

1998-1999-2000-2001

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

MINUTES OF PROCEEDINGS

No. 121

WEDNESDAY, 28 MARCH 2001

- 1** The Assembly met at 10.30 a.m., pursuant to adjournment. The Speaker (Mr Cornwell) took the Chair and asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

2 ASSEMBLY BUSINESS – POSTPONEMENT OF PRECEDENCE

Mr Berry, by leave, moved – That:

- (1) Assembly business, order of the day No. 1 relating to the presentation of Standing Committee reports on the Draft Budget initiatives take precedence after the presentation of any papers tomorrow, 29 March 2001;
- (2) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.

Debate ensued.

Ms Tucker, by leave, again addressed the Assembly.

Mr Osborne, by leave, again addressed the Assembly.

The debate having been closed by the reply of Mr Berry –

Mr Rugendyke, by leave, addressed the Assembly.

Question – put and passed.

3 EDUCATION AMENDMENT BILL 2001

Mr Berry, pursuant to notice, presented a Bill for an Act to amend the *Education Act 1937*.

Title read by Clerk.

Mr Berry moved - That this Bill be agreed to in principle.

Debate adjourned (Mr Stefaniak – Minister for Education) and the resumption of the debate made an order of the day for the next sitting.

4 POSTPONEMENT OF NOTICE

Notice No. 2, private Members' business, having been called on –

Ms Tucker, pursuant to standing order 128, fixed after the presentation of papers today, Wednesday 28 March 2001, for moving the motion relating to the proposed censure of the Minister for Urban Services.

5 WORKERS' COMPENSATION PREMIUM

The order of the day having been read for the resumption of the debate on the motion of Mr Osborne – That the Government set a maximum rate of 15 percent as the workers' compensation premium payable by the Group Training Companies –

Debate resumed.

Mr Berry and Mr Humphries (Chief Minister), by leave, were granted extensions of time.

Paper: Mr Humphries presented the following paper:

Workers' compensation premium rate control – Facsimile copy of letter, including attachment, from General Manager – Underwriting Operations, Workers Compensation Division, Allianz Australia Insurance Limited to Workers Compensation Policy, Industry Policy and Regulation, Department of Urban Services, dated 16 March 2001.

Mr Kaine, by leave, again addressed the Assembly.

Mr Berry, by leave, moved the following amendment:

Add "and furthermore that the operation of any maximum rate so determined be limited to a period of two years."

Debate ensued.

Paper: Mr Stefaniak (Minister for Education) presented the following paper:

Workers' compensation premium for the construction industry training body – Facsimile copy of letter from General Manager, Statutory Classes, Insurance Council of Australia to Mr B Smyth, Minister Urban Services, dated 23 March 2001.

Debate continued.

Ms Tucker, by leave, was granted an extension of time.

Debate continued.

Closure moved: Mr Berry moved – That the question be now put.

The Speaker declining to put the question in accordance with standing order 70 –

Debate continued.

Question – That Mr Berry's amendment be agreed to – put and passed.

Question – That the motion, as amended, viz:

That the Government set a maximum rate of 15 percent as the workers' compensation premium payable by the Group Training Companies and furthermore that the operation of any maximum rate so determined be limited to a period of two years –
be agreed to – put and passed.

6 TOTALCARE – PROVISION OF SERVICES

Mr Stanhope (Leader of the Opposition), pursuant to notice, moved – That this Assembly calls on the Government to demonstrate its commitment to Totalcare and its employees and to the provision of quality services to the residents of the ACT.

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour this day.

7 QUESTIONS

Questions without notice being asked –

Paper: Mr Smyth (Minister for Urban Services) presented the following paper:

ACT Policing – Indexed expenditure – Copy of bar graph for the years 1989 to 2001.

Questions continued.

8 PUBLIC SECTOR MANAGEMENT ACT – EXECUTIVE CONTRACTS – PAPERS AND STATEMENT BY MINISTER

Mr Humphries (Chief Minister) presented the following papers:

Public Sector Management Act, pursuant to sections 31A and 79 – Copies of executive contracts or instruments –

Long term contract:

Tu Pham, dated 8 March 2001.

Temporary contracts:

Kimberley Pierce, dated 1 March 2001.

Geoff Keogh, dated 5 March 2001.

Mandy Hillson, dated 5 March 2001.

Schedule D variations:

Beverley Forner, dated 1 March 2001.

Paul Dugdale, dated 6 March 2001.

Graeme Dowell, dated 28 February and 5 March 2001.

Allan Eggins, dated 1 March 2001.

Allan Towill, dated 6 and 8 March 2001.

Sue Ross, dated 1 March 2001 –

and, by leave, made a statement in relation to the papers.

9 PRESENTATION OF PAPERS

Mr Humphries (Chief Minister) presented the following papers:

Remuneration Tribunal Act, pursuant to section 12 – Determinations, together with statements for:

Part-Time Holders of Public Offices – Determination No 78, dated 28 February 2001.

Members of the ACT Legislative Assembly – Determination No 79, dated 28 February 2001.

Chief Executives and Executives and Full-Time Holders of Public Office – Determination No 80, dated 28 February 2001.

10 TOTALCARE – PROVISION OF SERVICES

The order of the day having been read for the resumption of the debate on the motion of Mr Stanhope (Leader of the Opposition) – That this Assembly calls on the Government to demonstrate its commitment to Totalcare and its employees and to the provision of quality services to the residents of the ACT –

Debate resumed.

Question – put and passed.

11 CANBERRA TOURISM AND EVENTS CORPORATION – RELOCATION TO CANBERRA AIRPORT – PROPOSED CENSURE OF MINISTER – REQUEST FOR PERFORMANCE AUDIT

Ms Tucker, pursuant to notice, as amended by leave, moved – That in respect to the decision of the Canberra Tourism and Events Corporation (CTEC) to relocate to Brindabella Park Commercial Centre at Canberra Airport the Assembly:

- (1) censures the Minister for Business, Tourism and the Arts for his refusal to obey an order of the Legislative Assembly, being to provide documents to the Clerk of the Assembly for inspection by Members;
- (2) expresses concern regarding:
 - (a) access for clients and staff of the Corporation;
 - (b) support for commercial development in a location which is contrary to the principles of the Territory Plan;
 - (c) the possible failure of the Corporation's Board to comply clearly with the requirements of clause 15 of the *Canberra Tourism and Events Corporation Act 1997* “Disclosure of Interest”;
- (3) draws the attention of the ACT Auditor General to these concerns, and asks him to conduct a performance audit of this decision of the Corporation.

Ms Tucker, by leave, was granted an extension of time.

Debate continued.

Mr Berry moved the following amendment:

Paragraph (1), line 1, after “Minister for Business, Tourism and the Arts” insert the words “for misleading this Assembly and”.

Mr Berry, by leave, was granted an extension of time.

Debate continued.

Mr Stefaniak (Attorney-General) addressing the Assembly –

Adjournment negatived: It being 5 p.m. – The question was proposed – That the Assembly do now adjourn.

Mr Humphries (Chief Minister) requiring the question to be put forthwith without debate – Question – put and negatived.

Debate continued.

Mr Wood, by leave, was granted an extension of time.

Debate continued.

Mr Stanhope (Leader of the Opposition), by leave, was granted an extension of time.

Paper: Mr Humphries (Chief Minister) presented the following paper:

Canberra Tourism and Events Corporation – Member’s disclosure of interest – Facsimile copy of advice from Minter Ellison to the Chief Executive, Canberra Tourism and Events Corporation, dated 23 March 2001.

Question – That Mr Berry’s amendment be agreed to – put.

The Assembly voted –

Ayes, 7

Noes, 9

| | | | |
|---------------|-----------|--------------|--------------|
| Mr Berry | Ms Tucker | Mrs Burke | Mr Moore |
| Mr Corbell | Mr Wood | Mr Cornwell | Mr Osborne |
| Mr Hargreaves | | Mr Hird | Mr Rugendyke |
| Mr Quinlan | | Mr Humphries | Mr Smyth |
| Mr Stanhope | | Mr Kaine | |

And so it was negatived.

On the motion of Mr Rugendyke, by leave, the following amendments were made together:

- (1) Omit colon in preamble;
- (2) Omit paragraphs (1) and (2);
- (3) Paragraph (3), omit the words “these concerns”, substitute the words “this issue”.

Question proposed – That the motion, as amended, be agreed to –

Debate continued.

Ms Tucker, by leave, was granted an extension of time.

Question – That the motion, as amended, viz:

That in respect to the decision of the Canberra Tourism and Events Corporation (CTEC) to relocate to Brindabella Park Commercial Centre at Canberra Airport the Assembly draws the attention of the ACT Auditor General to this issue, and asks him to conduct a performance audit of this decision of the Corporation –

be agreed to – put and passed.

12 PROPOSED POLICIES FOR RESIDENTIAL DEVELOPMENT AND PROPOSED CODE OF RESIDENTIAL DEVELOPMENT

Mr Corbell, pursuant to notice, moved – That this Assembly directs the ACT Government to not proceed with the release of the *Proposed Policies for Residential Development in the ACT* and the proposed *ACT Code of Residential Development* as a Draft Variation to the Territory Plan until:

- (a) further public consultation is undertaken on details of the proposed policies and code;
- (b) a Community Advisory Panel is established comprising resident, community, professional and business representatives to review and report on the proposed policies and code;
- (c) proposed appointments to the Community Advisory Panel are referred for the comment of the Standing Committee on Planning and Urban Services;
- (d) the Community Advisory Panel has presented its report to the Government;
- (e) the Government has responded to the Community Advisory Panels report and tabled its response in the Legislative Assembly;
- (f) the Government has provided further information to the Legislative Assembly on how the proposed policies and code will be implemented if the proposed policies and code are released as a Draft Variation to the Territory Plan and have ‘interim effect’.

Debate ensued.

Ms Tucker moved the following amendment:

Paragraph (e), after “report” insert “and other comments received from the Local Area Planning Advisory Committees and the public on the proposed policies and code”.

Debate continued.

Mr Smyth (Minister for Urban Services), by leave, was granted an extension of time.

Mr Smyth, by leave, was granted a further extension of time.

Mr Smyth, by leave, was granted another extension of time.

Debate continued.

Mr Corbell, by leave, was granted an extension of time.

Mr Corbell, by leave, was granted a further extension of time.

Question – That Ms Tucker’s amendment be agreed to – put and negatived.

On the motion of Mr Osborne, by leave, the following amendment was made, after debate:

Omit paragraphs (a) to (f), substitute the following paragraphs:

- “(a) a further 3 month public consultation is undertaken on details of the proposed policies and code;
- (b) the outcome of the consultation is provided to the Government; and
- (c) the Government has responded to and tabled the report on the consultation and the response in the Assembly and the Assembly has completed any consideration of the report and the response.”.

Question – That the motion, as amended, viz:

That this Assembly directs the ACT Government to not proceed with the release of the *Proposed Policies for Residential Development in the ACT* and the proposed *ACT Code of Residential Development* as a Draft Variation to the Territory Plan until:

- (a) a further 3 month public consultation is undertaken on details of the proposed policies and code;
- (b) the outcome of the consultation is provided to the Government; and
- (c) the Government has responded to and tabled the report on the consultation and the response in the Assembly and the Assembly has completed any consideration of the report and the response –

be agreed to – put and passed.

13 OCCUPATIONAL HEALTH AND SAFETY AMENDMENT BILL 2000 (NO 4)

The order of the day having been read for the resumption of the debate on the question -
That this Bill be agreed to in principle -

Debate resumed.

Papers: Mr Smyth (Minister for Urban Services) presented the following papers:

Occupational Health and Safety Amendment Bill 2000 (No 4) – Facsimile copy of advice from the ACT Government Solicitor to Manager, Workplace Safety Policy, Industry Policy and Regulation Branch, Department of Urban Services, dated 20 December 2000.

Occupational Health and Safety Act – Infringement notices for offences – Facsimile copy of advice from Director, Criminal Law and Justice to General Manager, ACT Workcover, dated 4 September 1998.

Debate continued.

Mr Berry, by leave, was granted an extension of time.

Question - That this Bill be agreed to in principle – put.

The Assembly voted -

Ayes, 9

Noes, 6

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|---------------|--------------|--------------|--------------|
| Mr Berry | Mr Rugendyke | Mrs Burke | Mr Stefaniak |
| Mr Corbell | Mr Stanhope | Mr Cornwell | |
| Mr Hargreaves | Ms Tucker | Mr Humphries | |
| Mr Kaine | Mr Wood | Mr Moore | |
| Mr Osborne | | Mr Smyth | |

And so it was resolved in the affirmative - Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole -

On the motion of Mr Berry, by leave, his amendments Nos 1 to 6 (see Schedule 1) were made together.

Bill, as a whole, as amended, agreed to.

Question - That this Bill, as amended, be agreed to - put and passed.

14 ADJOURNMENT

Mr Smyth (Minister for Urban Services) moved – That the Assembly do now adjourn.

Paper: Mr Smyth presented the following paper:

Service of Thanksgiving for the life of Margaret Janet Hendry OAM – 11 May 1930–20 March 2001.

Debate ensued.

Question – put and passed.

And then the Assembly, at 10.29 p.m., adjourned until tomorrow at 10.30 a.m.

MEMBERS' ATTENDANCE: All Members were present at some time during the sitting.

M J McRAE
Clerk of the Legislative Assembly

Schedule 1

OCCUPATIONAL HEALTH AND SAFETY AMENDMENT BILL 2000 (NO 4)

Amendments circulated by Mr Berry

1

Proposed new clause 7A

Page 5, line 7—

After clause 7, insert the following new clause:

7A Duties of persons erecting or installing plant in a workplace

Section 34 is amended—

- (a) by omitting ‘A person’ and substituting ‘(1) A person’; and
- (b) by adding at the end the following subsection:

“(2) In working out whether a person has taken all reasonably practicable steps to comply with subsection (1), regard may be had to all relevant matters, including for example—

- (a) whether copies of codes of practice applicable to the workplace are available to employees or whether employees are given information about where copies of codes may be inspected or obtained; and
- (b) whether the codes have been complied with.

“(3) This section does not limit section 35.”.

2

Clause 8

Proposed new section 75

Definition of *infringement notice offence*

Page 6, line 11—

Omit “an offence”, substitute “an offence against this Act or an associated law”.

3

Clause 8

Proposed new section 75J (2) (c)

Page 12, line 9—

After proposed new paragraph (2) (b), insert the following new paragraph:

- (c) the person has disputed liability for the infringement notice offence.

4**Clause 8****Proposed new section 75K (1)****Page 12, line 29—**

Omit “or 75J”, substitute “, 75J (Withdrawal of infringement notice) or 75P (Extension of time to dispute liability)”.

5**Clause 8****Proposed new sections 75QA and 75QB****Page 17, line 13—**

Before proposed new section 75R, insert the following new sections in division 5A.5:

“75QA Issue of notices of noncompliance

“(1) If an authorised person could serve an infringement notice on a person under section 75C (1) (Service of infringement notices) if the person were not the Territory or an agent of the Territory, the authorised officer may serve a notice of noncompliance on the person.

“(2) In this section:

agent, of the Territory, includes—

- (a) an instrumentality, officer or employee of the Territory; and
- (b) a contractor or someone else who exercises a function on behalf of the Territory.

“75QB Report about notices of noncompliance

“(1) Within 14 days after the end of each financial year, the commissioner must give the Minister a report about notices of noncompliance (if any) served under section 75QA in that year.

“(2) The Minister must give a copy of each report under subsection (1) to the relevant committee of the Legislative Assembly within 14 days after receiving the report.

“(3) In subsection (2):

relevant committee, of the Legislative Assembly, means—

- (a) the standing committee of the Legislative Assembly nominated by the Speaker for subsection (2); or
- (b) if there is no nomination under paragraph (a)—the standing committee of the Legislative Assembly responsible for the scrutiny of public accounts.

6

Proposed new clause 8A

Page 18, line 19—

After clause 8, insert the following new clause:

8A Codes of practice

Section 87 (1) is amended by omitting “to employers, self-employed persons and employees” and substituting “for this Act”.
