

APPENDIX 3

AMENDMENT PROPOSED BY HREOC¹

Crimes Act 1914

15YV When court may take evidence by video link

(1) In a proceeding, the court must:

(a) direct; or

(b) by order, allow;

a witness to give evidence by video link if:

(c) both:

(i) the prosecutor or defendant in the proceeding applies for the direction or order; and

(ii) the court is satisfied that the prosecutor or defendant in the proceeding gave the court reasonable notice of his or her intention to make the application; and

(d) the witness is not a defendant in the proceeding; and

(e) the witness is available, or will reasonably be available, to give evidence by video link; and

(f) the facilities required by section 15YY are available or can reasonably be made available;

unless the court is satisfied that it would be inconsistent with the interests of justice for the evidence to be given by video link.

(2) For the purposes of this section, it will be inconsistent with the interests of justice for evidence to be given by video link if the giving of the direction or the making of the order would, having regard to the circumstances of the proceedings as a whole, violate the right of the accused to a fair hearing.

¹ Taken from HREOC, *Submission 4*, p. 8, para 31.