



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

2004–2005–2006

MINUTES OF PROCEEDINGS

No. 86

TUESDAY, 12 DECEMBER 2006

- 1 The Assembly met at 10.30 a.m., pursuant to adjournment. The Speaker (Mr Berry) took the Chair and made a formal recognition that the Assembly was meeting on the lands of the traditional owners. The Speaker 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 36—STATEMENT BY CHAIR**
 Mr Seselja (Chair) presented the following report:
 Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 36, dated 11 December 2006, together with the relevant minutes of proceedings—
 and, by leave, made a statement in relation to the report.

- 3 **PLANNING AND ENVIRONMENT—STANDING COMMITTEE—INQUIRY—PROPOSED NOMINATION OF THE A.C.T. AS A UNESCO BIOSPHERE RESERVE—STATEMENT BY CHAIR**
 Mr Gentleman (Chair), pursuant to standing order 246A, informed the Assembly that the Standing Committee on Planning and Environment had resolved to conduct an inquiry into the proposed nomination of the ACT as a UNESCO Biosphere Reserve and provided an update on the progress of the inquiry.

- 4 **UTILITIES (NETWORK FACILITIES TAX) BILL 2006**
 Mr Stanhope (Treasurer), by leave, presented a Bill for an Act to impose a tax on owners of utility network facilities, 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 12 December 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.

5 CHILDREN AND YOUNG PEOPLE AMENDMENT BILL 2006 (NO. 2)

Ms Gallagher (Minister for Disability and Community Services), by leave, presented a Bill for an Act to amend the *Children and Young People Act 1999*.

Papers: Ms Gallagher presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 12 December 2006.

Title read by Clerk.

Ms Gallagher moved—That this Bill be agreed to in principle.

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

6 CIVIL PARTNERSHIPS BILL 2006

Mr Corbell (Attorney-General), by leave, presented a Bill for an Act to provide for civil partnerships, and for other purposes.

Papers: Mr Corbell presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 12 December 2006.

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.

7 CHILDREN AND YOUNG PEOPLE ACT—REVIEW OF THE OPERATION OF THE CHILDREN AND YOUNG PEOPLE ACT 1999—SECOND REPORT ON KEY FINDINGS—PAPER—PAPER NOTED

Ms Gallagher (Minister for Disability and Community Services) presented the following paper:

Children and Young People Act—Review of the operation of the *Children and Young People Act 1999*—Second report on key findings, dated December 2006—

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

Question—put and passed.

8 PRESENTATION OF PAPER

Ms Gallagher (Deputy Chief Minister), pursuant to the resolution of the Assembly of 19 October 2005, as amended 9 March 2006, presented the following paper:

Poverty and employment creation strategies—Government response—Tabling statement.

9 COURT LEGISLATION 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 and passed.

10 EDUCATION 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.

Detail Stage

Bill, by leave, taken as a whole—

Debate adjourned (Mr Barr—Minister for Education and Training) and the resumption of the debate made an order of the day for a later hour this day.

11 UNIVERSITY OF CANBERRA 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 and passed.

12 QUESTIONS

Questions without notice were asked.

13 AUDITOR-GENERAL ACT—AUDITOR-GENERAL'S REPORT NO. 9/2006—SALE OF BLOCK 8, SECTION 48, FYSHWICK—PUBLICATION OF PAPER

The Speaker presented the following paper:

Auditor-General Act—Auditor-General's Report No. 9/2006—Sale of Block 8, Section 48, Fyshwick, dated 11 December 2006.

Mr Corbell (Manager of Government Business), by leave, moved—That the Assembly authorises the publication of Auditor-General's Report No. 9/2006.

Question—put and passed.

14 PRESENTATION OF PAPERS

The Speaker presented the following papers:

Study trips—Reports by Mr Stefaniak MLA—

Meeting of Opposition Leaders and Menzies Research Centre Conference—Sydney, 7-9 September 2006.

Media Training at Media Images—Parramatta, 13 September 2006.

Meeting of Shadow Attorneys-General—Sydney, 22 September 2006.

15 PUBLIC SECTOR MANAGEMENT ACT—EXECUTIVE CONTRACTS—PAPERS AND STATEMENT BY MINISTER

Mr Stanhope (Chief Minister) presented the following papers:

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

Contract variations:

Conrad Barr, dated 8 November 2006.

Graeme Dowell, dated 27 October 2006.

Hugh Jorgensen, dated 7 November 2006.

Ian Cox, dated 8 November 2006.

Ian Waters, dated 25 October 2006.

Jon Quiggin, dated 24 November 2006.

Michael Chisnall, dated 17 November 2006.

Long-term contracts:

Christopher Reynolds, dated 30 October 2006.

Megan Smithies, dated 26 September 2006.

Short-term contracts:

Conrad Barr, dated 28 June 2006.

David Foot, dated 13 November 2006.

Ken Paulsen, dated 12 and 14 November 2006.

Martin Hehir, dated 17 November 2006.

Maureen Sheehan, dated 17 November 2006.

Paul Wyles, dated 17 November 2006.

Phillip Joyce, dated 26 October 2006—

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

16 FINANCIAL MANAGEMENT ACT—INSTRUMENT—PAPER AND STATEMENT BY MINISTER

Mr Stanhope (Treasurer) presented the following paper:

Financial Management Act, pursuant to section 16—Instrument directing a transfer of appropriation from the Chief Minister's Department to the Department of the Territory and Municipal Services, including a statement of reasons—

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

17 ANNUAL REPORTS (GOVERNMENT AGENCIES) ACT—RHODIUM ASSET SOLUTIONS LIMITED—ANNUAL REPORT 2005-06—PAPER AND STATEMENT BY MINISTER

Mr Stanhope (Treasurer) presented the following paper:

Annual Reports (Government Agencies) Act, pursuant to section 13—Rhodium Asset Solutions Limited—Annual Report 2005-06, dated 27 November 2006—

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

18 CARING FOR CARERS IN THE A.C.T.—A PLAN FOR ACTION 2004-2007—2005-06 PROGRESS REPORT AND CARERS LEGISLATION IN THE A.C.T.—REVIEW—GOVERNMENT RESPONSE—PROGRESS REPORT ON IMPLEMENTATION—PAPER AND STATEMENT BY MINISTER

Ms Gallagher (Minister for Disability and Community Services) presented the following paper:

Caring for carers in the ACT—A plan for action 2004-2007—2005-06 progress report on implementation, incorporating Carers Legislation in the ACT—Review—Progress report on the implementation of the Government response—

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

19 LEAVE OF ABSENCE TO MEMBER

Mr Smyth moved—That leave of absence be given to Mr Mulcahy for this sitting.

Question—put and passed.

20 PRESENTATION OF PAPER

Mr Corbell (Attorney-General) presented the following paper:

Powers of Attorney Bill 2006—Revised explanatory statement.

21 PRESENTATION OF PAPER

Mr Corbell (Minister for Police and Emergency Services) presented the following paper:

Australian Crime Commission (ACT) Act, pursuant to subsection 51(5)—Australian Crime Commission—2005-06—Annual Report, dated 13 October 2006.

22 DOMESTIC ANIMALS AMENDMENT BILL 2006—EXPOSURE DRAFT—PAPER AND STATEMENT BY MINISTER

Mr Hargreaves (Minister for the Territory and Municipal Services) presented the following paper:

Domestic Animals Amendment Bill 2006—Exposure draft—

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

23 PRESENTATION OF PAPERS

Mr Corbell (Manager of Government Business) presented the following papers:

Petition—Out of order

Petition which does not conform with the standing orders—Taxi industry—Mrs Dunne (278 signatures).

Subordinate legislation (including explanatory statements unless otherwise stated)

Legislation Act, pursuant to section 64—

Health Act—Health (Fees) Determination 2006 (No. 4)—Disallowable Instrument DI2006-248 (LR, 23 November 2006).

Legal Profession Act—Legal Profession Amendment Regulation 2006 (No. 1)—Subordinate Law SL2006-49 (LR, 30 November 2006).

Race and Sports Bookmaking Act—Race and Sports Bookmaking (Sports Bookmaking Venues) Determination 2006 (No. 8)—Disallowable Instrument DI2006-246 (LR, 23 November 2006).

Road Transport (Driver Licensing) Act—Road Transport (Driver Licensing) Amendment Regulation 2006 (No. 1)—Subordinate Law SL2006-50 (LR, 30 November 2006).

Road Transport (General) Act—Road Transport (General) (Application of Road Transport Legislation) Declaration 2006 (No. 10)—Disallowable Instrument DI2006-247 (LR, 23 November 2006).

Road Transport (Offences) Regulation—Road Transport (Offences) (Declaration of Holiday Period) Determination 2006 (No. 1)—Disallowable Instrument DI2006-249 (LR, 30 November 2006).

24 PLANNING AND ENVIRONMENT—STANDING COMMITTEE—OUT-OF-ORDER PETITION—TAXI INDUSTRY—PROPOSED REFERENCE

Mrs Dunne, by leave, moved—That the terms of the out-of-order petition (*see* [entry 23](#)) be referred to the Standing Committee on Planning and Environment for inquiry and report.

Debate ensued.

Question—put and negatived.

25 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—ENVIRONMENTALLY SUSTAINABLE SOLUTIONS

The Assembly was informed that Mrs Dunne, Dr Foskey, Mr Gentleman, Ms MacDonald, Mr Mulcahy and Ms Porter 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 MacDonald be submitted to the Assembly, namely, “The importance of delivering environmentally sustainable solutions for the ACT community.”.

Discussion ensued.

Discussion concluded.

26 EDUCATION AMENDMENT BILL 2006

The Assembly, according to order, resumed debate at the detail stage—

Detail Stage

Bill as a whole—

Mr Barr (Minister for Education and Training), by leave, moved his amendments Nos. 1 to 9 together (*see* [Schedule 1](#)).

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

Debate continued.

Mr Stefaniak (Leader of the Opposition) moved—That debate be adjourned.

Question—put.

The Assembly voted—

AYES, 7		NOES, 9	
Mrs Burke	Mr Smyth	Mr Barr	Mr Hargreaves
Mrs Dunne	Mr Stefaniak	Mr Berry	Ms MacDonald
Dr Foskey		Mr Corbell	Ms Porter
Mr Pratt		Ms Gallagher	Mr Stanhope
Mr Seselja		Mr Gentleman	

And so it was negatived.

Question—That Mr Barr’s amendments be agreed to—put.

The Assembly voted—

AYES, 9		NOES, 7	
Mr Barr	Mr Hargreaves	Mrs Burke	Mr Smyth
Mr Berry	Ms MacDonald	Mrs Dunne	Mr Stefaniak
Mr Corbell	Ms Porter	Dr Foskey	
Ms Gallagher	Mr Stanhope	Mr Pratt	
Mr Gentleman		Mr Seselja	

And so it was resolved in the affirmative.

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

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

27 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 5.35 p.m., adjourned until tomorrow at 10.30 a.m.

MEMBERS' ATTENDANCE: All Members were present at some time during the sitting, except Mr Mulcahy*.

*on leave

Tom Duncan
Clerk of the Legislative Assembly

SCHEDULE OF AMENDMENTS

Schedule 1

EDUCATION AMENDMENT BILL 2006

Amendments circulated by the Minister for Education and Training

1

Proposed new clauses 7A and 7B

Page 3, line 11—

insert

7A Compulsory enrolment Section 10 (3) (a)

substitute

- (a) the child lives in the ACT but is enrolled in a school under State law and the parents have given the chief executive written notice of the enrolment; or

7B Student transfer register New section 17 (2)

insert

- (2) The principal of a school must comply with any procedures established under subsection (1) for recording the transfer of students to and from the school that are notified to the principal by the chief executive.

2

Clause 9

Page 3, line 15—

oppose the clause

3

Proposed new clauses 28A and 28B

Page 8, line 9

insert

28A Schools to be registered New section 82 (2A)

insert

- (2A) The principal of a school commits an offence if—
- (a) the school is not registered or provisionally registered under this part for education at a particular campus; and

- (b) the school begins educating a child at that campus.

Maximum penalty: 10 penalty units.

**28B Applications for in-principle approval for proposed registration
New section 83 (1) (ab)**

insert

- (ab) section 88A for registration of a school at an additional campus; or

**4
Clause 29
Proposed new section 83 (3)
Page 8, line 15**

after

at the

insert

additional campus or

**5
Proposed new clauses 29A to 29E
Page 8, line 18**

insert

**29A Deciding in-principle applications
New section 84 (1A)**

insert

- (1A) In deciding whether to give in-principle approval for the registration of a school at an additional campus, the Minister must have regard to—
- (a) whether the provision of the additional campus by the school would undermine the viability of other existing schools; and
 - (b) the demand for the additional campus, including the level of registration of interest shown by the community for the proposed provision of the additional campus by the school.

29B Section 84 (3) and (4)

after

subsection (1)

insert

, (1A)

29C New sections 88A and 88B*insert***88A Application for registration at additional campus**

- (1) This section applies if—
 - (a) a proprietor of a registered non-government school has in-principle approval under section 84 (Deciding in-principle applications) to apply for registration of the school at a stated additional campus; and
 - (b) the proprietor has given the registrar written notice of the proprietor's intention to apply at least the prescribed period before the first day of the school year or term when it is proposed to begin operating the school at the additional campus; and
 - (c) the in-principle approval has not lapsed.
- (2) The proprietor of the school may apply in writing to the Minister for registration of the school at the additional campus.
- (3) The chief executive must publish notice of the making of the application in a daily newspaper printed and published in the ACT.
- (4) The notice must state that written comments on the proposed registration may be made to the Minister within a stated period of at least 60 days after the day the notice is published.
- (5) The chief executive must make a copy of the application available for inspection by members of the public at the chief executive's office during ordinary business hours.
- (6) In this section:

prescribed period means—

 - (a) 6 months; or
 - (b) if the Minister approves a shorter period for the application—that period.

88B Registration at additional campus

- (1) This section applies if an application is made under section 88A for registration of a school at an additional campus.
- (2) Before deciding whether the school should be registered at the additional campus, the Minister must appoint a panel to report to the Minister on the application.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

- (3) If the Minister is satisfied after considering the panel's report that the school meets the criteria mentioned in subsection (7), the Minister must direct the registrar to register the school at the additional campus.
- (4) If the Minister directs the registrar to register the school at the additional campus, the registrar must register the school at the additional campus by—
 - (a) entering the particulars of the school required under the regulations in the register of non-government schools; and
 - (b) giving the proprietor of the school a certificate of registration that includes the additional campus (a *new certificate*).
- (5) If the registrar gives the proprietor a new certificate, the proprietor must return the school's existing certificate of registration to the registrar within 14 days after the day the proprietor receives the new certificate.
- (6) If the Minister is not satisfied after considering the panel's report that the school meets the criteria mentioned in subsection (7), the Minister must direct the registrar to refuse to register the school at the additional campus.
- (7) The criteria for registration of a school at an additional campus are that—
 - (a) the school will have appropriate policies, facilities and equipment for—
 - (i) the curriculum to be offered by the school at the additional campus; and
 - (ii) the safety and welfare of its students at the additional campus; and
 - (b) the curriculum (including the framework of the curriculum and the principles on which the curriculum is based) meets the curriculum requirements for students attending government schools; and
 - (c) the nature and content of the education to be offered at the school will be appropriate for the additional campus; and
 - (d) the teaching staff will be qualified to teach at the additional campus; and
 - (e) the school will have satisfactory processes to monitor quality educational outcomes at the additional campus; and
 - (f) the school will be financially viable.

**29D Certificate of provisional registration or registration
Section 92 (1) (c)**

substitute

- (c) state the location of the campus or campuses for which the school is provisionally registered or registered under this part; and

**29E Inspection of panel reports for school registration etc
New section 98 (1) (ba)**

insert

- (ba) section 88B (Registration at additional campus);

6

Clause 37

Proposed new section 130 (1)

Page 10, line 4

omit proposed new section 130 (1), substitute

- (1) The parents of a child may apply, in writing, to the chief executive for registration of the child for home education.

7

Proposed new clause 41A

Page 11, line 6

insert

41A Schedule 1, part 1.1, new item 4A

insert

- | | | | |
|----|---------|---|--------------------------|
| 4A | 88B (6) | directing registrar to refuse to register a non-government school at an additional campus | proprietor of the school |
|----|---------|---|--------------------------|

8

Proposed new clause 46A

Page 14, line 1

after clause 46 table, insert

46A Education Regulation 2005, section 5 (1) (c)

substitute

- (c) the street address of the school's administration office;

9**Proposed new clause 48****Page 14, line 3***insert***48 Education Regulation 2005, section 7 (1) (a)***substitute*

- (a) the child's full name as shown on—
- (i) the child's birth certificate; or
 - (ii) if the birth certificate is not available—the child's passport or another document approved by the chief executive that identifies the child;
-