

**2001-2002-2003-2004**

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**MINUTES OF PROCEEDINGS**

**No. 112**

**THURSDAY, 5 AUGUST 2004**

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**1** The Assembly met at 10.30 a.m., pursuant to adjournment. A quorum of Members not being present, the Speaker (Mr Berry) ordered the bells to be rung. A quorum having been formed the Speaker 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 CRIMES (RESTORATIVE JUSTICE) BILL 2004**

Mr Stanhope (Attorney-General), pursuant to notice, presented a Bill for an Act to provide a process of restorative justice for victims, offenders and the community, and for other purposes.

*Papers:* Mr Stanhope presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37 – Compatibility statement, dated 30 July 2004.

Title read by Clerk.

Mr Stanhope moved – That this Bill be agreed to in principle.

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

**3 UTILITIES AMENDMENT BILL 2004**

Mr Quinlan (Treasurer), pursuant to notice, presented a Bill for an Act to amend the *Utilities Act 2000*.

*Papers:* Mr Quinlan presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37 – Compatibility statement, dated 29 July 2004.

Title read by Clerk.

Mr Quinlan moved – That this Bill be agreed to in principle.

Debate adjourned (Mr Smyth – Leader of the Opposition) and the resumption of the debate made an order of the day for the next sitting.

#### **4 SMALL BUSINESS COMMISSIONER BILL 2004**

Mr Quinlan (Minister for Economic Development, Business and Tourism), pursuant to notice, presented a Bill for an Act to provide for a small business commissioner.

*Papers:* Mr Quinlan presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37 – Compatibility statement, dated 29 July 2004.

Title read by Clerk.

Mr Quinlan moved – That this Bill be agreed to in principle.

Debate adjourned (Mr Smyth – Leader of the Opposition) and the resumption of the debate made an order of the day for the next sitting.

#### **5 THE TERRITORY AS PARENT – REVIEW OF THE SAFETY OF CHILDREN IN THE CARE OF THE A.C.T. AND OF A.C.T. CHILD PROTECTION MANAGEMENT – THE TERRITORY’S CHILDREN – ENSURING SAFETY AND QUALITY CARE FOR CHILDREN AND YOUNG PEOPLE – AUDIT AND CASE REVIEW – GOVERNMENT RESPONSE – ADDENDUM – PAPER AND STATEMENT BY MINISTER**

Mr Wood (Manager of Government Business) presented the following paper:

The Territory as Parent – Review of the Safety of Children in the Care of the ACT and of ACT Child Protection Management – The Territory’s Children – Ensuring Safety and Quality Care for Children and Young People – Audit and Case Review – Government response – Addendum, dated August 2004 –

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

#### **6 COMMUNITY SERVICES AND SOCIAL EQUITY – STANDING COMMITTEE – REPORT NO. 3 – THE RIGHTS, INTERESTS AND WELL-BEING OF CHILDREN AND YOUNG PEOPLE – GOVERNMENT RESPONSE – PAPER NOTED**

The order of the day having been read for the resumption of the debate on the motion of Ms Gallagher (Minister for Children, Youth and Family Support) – That the Assembly takes note of the paper (*presented 11 December 2003*) –

Community Services and Social Equity – Standing Committee – Report No. 3 – *The rights, interests and well-being of children and young people* – Government response, dated December 2003 –

Debate resumed.

Ms Dundas, who had already spoken, by leave, again addressed the Assembly.

Debate continued.

Mrs Cross addressing the Assembly –

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It being 45 minutes after the commencement of Assembly business –

Ordered – That the time allotted to Assembly business be extended by 30 minutes.

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Debate continued.

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

Debate continued.

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*Suspension of standing and temporary orders – Consideration of Assembly business:*  
Mr Hargreaves moved – That so much of the standing and temporary orders be suspended as would prevent:

- (1) debate continuing on order of the day No. 1, Assembly business, such debate having precedence over Executive business; and
- (2) order of the day No. 25, Assembly business, being called on after conclusion of the debate on order of the day No. 1, Assembly business.

Question – put and passed, with the concurrence of an absolute majority.

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Debate continued.

Ms Gallagher (Minister for Children, Youth and Family Support), by leave, was granted an extension of time.

Ms Gallagher, by leave, was granted a further extension of time.

Question – put and passed.

**7 COMMUNITY SERVICES AND SOCIAL EQUITY – STANDING COMMITTEE – REPORT NO. 3 – THE RIGHTS, INTERESTS AND WELL-BEING OF CHILDREN AND YOUNG PEOPLE – SUPPLEMENTARY GOVERNMENT RESPONSE – PAPER NOTED**

The order of the day having been read for the resumption of the debate on the motion of Ms Gallagher (Minister for Children, Youth and Family Support) – That the Assembly takes note of the paper (*presented 3 August 2004*) –

Community Services and Social Equity – Standing Committee – Report No. 3 – *The rights, interests and well-being of children and young people* – Supplementary Government response, dated August 2004 –

Question – put and passed.

**8 QUESTIONS**

Questions without notice were asked.

**9 PRESENTATION OF PAPER**

Mr Stanhope (Attorney-General) presented the following paper:  
ACT Criminal Justice Statistical Profile –March 2004 quarter.

**10 PRESENTATION OF PAPER**

Mr Quinlan (Treasurer) presented the following paper:  
Government Procurement Act, pursuant to section 8(3) – New Procurement Principle –  
Direction to Government Procurement Board, dated 2 August 2004.

**11 PRESENTATION OF PAPER**

Ms Gallagher (Minister for Industrial Relations) presented the following paper:  
Occupational Health and Safety Act, pursuant to section 96D – Operation of the  
*Occupational Health and Safety Act 1989* and its associated law – Quarterly report June  
quarter 2004.

**12 LIVE MUSIC – VALUE TO THE COMMUNITY – RESOLUTION OF THE ASSEMBLY – MINISTERIAL STATEMENT**

Mr Wood (Minister for Arts and Heritage), by leave, made a ministerial statement  
concerning Live Music – Value to the Community, pursuant to the resolution of the  
Assembly of 13 May 2004.

**13 APPROPRIATION ACT 2003-2004 (NO. 3) – PRELIMINARY ACQUITTAL OF FUNDS REPORT – PAPER AND STATEMENT BY MINISTER**

Mr Quinlan (Treasurer) presented the following paper:  
*Appropriation Act 2003-2004 (No. 3)* – Preliminary Acquittal of Funds Report –  
and, by leave, made a statement in relation to the paper.

**14 MATTER OF PUBLIC IMPORTANCE – DISCUSSION – PUBLIC HOSPITAL SYSTEM**

The Assembly was informed that Mr Smyth (Leader of the Opposition) had proposed  
that a matter of public importance be submitted to the Assembly for discussion, namely,  
“The ongoing crisis in the ACT public hospital system.”.

Discussion ensued.

*Papers:* Mrs Dunne, by leave, presented the following papers:

Australasian College for Emergency Medicine (ACEM) – Access block and hospital  
overcrowding –

Copy of letter from the ACT ACEM Faculty, dated 28 July 2004.

Position paper.

Discussion continued.

The time for discussion having expired –

Discussion concluded.

**15 TERRITORY OWNED CORPORATIONS ACT – TOTALCARE – FLEET BUSINESS – DISPOSAL OF UNDERTAKINGS**

Mr Quinlan (Treasurer), pursuant to notice, moved – That, in accordance with section 16(4) of the *Territory Owned Corporations Act 1990*, this Assembly approves the disposal of the Fleet business undertakings of Totalcare Industries Limited (including its assets, rights and liabilities) to a Territory owned corporation to be established under the Act.

Debate ensued.

Question – put and passed.

**16 PHARMACY AMENDMENT BILL 2004 (NO. 2) – DISCHARGE OF ORDER OF THE DAY**

Order of the day No. 1, Executive business, having been called on –

Mr Wood (Manager of Government Business), pursuant to standing order 152, moved – That order of the day No. 1, Executive business, be discharged from the *Notice Paper*.

Question – put and passed.

**17 HERITAGE BILL 2004**

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.

Mrs Dunne addressing the Assembly –

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

Ms Dundas, by leave, requiring the question to be put forthwith without debate –

Question – put and negatived.

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Mrs Dunne, by leave, was granted an extension of time.

Mrs Dunne moved the following amendment – Omit all words after "That" and substitute the following words:

- "(1) whilst not declining to agree to the Bill in principle, this Assembly:
- (a) notes that neither the Minister for Urban Services nor his department has conducted consultation about the Heritage Bill 2004 as required by the *Native Title Act 1993* (Cwlth);
  - (b) condemns the Minister for:
    - (i) his failure to properly consult with the indigenous members of the ACT community in relation to the Heritage Bill 2004, according to law; and

- (ii) allowing his staff to claim falsely that members of the indigenous community had been consulted in relation to the Heritage Bill 2004 and were satisfied with the Bill when this was not the case;
  - (c) requires the Minister for Urban Services to conduct open consultation in relation to the Heritage Bill 2004 with:
    - (i) native title claimants and aspirants;
    - (ii) representative Aboriginal organisations;
    - (iii) signatories to the Namadgi Agreement; and
    - (iv) interested individuals;
  - (d) resolves not to proceed with discussion of the Bill until the Minister has conducted the abovementioned consultation and has reported back to the Legislative Assembly; and
- (2) when the Minister has reported back to the Assembly, the question before the Assembly on the Bill shall be ‘that this Bill be agreed to in principle’.

Debate continued.

Mrs Dunne, who had already spoken, by leave, again addressed the Assembly.

Mr Wood, who had already spoken, by leave, again addressed the Assembly.

Debate continued.

Question – put.

The Assembly voted —

There being confusion concerning the numbers reported, the Assembly, in accordance with standing order 165, proceeded to another vote.

Ayes, 5

Noes, 10

Mrs Burke	Mr Berry	Ms MacDonald
Mr Cornwell	Mrs Cross	Mr Quinlan
Mrs Dunne	Ms Dundas	Mr Stanhope
Mr Smyth	Ms Gallagher	Ms Tucker
Mr Stefaniak	Mr Hargreaves	Mr Wood

And so it was negatived.

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

The Assembly voted —

Ayes, 10

Noes, 5

Mr Berry	Ms MacDonald	Mrs Burke
Mrs Cross	Mr Quinlan	Mr Cornwell
Ms Dundas	Mr Stanhope	Mrs Dunne
Ms Gallagher	Ms Tucker	Mr Smyth
Mr Hargreaves	Mr Wood	Mr Stefaniak

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

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*Detail stage*

Clauses 1 and 2, by leave, taken together –

Debate adjourned (Ms Dundas) and the resumption of the debate made an order of the day for the next sitting.

**18 ADMINISTRATION AND PROCEDURE – STANDING COMMITTEE – REPORT 6 – THE APPROPRIATENESS OF A CODE OF CONDUCT FOR MEMBERS AND THEIR STAFF – PUBLICATION OF REPORT – REPORT NOTED**

The Speaker (Presiding Member) presented the following report:

Administration and Procedure – Standing Committee – Report 6 – *The appropriateness of a Code of Conduct for Members and their staff*, dated 4 August 2004, together with a copy of the extracts of the relevant minutes of proceedings –

Ms Dundas, by leave, moved – That the report be authorised for publication.

Question – put and passed.

Ms Dundas moved – That the report be noted.

Question – put and passed.

**19 SUSPENSION OF STANDING AND TEMPORARY ORDERS – CONSIDERATION OF PRIVATE MEMBERS' BUSINESS**

Mr Wood (Manager of Government Business) moved – That so much of the standing and temporary orders be suspended as would prevent order of the day No. 20, Private Members' business, relating to the Discrimination Amendment Bill 2004, being called on and debated cognately with order of the day No. 3, Executive business, relating to the Discrimination Amendment Bill 2004 (No. 2).

Question – put and passed, with the concurrence of an absolute majority.

**20 DISCRIMINATION AMENDMENT BILL 2004 (NO. 2)**

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.

Mr Stanhope (Attorney-General), by leave, was granted an extension of time.

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

Leave granted to dispense with the detail stage.

Question – That this Bill be agreed to – put and passed.

**21 DISCRIMINATION AMENDMENT BILL 2004**

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 –

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

The Assembly voted —

Ayes, 4

Noes, 8

Mrs Burke  
Mr Cornwell  
Mr Pratt  
Mr Smyth

Mr Berry	Ms MacDonald
Mrs Cross	Mr Quinlan
Ms Dundas	Mr Stanhope
Ms Gallagher	Mr Wood

And so it was negatived.

## 22 PAYROLL TAX AMENDMENT BILL 2004

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.

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

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*Detail stage*

Bill, by leave, taken as a whole –

On the motion of Mr Quinlan (Treasurer), his amendment No. 1 (*see* [Schedule 1](#)) was made.

*Paper:* Mr Quinlan presented a supplementary explanatory statement to the Government amendment.

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

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

## 23 TERRITORY OWNED CORPORATIONS AMENDMENT BILL 2004

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.

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

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*Detail stage*

Bill, by leave, taken as a whole –

On the motion of Ms Dundas, her amendment No. 1 (*see* [Schedule 2](#)) was made.

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

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

**24 INTOXICATED PERSONS (CARE AND PROTECTION) AMENDMENT BILL 2004**

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.

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

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*Detail stage*

Clauses 1 to 4, by leave, taken together and agreed to.

Clause 5 –

On the motion of Mr Wood (Acting Minister for Health), his amendment No. 1 ([see Schedule 3](#)) was made.

*Paper:* Mr Wood presented a supplementary explanatory statement to the Government amendments.

On the motion of Mr Wood, his amendment No. 2 ([see Schedule 3](#)) was made.

Clause 5, as amended, agreed to.

Title agreed to.

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

**25 DRUGS OF DEPENDENCE (SYRINGE VENDING MACHINES) AMENDMENT BILL 2004**

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.

*Paper:* Mr Smyth (Leader of the Opposition), by leave, presented a speech relating to the Bill on behalf of Ms Tucker.

Debate continued.

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

Leave granted to dispense with the detail stage.

Question – That this Bill be agreed to – put and passed.

**26 ADJOURNMENT**

Mr Wood (Manager of Government Business) moved – That the Assembly do now adjourn.

Debate ensued.

Question – put and passed.

And then the Assembly, at 9.26 p.m., adjourned until Tuesday, 17 August 2004 at 10.30 a.m.

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**MEMBERS' ATTENDANCE:** All Members were present at some time during the sitting, except Mr Corbell (on leave).

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**T Duncan**  
**Clerk of the Legislative Assembly**

## SCHEDULES OF AMENDMENTS

### Schedule 1

#### **PAYROLL TAX AMENDMENT BILL 2004**

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Amendment circulated by the Treasurer

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1

#### **Clause 4**

**Proposed new section 9B (3) (a)**

**Page 2, line 23—**

*omit proposed new section 9B (3) (a), substitute*

- (a) the reference in subsection (2) (a) to wages paid or payable for 14 weeks leave is taken to be a reference to—
    - (i) for a full-time employee who takes the leave on less than full pay—wages paid or payable for a period equivalent to 14 weeks leave on full pay; and
    - (ii) for a part-time employee who takes the leave at less than the employee's average rate of pay over the 6 weeks immediately before the leave is taken—wages paid or payable for a period equivalent to 14 weeks leave at that average rate of pay; and
    - (iii) for any other part-time employee—wages paid or payable for a period equivalent to 14 weeks leave at the rate of pay of the employee immediately before the leave was taken; and
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**Schedule 2****TERRITORY OWNED CORPORATIONS AMENDMENT  
BILL 2004**

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Amendment circulated by Ms Dundas

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**1**

**Clause 17****Proposed new section 17A (3)****Page 9, line 13—**

*insert*

- (3) A notice under subsection (1) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

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### **Schedule 3**

## **INTOXICATED PERSONS (CARE AND PROTECTION) AMENDMENT BILL 2004**

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### **Amendments circulated by the Acting Minister for Health**

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**1**

**Clause 5**

**Proposed new section 6A (b), new note**

**Page 2, line 24—**

*insert*

*Note* Under s 6C, a search may be required before admission.

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**2**

**Clause 5**

**Proposed new section 6C (1)**

**Page 3, line 7—**

*after*

place

*insert*

before admitting the person

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