



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

2004–2005–2006

MINUTES OF PROCEEDINGS

No. 67

THURSDAY, 8 JUNE 2006

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 LEGAL AFFAIRS—STANDING COMMITTEE (PERFORMING THE DUTIES OF A SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION COMMITTEE)—SCRUTINY REPORT 27—PUBLICATION OF REPORT—STATEMENT BY CHAIR

Mr Stefaniak (Chair) presented the following report:

Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 27, dated 8 June 2006, together with the relevant minutes of proceedings—

and, by leave, moved—That the report be authorised for publication.

Question—put and passed.

Mr Stefaniak, by leave, made a statement in relation to the report.

3 SUSPENSION OF STANDING ORDERS—CONSIDERATION OF EXECUTIVE BUSINESS

Mr Corbell (Manager of Government Business) moved—That so much of the standing orders be suspended as would prevent Notice No. 4, Executive Business, relating to an Address to His Excellency the Governor-General, being called on forthwith.

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

4 ADDRESS TO HIS EXCELLENCY THE GOVERNOR-GENERAL

Mr Corbell (Attorney-General), pursuant to notice, moved—That, pursuant to standing order 268, this Assembly makes the following Address to His Excellency the Governor-General:

YOUR EXCELLENCY:

The Legislative Assembly for the Australian Capital Territory respectfully submits the following Address to His Excellency the Governor-General of the Commonwealth of Australia:

Under section 35 of the *Australian Capital Territory (Self-Government) Act 1988*, the Governor-General may disallow or recommend amendments to a law made by the parliament of the Australian Capital Territory.

The Australian Capital Territory has been advised that the Commonwealth proposes to recommend that the Governor-General disallow the *Civil Unions Act 2006*, a law made by the parliament of the Australian Capital Territory.

While understanding that the Governor-General neither represents the Crown in relation to the Australian Capital Territory nor acts on advice of the Executive of the Australian Capital Territory, the parliament of the Australian Capital Territory directs your attention to the unusual circumstances presented by section 35 of the *Australian Capital Territory (Self-Government) Act 1988* and respectfully submits that in considering advice from the Federal Executive Council the following matters should be taken into consideration:

The Australian Capital Territory is a body politic with a plenary grant of power.

Members of the Australian Capital Territory parliament are elected by free election on the basis of pre-election commitments made known to the electorate. The election of members on the basis of pre-election commitments, including commitments relating to the *Civil Unions Act 2006*, gives members of the Assembly a political mandate to pursue the commitments.

Members of the present Australian Capital Territory parliament debated and passed the *Civil Unions Act 2006*.

The *Civil Unions Act 2006* is a lawful exercise of the legislative power of the parliament of the Australian Capital Territory, made in pursuance of a political mandate given the parliament by the people of the Australian Capital Territory.

By convention, the Crown seldom intervenes once a law is made, so as to delay or frustrate the commencement of the law, save in unusual circumstances where the law because of its exceptional circumstances might be beyond the power of the parliament or is otherwise defective.

The Commonwealth has indicated publicly that it will seek to disallow the *Civil Unions Act 2006* on the basis that it trespasses on a legitimate area of Commonwealth policy, namely that dealt with in the Marriage Act.

The Australian Capital Territory disagrees with the proposition that the *Civil Unions Act 2006* has such an effect.

However, mindful of the need for legislatures to operate cooperatively within a federal system, the Australian Capital Territory stands ready to consider amending the *Civil Unions Act 2006* were the Governor-General to make recommendations concerning the amendment of the Act, to resolve any outstanding ambiguities.

The Australian Capital Territory does not seek to interpose contrary advice to that which might be provided to the Governor-General by the Federal Executive Council.

Instead it makes the following points:

- (1) This is the first time that the Governor-General will be requested to disallow a law of the Australian Capital Territory under section 35. This is an exceptional request, which will inevitably form the basis for future precedent, not just in relation to the Australian Capital Territory, but in relation to self-governing territories and other polities, including the Commonwealth itself.
- (2) It is submitted that the power to disallow does not exist at large, but is constrained by ordinary convention in relation to Crown consideration of new legislation.
- (3) The Australian Capital Territory stands ready to consider amending the Act in accordance with any recommendation made by the Governor-General under subsection 35(4) of the *Australian Capital Territory (Self-Government) Act 1988*.

Mr Stefaniak (Leader of the Opposition) moved the following amendment: Omit paragraph 8, namely:

“The *Civil Unions Act 2006* is a lawful exercise of the legislative power of the parliament of the Australian Capital Territory, made in pursuance of a political mandate given the parliament by the people of the Australian Capital Territory.”.

Debate continued.

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

Question—That Mr Stefaniak’s amendment be agreed to—put and negatived.

Debate continued.

Question—That the motion be agreed to—put and passed.

Suspension of standing orders—Vote: Mr Corbell moved—That so much of the standing orders be suspended as would prevent the Assembly proceeding to a vote on the Address.

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

In accordance with the resolution, the question was again put.

The Assembly voted—

AYES, 15	NOES, 0
Mr Barr	Mr Mulcahy
Mr Berry	Ms Porter
Mr Corbell	Mr Pratt
Mrs Dunne	Mr Seselja
Dr Foskey	Mr Smyth
Ms Gallagher	Mr Stanhope
Mr Gentleman	Mr Stefaniak
Mr Hargreaves	

And so it was resolved in the affirmative.

5 PUBLIC INTEREST DISCLOSURE BILL 2006

Mr Stanhope (Chief Minister), pursuant to notice, presented a Bill for an Act to protect people who disclose certain conduct in the public sector that is contrary to the public interest, and for related purposes.

Papers: Mr Stanhope presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 6 June 2006.

Title read by Clerk.

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

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

6 ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) AMENDMENT BILL 2006

Mr Stanhope (Acting Minister for the Territory and Municipal Services), pursuant to notice, presented a Bill for an Act to amend the *Road Transport (Safety and Traffic Management) Act 1999*.

Papers: Mr Stanhope presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 6 June 2006.

Title read by Clerk.

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

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

7 SUSPENSION OF STANDING ORDERS—ADJOURNMENT OF IN PRINCIPLE DEBATE TO A LATER HOUR

Mr Corbell (Manager of Government Business) moved—That so much of the standing orders be suspended as would prevent, upon presentation of the Civil Unions Amendment Bill 2006, debate on the question “That this Bill be agreed to in principle” being adjourned until a later hour this day.

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

8 CIVIL UNIONS AMENDMENT BILL 2006

Mr Corbell (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Civil Unions Act 2006*.

Papers: Mr Corbell presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 8 June 2006.

Title read by Clerk.

Mr Corbell moved—That this Bill be agreed to in principle.

Debate adjourned (Mrs Dunne) and the resumption of the debate made an order of the day for a later hour this day.

9 WORKING FAMILIES IN THE AUSTRALIAN CAPITAL TERRITORY—SELECT COMMITTEE—AMENDMENT TO RESOLUTION OF APPOINTMENT

Mr Gentleman, pursuant to notice, moved—That the resolution of the Assembly establishing the Select Committee on Working Families in the Australian Capital Territory, agreed to on 5 May 2005, be amended as follows: Omit “first sitting day in August 2006, substitute “first sitting day in October 2006”.

Debate ensued.

Question—put and passed.

10 LEGAL AFFAIRS—STANDING COMMITTEE—REPORT 3—REPORT ON TERRORISM (EXTRAORDINARY TEMPORARY POWERS) BILL 2005—EXPOSURE DRAFT—REPORT NOTED

The order of the day having been read for the resumption of the debate on the motion of Mr Stefaniak (Chair)—That the report be noted (*presented 7 March 2006*)—

Legal Affairs—Standing Committee—Report 3—*Report on Terrorism (Extraordinary Temporary Powers) Bill 2005—Exposure draft*, including additional and dissenting comments—

Question—put and passed.

11 EDUCATION, TRAINING AND YOUNG PEOPLE—STANDING COMMITTEE—REPORT 3—INQUIRY INTO RESTORATIVE JUSTICE PRINCIPLES IN YOUTH SETTINGS—INTERIM REPORT—PUBLICATION OF REPORT—REPORT NOTED

Ms Porter (Chair) presented the following report:

Education, Training and Young People—Standing Committee—Report 3—*Inquiry into Restorative Justice Principles in Youth Settings—Interim Report*, dated 5 June 2006, together with a copy of the extracts of the relevant minutes of proceedings—

and, by leave, moved—That the report be authorised for publication.

Question—put and passed.

Ms Porter moved—That the report be noted.

Question—put and passed.

12 EXECUTIVE BUSINESS—PRECEDENCE

Ordered—That Executive business be called on forthwith.

13 RATES AMENDMENT BILL 2006

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.

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.

14 QUESTIONS

Questions without notice being asked—

At 3 p.m. questions were interrupted pursuant to the resolution of the Assembly of 6 June 2006.

15 APPROPRIATION BILL 2006-2007

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.

Estimates 2006-2007—Select Committee—Reference—Appropriation Bill 2006-2007: Mr Stanhope (Treasurer), pursuant to standing order 174, moved—That the Appropriation Bill 2006-2007 be referred to the Select Committee on Estimates 2006-2007.

Question—put and passed.

16 PRESENTATION OF PAPER

Mr Stanhope (Treasurer) presented the following paper:

Independent Competition and Regulatory Commission—Report 12—Final Report—Determination of ACTION Bus Prices for 2006-07, dated 26 May 2006.

17 FACING UP TO RACISM—A STRATEGIC PLAN ADDRESSING RACISM AND UNFAIR DISCRIMINATION 2004-2008—REPORT CARD 2006—PAPER AND STATEMENT BY MINISTER

Mr Stanhope (Acting Minister for Multicultural Affairs) presented the following paper:

Facing up to racism—A strategic plan addressing racism and unfair discrimination 2004-2008—Report card 2006—

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

Mr Stanhope addressing the Assembly—

Adjournment negatived: It being 6 p.m.—The question was proposed—That the Assembly do now adjourn.

Mr Stanhope (Chief Minister) requiring the question to be forthwith without debate—

Question—put and negatived.

Mr Stanhope continued his statement.

18 PRESENTATION OF PAPER

Ms Gallagher (Minister for Health) presented the following paper:

ACT Mental Health Strategy and Action Plan 2003-2008—Mid Term Progress Review, dated April 2006.

19 INDIGENOUS EDUCATION—ELEVENTH SIX MONTHLY REPORT—PAPER AND STATEMENT BY MINISTER

Mr Barr (Minister for Education and Training), pursuant to the resolution of the Assembly of 24 May 2000, as amended 16 February 2006, presented the following paper:

Indigenous Education—Eleventh report—2005—

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

20 PRESENTATION OF PAPER

Mr Barr (Minister for Tourism, Sport and Recreation) presented the following paper:

Australian Capital Tourism Corporation Act, pursuant to subsection 12(2)—Australian Capital Tourism Corporation—3rd Quarterly report—January to March 2006.

21 WORKING FAMILIES IN THE AUSTRALIAN CAPITAL TERRITORY—SELECT COMMITTEE—INTERIM REPORT—GOVERNMENT RESPONSE—PAPER NOTED

Mr Barr (Minister for Industrial Relations) presented the following paper:

Working Families in the Australian Capital Territory—Select Committee—Interim Report—Government response—

and moved—That the Assembly takes note of the paper.

Question—put and passed.

22 PRESENTATION OF PAPERS

Mr Stanhope (Chief Minister) presented the following papers:

Subordinate legislation (including explanatory statements unless otherwise stated)

Legislation Act, pursuant to section 64—

Cemeteries and Crematoria Act—Cemeteries and Crematoria (Fees) Determination 2006 (No. 1)—Disallowable Instrument DI2006-85 (LR, 1 June 2006).

Dentists Act—Dentists (Fees) Determination 2006 (No. 1)—Disallowable Instrument DI2006-81 (LR, 25 May 2006).

Financial Management Act—

Financial Management (Cultural Facilities Corporation Deputy Chair) Appointment 2006 (No. 1)—Disallowable Instrument DI2006-87 (LR, 1 June 2006).

Financial Management (Cultural Facilities Corporation Governing Board Members) Appointment 2006 (No. 1)—Disallowable Instrument DI2006-88 (LR, 1 June 2006).

Financial Management (Departments) Guidelines 2006—Disallowable Instrument DI2006-83 (LR, 29 May 2006).

Financial Management (Territory Authorities prescribed for Outputs) Guidelines 2006—Disallowable Instrument DI2006-82 (LR, 29 May 2006).

Health Professionals Act—Health Professionals (Regulation of Health Profession) Decision 2006 (No. 1)—Disallowable Instrument DI2006-80 (LR, 25 May 2006).

Occupational Health and Safety Act—Occupational Health and Safety Council Appointment 2006 (No. 1)—Disallowable Instrument DI2006-79 (LR, 22 May 2006).

Race and Sports Bookmaking Act—

Race and Sports Bookmaking (Rules for Sports Bookmaking) Determination 2006 (No. 1)—Disallowable Instrument DI2006-76 (LR, 18 May 2006).

Race and Sports Bookmaking (Sports Bookmaking Venues) Determination 2006 (No. 4)—Disallowable Instrument DI2006-84 (LR, 29 May 2006).

Road Transport (Safety and Traffic Management) Regulation—

Road Transport (Safety and Traffic Management) Parking Authority Declaration 2006 (No. 1)—Disallowable Instrument DI2006-77 (LR, 25 May 2006).

Road Transport (Safety and Traffic Management) Parking Authority Declaration 2006 (No. 2)—Disallowable Instrument DI2006-78 (LR, 1 June 2006).

Taxation Administration Act—Taxation Administration (Amounts payable—Payroll Tax) Determination 2006 (No. 1)—Disallowable Instrument DI2006-86 (LR, 1 June 2006).

23 RATES AMENDMENT BILL 2006

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.

The Assembly voted—

AYES, 8		NOES, 5	
Mr Barr	Mr Gentleman	Mr Mulcahy	Mr Stefaniak
Mr Berry	Mr Hargreaves	Mr Pratt	
Dr Foskey	Ms Porter	Mr Seselja	
Ms Gallagher	Mr Stanhope	Mr Smyth	

And so it was resolved in the affirmative.

Estimates 2006-2007—Select Committee—Proposed reference—Rates Amendment Bill 2006: Mr Mulcahy, pursuant to standing order 174, moved—That the Rates Amendment Bill 2006 be referred to the Select Committee on Estimates 2006-2007.

Debate ensued.

Question—put.

The Assembly voted—

AYES, 6		NOES, 7	
Mrs Dunne	Mr Seselja	Mr Barr	Mr Hargreaves
Dr Foskey	Mr Stefaniak	Mr Berry	Ms Porter
Mr Mulcahy		Ms Gallagher	Mr Stanhope
Mr Pratt		Mr Gentleman	

And so it was negated.

Leave granted to dispense with the detail stage.

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

24 ADMINISTRATIVE (MISCELLANEOUS AMENDMENTS) BILL 2006

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.

The Assembly voted—

AYES, 8		NOES, 7	
Mr Barr	Mr Gentleman	Mrs Dunne	Mr Seselja
Mr Berry	Mr Hargreaves	Dr Foskey	Mr Smyth
Mr Corbell	Ms Porter	Mr Mulcahy	Mr Stefaniak
Ms Gallagher	Mr Stanhope	Mr Pratt	

And so it was resolved in the affirmative.

Detail Stage

Clause 1 agreed to.

Clause 2—

Mr Stefaniak moved his amendment No. 1 (*see* [Schedule 1](#)).

Debate continued.

Amendment negated.

Clause 2 agreed to.

Clause 3 agreed to.

Clause 4—

Mr Stefaniak moved his amendment No. 2 (*see* [Schedule 1](#)).

Debate continued.

Question—put.

The Assembly voted—

AYES, 7		NOES, 8	
Mrs Dunne	Mr Seselja	Mr Barr	Mr Gentleman
Dr Foskey	Mr Smyth	Mr Berry	Mr Hargreaves
Mr Mulcahy	Mr Stefaniak	Mr Corbell	Ms Porter
Mr Pratt		Ms Gallagher	Mr Stanhope

And so it was negated.

Mr Stefaniak moved his amendment No. 3 (*see* [Schedule 1](#)).

Debate continued.

Amendment negated.

Clause 4 agreed to.

Schedule 1—

Part 1.1 agreed to.

Part 1.2—

Mr Stefaniak moved his amendment No. 6 (*see* [Schedule 1](#)).

Debate continued.

Amendment negatived.

Part 1.2 agreed to.

Remainder of Bill, by leave, taken as a whole—

Mr Stefaniak, by leave, moved his amendments Nos. 7 to 19 together (*see* [Schedule 1](#)).

Amendments negatived.

Remainder of Bill, as a whole, agreed to.

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

25 SUSPENSION OF STANDING ORDER 76

Mr Corbell (Manager of Government Business) moved—That standing order 76 be suspended for the remainder of this sitting.

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

26 LEAVE OF ABSENCE TO MEMBERS

Mr Corbell (Manager of Government Business) moved—That leave of absence from 9 June to 14 August 2006 be given to all Members and that leave be granted to Ms MacDonald for this sitting.

Question—put and passed.

27 CIVIL UNIONS AMENDMENT BILL 2006

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.

Leave granted to dispense with the detail stage.

Question—That this Bill be agreed to—put.

The Assembly voted—

AYES, 9		NOES, 6	
Mr Barr	Mr Gentleman	Mrs Dunne	Mr Stefaniak
Mr Berry	Mr Hargreaves	Mr Mulcahy	
Mr Corbell	Ms Porter	Mr Pratt	
Dr Foskey	Mr Stanhope	Mr Seselja	
Ms Gallagher		Mr Smyth	

And so it was resolved in the affirmative.

28 ADJOURNMENT

Mr Corbell (Manager of Government Business) moved—That the Assembly do now adjourn.

Debate ensued.

Question—put and passed.

And then the Assembly, at 11.05 p.m., adjourned until Tuesday, 15 August 2006 at 10.30 a.m.

MEMBERS' ATTENDANCE: All Members were present at some time during the sitting, except Mrs Burke* and Ms MacDonald*.

*on leave

Tom Duncan
Clerk of the Legislative Assembly

SCHEDULE OF AMENDMENTS

Schedule 1

ADMINISTRATIVE (MISCELLANEOUS AMENDMENTS) BILL 2006

Amendments circulated by Mr Stefaniak

1

Clause 2 (3)

Page 2, line 11—

omit clause 2 (3), substitute

- (3) Also, section 4 (1) (e) and (6) (which repeal the *Stadiums Authority Act 2000* and registrable instruments under that Act) commence on a day fixed by the Minister by written notice.
-

2

Clause 4 (1) (b)

Page 3, line 17—

omit

3

Clause 4 (1) (c)

Page 3, line 18—

omit

4

Clause 4 (4)

Page 4, line 2—

omit

(b) and

5

Clause 4 (5)

Page 4, line 3—

omit

6

Schedule 1, part 1.2

Page 5, line 7—

omit

7**Schedule 1, amendment 1.37**
Page 22, line 14—*omit*

8**Schedule 1, amendment 1.39**
Page 22, line 20—*omit*

9**Schedule 1, amendment 1.41**
Page 23, line 5—*omit*

10**Schedule 1, amendment 1.43**
Page 23, line 11—*omit*

11**Schedule 1, amendment 1.58**
Proposed new section 4
Page 44, line 24—*omit*

- ACT Health Promotion Authority

12**Schedule 1, amendment 1.58**
Proposed new section 4
Page 45, line 2—*omit*

- Australian Capital Tourism Corporation

13**Schedule 1, amendment 1.58**
Proposed new section 4
Page 45, line 3—*omit*

- Emergency Services Authority

14**Schedule 1, amendment 1.59**
Proposed new section 5
Page 45, line 10—*omit*

- ACT Health Promotion Authority
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15**Schedule 1, amendment 1.59****Proposed new section 5****Page 45, line 12—***omit*

- Australian Capital Tourism Corporation

16**Schedule 1, amendment 1.59****Proposed new section 5****Page 45, line 13—***omit*

- Emergency Services Authority

17**Schedule 1, amendment 1.61****Page 46, line 7—***omit amendment 1.61, substitute***[1.61] Schedule 1, modification 1.1***omit***[1.1] New sections 110A and 110B***insert***110A Application of Legislation Act, s 94 to certain appointments, elections and approvals***substitute***[1.1] New sections 152 and 153***insert***152 Application of Legislation Act, s 94 to certain appointments, elections and approvals**

18**Schedule 1, amendment 1.62****Page 46, line 18—***omit amendment 1.62, substitute***[1.62] Schedule 1, modification 1.1, section 110B heading***substitute***153 Application of Act to Health Promotion Act**

19
Schedule 1, part 1.5
Page 47, line 1—

omit
