No. 84, 1993)**

Assent date 31 December 1993  
Commenced 1 June 1994 (s 2, s 2 *Local Government Act 1993* (Act No. 83, 1993) and *Gaz S35*, 20 May 1994)

**Evidence Amendment Act 1994 (Act No. 3, 1994)**

Assent date 16 March 1994  
Commenced 1 August 1994 (*Gaz G29*, 20 July 1994, p 2)

**Evidence Amendment Act (No. 2) 1994 (Act No. 16, 1994)**

Assent date 14 April 1994  
Commenced 1 August 1994 (*Gaz G29*, 20 July 1994, p 2)

**Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)**

Assent date 19 April 1996  
Commenced s 7: 19 April 1996; rem: 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz S15*, 13 June 1996)

**Evidence Amendment Act 1999 (Act No. 20, 1999)**

Assent date 5 May 1999  
Commenced 16 June 1999 (*Gaz G23*, 16 June 1999, p 2)

**Statute Law Revision Act 1999 (Act No. 27, 1999)**

Assent date 18 June 1999  
Commenced 18 June 1999

**Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)**

Assent date 29 June 2001  
Commenced 15 July 2001 (s 2, s 2 *Corporations Act 2001* (Cth Act No. 50, 2001) and *Cth Gaz S285*, 13 July 2001)

**Evidence Amendment Act 2001 (Act No. 37, 2001)**

Assent date 19 July 2001  
Commenced 26 September 2001 (*Gaz G38*, 26 September 2001, p 4)

---

**Statute Law Revision (Financial Provisions) Act 2002 (Act No. 38, 2002)**

Assent date 13 September 2002  
 Commenced 30 October 2002 (*Gaz* G43, 30 October 2002, p 3)

**Evidence Amendment Act 2003 (Act No. 43, 2003)**

Assent date 7 July 2003  
 Commenced 1 January 2004 (*Gaz* G50, 17 December 2003, p 2)

**Evidence Reform (Children and Sexual Offences) Act 2004 (Act No. 56, 2004)**

Assent date 4 November 2004  
 Commenced 8 December 2004 (*Gaz* G49, 8 December 2004, p 3)

**Youth Justice (Consequential Amendments) Act 2005 (Act No. 33, 2005)**

Assent date 22 September 2005  
 Commenced 1 August 2006 (s 2, s 2 *Youth Justice Act 2005* (Act No. 32, 2005) and *Gaz* G30, 26 July 2006, p 3)

**Statute Law Revision Act 2005 (Act No. 44, 2005)**

Assent date 14 December 2005  
 Commenced 14 December 2005

**Antisocial Behaviour (Miscellaneous Amendments) Act 2006 (Act No. 2, 2006)**

Assent date 8 March 2006  
 Commenced 14 June 2006 (*Gaz* G24, 14 June 2006, p 3)

**Evidence and Other Legislation (Witness Assistance) Amendment Act 2006 (Act No. 32, 2006)**

Assent date 3 November 2006  
 Commenced 3 November 2006

**Evidence of Children Amendment Act 2007 (Act No. 16, 2007)**

Assent date 18 September 2007  
 Commenced 10 October 2007 (*Gaz* G41, 10 October 2007, p 4)

**Care and Protection of Children Act 2007 (Act No. 37, 2007)**

Assent date 12 December 2007  
 Commenced Ch 1 and pts 3.3 and 5.1: 7 May 2008 (*Gaz* G18, 7 May 2008, p 4); Ch 2 (exc pt 2.1, div 6 and s 127), Ch 3, pts 3.1 and 3.2 (exc s 187) and Ch 5, pts 5.2 to 5.6: 8 December 2008 (*Gaz* G47, 26 November 2008, p 6); Ch 4: 9 June 2009 (*Gaz* S27, 1 June 2009); Ch 2, pt 2.1, div 6: 18 August 2010 (*Gaz* S43, 18 August 2010); s 187: 1 July 2011 (*Gaz* S32, 20 June 2011); s 127: nc

**Local Government (Consequential Amendments) Act 2008 (Act No. 28, 2008)**

Assent date 14 November 2008  
 Commenced 1 July 2008 (s 2)

**Evidence Legislation (Authorised Persons) Amendment Act 2009 (Act No. 4, 2009)**

Assent date 12 March 2009  
 Commenced ss 3 and 4(1): 16 October 2007; rem: 12 March 2009 (s 2)

**Statute Law Revision Act 2009 (Act No. 25, 2009)**

Assent date 1 September 2009  
 Commenced 16 September 2009 (*Gaz* G37, 16 September 2009, p 3)

---

***Justice Legislation Amendment (Penalties) Act 2010 (Act No. 12, 2010)***

Assent date 20 May 2010  
Commenced 1 July 2010 (*Gaz G24*, 16 June 2010, p 2)

***Health Practitioner (National Uniform Legislation) Implementation Act 2010 (Act No. 18, 2010)***

Assent date 20 May 2010  
Commenced 1 July 2010 (s 2)

***Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010 (Act No. 40, 2010)***

Assent date 18 November 2010  
Commenced 1 March 2011 (s 2, s 2 *Oaths, Affidavits and Declarations Act 2010* (Act No. 39, 2010) and *Gaz G7*, 16 February 2011, p 4)

***Alcohol Reform (Substance Misuse Assessment and Referral for Treatment Court) Act 2011 (Act No. 19, 2011)***

Assent date 20 May 2011  
Commenced 1 July 2011 (*Gaz G23*, 8 June 2011, p 6)

***Evidence (National Uniform Legislation) (Consequential Amendments) Act 2012 (Act No. 23, 2012)***

Assent date 21 November 2012  
Commenced 1 January 2013 (*Gaz G51*, 19 December 2012, p 4)

***Local Government Amendment Act 2013 (Act No. 28, 2013)***

Assent date 8 November 2013  
Commenced 8 November 2013

***Statute Law Revision Act 2014 (Act No. 38, 2014)***

Assent date 13 November 2014  
Commenced 13 November 2014

***Justice Legislation Amendment (Vulnerable Witnesses) Act 2016 (Act No. 2, 2016)***

Assent date 2 March 2016  
Commenced 23 March 2016 (*Gaz G12*, 23 March 2016, p 6)

***Local Court (Related Amendments) Act 2016 (Act No. 8, 2016)***

Assent date 6 April 2016  
Commenced 1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and *Gaz S34*, 29 April 2016)

***Justice Legislation Amendment (Body-worn Video and Domestic Violence Evidence) Act 2017 (Act No. 6, 2017)***

Assent date 5 April 2017  
Commenced s 6 (ext ins ss 21H to 21R) and pt 4: 2 August 2017 (S55, 2 August 2017); rem: 26 April 2017 (*Gaz G17*, 26 April 2017, p 6)

***Supreme Court Amendment (Associate Judges) Act 2017 (Act No. 18, 2017)***

Assent date 5 September 2017  
Commenced 22 November 2017 (*Gaz S84*, 21 November 2017, p 1)

---

**Health Practitioner Regulation (National Uniform Legislation) and Other Legislation Amendment Act 2018 (Act No. 28, 2018)**

Assent date 30 November 2018  
Commenced 1 December 2018 (s 2)

**3 SAVINGS AND TRANSITIONAL PROVISIONS**

s 5 *Evidence Amendment Act 2003* (Act No. 43, 2003)  
s 18 *Evidence Reform (Children and Sexual Offences) Act 2004* (Act No. 56, 2004)

**4 GENERAL AMENDMENTS**

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Ordinances Revision Ordinance 1973* (Act No. 87, 1973) (as amended) to the following provisions: ss 2, 8, 9, 14, 17, 21, 26A, 26D, 26H, 26J, 28, 29, 33, 37, 38, 42A 42B, 44, 45, 47, 48, 51, 52, 54, 55, 56, 57 and 59 and First Schedule.

**5 GENERAL AMENDMENTS**

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 21A, 21J, 24, 26E, 53, 56 and 66.

**6 LIST OF AMENDMENTS**

It	amd No. 36, 1990, s 22; No. 23, 2012, s 6
pt 1 hdg	sub No. 23, 2012, s 7
s 1	amd No. 36, 1990, s 22
s 2	rep No. 23, 2012, s 8
s 3	rep No. 128, 1979, s 37
s 4	amd No. 30, 1967, s 2; No. 36, 1990, ss 4 and 22; No. 23, 1992, s 4; No. 37, 2001, s 3; No. 38, 2002, s 6; No. 32, 2006, s 3; No. 23, 2012, s 9; No. 2, 2016, s 9; No. 6, 2017, s 4
s 5	amd No. 36, 1990, s 22 sub No. 23, 2012, s 10
pt II hdg	rep No. 23, 2012, s 10
s 6	amd No. 17, 1996, s 6 sub No. 23, 2012, s 10
s 6A	ins No. 2, 2016, s 10
pt 2 hdg	ins No. 23, 2012, s 10
s 7	amd No. 36, 1990, s 22 rep No. 23, 2012, s 10
s 8	sub No. 1, 1961, s 2 rep No. 23, 2012, s 10
s 9	amd No. 61, 1983, s 4; No. 36, 1990, s 22; No. 17, 1996, s 6 rep No. 23, 2012, s 10
s 9A	ins No. 24, 1939, s 2 amd No. 1, 1961, s 3 rep No. 30, 1967, s 3
s 9B	ins No. 24, 1939, s 2 rep No. 30, 1967, s 3

## ENDNOTES

---

s 9C	ins No. 24, 1939, s 2 sub No. 3, 1994, s 3 amd No. 27, 1999, s 15 rep No. 23, 2012, s 10
s 10	amd No. 36, 1990, s 22 rep No. 23, 2012, s 10
s 11	amd No. 61, 1978, s 4 rep No. 61, 1983, s 5
s 12	amd No. 23, 2012, s 11
s 13	amd No. 36, 1990, s 22 rep No. 23, 2012, s 12
ss 14 – 15	rep No. 23, 2012, s 12
s 16	amd No. 36, 1990, s 22 sub No. 56, 2004, s 4 rep No. 23, 2012, s 12
s 17	sub No. 36, 1990, s 5 amd No. 12, 2010, s 3 rep No. 23, 2012, s 12
ss 18 – 19	rep No. 23, 2012, s 12
s 20	amd No. 47, 1970, s 3 rep No. 23, 2012, s 12
s 20A	ins No. 32, 2006, s 4 rep No. 23, 2012, s 12
s 21	sub No. 36, 1990, s 6; No. 32, 2006, s 4 rep No. 23, 2012, s 12
pt IIA hdg	ins No. 16, 1994, s 3 rep No. 23, 2012, s 13
pt 3 hdg	ins No. 23, 2012, s 13
s 21A	ins No. 16, 1994, s 3 amd No. 37, 2001, s 5; No. 56, 2004, s 5; No. 33, 2005, s 5; No. 16, 2007, s 9; No. 4, 2009, s 4; No. 23, 2012, s 28; No. 2, 2016, s 11; No. 6, 2017, s 5
s 21B	ins No. 16, 1994, s 3 amd No. 37, 2001, s 6 sub No. 56, 2004, s 6; No. 16, 2007, s 10 amd No. 23, 2012, s 28; No. 2, 2016, s 12
s 21C	ins No. 16, 1994, s 3 amd No. 37, 2001, s 7 sub No. 16, 2007, s 10 amd No. 23, 2012, s 28; No. 2, 2016, s 13
s 21D	ins No. 56, 2004, s 7 amd No. 16, 2007, s 11; No. 23, 2012, s 28; No. 2, 2016, s 14
ss 21E – 21F	ins No. 16, 2007, s 12 amd No. 23, 2012, s 28
pt 3A hdg	ins No. 6, 2017, s 6
ss 21G – 27R	ins No. 6, 2017, s 6
pt III hdg	rep No. 23, 2012, s 14
pt 4 hdg	ins No. 23, 2012, s 14
ss 22 – 23	rep No. 23, 2012, s 15
s 24	rep No. 36, 1990, s 22 ins No. 43, 2003, s 4 amd No. 23, 2012, s 28
s 25	amd No. 36, 1990, s 7 rep No. 23, 2012, s 15
s 26	rep No. 61, 1983, s 6
s 26A	ins No. 1, 1961, s 4 amd No. 17, 1996, s 6 rep No. 23, 2012, s 15
s 26B	ins No. 1, 1961, s 4 rep No. 36, 1990, s 22



## ENDNOTES

---

- s 26C ins No. 1, 1961, s 4  
amd No. 87, 1973, s 12; No. 36, 1990, s 22; No. 17, 1996, s 6  
rep No. 23, 2012, s 15
- s 26D ins No. 1, 1961, s 4  
rep No. 23, 2012, s 15
- s 26E ins No. 1, 1961, s 4  
rep No. 36, 1990, s 22  
ins No. 56, 2004, s 8  
amd No. 16, 2007, s 13; No. 23, 2012, s 28; No. 8, 2016, s 45
- ss 26F – 26H ins No. 1, 1961, s 4  
amd No. 36, 1990, s 22
- ss 26J – 26K ins No. 1, 1961, s 4  
rep No. 36, 1990, s 22
- s 26L ins No. 20, 1984, s 3  
rep No. 23, 2012, s 15
- pt IV hdg rep No. 23, 2012, s 16
- s 27 amd No. 87, 1973, s 12  
sub No. 36, 1990, s 8  
rep No. 23, 2012, s 16
- s 27A ins No. 36, 1990, s 9  
rep No. 23, 2012, s 16
- s 28 rep No. 23, 2012, s 16
- s 28A ins No. 1, 1961, s 5  
amd No. 54, 1978, s 4  
sub No. 36, 1990, s 10  
rep No. 23, 2012, s 16
- s 28B ins No. 1, 1961, s 5  
amd No. 87, 1973, s 12; No. 51, 1977, s 3; No. 54, 1978, s 4  
rep No. 36, 1990, s 10
- ss 28C – 28D ins No. 1, 1961, s 5  
amd No. 36, 1990, s 22  
rep No. 23, 2012, s 16
- s 29 amd No. 64, 1965, s 3  
sub No. 36, 1990, s 11  
rep No. 23, 2012, s 16
- s 30 amd No. 87, 1973, s 12  
sub No. 36, 1990, s 12  
rep No. 23, 2012, s 16
- s 30A ins No. 1, 1961, s 6  
rep No. 36, 1990, s 22
- s 31 rep No. 36, 1990, s 22
- s 32 amd No. 36, 1990, s 13; No. 17, 1996, s 6  
rep No. 23, 2012, s 16
- s 33 amd No. 36, 1990, s 22; No. 17, 1996, s 6  
rep No. 23, 2012, s 16
- s 33A ins No. 1, 1961, s 7  
amd No. 87, 1973, s 12; No. 17, 1996, s 6  
rep No. 23, 2012, s 16
- s 34 amd No. 36, 1990, s 22  
rep No. 23, 2012, s 16
- s 35 amd No. 87, 1973, s 12  
rep No. 23, 2012, s 16
- s 36 amd No. 1, 1961, s 8; No. 30, 1967, s 4; No. 47, 1970 s 4; No. 51, 1977, s 3;  
No. 54, 1978, s 4; No. 60, 1989, s 6  
sub No. 36, 1990, s 14  
rep No. 23, 2012, s 16
- s 37 amd No. 64, 1965, s 4  
rep No. 36, 1990, s 22

## ENDNOTES

---

- s 38 amd No. 64, 1965, s 5  
rep No. 36, 1990, s 22
- s 39 rep No. 23, 2012, s 16
- s 40 amd No. 87, 1973, s 12; No. 60, 1989, s 6  
rep No. 36, 1990, s 22
- s 41 amd No. 87, 1973, s 12  
rep No. 36, 1990, s 22
- s 42 amd No. 36, 1990, s 22  
rep No. 23, 2012, s 16
- s 42A ins No. 1, 1961, s 9  
amd No. 36, 1990, s 22  
rep No. 23, 2012, s 16
- s 42B ins No. 1, 1961, s 9  
amd No. 51, 1977, s 3; No. 54, 1978, ss 3 and 4; No. 36, 1990, s 22; No. 17,  
2001, s 21; No. 38, 2002, s 6  
rep No. 23, 2012, s 16
- pt IVA hdg ins No. 23, 1982, s 2  
rep No. 23, 2012, s 16
- ss 42C – 42G ins No. 23, 1982, s 2  
rep No. 23, 2012, s 16
- pt V hdg amd No. 38, 2002, s 6  
rep No. 23, 2012, s 16
- s 43 sub No. 36, 1990, s 15  
amd No. 38, 2002, s 6  
rep No. 23, 2012, s 16
- s 44 amd No. 36, 1990, ss 16 and 22; No. 38, 2002, s 6  
rep No. 23, 2012, s 16
- s 45 sub No. 36, 1990, s 17  
amd No. 38, 2002, s 6  
rep No. 23, 2012, s 16
- s 45A ins No. 1, 1961 s 10  
amd No. 38, 2002, s 6  
rep No. 23, 2012, s 16
- s 45B ins No. 1, 1961, s 10  
amd No. 87, 1973, s 12; No. 38, 2002, s 6  
rep No. 23, 2012, s 16
- ss 46 – 48 amd No. 36, 1990, s 22; No. 38, 2002, s 6  
rep No. 23, 2012, s 16
- pt VA hdg ins No. 20, 1999, s 3  
rep No. 23, 2012, s 17
- pt 5 hdg ins No. 23, 2012, s 17
- pt 5  
div 1 hdg ins No. 20, 1999, s 3  
amd No. 23, 2012, s 28
- s 49 amd No. 30, 1967, s 5  
rep No. 36, 1990, s 22  
ins No. 20, 1999, s 3  
amd No. 2, 2006, s 24; No. 33, 2005, s 5; No. 37, 2007, s 338; No. 19, 2011,  
s 46; No. 23, 2012, s 18
- s 49A ins No. 20, 1999, s 3  
rep No. 23, 2012, s 19
- ss 49B – 49C ins No. 20, 1999, s 3  
amd No. 23, 2012, s 28
- pt 5  
div 2 hdg ins No. 20, 1999, s 3
- ss 49D – 49J ins No. 20, 1999, s 3  
amd No. 23, 2012, s 28
- s 49K ins No. 20, 1999, s 3  
amd No. 40, 2010, s 42; No. 23, 2012, s 28

## ENDNOTES

---

ss 49L – 49M	ins No. 20, 1999, s 3 amd No. 23, 2012, s 28
pt 5	
div 3 hdg	ins No. 20, 1999, s 3 amd No. 23, 2012, s 28
ss 49N – 49T	ins No. 20, 1999, s 3 amd No. 23, 2012, s 28
pt 5	
div 4 hdg	ins No. 20, 1999, s 3 amd No. 23, 2012, s 28
ss 49U – 49Y	ins No. 20, 1999, s 3 amd No. 23, 2012, s 28
s 49Z	ins No. 20, 1999, s 3 amd No. 23, 2012, s 28; No. 8, 2016, s 45
ss 49ZA – 49ZB	ins No. 20, 1999, s 3 amd No. 23, 2012, s 28
s 49ZC	ins No. 20, 1999, s 3 amd No. 12, 2010, s 3; No. 23, 2012, s 28 sub No. 2, 2016, s 15
s 49ZD	ins No. 2, 2016, s 15 amd No. 18, 2017, s 36
pt 6 hdg	sub No. 36, 1990, s 18; No. 23, 2012, s 20
pt 6	
div 1 hdg	sub No. 36, 1990, s 18
s 50	amd No. 87, 1973, s 12 sub No. 36, 1990, s 18 amd No. 23, 2012, s 28; No. 8, 2016, s 45
s 51	sub No. 36, 1990, s 18 amd No. 23, 2012, s 28
pt 6	
div 2 hdg	sub No. 36, 1990, s 18
s 52	sub No. 36, 1990, s 18 amd No. 23, 2012, s 28
s 53	amd No. 30, 1967, s 6; No. 51, 1977, s 3 sub No. 36, 1990, s 18 amd No. 32, 2006, s 5; No. 23, 2012, s 28
s 54	sub No. 36, 1990, s 18 amd No. 23, 2012, s 28
s 55	amd No. 64, 1965, s 6; No. 12, 2010, s 3 sub No. 36, 1990, s 18 amd No. 23, 2012, s 28 sub No. 2, 2016, s 16
pt VIA hdg	ins No. 37, 2001, s 8 rep No. 23, 2012, s 21
pt 7 hdg	ins No. 23, 2012, s 21
s 56	amd No. 64, 1965, s 7 rep No. 36, 1990, s 18 ins No. 37, 2001, s 8 amd No. 23, 2012, s 28; No. 8, 2016, s 45
ss 56A – 56E	ins No. 37, 2001, s 8 amd No. 23, 2012, s 28
s 56F	ins No. 37, 2001, s 8 amd No. 44, 2005, s 22; No. 18, 2010, s 36; No. 23, 2012, s 28; No. 28, 2018, s 25
s 56G	ins No. 37, 2001, s 8 amd No. 23, 2012, s 28
pt VII hdg	rep No. 23, 2012, s 22
pt 8 hdg	ins No. 23, 2012, s 22

## ENDNOTES

---

s 57	amd No. 49, 1985, s 4; No. 48, 1986, s 9; No. 29, 1990, s 7; No. 36, 1990, s 22; No. 23, 2012, s 28
s 58	amd No. 23, 2012, s 28
s 59	amd No. 64, 1965, s 8 sub No. 36, 1990, s 19 amd No. 12, 2010, s 3 sub No. 2, 2016, s 17
ss 60 – 61	rep No. 36, 1990, s 22
pt VIII hdg	rep No. 23, 2012, s 23
pt 9 hdg	ins No. 23, 2012, s 23
s 62	amd No. 23, 2012, s 28; No. 8, 2016, s 45
s 62A	ins No. 1, 1961, s 11 amd No. 84, 1993, s 6; No. 25, 2009, s 10; No. 23, 2012, s 28; No. 28, 2013, s 61; No. 38, 2014, s 2
s 63	amd No. 87, 1973, s 12 sub No. 36, 1990, s 20 rep No. 23, 2012, s 24
s 64	amd No. 87, 1973, s 12; No. 84, 1993, s 6; No. 28, 2008, s 3 rep No. 23, 2012, s 24
s 65	sub No. 36, 1990, s 21
pt IX hdg	ins No. 4, 2009, s 5 rep No. 23, 2012, s 25
pt 10 hdg	ins No. 23, 2012, s 25
pt 10	
div 1 hdg	ins No. 23, 2012, s 25
s 66	ins No. 4, 2009, s 5
pt 10	
div 2 hdg	ins No. 23, 2012, s 26
ss 67 – 68	ins No. 23, 2012, s 26
pt 10	
div 3 hdg	ins No. 2, 2016, s 18
s 69	ins No. 23, 2012, s 26 exp No. 23, 2012, s 69(5) ins No. 2, 2016, s 18
ss 70 – 71	ins No. 2, 2016, s 18
first sch	rep No. 23, 2012, s 27
second sch	rep No. 61, 1983, s 7
third sch	ins No. 24, 1939, s 3 rep No. 30, 1967, s 7
fourth sch	ins No. 1, 1961, s 12 amd No. 17, 1996, s 6, No. 40, 2010, s 43 rep No. 23, 2012, s 27