



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

2004–2005–2006–2007

MINUTES OF PROCEEDINGS

No. 102

THURSDAY, 31 MAY 2007

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 MINISTER FOR EDUCATION AND TRAINING—PROPOSED CENSURE

Mrs Dunne, by leave, moved—That this Assembly censures the Minister for Education and Training for misleading the Assembly in his answer to a question from the Leader of the Opposition on Wednesday, 30 May 2007.

Debate ensued.

Mr Stanhope (Chief Minister) moved the following amendment: Omit all words after “censure”, substitute “Mrs Vicki Dunne for misleading the Assembly in her question to the Chief Minister on Tuesday, 29 May 2007.”.

Debate continued.

Mr Stanhope, by leave, withdrew his amendment.

Debate continued.

Closure: Mr Corbell (Manager of Government Business) moved—That the question be now put.

Question—That the question be now put—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.

And the question—That the motion be agreed to—being accordingly 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 negatived.

3 PETITIONS

The Clerk announced that the following Members had lodged petitions for presentation:

Dr Foskey, from 230 residents, requesting that the Assembly distinguish between approvals for dual occupancies and multi-unit developments in co-joined blocks and place an embargo on inappropriate developments in A10 areas.

Mr Pratt, from 611 residents, requesting that the Assembly act to ensure that a formal request is made immediately to the Commonwealth Government for assistance in the installation of a temporary low level crossing at Tharwa.

4 JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2007

Mr Corbell (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the law relating to justice and community safety.

Papers: Mr Corbell presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 29 May 2007.

Title read by Clerk.

Mr Corbell 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.

5 CANBERRA INSTITUTE OF TECHNOLOGY AMENDMENT BILL 2007

Mr Barr (Minister for Education and Training), pursuant to notice, presented a Bill for an Act to amend the *Canberra Institute of Technology Act 1987*.

Papers: Mr Barr presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 29 May 2007.

Title read by Clerk.

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

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

6 PLANNING AND DEVELOPMENT (CONSEQUENTIAL AMENDMENTS) BILL 2007

Mr Barr (Minister for Planning), pursuant to notice, presented a Bill for an Act to amend legislation because of the enactment of the *Planning and Development Act 2006*, and for other purposes.

Papers: Mr Barr presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 29 May 2007.

Title read by Clerk.

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

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

7 BUILDING LEGISLATION AMENDMENT BILL 2007

Mr Barr (Minister for Planning), pursuant to notice, presented a Bill for an Act to amend legislation relating to building because of the enactment of the *Planning and Development Act 2006*, and for other purposes.

Papers: Mr Barr presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 29 May 2007.

Title read by Clerk.

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

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

8 SURVEYORS BILL 2007

Mr Barr (Minister for Planning), pursuant to notice, presented a Bill for an Act to regulate the practice of land surveying, and for other purposes.

Papers: Mr Barr presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 29 May 2007.

Title read by Clerk.

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

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

9 QUESTIONS

Questions without notice were asked.

10 PUBLIC ACCOUNTS—STANDING COMMITTEE—REPORT 8—REVIEW OF AUDITOR-GENERAL'S REPORT NO. 8 OF 2004: LEAVE MANAGEMENT—GOVERNMENT RESPONSE—STATEMENT BY MINISTER

Mr Stanhope (Chief Minister) presented the following paper:

Public Accounts—Standing Committee—Report 8—*Review of Auditor-General's Report No. 5 of 2004: Leave Management*—Government response—

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

11 AUDITOR-GENERAL ACT—AUDITOR-GENERAL'S REPORT NO. 9/2006—SALE OF BLOCK 8, SECTION 48, FYSHWICK—GOVERNMENT RESPONSE—PAPER AND STATEMENT BY MINISTER—MOTION TO TAKE NOTE OF PAPER

Mr Barr (Minister for Planning) presented the following paper:

Auditor-General Act—Auditor-General's Report No. 9/2006—Sale of Block 8, Section 48, Fyshwick—Government response—

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

Mr Barr moved—That the Assembly takes note of the paper.

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

12 PUBLIC CONSULTATION ON THE FUTURE USE OF FORMER SCHOOL SITES—MINISTERIAL STATEMENT—MOTION TO TAKE NOTE OF PAPER

Mr Hargreaves (Minister for Territory and Municipal Services), by leave, made a ministerial statement concerning public consultation on the future use of former school sites and presented the following paper:

Public consultation on the future use of former school sites—Ministerial statement, 31 May 2007.

Mr Hargreaves moved—That the Assembly takes note of the paper.

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

13 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—RESPONSIBLE FINANCIAL MANAGEMENT

The Assembly was informed that Mrs Burke, Dr Foskey, Mr Gentleman, Ms MacDonald, Ms Porter, Mr Pratt and Mr Smyth had proposed that matters of public importance be submitted to the Assembly for discussion. In accordance with the provisions of standing order 79, the Speaker had determined that the matter proposed by Ms Porter be submitted to the Assembly, namely, “The importance of responsible financial management in providing the basis for the delivery of sustainable, high class services to the ACT community.”.

Discussion ensued.

The time for discussion having expired—

Discussion concluded.

14 WATER USE—SELECT COMMITTEE—PROPOSED ESTABLISHMENT

Notice No. 1, Assembly business, having been called on—

In accordance with standing order 77(f), the Speaker fixed the next sitting Thursday for the consideration of Notice No. 1, Assembly business.

15 EXECUTIVE BUSINESS—PRECEDENCE

Ordered—That Executive business be called on forthwith.

16 CORRECTIONS MANAGEMENT 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.

Papers: Dr Foskey, by leave, presented the following papers:

Corrections Management Bill 2006—

Copy of letter to the Attorney-General from the President, Australian Medical Association Ltd, Australian Capital Territory Branch, dated 30 May 2007 (2 copies).

Copy of letter from the Chair, Community Coalition on Corrections, dated 24 May 2007.

Proposed amendments—Community Coalition on Corrections.

Submission—ACT Council of Social Service Inc. (ACTCOSS), dated April 2007.

Debate continued.

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

Detail Stage

Clauses 1 to 20, by leave, taken together and agreed to.

Clause 21—

On the motion of Mr Corbell (Attorney-General), his amendment No. 1 (*see* [Schedule 1](#)) was made, after debate.

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

Dr Foskey moved her amendment No. 1 (*see* [Schedule 2](#)).

Debate continued.

Amendment negatived.

Clause 21, as amended, agreed to.

Proposed new clause—

Dr Foskey moved her amendment No. 2 (*see* [Schedule 2](#)), which inserts a new clause 21A in the Bill.

Debate continued.

Amendment negatived.

Clauses 22 to 40, by leave, taken together and agreed to.

Clause 41—

Dr Foskey moved her amendment No. 3 (*see* [Schedule 2](#)).

Debate continued.

Amendment negatived.

Clause 41 agreed to.

Clauses 42 to 49, by leave, taken together and agreed to.

Clause 50—

Dr Foskey moved her amendment No. 4 (*see* [Schedule 2](#)).

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

Mr Corbell (Manager of Government Business) requiring the question to be forthwith without debate—

Question—put and negatived.

Debate continued.

Amendment negatived.

Clause 50 agreed to.

New clause—

On the motion of Dr Foskey, new clause 50A (her amendment No. 5—*see* [Schedule 2](#)), was inserted in the Bill, after debate.

Clauses 51 to 85, by leave, taken together and agreed to.

Proposed new clause—

Dr Foskey moved her amendment No. 6 (*see* [Schedule 2](#)), which inserts a new clause 85A in the Bill.

Debate continued.

Amendment negatived.

Clauses 86 to 97, by leave, taken together and agreed to.

Clause 98—

On the motion of Dr Foskey, her amendment No. 7 (*see* [Schedule 2](#)) was made, after debate.

Clause 98, as amended, agreed to.

Clauses 99 to 128, by leave, taken together and agreed to.

Clause 129—

On the motion of Dr Foskey, her amendment No. 8 (*see* [Schedule 2](#)) was made, after debate.

Clause 129, as amended, agreed to.

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

On the motion of Mr Corbell, by leave, his amendments Nos. 2 to 7 (*see* [Schedule 1](#)) were made together.

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

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

17 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 6.38 p.m., adjourned until Tuesday, 5 June 2007 at 10.30 a.m.

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

Tom Duncan
Clerk of the Legislative Assembly

SCHEDULES OF AMENDMENTS

Schedule 1

CORRECTIONS MANAGEMENT BILL 2006

Amendments circulated by the Attorney-General

1

Clause 21 (1)
Page 15, line 2—

omit clause 21 (1), substitute

- (1) The chief executive responsible for the administration of the *Public Health Act 1997* must appoint a doctor for each correctional centre.
-

2

Clause 506 (4)
Page 174, line 16—

omit

1 year

substitute

2 years

3

Clause 507 (4)
Page 175, line 1—

omit

4

Schedule 1
Amendment 1.17
Proposed new section 75 (3), examples
Page 184, line 22—

omit

set out in table 79

substitute

set out in the *Crimes (Sentencing) Act 2005*, table 79

 5

Schedule 1

Amendment 1.18

Proposed new section 82A (2)

Page 185, line 13—

omit proposed new section 82A (2), substitute

- (2) The Court may—
- (a) if satisfied that the offender should serve the remainder of the offender's sentence in accordance with section 79 (4) (Periodic detention—effect of suspension or cancellation etc)—cancel the offender's periodic detention; or
 - (b) in any other case—re-sentence the offender for the offence (the *relevant offence*) for which the offender was ordered to serve periodic detention.

 6

Schedule 1

Proposed new amendment 1.18A

Page 185, line 21—

insert

[1.18A] Section 603 (1), definition of *interim custody period*

after

Corrections Management Act 2006

insert

, chapter 3

 7

Schedule 1

Amendment 1.20

Page 187, line 4—

omit

This section expires 1 year

substitute

This chapter expires 2 years

Schedule 2

CORRECTIONS MANAGEMENT BILL 2006

Amendments circulated by Dr Foskey

1

Proposed new clause 21 (6) and (7)

Page 15, line 15—

insert

- (6) If the chief executive does not comply with a direction under subsection (4) because of subsection (5), the chief executive must give the official visitor written notice of the noncompliance.
 - (7) The notice must not include information that identifies a detainee to whom the direction relates.
-

2

Proposed new clause 21A

Page 15, line 15—

insert

21A Other health professionals—health service appointments

The chief executive responsible for the administration of the *Public Health Act 1997* may appoint a health professional (other than a doctor)—

- (a) to provide health services at a correctional centre; or
 - (b) to assist in protecting the health of detainees at a correctional centre.
-

3

Clause 41 (1)

Page 29, line 13—

omit clause 41 (1), substitute

- (1) The chief executive must ensure that—
 - (a) sufficient, suitable clothing is provided for detainees; and
 - (b) any particular clothing, including a uniform, issued to detainees is not likely to degrade or humiliate detainees.

Example—par (b)

inconspicuous clothing of a type worn by the general community

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (1A) In particular, the chief executive must ensure that a remandee is allowed to wear the remandee's own clothes while in detention.
- (1B) The chief executive must also ensure that a detainee lawfully absent from a correctional centre is allowed to wear the detainee's own clothes.
- (1C) However, the chief executive may give directions denying or limiting the wearing of items of a detainee's own clothes if the chief executive suspects, on reasonable grounds, that the wearing of the item creates, or is likely to create, a risk to—
- (a) the safety of anyone else at a correctional centre or elsewhere; or
 - (b) security or good order at a correctional centre or any other place where the detainee remains in detention.

4**Clause 50 (1)****Page 37, line 24—***omit clause 50 (1), substitute*

- (1) The chief executive must ensure that a detainee has access, at all reasonable times, to an accredited person, whether by telephone or mail or by a visit from an accredited person.

Note **Accredited person** is defined in the dictionary.

5**Proposed new clause 50A****Page 38, line 10—***insert***50A Visits—protected communications**

The chief executive must not listen to, or record, a communication at a visit between a detainee and any of the following people:

- (a) a lawyer representing the detainee;
- (b) an official visitor;
- (c) the human rights commissioner;
- (d) the public advocate;
- (e) the ombudsman;
- (f) a person prescribed by regulation.

Note 1 Electronic communications between a detainee and a person mentioned in this section must not be monitored, see s 102.

Note 2 For restrictions on monitoring mail between a detainee and a person mentioned in this section, see s 104.

6**Proposed new clause 85A****Page 66, line 14—***insert***85A Notice of transfer to another correctional centre, hospital etc**

- (1) This section applies in relation to a detainee if the detainee is to be—
 - (a) transferred to—
 - (i) another correctional centre (including a NSW correctional centre); or
 - (ii) a hospital (including a hospital inside a correctional centre); or
 - (iii) a police cell or court cell under section 34 (Detainees accommodated away from correctional centre); or
 - (b) held overnight in a police cell or court cell.
- (2) The chief executive must take reasonable steps to find out whether the detainee wants a particular person (the *nominated person*) told about the transfer or overnight holding.
- (3) The chief executive must take reasonable steps to tell the nominated person about the transfer or overnight holding.

7**Clause 98 (g)****Page 75, line 16—***omit clause 98 (g), substitute*

- (g) anything else the chief executive considers, on reasonable grounds, to be relevant.

8**Clause 129 (2)****Page 96, line 8—***omit*

considers appropriate

*substitute*considers, on reasonable grounds, to be appropriate
