



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

2008–2009–2010

MINUTES OF PROCEEDINGS

No. 59

THURSDAY, 25 MARCH 2010

- 1** The Assembly met at 10 a.m., pursuant to adjournment. A quorum of Members not being present, the Speaker (Mr Rattenbury) 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 PETITION—MINISTERIAL RESPONSE

The Clerk announced that the following response to a petition had been lodged by Mr Stanhope (Chief Minister):

Petition No. 105, lodged by Mrs Dunne on 9 December 2009, concerning the sale of Block 8, Section 34 Hawker and the impact on the availability of adequate parking for the Hawker Group Centre, dated 4 March 2010.

3 CRIMES (SENTENCE ADMINISTRATION) AMENDMENT BILL 2010

Mr Corbell (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Crimes (Sentence Administration) Act 2005*, 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, undated.

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 the next sitting.

4 STATUTE LAW AMENDMENT BILL 2010

Mr Corbell (Attorney-General), pursuant to notice, presented a Bill for an Act to amend legislation for the purpose of statute law revision.

Papers: Mr Corbell presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, undated.

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 the next sitting.

5 WATER RESOURCES AMENDMENT BILL 2010

Mr Corbell (Minister for the Environment, Climate Change and Water), pursuant to notice, presented a Bill for an Act to amend the *Water Resources Act 2007*, 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, undated.

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 the next sitting.

6 PUBLIC ACCOUNTS—STANDING COMMITTEE—PROPOSED REFERENCE—REVIEW OF THE A.C.T. GAMBLING AND RACING COMMISSION'S REPORT RELATING TO THE PROPOSED SALE OF THE CANBERRA LABOR CLUB GROUP

The notice for the moving of the motion having been called on—

Standing order 156—Exclusion of Ministers from debate: Mrs Dunne, by leave, moved—That Ms Gallagher (Treasurer) and Mr Barr (Minister for Gaming and Racing) be excluded from this debate, in accordance with standing order 156, on the basis that they have staff who are members of the executive committee of the ALP in the ACT, which is subject to the inquiry and the motion being dealt with today.

Debate ensued.

Suspension of sitting: The Speaker, at 11.13 a.m., suspended the sitting to enable Members to consult on proceedings and announced that the Chair would be resumed at the ringing of the bells.

Resumption of sitting: The bells having been rung, the Speaker resumed the Chair at 11.32 a.m.

Mrs Dunne who had already spoken, by leave, again addressed the Assembly without closing debate.

It being 45 minutes after the commencement of Assembly business—

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

Mr Corbell (Attorney-General), who had already spoken, by leave, again addressed the Assembly.

Ms Le Couteur moved—That debate be adjourned.

Question—put.

The Assembly voted—

AYES, 9		NOES, 6	
Ms Bresnan	Ms Le Couteur	Mr Barr	Mr Stanhope
Mr Coe	Mr Rattenbury	Ms Burch	
Mrs Dunne	Mr Seselja	Mr Corbell	
Mr Hanson	Mr Smyth	Ms Gallagher	
Ms Hunter		Ms Porter	

And so it was resolved in the affirmative.

Question—That the resumption of the debate be made an order of the day for the next sitting—put and passed.

Mr Smyth, pursuant to standing order 128, fixed the next day of sitting for the moving of notice No. 1, Assembly business.

7 PUBLIC ACCOUNTS—STANDING COMMITTEE—REPORT 7—REPORT ON ANNUAL AND FINANCIAL REPORTS 2008-2009—REPORT NOTED

Ms Le Couteur (Chair) presented the following report:

Public Accounts—Standing Committee—Report 7—*Report on Annual and Financial Reports 2008-2009*, dated 22 March 2010, together with a copy of the extracts of the relevant minutes of proceedings—

and moved—That the report be noted.

Debate ensued.

Question—put and passed.

8 POSITIVE AGEING—STATEMENT BY MINISTER

Ms Burch (Minister for Ageing), by leave, made a statement regarding positive ageing.

9 QUESTIONS

Questions without notice being asked—

Papers: Ms Gallagher (Minister for Health), pursuant to order, presented the following papers:

Calvary Public Hospital—Proposed purchase by ACT Government—Copies of—

Letter to Mr Tom Brennan, Chair, Little Company of Mary Health Care Ltd, from the Minister for Health, dated 25 February 2010.

Letter to the Deputy Chief Minister from Mr Tom Brennan, Chair, Little Company of Mary Health Care Ltd, dated 26 February 2010.

Letter to Archbishop Mark Coleridge from the Chief Minister, dated 12 March 2010.

Letter to the Chief Minister from the Most Reverend Mark Coleridge, Archbishop of Canberra and Goulburn, dated 18 March 2010.

Transfer Agreement for the Purchase of Calvary Public Hospital—Treasury Financial Analysis, dated September 2009.

Questions without notice continued.

10 PAPER

Mr Stanhope (Chief Minister) presented the following paper:

ALP-Greens Parliamentary Agreement—Select Committee on Estimates 2009-2010—Extract from Hansard, 25 May 2009.

11 PRESENTATION OF PAPER

The Speaker presented the following paper:

Committee reports—Schedule of Government responses—March 2010.

12 ADMINISTRATION AND PROCEDURE—STANDING COMMITTEE—REPORT 2—LATIMER HOUSE PRINCIPLES—GOVERNMENT RESPONSE—PAPER NOTED

Mr Stanhope (Chief Minister) presented the following paper:

Administration and Procedure—Standing Committee—Report 2—*Latimer House Principles*—Government response—

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

Question—put and passed.

13 PRESENTATION OF PAPERS

Mr Stanhope (Chief Minister) presented the following papers:

Intergovernmental agreements—

List of agreements signed by the ACT Government as at 25 March 2010.

Schedule of Ministerial level negotiations as at March 2010.

14 PRESENTATION OF PAPER

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

ACT Kangaroo Management Plan.

15 PRESENTATION OF PAPER

Mr Barr (Minister for Education and Training) presented the following paper:

Annual Reports (Government Agencies) Act, pursuant to section 13—Canberra Institute of Technology—Annual Report 2009, dated 19 March 2009, including an erratum replacement transmittal certificate, dated 25 March 2010.

16 LIQUOR BILL 2010—EXPOSURE DRAFT—PAPERS AND STATEMENT BY MINISTER

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

Liquor Bill 2010—

Exposure draft.

Explanatory statement to the exposure draft—

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

17 CRIMES (SERIOUS ORGANISED CRIME) AMENDMENT BILL 2010—REVISED EXPLANATORY STATEMENT

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

Crimes (Serious Organised Crime) Amendment Bill 2010—Revised explanatory statement.

18 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—OPEN, HONEST AND ACCOUNTABLE GOVERNMENT

The Assembly was informed that Ms Bresnan, Mr Coe, Mr Doszpot, Mrs Dunne, Mr Hanson, Mr Hargreaves, Ms Hunter, Ms Le Couteur, Mr Seselja (Leader of the Opposition) 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 Mr Coe be submitted to the Assembly, namely, “The importance of open, honest and accountable government”.

Discussion ensued.

The time for discussion having expired—

Discussion concluded.

19 FAIR TRADING (MOTOR VEHICLE REPAIR INDUSTRY) BILL 2009

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—

On the motion of Mr Corbell (Attorney-General), his amendments Nos. 1 to 6 ([see Schedule 1](#)) were made together, after debate.

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

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

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

20 STANDING ORDER 156—REFERRAL TO ETHICS AND INTEGRITY ADVISER

Ms Hunter, by leave, moved—That this Assembly calls on the Speaker to:

- (1) obtain advice from the Ethics and Integrity Adviser as to:
 - (a) the scope of standing order 156;
 - (b) the existence, or extent, of any conflicts of interest that may arise for Members in relation to the activities of Members' staff; and
 - (c) any conflicts of interest that may arise as a result of Members' interests, direct or indirect, in any licence, payment, contract, lease or other transaction issued under Territory law; and
- (2) provide the Assembly with a copy of the advice received.

Debate ensued.

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

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

Question—put and negatived.

Debate continued.

Question—put and passed.

21 SUSPENSION OF STANDING AND TEMPORARY ORDERS MOVED—PRECEDENCE TO ORDER OF THE DAY

Mr Corbell (Manager of Government Business) moved—That so much of the standing and temporary orders be suspended as would prevent the order of the day, relating to standing order 156 and the exclusion of Ministers from debate, being called on forthwith.

Debate ensued.

Mr Corbell, who had already spoken, by leave, again addressed the Assembly without closing debate.

Mr Corbell, by leave, withdrew the motion.

22 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 6.22 p.m., adjourned until Tuesday, 4 May 2010 at 10 a.m.

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

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M M KIERMAIER
Acting Clerk of the Legislative Assembly

SCHEDULE OF AMENDMENTS

Schedule 1

FAIR TRADING (MOTOR VEHICLE REPAIR INDUSTRY) BILL 2009

Amendments circulated by the Attorney-General

1

Clause 22

Page 15, line 6—

omit everything after the heading, substitute

- (1) It is a condition of a licence that motor vehicle repair work performed by the licensee or an employee of the licensee on a motor vehicle, part or system be performed in accordance with any directions under subsection (2).
- (2) The Minister may give directions about the equipment, materials and skills necessary to perform work on a motor vehicle, part or system satisfactorily.
- (3) A direction is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

2

Clause 26 (2)

Page 17, line 5—

omit clause 26 (2), substitute

- (2) It is a condition of a licence that the licensee not charge the person a fee for the disposal of a replaced part or oil unless there is displayed at the licensee's premises a sign clearly stating that a fee will be charged for the disposal.
 - (3) If the person chooses to take the replaced part away from the licensee's premises, the licensee must refund any fee paid for the disposal of the part.
-

3

Proposed new part 5A

Page 21, line 22—

insert

Part 5A Advisory committee

38A Establishment of advisory committee

The motor vehicle repair industry advisory committee (the *advisory committee*) is established.

38B Advisory committee functions

The advisory committee has the following functions:

- (a) advising the Minister about—
 - (i) amendments of this Act in relation to the licensing, registration or training of people in the motor vehicle repair industry including people who perform motor vehicle repair work in the course of employment by another person; and
 - (ii) matters affecting the interests of consumers in relation to motor vehicle repair work; and
 - (iii) unfair commercial practices that affect people who carry on business as a motor vehicle repairer; and
 - (iv) environmental issues in relation to disposal of the motor vehicle repair industry's waste;
- (b) advising the Minister about directions or proposed directions under section 22 (2);
- (c) any other function given to the advisory committee under this Act.

38C Advisory committee membership

The advisory committee is made up of—

- (a) the commissioner for fair trading; and
- (b) the following members (the *representative members*) appointed by the Minister:
 - (i) a representative of the industry body for the motor vehicle repair industry;
 - (ii) a representative of people who carry on business as motor vehicle repairers;
 - (iii) a representative of employees of people who carry on business as motor vehicle repairers;
 - (iv) 2 people to represent the interests of consumers;
 - (v) a representative of the community's interest in the environment.

38D Advisory committee—chair

The commissioner for fair trading is the chair of the advisory committee.

38E Advisory committee—general procedure

- (1) Meetings of the advisory committee are to be held when and where it decides.
- (2) However—
 - (a) the advisory committee must meet at least twice each year; and
 - (b) the commissioner may, by reasonable written notice given to the other advisory committee members, call a meeting.
- (3) The advisory committee may conduct its proceedings (including its meetings) as it considers appropriate.

38F Reimbursement of expenses for advisory committee members

- (1) A representative member of the advisory committee is not entitled to be paid for the exercise of the member's functions.
- (2) However, a representative member may apply to the commissioner for reimbursement of expenses reasonably incurred by the member for the purpose of attending a meeting of the advisory committee.

38G Advisory committee to report on impact of Act etc

- (1) The advisory committee must prepare a report under this section and present it to the Minister not later than 1 year after the commencement of this section.
- (2) The report must include an analysis of—
 - (a) the impact of this Act on people who carry on business as motor vehicle repairers, their employees and on consumers; and
 - (b) the level of consumer satisfaction with the motor vehicle repair industry, and any recommendations for raising it; and
 - (c) the level of competence that employees should reach to work in the industry; and
 - (d) the cost of training employees to reach that level of competence and how the cost should be shared between employers and employees; and
 - (e) training courses required for the ACT (and who might provide the courses, when the courses might be available, and what benefits providing the courses would give consumers); and

- (f) any transitional arrangements necessary to deal with existing industry participants.
- (3) In preparing the report, the advisory committee may seek the views of—
 - (a) people who carry on business as motor vehicle repairers; and
 - (b) people who provide training courses; and
 - (c) consumers; and
 - (d) other interested entities.
- (4) The Minister must present the report, and the Minister's response to the report, to the Legislative Assembly not later than 6 months after the day the Minister receives the report.
- (5) This section expires 2 years after the day it commences.

4

Proposed new clause 41A
Page 23, line 14—

insert

41A False or misleading representations

- (1) A person must not, in trade or commerce, in connection with the supply or possible supply of goods or services in relation to motor vehicle repair work or in connection with the promotion by any means of the supply or use of goods or services in relation to motor vehicle repair work—
 - (a) falsely represent that goods are of a particular standard, quality, value, grade, composition, style or model or have had a particular history or particular previous use; or
 - (b) falsely represent that services are of a particular standard, quality, value or grade; or
 - (c) falsely represent that goods are new; or
 - (d) falsely represent that a particular person has agreed to acquire goods or services; or
 - (e) represent that goods or services have sponsorship, approval, performance characteristics, accessories, uses or benefits they do not have; or
 - (f) represent that the person has a sponsorship, approval or affiliation he or she does not have; or
 - (g) make a false or misleading representation in relation to the price of goods or services; or
 - (h) make a false or misleading representation about the availability of facilities for the repair of goods or of spare parts for goods; or

- (i) make a false or misleading representation about the place of origin of goods; or
 - (j) make a false or misleading representation about the need for any goods or services; or
 - (k) make a false or misleading representation about the existence, exclusion or effect of any condition, warranty, guarantee, right or remedy; or
 - (l) make a false or misleading representation that services have been or are to be performed with the equipment, materials and skill necessary to carry out the work satisfactorily, having regard to the age and make of the vehicle, part or system.
- (2) A person does not contravene subsection (1) (i) if the person makes a representation about the country of origin of goods and the person complies with the *Trade Practices Act 1974* (Cwlth), part 5 (Consumer protection), division 1AA (Country of origin representations).
- (3) A person commits an offence if the person contravenes subsection (1).

Maximum penalty: 200 penalty units.

- (4) In this section:

goods—see the *Fair Trading Act 1992*, dictionary.

price—see the *Fair Trading Act 1992*, dictionary.

services—see the *Fair Trading Act 1992*, dictionary.

supply—see the *Fair Trading Act 1992*, dictionary.

trade or commerce—see the *Fair Trading Act 1992*, dictionary.

5

Dictionary

Proposed new definition of *advisory committee*

Page 30, line 12—

insert

advisory committee—see section 38A.

6

Dictionary

Proposed new definition of *representative members*

Page 31, line 13—

insert

representative members, of the advisory committee—see section 38C.