Courts (Remote Participation) Amendment Act 2024

Public Act	2024 No 33
Date of assent	2 September 2024
Commencement	see section 2

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11 Schedule 1AB amended

Schedule
Minor and consequential amendments to Courts (Remote Participation) Act 2010

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Courts (Remote Participation) Amendment Act 2024.

2 Commencement

(1) Section 7 comes into force 6 months after Royal assent.

(2) The rest of this Act comes into force on the day after Royal assent.

Part 1
Amendments to Courts (Remote Participation) Act 2010

3 Principal Act

This Part amends the Courts (Remote Participation) Act 2010.

4 Section 3 amended (Interpretation)

In section 3, insert in their appropriate alphabetical order:

audio link, or **AL**, in relation to a proceeding, means facilities that enable audio communication to take place between participants or (as the case may be) to be received by a victim or support person under section 9A when some or all of them are not physically present at the place of hearing for all or part of the proceeding

offence has the meaning given in section 4 of the Victims' Rights Act 2002

victim has the meaning given in section 4 of the Victims' Rights Act 2002 (and paragraph (b)(i) and (ii) of that definition also applies for the purposes of this Act)

5 New section 7A inserted (Use of audio links in civil proceedings)

After section 7, insert:

7A Use of audio links in civil proceedings

(1) This section applies if—

(a) a judicial officer or Registrar would otherwise have determined under section 7 that AVL be used for the appearance of a participant in a civil proceeding; or

(b) the only reason that a judicial officer or Registrar would not have made such a determination is because AVL is not available.

(2) The judicial officer or Registrar may determine that AL be used instead of AVL for the appearance of the participant in the civil proceeding if—

(a) the judicial officer or Registrar considers the criteria set out in section 5 in deciding whether the use of AL is appropriate in the circumstances; and

(b) the judicial officer or Registrar considers the potential impact of the use of AL on the ability of the parties to the proceeding—

(i) to comprehend the proceeding; and

(ii) to participate effectively in the proceeding; and

(iii) to consult and instruct counsel privately; and

(iv) to access relevant evidence; and

(v) to examine witnesses; and

(c) the judicial officer or Registrar determines that it is not contrary to the interests of justice to use AL instead of AVL.

(3) However, the judicial officer or Registrar may not determine that AL be used instead of AVL for the appearance of the participant in the civil proceeding if the proceeding is the hearing of an application for which the participant must be present under—

(a) section 121 of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003; or

(b) section 19 of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or

(c) section 76 of the Substance Addiction (Compulsory Assessment and Treatment) Act 2017.

6 New section 8A inserted (Use of audio links in criminal procedural matters)

After section 8, insert:

8A Use of audio links in criminal procedural matters

(1) This section applies if—

(a) section 8 requires or permits AVL to be used for the appearance of a participant in a criminal procedural matter; or

(b) the only reason that section 8 does not require or permit AVL to be so used is because AVL is not available.

(2) A judicial officer or Registrar may determine that AL be used instead of AVL for the appearance of the participant in the criminal procedural matter if—

(a) the judicial officer or Registrar considers the criteria set out in sections 5 and 6 in deciding whether the use of AL is appropriate in the circumstances; and

(b) the defendant is not required to, and does not wish to, attend the hearing; and

(c) the judicial officer or Registrar determines that it is not contrary to the interests of justice to use AL instead of AVL.

7 New section 9A inserted (Use of audio-visual links and audio links by victims and support persons to observe trial and sentencing)

After section 9, insert:

9A Use of audio-visual links and audio links by victims and support persons to observe trial and sentencing

(1) Despite section 9, a victim of an offence and any support person of the victim are entitled to observe all or part of the trial and sentencing for the offence by the use of AVL or AL (the **relevant technology**) if—

(a) the relevant technology is available; and

(b) the victim gives the court notice that they wish to use the relevant technology; and

(c) there is reasonable time, after the victim gives notice, for the court to make the necessary arrangements for the use of the relevant technology; and

(d) the trial or sentencing that is to be observed is open to the public; and

(e) the victim and any support person are otherwise entitled to be physically present.

(2) However, subsection (1) does not apply if a judicial officer or a Registrar determines that the use of the relevant technology is contrary to the interests of justice.

(3) Before making a determination under subsection (2), the judicial officer or Registrar (as the case may be) must take into account the criteria specified in sections 5 and 6.

8 Minor and consequential amendments to Courts (Remote Participation) Act 2010

Amend the Courts (Remote Participation) Act 2010 as set out in the Schedule.

Part 2
Amendments to Criminal Procedure Act 2011

9 Principal Act

This Part amends the Criminal Procedure Act 2011.

10 New section 198A inserted (Hearing may be conducted by audiovisual link or audio link)

After section 198, insert:

198A Hearing may be conducted by audiovisual link or audio link

(1) Nothing in sections 196 to 198 limits or affects the ability of a court to conduct a hearing wholly or partly by audiovisual link (**AVL**) or audio link (**AL**) and to require some or all members of the media or the public who wish to observe the hearing to attend by AVL or AL.

(2) For the purposes of subsection (1),—

audio link or **AL**, in relation to a proceeding, means facilities that enable audio communication between, or to be received by, participants when some or all of them are not physically present at the place of hearing for all or part of the proceeding

audiovisual link or **AVL**, in relation to a proceeding, means facilities that enable both audio and visual communication between, or to be received by, participants when some or all of them are not physically present at the place of hearing for all or part of the proceeding.

11 Schedule 1AB amended

In Schedule 1AB, repeal clause 1.

Schedule
Minor and consequential amendments to Courts (Remote Participation) Act 2010

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Section 3

In section 3, replace the definition of **audio-visual link**, or **AVL**, with:

> **audio-visual link**, or **AVL**, in relation to a proceeding, means facilities that enable both audio and visual communication to take place between participants or (as the case may be) to be received by a victim or support person under section 9A when some or all of them are not physically present at the place of hearing for all or part of the proceeding

Part 2 heading

In the Part 2 heading, after "**audio-visual links**", insert "**and audio links**".

Section 5

In the heading to section 5, after "**audio-visual links**", insert "**and audio links**".

In section 5, replace "he or she is" with "they are".

In section 5, after "AVL", insert "or AL".

In section 5, after "for the appearance of any participant in a proceeding", insert "or for the observation of a proceeding by a victim or support person".

Section 6

In the heading to section 6, after "**audio-visual links**", insert "**and audio links**".

In section 6, replace "he or she is" with "they are".

In section 6, after "AVL", insert "or AL".

In section 6, after "for the appearance of any participant in a criminal proceeding", insert "or for the observation of a criminal proceeding by a victim or support person".

In section 6, replace "his or her" with "the defendant's".

In section 6(a)(ii), replace "his or her" with "their".

In section 6(c), after "any other participant appearing", insert ", or a victim or a support person observing,".

In section 6(c), after "AVL", insert "or AL".

Section 7

In section 7(2)(a), replace "his or her" with "their".

Section 9

In section 9(2), replace "his or her" with "the defendant's".

Section 10

In section 10(1), after "AVL", insert "or AL".

In section 10(1), after "for the appearance of a participant", insert ", or a determination in relation to the use of AVL or AL for observation by a victim or support person,".

In section 10(2), replace "his or her" with "their".

In section 10(2), after "AVL", insert "or AL".

In section 10(2), after "for the appearance of a participant", insert ", or in relation to the use of AVL or AL for observation by a victim or support person,".

Section 11

In section 11, after "AVL", insert "or AL".

In section 11, after "appearance of a participant in a proceeding", insert ", or for the observation of a proceeding by a victim or support person,".

Section 12

In section 12, after "AVL", insert "or AL".

Section 13

In section 13, after "AVL", insert "or AL".

Section 14

In section 14(1), after "participant", insert ", victim, or support person".

In section 14(1), after "appears at", insert "or observes".

In section 14(1), after "AVL", insert "or AL".

In section 14(2), after "participant", insert ", victim, or support person".

Section 15

In the heading to section 15, after "**AVL**", insert "**or AL**".

In section 15, after "proceeding by the use of AVL", insert "or AL".

Section 16

In section 16(1), after "AVL", insert "or AL".

In section 16(1), replace "his or her" with "their".

In section 16(2), after "appearance by a participant at a proceeding", insert ", or the observation of a proceeding by a victim or support person,".

In section 16(2), after "AVL", insert ", AL,".

Section 17

In the heading to section 17, after "**AVL**", insert "**or AL**".

Section 17—*continued*

In section 17, after "AVL", insert "or AL".

In section 17, replace "he or she" with "they".

In section 17, after "the participant", insert ", victim, or support person".

Section 18

In section 18(1)(a), after "AVL", insert "or AL".

In section 18(1)(b), after "AVL", insert "or AL" in each place.

In section 18(2)(b), replace "he or she" with "the Minister".

Legislative history

7 March 2024	Introduction (Bill 29–1), first reading and referral to Justice Committee
29 July 2024	Reported from Justice Committee
22 August 2024	Second reading
28 August 2024	Committee of the whole House
29 August 2024	Third reading
2 September 2024	Royal assent

This Act is administered by the Ministry of Justice.

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