

1998-1999-2000

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

MINUTES OF PROCEEDINGS

No. 78

WEDNESDAY, 1 MARCH 2000

- 1** The Assembly met at 10.30 a.m., pursuant to adjournment. A quorum of Members not being present, the Speaker (Mr Cornwell) 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 FINANCIAL MANAGEMENT AMENDMENT BILL 2000

Mr Stanhope (Leader of the Opposition), pursuant to notice, presented a Bill for an Act to amend the *Financial Management Act 1996*.

Paper: Mr Stanhope presented an explanatory memorandum to the Bill.

Title read by Clerk.

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

Debate adjourned (Ms Carnell – Chief Minister) and the resumption of the debate made an order of the day for the next sitting.

3 CRIMES AMENDMENT BILL 2000

Mr Rugendyke, pursuant to notice, presented a Bill for an Act to amend the *Crimes Act 1900*.

Paper: Mr Rugendyke presented an explanatory memorandum to the Bill.

Title read by Clerk.

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

Debate adjourned (Mr Humphries – Attorney-General) and the resumption of the debate made an order of the day for the next sitting.

4 AGENTS (AMENDMENT) BILL 1998

The Assembly, according to order, resumed consideration at the detail stage.

Detail stage

Bill as a whole -

Consideration resumed on the amendments moved by Mr Berry:

Amendments -

Clause 4, page 2, line 13, paragraph (d), omit the paragraph, substitute the following paragraph:

“(d) by inserting in subsection (1), the following definitions:

‘**employment agent** means a person who, under section 5DA, carries on business as an employment agent.

model includes a person employed—

- (a) to pose for a photographer, or for a painter, sculptor or other artist; or
- (b) to wear and display clothes and other articles to potential customers or the public.

performer means an actor, singer, dancer, musician, acrobat, disc jockey or compere, or any other performer of any kind.’”.

New clause –

Page 3, line 14, insert the following new clause in the Bill:

‘8A Insertion

After section 17, insert the following section:

‘17A Annual reports of board

The report of the board under the *Annual Reports (Government Agencies) Act 1995* for a financial year must include—

- (a) the number, and an outline of the nature and outcome, of the complaints made to the board during the financial year; and
- (b) the name of anyone who was subject to an inquiry completed by the board during the financial year and an outline of the nature and outcome of the inquiry; and
- (c) the number of agents given a licence or registered during the financial year; and
- (d) an outline of the educational activities undertaken by the board during the financial year to tell consumers about their rights under this Act; and
- (e) a list of the names of all employment agents licensed under this Act at any time during the financial year.’”.

Amendments –

Clause 9, page 3, line 21, proposed new subsection (5), penalty provision, omit the penalty provision, substitute the following penalty provision:

“Maximum penalty: 20 penalty units.’”.

Clause 10, page 3, line 28, proposed new subsection (5), penalty provision, omit the penalty provision, substitute the following penalty provision:

“Maximum penalty: 20 penalty units.’”.

Clause 11, page 4, line 3, proposed new section 19B, penalty provision, omit the penalty provision, substitute the following provisions:

“Maximum penalty: 20 penalty units.

‘(2) This section does not apply in relation to a model or performer.’”.

Clause 12, page 4 -

Line 15, proposed new paragraph 47CA (b), omit the paragraph.

Line 31, proposed new paragraph 47CB (c), omit the paragraph.

Clause 13, page 5, line 4, omit the clause.

Clause 14, page 5, line 8, omit the clause.

Clause 16, page 6, line 10, paragraph (a), omit the paragraph, substitute the following paragraph:

“(a) by inserting in subsection (2) ‘(other than a licence issued to an employment agent)’, after ‘company’ (first occurring); and”.

Clause 17, page 6, line 14, omit the clause.

Clause 26, page 7, line 21, omit the clause.

New clause –

Page 7, line 24, insert the following new clause in the Bill:

‘26A Insertion

After Part 8, insert the following Part:

‘PART 8A—CODE OF PRACTICE FOR EMPLOYMENT AGENTS

‘75A Approval of code of practice

‘(1) The Minister may approve a code of practice for employment agents.

‘(2) An approval under this section is a disallowable instrument for the *Subordinate Laws Act 1989*.

‘75B Complying with approved code of practice

An employment agent must comply with a code of practice approved under section 75A.’”.

Amendments –

Clause 27, page 7, line 25, omit the clause, substitute the following clause:

‘27 Suspension of travel agent’s licence

Section 82 is amended—

(a) by omitting the heading and substituting the following heading:

‘82 **Suspension of travel or employment agent’s licence**’;

and

(b) by inserting ‘or employment agent’s’ after ‘travel agent’s’.”.

Clause 30, page 8 –

Line 12, proposed new subsection 105B (1), penalty provision, omit the penalty provision, substitute the following penalty provision:

“Maximum penalty: 10 penalty units.”.

Line 24, proposed new subsection 105B (2), omit all the words after “conviction”, substitute “by a maximum fine of 10 penalty units” –

Debate resumed.

Papers: Mr Humphries (Minister for Justice and Community Safety) presented the following papers:

Agents (Amendment) Bill 1998 –

Copies of letters to Policy and Regulatory Division, Department of Justice and Community Safety from:

Managing Director, Western Staff Services, dated 23 October 1998.

General Manager, Zenith Employment and Training, dated 22 October 1998.

Sutton & Williams Psychology Services Pty Limited, dated 21 October 1998.

Canberra Manager, Library Locums, dated 3 November 1998, including attachment.

General Manager, Advance Personnel (Canberra) Inc, dated 26 October 1998.

AR Personnel Services, dated 24 November 1998.

Manager Work-Ways Inc, dated 20 October 1998.

Manager, Canberra, Morgan & Banks Limited, dated 20 October 1998.

Chairperson, NETA, dated 26 October 1998.

Director, Careers Unlimited, dated 22 October 1998.

Copies of:

File note (Janice Boyle) – “Industry response to Mr Berry’s proposed Bill”, dated 28 October 1998.

Facsimile of letter from Employment Case Manager, Open Employment Program, Centacare, Archdiocese of Canberra and Goulburn to Advance Personnel, dated 29 October 1998.

Compliments slip from Policy and Regulatory Division, ACT Department of Justice & Community Safety covering copies of:

Facsimile of e-mail message from Department of Family and Community Services to the Disability Service Program Providers in the ACT, dated 10 January 2000.

Form letter from Director, General Law Group to all ACT employment agents, dated October 1998.

Form letter from Director, General Law Group to all ACT employment agents, dated September 1999.

List of employment agents to whom letters were mailed in October 1998 and November 1999.

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

Debate continued.

Question – That the amendments be agreed to – put.

The Assembly voted –

Ayes, 9

Noes, 6

Mr Berry

Mr Rugendyke

Mr Cornwell

Mr Stefaniak

Mr Corbell

Mr Stanhope

Mr Hird

Mr Hargreaves

Ms Tucker

Mr Humphries

Mr Kaine

Mr Wood

Mr Moore

Mr Osborne

Mr Smyth

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

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

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

5 MANDATORY SENTENCING – SUBMISSION TO A SENATE COMMITTEE INQUIRY

Ms Tucker, pursuant to notice, moved – That this Assembly condemns and disassociates itself from the ACT Government submission to the Senate Legal and Constitutional References Committee inquiry into mandatory sentencing laws because of the submission's failure to acknowledge that these laws:

- (1) are racially discriminatory in effect;
- (2) are inconsistent with recommendations of the Royal Commission into Aboriginal Deaths in Custody, which the Commonwealth and all States and Territories have agreed to implement;
- (3) are inconsistent with the goal of reconciliation with indigenous people, which the Commonwealth and all States and Territories have agreed to;
- (4) may be in breach of the UN Convention on the Rights of the Child and the International Covenant on Civil and Political Rights; and
- (5) are manifestly unjust because they take away the possibility of individual circumstances being taken into account by magistrates and judges and alternative socially-constructive rehabilitation options being pursued.

Ms Tucker, by leave, spoke without limitation of time.

Debate ensued.

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

Debate continued.

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

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.

6 QUESTIONS

Questions without notice being asked –

Paper: Ms Carnell (Chief Minister) presented the following paper:

Commercial in confidence information – Copy of pamphlet entitled “Doing Business with the ACT Government”.

7 PRESENTATION OF PAPERS

Ms Carnell (Chief Minister) presented the following papers:

Cultural Facilities Corporation Act, pursuant to subsection 29 (3) – Cultural Facilities Corporation - Quarterly report for the second quarter of 1999/2000: 1 October to 31 December 1999.

Canberra Tourism and Events Corporation Act, pursuant to subsection 28 (3) – Canberra Tourism & Events Corporation – Quarterly report – October-December 1999.

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

Ms Carnell (Chief Minister) presented the following papers:

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

Long term contracts:

Mark Kwiatkowski, dated 17 February 2000.

Aidan O’Leary, dated 28 February 2000.

Schedule D variations:

Michael White, dated 6 and 28 February 2000.

Sue Birtles, dated 7 and 28 February 2000.

Gerry Cullen, dated 8 and 28 February 2000 -

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

9 PAPER

Mr Humphries (Treasurer), presented the following paper:

ACTEW Partnership – Expressions of interest – Answer to question without notice asked of Mr Humphries by Mr Osborne and taken on notice on 29 February 2000.

10 A.C.T. GOVERNMENT WORKFORCE STATISTICAL REPORT – SECOND QUARTER OF 1999-2000 – PAPER - STATEMENT BY MINISTER

Mr Humphries (Treasurer) presented the following paper:

ACT Government Workforce Statistical Report – Second quarter 1999/2000 –

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

11 LEGISLATIVE ASSEMBLY (BROADCASTING OF PROCEEDINGS) ACT – AUTHORITY TO BROADCAST

The Speaker presented the following papers:

Legislative Assembly (Broadcasting of Proceedings) Act, pursuant to section 8 – Authority to broadcast proceedings concerning:

The debate on mandatory sentencing for today, Wednesday 1 March 2000, dated 29 February 2000.

The public hearings of the Standing Committee on Finance and Public Administration and the Standing Committee on Justice and Community Safety, dated 24 February 2000.

12 MANDATORY SENTENCING – SUBMISSION TO A SENATE COMMITTEE INQUIRY

The order of the day having been read for the resumption of the debate on the motion of Ms Tucker – That this Assembly condemns and disassociates itself from the ACT Government submission to the Senate Legal and Constitutional References Committee inquiry into mandatory sentencing laws because of the submission's failure to acknowledge that these laws:

- (1) are racially discriminatory in effect;
- (2) are inconsistent with recommendations of the Royal Commission into Aboriginal Deaths in Custody, which the Commonwealth and all States and Territories have agreed to implement;
- (3) are inconsistent with the goal of reconciliation with indigenous people, which the Commonwealth and all States and Territories have agreed to;
- (4) may be in breach of the UN Convention on the Rights of the Child and the International Covenant on Civil and Political Rights; and
- (5) are manifestly unjust because they take away the possibility of individual circumstances being taken into account by magistrates and judges and alternative socially-constructive rehabilitation options being pursued –

Debate resumed.

Papers: Mr Stefaniak (Minister for Education) presented the following papers:

Mandatory sentencing – Facsimile copies of:

Background paper, from the office of the Attorney-General of the Northern Territory, in relation to mandatory sentencing for juveniles and adults.

Mandatory sentencing legislation - Excerpt of paper prepared by Research Unit (pages 38 and 39).

Mandatory sentencing - Discussion points.

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

Debate continued.

Mr Moore (Minister for Health and Community Care), by leave, was granted an extension of time.

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

Mr Moore (Minister for Health and Community Care) requiring the question to be put forthwith without debate -

Question - put and negated.

Debate continued.

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

Paper: Ms Tucker, by leave, presented the following paper:

Mandatory sentencing - Human rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999 – Copy of letter from various academics to Mr John Howard, Prime Minister, dated 27 February 2000, attaching a submission.

Question – That the motion be agreed to – put.

The Assembly voted –

Ayes, 9

Noes, 8

Mr Berry	Mr Rugendyke	Ms Carnell	Mr Moore
Mr Corbell	Mr Stanhope	Mr Cornwell	Mr Smyth
Mr Hargreaves	Ms Tucker	Mr Hird	Mr Stefaniak
Mr Osborne	Mr Wood	Mr Humphries	
Mr Quinlan		Mr Kaine	

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

13 ADJOURNMENT

Mr Humphries (Manager of Government Business) moved - That the Assembly do now adjourn.

Debate ensued.

Question - put and passed.

And then the Assembly, at 5.27 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