



TASMANIA

**EVIDENCE AND RELATED LEGISLATION
AMENDMENT ACT 2017**

No. 49 of 2017

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement

PART 2 – CRIMINAL CODE ACT 1924 AMENDED

3. Principal Act
4. Schedule 1 amended (*Criminal Code*)
326A. Order for separate trial for sexual offences

PART 3 – EVIDENCE ACT 2001 AMENDED

5. Principal Act
6. Section 101 amended (Further restrictions on tendency evidence and coincidence evidence adduced by the prosecution)

PART 4 – REPEAL OF ACT

7. Repeal of Act



**EVIDENCE AND RELATED LEGISLATION
AMENDMENT ACT 2017**

No. 49 of 2017

An Act to amend the *Evidence Act 2001* and the *Criminal Code Act 1924*

[Royal Assent 12 December 2017]

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Evidence and Related Legislation Amendment Act 2017*.

Evidence and Related Legislation Amendment Act 2017
Act No. 49 of 2017

s. 2

Part 1 – Preliminary

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

Evidence and Related Legislation Amendment Act 2017
Act No. 49 of 2017

Part 2 – Criminal Code Act 1924 Amended

s. 3

PART 2 – CRIMINAL CODE ACT 1924 AMENDED

3. Principal Act

In this Part, the *Criminal Code Act 1924** is referred to as the Principal Act.

4. Schedule 1 amended (*Criminal Code*)

Schedule 1 to the Principal Act is amended by inserting the following section after section 326 in Chapter XXXVIII:

326A. Order for separate trial for sexual offences

(1) In this section –

sexual offence means –

- (a) a crime under section 124, 125, 125A, 125B, 125C, 125D, 126, 127, 127A, 129, 130, 133 or 185; or
- (b) a crime under section 298, 299 or 300 in relation to a crime specified in a section referred to in paragraph (a).

(2) Despite section 326 and any rule of law to the contrary, if in accordance with this Act 2 or more charges for sexual offences are joined in the same

*No. 69 of 1924

Evidence and Related Legislation Amendment Act 2017
Act No. 49 of 2017

s. 4

Part 2 – Criminal Code Act 1924 Amended

indictment, it is presumed that those charges are to be tried together.

- (3) The presumption created by subsection (2) is not rebutted merely because evidence on one charge is inadmissible on another charge.

Evidence and Related Legislation Amendment Act 2017
Act No. 49 of 2017

Part 3 – Evidence Act 2001 Amended

s. 5

PART 3 – EVIDENCE ACT 2001 AMENDED

5. Principal Act

In this Part, the *Evidence Act 2001** is referred to as the Principal Act.

6. Section 101 amended (Further restrictions on tendency evidence and coincidence evidence adduced by the prosecution)

Section 101 of the Principal Act is amended by inserting after subsection (4) the following subsection:

- (5) The possibility that tendency evidence about a defendant, or coincidence evidence about a defendant, adduced by the prosecution may be the result of collusion, concoction or suggestion is to be disregarded when considering both the probative value of the evidence and the prejudicial effect it may have on the defendant.

Note: Subsection (5) does not appear in the Evidence Act 1995 of the Commonwealth.

*No. 76 of 2001

Evidence and Related Legislation Amendment Act 2017
Act No. 49 of 2017

s. 7

Part 4 – Repeal of Act

PART 4 – REPEAL OF ACT

7. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.

*[Second reading presentation speech made in:–
House of Assembly on 17 October 2017
Legislative Council on 15 November 2017]*