

6. The ACT Executive

- 6.1. The responsibility for governing the Australian Capital Territory rests with the ACT Executive, established by the Self-Government Act as the executive arm of the body politic. The initial allocation of responsibilities to the executive in the Australian Capital Territory reflected the approach adopted in the *Northern Territory (Self-Government) Act 1978*.¹ Schedule 4 of the ACT Self-Government Act sets out the ACT Executive's responsibilities, which include both state-type and local government functions, distinguishing it from other state and territory executives.² Schedule 4 lists more than 60 matters over which the ACT Executive has power to govern.
- 6.2. The ACT Self-Government Act also gives general authority to the ACT Executive for the:
- execution and maintenance of enactments and subordinate laws;
 - exercising of such other powers as are vested in the executive by or under a law in force in the Territory or an agreement or arrangement between the Territory and the Commonwealth, a state or another territory; and
 - exercising of prerogatives of the Crown so far as they relate to these responsibilities.³
- 6.3. Section 74 of the Self-Government Act allows the Governor-General to add further responsibilities by regulation. This occurred in 1989 when law and order, legal practitioners, the Magistrates Court, the Coroner's Court and courts other than the Magistrates Court and the Coroner's Court were added to Schedule 4.⁴
- 6.4. With the exception of the ACT's inclusion of state and territory functions, the structure of government is not dissimilar to other Australian jurisdictions and those elsewhere that are derived from the system of government in the United Kingdom, with an executive government chosen from, and responsible to, a democratically elected legislature. What is unusual in the Australian context is that, unlike the Commonwealth, the states and the Northern Territory, there is no office equivalent to the Governor-General, state governor or Administrator of the Northern Territory.

1 Australian Capital Territory (Self-Government) Bill 1988, explanatory memorandum, p 3.

2 See comments by the Minister for the Arts and Territories in introducing the Self-Government Bill, House of Representatives Debates, 19 October 1988, p 1922.

3 Self-Government Act, ss 37, 38 and 38A.

4 Statutory Rules 1989, No 86 (Cth).

- 6.5. In the Northern Territory, for example, the Administrator is charged with the duty of administering the Territory, but in doing so is advised by an Executive Council consisting of persons for the time being holding ministerial office who are appointed by the Administrator.⁵ The ACT has no comparable office. It has been suggested that the ACT Executive's capacity to exercise the prerogatives of the Crown in relation its responsibilities confers upon it a unique authority in comparison with other state and territory executives—the ACT Executive is not merely an adviser to the Crown but, in fact, exercises the Crown's functions that, in other jurisdictions, would be exercised by the Crown's representative.⁶ For more information on the roles and functions of the Governor-General in the ACT's system of government, see under the heading 'Governor-General' below in this chapter.
- 6.6. In the ACT, the Chief Minister is elected by the Assembly from among its members, and the Chief Minister appoints ministers,⁷ who must also be members of the Assembly.⁸ Up until 2013, the maximum number of ministers that could be appointed was five. However, that number increased to nine with the passage, pursuant to s 41(2A) of the Self-Government Act, of the Australian Capital Territory (Ministers) Bill 2013, in the Eighth Assembly.⁹ The increase recognised the substantial workload that had been placed on ministers up until that time due to the large number of diverse portfolio areas for which each minister had been responsible. The Chief Minister and the ministers they appoint constitute the ACT Executive. Ministers, once appointed, retain their office until they resign, vacate their office as a member, are dismissed by the Chief Minister, or until immediately before a new Chief Minister is elected (see below in this chapter under the heading 'Duration of appointment (including resignation and vacation of office)').
- 6.7. The Assembly must meet within seven days after the result of a general election is declared. At its first meeting the members present must, after electing a Speaker and before any other business, elect a Chief Minister. Similarly, the Assembly must elect a member to be Chief Minister whenever the office falls vacant for whatever reason, apart from a dissolution of the Assembly. Procedures are in place to ensure that a Chief Minister is elected at the earliest opportunity.¹⁰

5 *Northern Territory (Self-Government) Act 1978*, Part IV. The Governor-General has the power to dissolve the ACT Assembly in extraordinary circumstances (see Chapter 1: The Assembly's power to make laws.)

6 Advice of the ACT Solicitor-General provided to the Clerk of the Assembly on 2 June 2014.

7 Self-Government Act, s 41(1).

8 Self-Government Act, ss 41(1) and (2A). The Speaker and Deputy Speaker are ineligible for appointment.

9 MoP, No 41, 26 November 2013, p 421.

10 Self-Government Act, s 40; standing order 12. Section 45 of the Self-Government Act provides that the Chief Minister resigns office by written notice to the Speaker. See below in this chapter under the heading 'Chief Minister'.

- 6.8. Should the Assembly be unable to elect a Chief Minister when required to do so (in the event of a vacancy in the office or following a no confidence resolution), there are constitutional mechanisms in place to ensure that the responsibilities of the executive continue to be exercised:
- in the event of the Assembly passing a motion of no confidence in the Chief Minister, the Chief Minister does not vacate office until immediately before another Chief Minister is elected;
 - should the Assembly not elect a Chief Minister within a period of 30 days after passing a resolution of no confidence in a Chief Minister (and the Assembly has not been dissolved in that period), there is provision for a general election to be held on a day specified by the Commonwealth minister;¹¹
 - should the Chief Minister vacate office by resignation or cease to be a member of the Assembly (other than because of a general election),¹² the Deputy Chief Minister acts as Chief Minister;¹³ and
 - in the event of vacancies in all ministerial offices (including that of Chief Minister) where there is a necessity to exercise the powers of the executive for the purpose of maintaining the provision and control of essential services, the Commonwealth minister may exercise those powers until a Chief Minister is elected.¹⁴

The ACT Executive in the Assembly

- 6.9. The Australian Capital Territory as a body politic consists of the ACT Executive exercising the executive power and the Legislative Assembly exercising the legislative power. The Assembly has the powers to make the laws for the peace, order and good government of the Territory, and that power extends to the power to make laws with respect to the exercise of powers by the executive. In addition, the receipt, spending and control of the public money of the Territory must be regulated as provided by enactment and no public money may be issued or spent except as authorised by enactment.¹⁵
- 6.10. Membership of the executive is usually drawn from the political party or coalition of parties and members that support the Chief Minister. It is not necessary that the governing party or parties comprise a majority of the members of the Assembly; in

11 Self-Government Act, s 48.

12 See below in this chapter under the heading 'Chief Minister'.

13 Self-Government Act, ss 44(2) and 44(3). Also, see below in this chapter under the heading 'Deputy Chief Minister'.

14 Self-Government Act, s 47. Inability to agree on the election of a Chief Minister might also trigger provisions of s 16 of the Self-Government Act, which allow the Governor-General to dissolve the Assembly and appoint a commissioner to govern the ACT where, in the opinion of the Governor-General, the Assembly is incapable of effectively performing its functions or is conducting its affairs in a grossly improper manner.

15 Self-Government Act, ss 22, 57 and 58.

fact, for most of the period since self-government no single party has commanded a majority.¹⁶

- 6.11. It is critical that the executive retains the confidence of the Assembly. However, defeat on particular measures is not treated as a loss of the confidence of the Assembly. The prevalence of minority governments since 1989 has meant that the government's failure to pass significant pieces of legislation has not been uncommon.
- 6.12. On one occasion, the motion that the annual appropriation bill (the budget) be agreed to was defeated. The proposed appropriation included funding for the trial of a highly controversial supervised injecting facility to which a number of members of the crossbench were opposed.¹⁷ The Assembly adjourned to the next scheduled sitting day and the government restructured both the appropriation bill and the injection facility proposal. At its next meeting, the Assembly rescinded the motion that the appropriation bill be agreed to and subsequently agreed to government amendments and passed the amended bill.¹⁸ For the Assembly to unseat a Chief Minister, the passage of a motion of no confidence is required.¹⁹

Cabinet

- 6.13. By convention, the executive determines its policies and makes its decisions through a cabinet system of decision-making, with cabinet decisions seen as binding on all ministers as government policy. This convention of collective responsibility is supported by the convention of cabinet confidentiality, whereby strict confidentiality attaches to cabinet documents and cabinet discussions. As stated in the *Cabinet Handbook*:

The convention of collective responsibility is underpinned by strict confidentiality surrounding Cabinet papers and discussions in Cabinet. Absolute confidentiality allows ministers to discuss proposals frankly while developing a collective position. This confidentiality extends to Cabinet committee and subcommittee meetings.²⁰

16 The exception being the Sixth Assembly, in which a majority Labor government was elected.

17 The *Supervised Injecting Place Trial Act 1999* remains on the ACT statute books, despite funding never having been appropriated to put the legislation's provisions into effect.

18 See Assembly Debates, 29 June 2020, pp 2209-2230, 2265-2367 and 10 July 2000, pp 2427-2441. Because of the way Territory finances are structured, the defeat of the appropriation bill did not precipitate any immediate financial crisis for the government. This does not diminish the seriousness of such a setback to a government and the precarious position it would be in should it be unable to obtain the Assembly's agreement to an appropriation proposal within a reasonable time. There is no legal requirement or convention that guarantees a government supply. See Chapter 12: Legislation, under the headings 'Financial Management Act' and 'Procedure on appropriation bills'.

19 See Assembly Debates, 5 December 1989, pp 2987-3046. However, governments in other places have interpreted failures to win certain other votes on the floor as being an effective vote of no confidence and have resigned. For instance, on 3 October 1941, the Fadden ministry resigned when, during the budget debate in committee of supply, an opposition amendment to the effect that the first item in the estimates be reduced by £1 was agreed to. See *House of Representatives Practice*, p 323.

20 *ACT Cabinet Handbook*, February 2021, p 2.

- 6.14. The code of conduct for the executive not only addresses ministerial obligations to the Assembly but also addresses collective responsibility:

Ministers are answerable to the Assembly (and through the parliament to the people of the ACT) for the administration of their portfolio (including in relation to the expenditure of public money) in keeping with accepted conventions of Westminster system parliaments.

Ministers have individual and collective responsibilities. Individual responsibilities relate to their personal decisions and conduct and the management of their portfolio. Collective responsibilities relate to the decisions of the Cabinet.²¹

- 6.15. By arrangement, the convention of collective responsibility (or cabinet solidarity) was not followed during the Fourth, Eighth, Ninth, and Tenth Assemblies as a result of there being members of the cabinet who were not members of the majority governing party.
- 6.16. In April 1998, Chief Minister Carnell appointed an independent member, Mr Moore, as a minister, pursuant to certain conditions that had been recommended in a report entitled *Review of Governance of the Australian Capital Territory* (the Pettit review).²² The review investigated the basis upon which a non-government member could become a minister. This included identifying areas in which the new minister would not necessarily be bound by cabinet solidarity.²³
- 6.17. The Chief Minister presented letters that she had exchanged with Mr Moore regarding his appointment as a minister. The letters indicated Mr Moore's acceptance to become part of the government and his agreement to three conditions that had been set out in the Pettit review. These conditions were that:
- the crossbench member be willing to give prior notice of the sorts of issues on which he reserved the right to dissent in public and in the Assembly;
 - as a minister, he should be willing, where it falls within his brief, to act in the implementation of a decision from which he dissents; and
 - as a minister, he should be prepared to renounce the use of the threat to resign in cabinet negotiations.²⁴
- 6.18. Additionally, Mr Moore saw it as appropriate for him to step aside from cabinet when it was considering issues that he had identified beforehand as issues where he might have a different approach (having first attempted to see if a compromise could be reached). A 'list of issues which may require standing aside from Cabinet

21 *Ministerial Code of Conduct 2020*, www.cmtedd.act.gov.au/_data/assets/pdf_file/0010/1677088/Ministerial-Code-of-Conduct-2020.pdf, accessed on 7 April 2020.

22 Philip Pettit, *Review of Governance of the Australian Capital Territory*, Canberra, 1998.

23 MoP, No 2, 28 April 1998, p 7; Assembly Debates, 28 April 1998, pp 19-21.

24 MoP, No 2, 28 April 1998, pp 7-8.

discussion and debate on individual issues while retaining normal Assembly debating and voting rights' was attached to the correspondence.²⁵

- 6.19. The Chief Minister offered Mr Moore a ministerial position based upon the framework outlined in the review's report, while accepting that there were a number of issues which Mr Moore would continue to dissent from in relation to stated government policy. On all other matters, particularly with regard to the budget and his portfolio responsibilities, Mr Moore would be a full member of cabinet and be bound by collective cabinet responsibility and confidentiality.
- 6.20. This arrangement led to a proposed amendment²⁶ to the (then) Subordinate Laws Act to ensure collective and individual responsibility by the executive for the making and signing of regulations.²⁷ The amendment proposed that the approval of the whole executive be required for any subordinate law proposed by a minister and that the minister responsible for administering the subordinate law be one of the ministers signing the subordinate law. The requirement applying at that time was that any two ministers who were members of the executive could sign a regulation into effect. The member sponsoring the amendment bill, the then Leader of the Opposition, viewed the requirement as inadequate in that it could be relied upon to breach the clear intention that any two ministers signing regulations were doing so in accordance with the will of the executive.
- 6.21. The Leader of the Opposition at the time also argued that the Westminster convention of collective and personal ministerial responsibility was being undermined by the practice.²⁸ Although the bill lapsed at the expiration of the Fourth Assembly, the substantive provisions were inserted in the Legislation Act in May 2002.²⁹ Arising out of this arrangement, the standing orders were amended by temporary order to make provision for a new category of business—'executive members' business'.³⁰

25 The list of topics was general in nature.

26 Subordinate Laws Amendment Bill (No 2) 1999.

27 Now s 253 of the Legislation Act. Previously, a single minister was able to make a subordinate law.

28 See Assembly Debates, 25 August 1999, pp 2362-2363. The background to this matter was that the Attorney-General had stated that: (a) he intended, with the assistance of the Minister for Urban Services, to introduce regulations concerning abortion pursuant to an Act administered by the Minister for Health, Mr Moore; and (b) that he (the Attorney) had no intention of seeking the approval of the executive in order to make the regulations. Mr Moore had publicly stated that he would not make any such regulations and that if they were made he would vote against them. The Leader of the Opposition argued that the Attorney-General was promoting a fiction—that any two ministers were, for the purposes of exercising the regulation-making power, the executive.

29 On the motion of a non-executive member and with the support of the executive; see MoP, No 17, 14 May 2002, pp 151 and 156-157. The provisions are now included in ss 41 and 253 of the Legislation Act.

30 MoP, No 22, 24 September 1998, pp 186-187, and see Chapter 9: Conduct of the business of the Assembly. Executive members' business, and, later, crossbench executive members' business was resurrected in the Eighth and Ninth Assembly; MoP, No 2, 27 November 2012, pp 10-11 and MoP, No 82, 29 November 2018, pp 1175-1176.

6.22. In the Eighth Assembly, the then Chief Minister Gallagher appointed Mr Rattenbury, a member of the ACT Greens, as a minister. In the Ninth Assembly, Chief Minister Barr again appointed Mr Rattenbury as a minister. In the Tenth Assembly, with the election of six members of the ACT Greens, three Greens MLAs were appointed to the ministry. The appointment of Greens ministers has been the result of agreements struck between the ACT Labor Party and the ACT Greens following the 2012, 2016 and 2020 elections.³¹ Among a range of other matters, the agreements stipulated certain provisions as to how cabinet confidentiality and cabinet solidarity were to operate, which were subsequently reflected in the *ACT Cabinet Handbook*. The 2021 *Cabinet Handbook* states that:

Greens Ministers are bound by Cabinet solidarity unless they expressly reserve their position through the process outlined in this section.

Should Cabinet papers raise a matter of serious concern to the Greens Ministers, the concern must be raised with the Chief Minister and discussed when the matter is scheduled for Cabinet discussion. Further information can also be requested.

Wherever possible, decisions of the Cabinet and the operation of the government will be by consensus. If consensus cannot be reached, at the conclusion of the initial Cabinet discussion of any matter, Greens Ministers can:

- (a) agree to support the proposal in principle, but bring written amendments to Cabinet for further consideration;
- (b) agree to support the proposal in principle, but reserve the right to move amendments during the debate on the matter in the Assembly; or
- (c) vote against the proposal in the Assembly (other than for the ordinary annual appropriation Bills of government).³²

6.23. These arrangements have been the subject of debate and criticism within the Assembly.³³

31 See 'Parliamentary Agreement for the 8th Legislative Assembly for the Australian Capital Territory', 'Parliamentary Agreement for the 9th Legislative Assembly for the Australian Capital Territory', and 'Parliamentary & Governing Agreement 10th Legislative Assembly'.

32 Chief Minister, Treasury and Economic Development Directorate, *ACT Cabinet Handbook*, February 2021, p 4.

33 See Assembly Debates, 30 August 2001, pp 3897-3899; 28 November 2012, pp 136, 222; 26 November 2014, p 4117.

Standing and other orders of the Assembly pertaining to the executive

- 6.24. The standing rules and orders of the Assembly allocate to the executive and ministers certain prerogatives as well as imposing upon them essentially the same duties and responsibilities as those imposed upon other members, though ministers are rarely called upon to sit on Assembly committees.³⁴
- 6.25. Only ministers may propose any enactment, vote or resolution for the appropriation of the public money of the Territory, and non-executive members are precluded from moving an amendment to such a proposal if it would increase the amount of public money to be appropriated.³⁵ In November 1995, the Assembly, by resolution, further limited the ability of non-executive members to move amendments to appropriation bills other than those to reduce items of proposed expenditure.³⁶ For additional information, see Chapter 12: Legislation, under the heading ‘Amendments to appropriation bills’.
- 6.26. In the Ninth Assembly, the question as to whether only ministers are permitted to amend bills, move motions and introduce private members’ bills that have a monetary impact on the Territory was the subject of an inquiry by the Standing Committee on Administration and Procedure.³⁷ The inquiry was initiated following a ruling by the Speaker that a bill proposed by an opposition member was out of order on the grounds that it breached the financial initiative of the executive. For additional information, see Chapter 12: Legislation, under the heading ‘Financial initiative of the Crown’.
- 6.27. Standing orders also provide that only a minister may require that the question on the (automatic) adjournment be put forthwith without debate,³⁸ move a motion without notice to fix the next meeting of the Assembly,³⁹ move a motion pursuant to standing order 214⁴⁰ and (together with the Speaker) present papers.⁴¹

34 In the course of the Fifth Assembly the Deputy Chief Minister, Mr Quinlan, was appointed to a Select Committee on Privileges to inquire into the possible unauthorised dissemination of committee material and other matters; MoP, No 65, 26 June 2003, pp 802-803. In the Ninth Assembly, Mr Rattenbury, a minister in the Barr Government, chaired the Select Committee on an Independent Integrity Commission, the Select Committee on an Independent Integrity Commission 2018 and the Select Committee on Privileges 2018. On other occasions, ministers have remained as members of select and standing committees for short periods following their appointment as ministers.

35 Self-Government Act, s 65; standing orders 200, 201 and 201A.

36 MoP, No 28, 23 and 24 November 1995, pp 201-202.

37 See statement by the Speaker (chair of the committee), pursuant to standing order 246A, Assembly Debates, 13 August 2020, pp 1929-1931. The inquiry lapsed at the end of the Ninth Assembly.

38 Standing order 34.

39 Standing order 36.

40 Standing order 214: ‘On any paper being presented to the Assembly ... a Minister may move without notice ... either that the Assembly take note of the paper or that it be referred to a committee for inquiry and report’.

41 Standing order 211.

- 6.28. The Assembly grants precedence to executive business over private members' business and Assembly business.⁴² Ministers are not given any special prerogatives in the allocation of speaking times;⁴³ one prerogative, that of having the exclusive ability to move a motion without notice to suspend the standing and temporary orders, was removed by the Assembly in 1995.⁴⁴
- 6.29. Although the executive maintains a strong position in the Assembly, the reality has been that non-executive members enjoy significant opportunities to sponsor legislative proposals, move amendments and raise issues in the Assembly. Two indications of the important role performed by non-executive members are that, to date, since self-government, on average fewer than four motions to close debate have been agreed to each year⁴⁵ and 19 per cent⁴⁶ of the bills introduced have been sponsored by non-executive members.
- 6.30. In addition, since the adoption of its standing orders in May 1989, the Assembly has adopted a range of initiatives to enhance its scrutiny of the executive. It has done this by way of orders or by exercising its power to make laws with respect to the exercise of powers by the executive. Initiatives have included:
- appointing standing committees to scrutinise the administration of the executive, together with standing committees undertaking the duties of a public accounts committee (with non-government chairs) and a standing committee with responsibility for scrutiny of bills and subordinate legislation;⁴⁷
 - referring the annual estimates of expenditure and annual reports of executive agencies to relevant committees for inquiry and report;⁴⁸
 - strengthening the standing orders governing question time in order that each non-executive member has the opportunity to ask a question and supplementary questions each sitting;⁴⁹
 - adopting procedures by which ministers are required to make an explanation, upon request, about overdue answers to questions on notice;⁵⁰

42 Standing order 77. Except for a period of time (as ordered by the Standing Committee on Administration and Procedure) immediately after the presentation of papers on each sitting day and a period of 90 minutes on sitting Thursdays for Assembly business.

43 With the exception of standing orders 69(c) and (e), where a 'Minister in Charge or Minister responsible for a department or appropriation unit' received unspecified speaking time.

44 MoP, No 2, 2 May 1995, p 16. The prerogative had been removed by temporary order for some time.

45 The closure, or the 'gag', is the motion 'That the question be now put'. Of the 120 agreed to, 55 occurred during the First Assembly.

46 As at the end of the Ninth Assembly.

47 Assembly standing committees also have the power to self-refer matters for inquiry and report.

48 In the Tenth Assembly a trial of referring annual budget estimates and appropriation bills to relevant standing committees was initiated. Prior to that time, the budget estimates and appropriation bills were referred to an annual select committee.

49 Standing order 113A.

50 Standing order 118A.

- the imposition of time limits on the provision of answers during question time;⁵¹
- enhancing the Assembly's powers to properly consider subordinate legislation by making statutory provision so that a disallowable instrument is automatically disallowed if a disallowance motion, having been placed on the notice paper, is not considered and negatived within a prescribed period;⁵²
- permitting the Assembly to amend a subordinate law that has been laid before it,⁵³ and requiring regulatory impact statements to accompany subordinate legislation in circumstances where there may be appreciable costs placed on the community or part of the community;⁵⁴
- enacting, and later strengthening, provisions whereby a minister must consult a standing committee of the Assembly (nominated by the Speaker) about appointments to statutory offices and making such instruments of appointment disallowable instruments;⁵⁵
- imposing upon ministers the duty to inform and consult with other members regarding matters being negotiated with other governments so as to protect the freedom of the Assembly to carry out its legislative deliberations without being subject to necessity and compulsion due to the actions of the executive;⁵⁶
- enacting the *Public Access to Government Contracts Act 2000*, requiring that government agencies, within 21 days of a contract, prepare and publish a public text of the contract, setting out grounds for any confidentiality of information; relevant Assembly committees are informed of confidentiality clauses on a regular basis; and agencies provide certain information required by committees;⁵⁷ and
- agreeing to the order of the Assembly of 10 April 2002 calling upon the Chief Minister to include a requirement in annual reporting directions⁵⁸ that agencies must prepare a schedule outlining implementation of recommendations made by Assembly standing and select committees and agreed to by government.

51 Standing order 118(c).

52 *Subordinate Laws (Amendment) Act 1991*. These provisions are now contained in the Legislation Act.

53 *Subordinate Laws (Amendment) Act 1994*. These provisions are now contained in the Legislation Act.

54 *Subordinate Laws (Amendment) Act 2000*. These provisions are now contained in the Legislation Act.

55 *Statutory Appointments Act 1994* and *Statutory Appointments (Amendment) Act 1996*. These provisions are now contained in the Legislation Act.

56 *Administration (Interstate Agreements) Act 1997*. This Act has since been repealed. The executive gave the Assembly an undertaking that a list of current negotiations would be tabled in the Assembly every six months, and that ministers would table the full text of any intergovernmental agreements as soon as practicable after they have been signed; Assembly Debates, 20 October 2005, pp 3909-3910. This arrangement was discontinued in 2013 in favour of a public register of intergovernmental agreements and the introduction of a practice listing agreements where legislative change was likely (Chief Minister's correspondence with the Speaker 27 February 2013).

57 These provisions are now included in the *Government Procurement Act 2001*.

58 Made pursuant to the then *Annual Reports (Government Agencies) Act 1995*. Relevant provisions now appear in the *Annual Reports (Government Agencies) Act 2004*, s 8.

6.31. In addition, the Assembly has, on occasion, by order, forced the executive to present papers or make them available for members to scrutinise. A range of legislative provisions have also been enacted requiring that ministers present copies of reports and documents to the Assembly or nominated committees.⁵⁹

Respective roles of the Assembly and the executive

6.32. During the life of the Assembly, there have been proposals for a more consensus-based approach to policymaking and government administration. The view has been expressed that the traditional and confrontational government-versus-opposition model is inappropriate in a small polity such as the ACT because it potentially ignores the full spectrum of democratic opinion.⁶⁰ Concerns have also been expressed that, were a consensus-based model to be adopted, the distinction between the roles of the executive and the Assembly could become blurred.

6.33. On occasion, members have expressed concerns in the Assembly about proposals that were viewed as departing from the more traditional demarcations that exist between the legislative and executive arms of government. Such occasions have included:

- repeated concerns expressed regarding the role of Executive Deputies in the First Assembly;⁶¹
- reaction to the 1998 proposal to move towards a more cooperative approach to government in the Territory through the establishment of executive committees chaired by crossbench members;⁶²
- resistance to an executive proposal (described by the sponsoring minister as ‘quite revolutionary’) to involve the broader community, in particular Assembly committees, in the process of drafting budgets;⁶³
- provisions in a parliamentary agreement between ACT Labor and the ACT Greens relating to ‘collaborative’ committee processes;⁶⁴ and

59 These include statements, statements of reasons, statements of interest, reviews, directions and guidelines, reasons for suspension, notice of decisions, instruments, declarations, notices of suspension, plans and variations and certificates.

60 See, for example, *Governing Canberra—A Report to the ACT Chief Minister from the Government Reform Advisory Group*, Australian Capital Territory Government, December 1995, MoP, No 36, 21 February 1996, p 259; Assembly Debates, 21 February 1996, pp 125-131; Assembly Debates, 26 March 1996, pp 605-613.

61 Assembly Debates, 14 December 1989, pp 3133-3134; 13 February 1990, pp 2-5; 20 March 1990, pp 538-539; 2 May 1991, p 1940.

62 See *Advice concerning proposed executive committees* (Paper prepared by the Clerk of the Assembly), MoP, No 2, 28 April 1998, pp 8-12; Assembly Debates, 30 April 1998, pp 269-279.

63 MoP, No 104, 18 October 2000, pp 1018-1019.

64 Assembly Debates, 17 November 2011, p 5587.

- the draft budget process that was adopted in the Fourth Assembly, in which budget initiatives and capital works programs for each appropriation unit were referred to relevant general-purpose standing committees for inquiry and report and to make recommendations that maintained or improved the operating result.⁶⁵ That process was criticised by the opposition at the time as being an attempt to ‘forestall ex-post comment [on the budget] and cramp the estimates process’.⁶⁶
- 6.34. The executive has, on occasion, expressed serious concern that the Assembly is encroaching upon its role. For example, in December 1999, the executive reluctantly agreed to appoint a board of inquiry, pursuant to the Inquiries Act, to inquire into services for people with disabilities in the Territory in residential care,⁶⁷ the Assembly having first called upon and then directed the executive to appoint the board.⁶⁸
- 6.35. In 2000, the Assembly debated a bill that proposed to insert a provision into the Inquiries Act which would require the executive to appoint a board of inquiry if an Assembly resolution (pursuant to specific conditions) called on the executive to do so. During debate, members reflected on the distinct and separate roles and responsibilities of the executive and the legislature and the importance of the separation of powers doctrine. Some members expressed the view that the proposal would diminish the responsibility of the executive, undermining the Assembly’s ability to hold government to account.⁶⁹ The bill was negated.
- 6.36. Very few of the more radical proposals have been accepted. Successive Assemblies have adopted quite conservative views on the structure of, and the relationships between, the executive and legislative arms of government. Arguably, it is only the appointment of ministers from the crossbenches (see above), who have not been wholly bound by collective cabinet responsibility and who have reserved the right to speak and vote against the government, that has represented a significant break with established practice.
- 6.37. The Legislative Assembly has put in place a formidable collection of mechanisms to ensure that government is accountable—an active committee system, a powerful Auditor-General and an Integrity Commission foremost among them. As outlined above, the Assembly has also instituted a range of procedures and passed orders that have been directed towards ensuring a high degree of government transparency and accountability.

65 MoP, No 73, 9 December 1999, p 677.

66 Assembly Debates, 9 December 1999, p 4067.

67 The Chief Minister stated that the government did so with regret and in circumstances it wished were otherwise but was aware that it was a clear requirement of the Assembly. See Assembly Debates, 5 December 2000, pp 3644-3645.

68 MoP, No 104, 18 October 2000, p 1024 and MoP, No 106, 29 November 2000, pp 1052-1053.

69 Assembly Debates, 14 June 2001, pp 1708-1723.

- 6.38. It is sometimes claimed that where the Assembly imposes a particular policy or approach on an unwilling executive this somehow diminishes executive responsibility for the outcomes or consequences that potentially arise. However, in a situation where an executive accepts significant changes to its policy proposals as the price for getting some part of its program through the Assembly, it accepts full responsibility for the modified program. If the executive believes that a policy imposed on it is unworkable and declines to accept responsibility for it, it should resign. To date, no executive in the Assembly has chosen to follow that course. It is up to the executive to decide how to react to a defeat in the Assembly or to a particular resolution or decision of the Assembly. That reaction will be determined by the issues of the day; it may decide to take action to assuage the Assembly⁷⁰ or choose to take an alternative course.
- 6.39. Questions have also been raised in the Assembly about the possible effect of resolutions that seek to impose a particular policy or action upon the executive, including whether certain motions were in breach of the provisions of standing order 200. In June 1997, during consideration of a motion (sponsored by a non-executive member) calling upon the government to take certain actions in relation to proposed building demolitions,⁷¹ issues were raised as to the extra expense imposed on the Territory if the motion were agreed to and whether the government would be in contempt of the Assembly should it ignore such a resolution. The Speaker ruled the motion in order but sought advice on whether:
- motions calling upon or even directing the executive to take action that would have the effect of increasing expenditure (or transferring funds) contravene the provisions of the standing orders or the practices of the Assembly; and
 - the executive would be in contempt of the Assembly if it ignored or in other ways did not comply with resolutions of the Assembly.⁷²
- 6.40. The advice, later tabled in the Assembly, addressed the questions raised in detail and concluded:
- motions such as those proposed were not contrary to the standing orders or practices of the Assembly;⁷³ and

70 See, for example, the response of the Chief Minister to a resolution expressing lack of confidence in a minister discussed below in this chapter under the heading 'No confidence and censure motions'.

71 The motion called upon the government to demolish certain buildings on Acton Peninsula by a method other than that proposed and to take certain action in relation to the demolition materials remaining.

72 Assembly Debates, 7 May 1997, pp 1091-1097.

73 The advice concluded that the motion did not offend standing orders as it was not a proposed enactment, vote or resolution in the terms of standing orders 200 and 201 and, with the exception of the practice in relation to amendments to appropriation bills and the limitation on amendments that may be moved to subordinate laws, the Assembly had not imposed any further limitations on non-executive members putting proposals to the Assembly in relation to the revenue of the Territory or expenditure of funds. See also the ruling by Speaker Berry, Assembly Debates, 23 September 2003, p 3510.

- as the Assembly's contempt powers were limited to matters that would amount to an improper interference with the Assembly, its members or committees, the executive's action in ignoring or rejecting such a resolution would not imply such interference and could not therefore be regarded as a contempt.⁷⁴

6.41. The issue of the effect of resolutions and orders of the House is addressed in *House of Representatives Practice*:

The House has the power, within constitutional limits, to make a determination on any question it wishes to raise, to make any order, or to agree to any resolution. In the conduct of its own affairs the House is responsible only to itself. However, the effect of such orders and resolutions of the House on others outside the House may be a limited one. Some resolutions are couched in terms that express the opinion of the House on a matter and as a result may not have any directive force. However, this is not to say that the opinions of the House are to be disregarded, as it is incumbent upon the Executive Government and its employees and others concerned with matters on which the House has expressed an opinion to take cognisance of that opinion when contemplating or formulating any future action. Other than in relation to matters such as its power to send for persons, documents and records and its powers in regard to enforcing its privileges, decisions of the House alone have no legal efficacy on the outside world. The House, as a rule, can only bring its power of direction into play in the form of an Act of Parliament ... This is the only means by which the House can direct (rather than influence) departments of State ... and other outside bodies to take action or to change their modes of operation. However, while the House may not have the power to make a direction, a resolution phrased in other terms may in practice be as effective.⁷⁵

6.42. In practice, where a party forming government has not commanded majority support in the Assembly,⁷⁶ executives have shown a willingness to accept defeat on issues or accept significant changes to their legislative proposals and continue to govern rather than test the confidence of the Assembly or offer their resignation. As noted above, this willingness to accept significant change has even extended to an appropriation bill.

No confidence and censure motions

6.43. The responsibility of the executive to the Assembly is most dramatically evident when the Assembly considers a motion of no confidence in the Chief Minister in accordance with standing order 81. Successive Assemblies have shown a willingness to move motions of no confidence in, and censure of, the executive

74 Motion calling on government to take certain action concerning demolition of buildings on Acton Peninsula—*Standing Order 200—Possible contravention—Possible contempt of the Assembly*, Advice of the Clerk of the Assembly, 24 June 1997; MoP, No 97, 26 June 1997, p 724; Assembly Debates, 26 June 1997, p 2196.

75 *House of Representatives Practice*, p 316.

76 That is, every Assembly except the Sixth Assembly.

and individual ministers. A range of motions critical of ministers in other terms has also been moved. Two governments have been replaced after losing votes of confidence;⁷⁷ a Chief Minister resigned rather than contest a no confidence motion;⁷⁸ and one minister has also resigned after the passage of a motion of no confidence.⁷⁹

- 6.44. The procedures relating to resolutions of no confidence in a Chief Minister are outlined under the heading 'Resolution of no confidence' below in this chapter. Detailed precedents are included in Table 1 below.
- 6.45. To date, 11 notices of motion expressing no confidence in the Chief Minister have been lodged and announced by the Clerk. On two occasions, the motions were resolved in the affirmative by an absolute majority of members after consideration by the Assembly, and the Assembly proceeded to elect another member as Chief Minister. On one occasion, the motion was negatived, the votes for the ayes and noes being equal;⁸⁰ on another, the Chief Minister tendered her resignation as Chief Minister after the notice had been lodged and announced, but before it was debated.⁸¹ A motion of no confidence in the Chief Minister was amended to one of censure for her failure to ensure that certain legislative requirements were met in relation to the funding of a sports stadium redevelopment,⁸² and on a further occasion such a motion was amended to one expressing grave concern at the Chief Minister's conduct in misleading the Assembly.⁸³
- 6.46. In March 1996, the Assembly censured the Chief Minister, who was also Minister for Health and Community Care, for 'recklessly misleading' the Assembly and 'her inability to meet her own financial standards as demonstrated by her failure to control the health budget'.⁸⁴
- 6.47. In August 2003, a motion was moved proposing, among other things, to censure the government for administrative failings and misleading the Assembly in relation to bushfire education. After the question was divided, that part relating to the censure was negatived.⁸⁵
- 6.48. In March 2018, a motion was moved to censure the Chief Minister for 'expressing hatred of journalists and contempt for seniors'. The motion was passed, as amended, to express concern rather than censure.⁸⁶

77 MoP, No 38, 5 December 1989, pp 157-158; MoP, No 112, 6 June 1991, pp 469-470.

78 MoP, No 104, 18 October 2000, p 1013.

79 MoP, No 98, 12 April 1994, pp 549-551 and MoP, No 99, 13 April 1994, p 553.

80 MoP, No 69, 24 November 1999, pp 613-614.

81 The notice of motion was eventually withdrawn in accordance with standing order 128, having been called upon following the election of a new Chief Minister; see MoP, No 104, 18 October 2000, p 1014.

82 MoP, No 52, 22 June 1999, p 427; MoP, No 53, 30 June 1999, pp 433-435.

83 MoP, No 100, 5 May 2004, p 1323 and MoP, No 101, 13 May 2004, pp 1327-1329.

84 The motion was moved by leave; see MoP, No 43, 28 March 1996, pp 295-296.

85 MoP, No 67, 20 August 2003, pp 856-858.

86 MoP, No 50, 20 March 2018, pp 717-718.

- 6.49. The Assembly has also considered motions expressing lack of confidence in, or censure of, ministers. In April 1994, the Assembly agreed to a resolution expressing lack of confidence in a minister ‘by reason of his deliberate or reckless misleading of the Assembly’ concerning matters related to his portfolio responsibilities. The Chief Minister advised the Assembly of the minister’s resignation the next day, stating that although she had complete confidence in the minister, her confidence had not been shared by the Assembly and, consistent with the traditions of Westminster government, the minister had now offered, and she had accepted, his resignation.⁸⁷
- 6.50. It has not been uncommon for motions expressing lack of confidence in ministers over various issues to be negatived or amended. Examples include motions expressing lack of confidence as a result of:
- administrative action taken in defiance of a resolution of the Assembly ;⁸⁸
 - various matters relating to a minister’s administration of his portfolio;⁸⁹
 - proposed cuts to teacher positions in government schools;⁹⁰
 - misleading the Assembly;⁹¹
 - administrative failures or failure in meeting responsibilities;⁹²
 - being found to be in contempt of the Assembly by a Select Committee on Privileges; ⁹³ and
 - persistently and wilfully misleading the Assembly on a number of issues.⁹⁴
- 6.51. Motions have also been moved expressing condemnation of a minister for ‘misusing’ certain regulatory powers;⁹⁵ calling upon the Attorney General to stand aside (until a coronial inquest and other related court action was concluded);⁹⁶ urging the Chief Minister to stand a minister aside until sexual harassment allegations against the minister were resolved;⁹⁷ and calling on the Chief Minister

87 MoP, No 98, 12 April 1994, pp 549-551; MoP, No 99, 13 April 1994, p 553; Assembly Debates, 13 April 1994, p 755.

88 MoP, No 65, 15 June 1993, pp 363-364. The motion, as moved, stated that ‘in line with long established and numerous precedents in the Westminster parliamentary system’ the minister ‘resign forthwith’.

89 MoP, No 45, 16 December 1992, pp 254-255.

90 MoP, No 83, 23 November 1993, pp 473-474. The motion was amended to one of censure of the minister.

91 MoP, No 131, 1 December 1994, p 798. The motion was negatived.

92 MoP, No 68, 19 November 1996, pp 481-482. The minister was also the Chief Minister. The motion was negatived. See also, MoP, No 98, 26 August 1997, pp 736-737 and MoP, No 50, 6 May 1999, pp 416-417.

93 MoP, No 78, 18 November 2003, p 996. The motion was amended to an expression of grave concern.

94 MoP, No 106, 24 June 2004, pp 1455, 1467-1468. The motion was amended to one of censure.

95 MoP, No 88, 11 February 2004, pp 1112-1113. The particular paragraph expressing condemnation was negatived. MoP, No 32, 24 August 2005, pp 313-314. The motion was amended to one censuring the Shadow Attorney-General.

96 MoP, No 6, 16 February 2005, pp 62-62 (negatived).

97 MoP, No 8, 30 May 1995, p 51; Assembly Debates, 30 May 1995, pp 510-531 (negatived).

to remove certain administrative responsibilities from a minister and to allocate them to another minister pending the presentation of a report by an Assembly committee.⁹⁸

6.52. Ministers have been censured by the Assembly for:

- proposed cuts to teacher positions in government schools;⁹⁹
- continued defiance of the will of the majority of the Assembly by failing to act upon a unanimous recommendation of the estimates committee and for the failure of the government to live up to a specific promise;¹⁰⁰
- failure to act in accordance with the Assembly's wishes as expressed in a resolution of the Assembly;¹⁰¹
- recklessly misleading the Assembly;¹⁰²
- failure to take certain action as directed by the Assembly;¹⁰³ and
- failure to adequately administer the care and protection system.¹⁰⁴

6.53. Motions expressing censure of ministers have been negated,¹⁰⁵ withdrawn by leave¹⁰⁶ or amended to instead:

- admonish the minister for an unwarranted personal attack on another member, misleading the Assembly and failure to discharge ministerial obligations;¹⁰⁷
- admonish the minister for answers given in question time;¹⁰⁸
- express criticism or censure of another member¹⁰⁹ or the opposition;¹¹⁰
- call on the minister to be more responsive to the Assembly and its committees and obliging him to provide monthly reports to the Assembly;¹¹¹

98 MoP, No 57, 25 August 1999, p 501 and MoP, No 60, 1 September 1999, pp 531-532.

99 MoP, No 83, 23 November 1993, pp 473-474. The resolution censured both the Treasurer and the Minister for Education and Training.

100 MoP, No 28, 23 and 24 November 1995, pp 200, 208.

101 MoP, No 30, 6 December 1995, p 216.

102 MoP, No 43, 28 March 1996, pp 295-296 (the resolution censured the Chief Minister and Minister for Health and Community Care).

103 MoP, No 72, 23 September 2003, p 925.

104 MoP, No 121, 18 October 2011, pp 1556-1557.

105 For recent examples, see MoP, No 108, 20 August 2019, p 1598; MoP, No 98, 16 May 2019, p 1474.

106 MoP, No 21, 23 September 1998, p 174.

107 MoP, No 18, 23 August 1989, pp 69-70. The motion was amended from one of censure.

108 MoP, No 129, 22 October 1991, p 554.

109 MoP, No 49, 22 March 1990, pp 200-201; MoP, No 32, 24 August 2005, p 313-315.

110 MoP, No 70, 16 August 1990, pp 287-288; MoP, No 98, 12 March 1991, pp 416-417.

111 MoP, No 133, 20 November 1991, p 575.

- express grave concern regarding a claim made in the Assembly;¹¹²
- call on the minister to provide a report to the Assembly on a matter and take further administrative action;¹¹³
- draw the attention of the Auditor-General to an issue and asking that a performance audit be conducted on the matter;¹¹⁴
- admonish the minister for contempt shown to the Assembly by a refusal to appear before an estimates committee;¹¹⁵
- call on the minister to apologise in the chamber to another member for misrepresenting them in correspondence to the Non-Government Schools Council;¹¹⁶
- call on the minister to report to the Assembly on certain matters;¹¹⁷
- request that the Auditor-General to inquire into data discrepancies in Emergency Department waiting times at The Canberra Hospital;¹¹⁸ and
- call on the minister to urgently examine innovative options, such as demand-responsive services, that can deliver the promised level of service with a lower number of drivers.¹¹⁹

Chief Minister

Election

6.54. The Assembly must elect a Chief Minister at its first meeting after a general election. It must also do so following the announcement by the Speaker of a vacancy in the office and following passage of a motion of no confidence in a Chief Minister.¹²⁰ In 2008, the Assembly amended the standing order to bring it into line with the election of the Speaker,¹²¹ which requires that the nomination be accepted.¹²²

112 MoP, No 40, 10 March 1999, p 332.

113 MoP, No 62, 12 October 1999, pp 543-545.

114 MoP, No 121, 28 March 2001, pp 1324-1326.

115 MoP, No 22, 17 June 2009, p 245.

116 MoP, No 31, 26 August 2009, pp 335-336 and 338-340.

117 MoP, No 94, 9 March 2011, pp 1167-1168 and 1169-1170.

118 MoP, No 145, 1 May 2012, pp 1859-1864.

119 MoP, No 108, 20 August 2019, pp 1598-1600.

120 Self-Government Act, s 40; standing orders 1, 3(a) and 12. Assembly standing orders do not reflect the provisions of s40(3) of the Self-Government Act in that they make no specific provision for an election to take place following a resolution of no confidence in a Chief Minister. The practice of the Assembly has been for an election to be conducted immediately.

121 MoP, No 132, 6 March 2008, pp 1388-1389.

122 Standing order 3. As with the election of the Speaker, at any time after the result of the first ballot is declared, but before the commencement of the second or subsequent ballot, a candidate for Chief Minister may withdraw from the election.

6.55. It is not necessary for all members to be present;¹²³ the election is initiated by a member proposing a member other than the Speaker and Deputy Speaker, and moving that the member be elected as Chief Minister of the Territory. Should there be no further proposal, the Speaker declares that member to have been elected as Chief Minister. Should there be two or more members proposed, limited debate is allowed, and a decision is made by ballot, as is the case for election of the Speaker. A member has proposed herself as Chief Minister and moved that she be elected as Chief Minister of the Territory.¹²⁴

Vacancy

6.56. The Chief Minister vacates the office:

- (a) when the person resigns the office; or
- (b) when the person ceases to be a member (not because of a general election); or
- (c) immediately before a Chief Minister is elected after:
 - (i) the next general election; or
 - (ii) the passing of a resolution of no confidence in the Chief Minister.¹²⁵

6.57. Although members' terms of office cease on the polling day of a general election, the executive continues in office until immediately before the election of a Chief Minister after the declaration of the poll.¹²⁶

6.58. The Chief Minister may resign office as Chief Minister by written notice delivered to the Speaker.¹²⁷ If a vacancy occurs during a sitting of the Assembly, the election of a new Chief Minister takes place immediately. At any other time, the Speaker must convene a meeting of the Assembly (by notice published in the *Territory Gazette*) as soon as practicable and, at that meeting, must report the vacancy to the Assembly as soon as possible and the members present must forthwith proceed to the election of one of their number to be the Chief Minister.¹²⁸ A person who has vacated the office of Chief Minister may be re-elected.¹²⁹

6.59. On the resignation of the Chief Minister on 17 October 2000 (which was a day when the Assembly was not meeting), the Speaker, in accordance with the requirements of paragraph 40(2)(b) of the Self-Government Act, convened by notice published in the *Territory Gazette* a meeting of the Assembly for Wednesday,

123 To date, all members have been present to elect a Chief Minister.

124 MoP, No 1, 19 March 1998, pp 2-3.

125 Self-Government Act, s 46(1).

126 Self-Government Act, s 46(1A)(d).

127 Self-Government Act, s 45(1). Neither the Self-Government Act nor the standing orders offer any guidance as to exactly when a resignation takes effect. It is the practice that resignation takes effect immediately upon the Speaker's receipt of the letter of resignation.

128 Self-Government Act, s 40(2)(b); standing order 12.

129 Self-Government Act, s 46(2).

18 October 2000 at 10.30 am, even though that meeting time and date had already been set for the Assembly.¹³⁰

- 6.60. It should also be noted that the offices of Chief Minister and ministers would become vacant in the event of a dissolution of the Assembly by the Governor-General pursuant to section 16 of the Self-Government Act. In that event, the executive's powers would be exercised by a commissioner, who would exercise those powers in accordance with any directions given by the Governor-General. Acting on the authority of the Governor-General, the commissioner may spend public money of the Territory without the authority of an enactment of the Assembly. The term of office of the commissioner ceases at the beginning of the first meeting of the Assembly held after the next general election (unless terminated earlier by the Governor-General).¹³¹

Deputy Chief Minister

- 6.61. The Chief Minister is required to appoint one of the ministers to be Deputy Chief Minister of the Territory. The Deputy Chief Minister acts as Chief Minister at any time when there is a vacancy in the office of Chief Minister or the Chief Minister is absent from duty or from Australia or, for any other reason, unable to exercise the powers of Chief Minister.¹³²
- 6.62. While the Deputy Chief Minister is acting as Chief Minister, they exercise all the powers of the Chief Minister other than those applying to the dismissal of a minister.¹³³ The Chief Minister is not prevented from exercising their powers whilst absent from Australia.¹³⁴

Resolution of no confidence

- 6.63. A resolution of no confidence in the Chief Minister has no effect unless:
- it affirms a motion that is expressed to be a motion of no confidence in the Chief Minister;¹³⁵

130 *Gazette* S62, 17 October 2000; MoP, No 104, 18 October 2000, p 1013; MoP, No 103, 10 October 2000, p 1011. The time and date of meetings of the Assembly can, however, be altered where a majority of members write to the Speaker requesting a change (see Chapter 8: Sittings of the Assembly, under the heading 'Days and hours of meetings').

131 Self-Government Act, ss 16(2), (4), (6). Section 16 contains other provisions relating to the exercise of powers by the Governor-General and the appointment of a commissioner. A new election for the Members of the Legislative Assembly must be held within not less than 36 days and not more than 90 days.

132 Self-Government Act, s 44.

133 Self-Government Act, s 44(3).

134 Self-Government Act, s 44.

135 The practice in the Assembly is that the time of the giving of a notice of motion is the time that it is delivered to the Clerk in accordance with standing order 101. Pursuant to s 36 of the Acts Interpretation Act, the seven days would be counted starting from the day following the giving of notice in the Assembly.

- at least one week’s notice of motion has been given in accordance with the standing orders; and
 - the resolution is passed by an absolute majority (13) of members.¹³⁶
- 6.64. Such a motion takes precedence over all other business and must be in accordance with the standing and other orders.¹³⁷ After its delivery to the Clerk, it must be reported to the Assembly at the first convenient opportunity and may not be entered on the *Notice Paper* by the Clerk until it has been reported.¹³⁸
- 6.65. The delivery and reporting of a notice of a motion of no confidence has not precluded the Assembly from considering other business, either on the day that the notice of no confidence was delivered and reported or on the days intervening before the motion was considered. However, there have been occasions when the Assembly adjourned for the intervening period.¹³⁹
- 6.66. It is the practice that, in the routine of ordinary business as set down in standing order 74, the prayer or reflection (since 1 June 1995) and the formal recognition that the Assembly was meeting on the lands of the traditional custodians take precedence over a motion of no confidence in the Chief Minister.¹⁴⁰
- 6.67. The member who holds the office of Chief Minister actually vacates their office not on the passing of the resolution but immediately before a new Chief Minister is elected following the passing of the resolution.¹⁴¹ Thus, the effect of the resolution is to express the Assembly’s lack of confidence in the Chief Minister and trigger an election process for a replacement. This provision enables an outgoing Chief Minister and their ministers to act in a caretaker mode.
- 6.68. Such an approach could be required if the Assembly, having agreed to a resolution of no confidence in the Chief Minister, was unable, within a period of 30 days, to elect a new Chief Minister. In those circumstances, s 48 of the Self-Government Act would come into play, requiring a general election to be held (assuming that the Governor-General did not dissolve the Assembly pursuant to section 16 of the Act).¹⁴²

136 Self-Government Act, s 19.

137 See Standing orders, Chapter 9 (particularly standing order 101).

138 Standing order 103.

139 The Assembly met and considered business on three days between the reporting of a notice of motion of no confidence in the Chief Minister on 30 May 1990 and the notice being called upon and considered on 7 June 1990. See also *Motions of want of confidence, censure, admonishment and grave concern*, paper presented to the 38th Presiding Officers and Clerks Conference, July 2007.

140 On 18 October 2000, Chief Minister Carnell pre-empted a no confidence motion, of which notice had been given, by resigning. On the next sitting day, the election of a new Chief Minister took precedence over that notice, which had been listed to take precedence on the *Notice Paper*. The now redundant notice was called on following the election and, the member having failed to move the motion, the Speaker advised the Assembly that, pursuant to standing order 128, it would be removed from the *Notice Paper*. See MoP, No 104, 18 October 2000, p 1014.

141 Self-Government Act, s 46(1)(c).

142 The words of the explanatory memorandum to the Australian Capital Territory (Self-Government)

6.69. To date, there have been 11 motions of no confidence in Chief Ministers lodged but only 10 motions moved pursuant to standing order 81 (see Table 1). One motion was withdrawn from the *Notice Paper* in accordance with standing order 128.¹⁴³ Two of the motions were passed by the requisite majority and on each occasion the Assembly immediately proceeded to elect a new Chief Minister.

Table 1: Motions of No Confidence in the Chief Minister—1989-2020

Notice lodged	Lodged by	Terms of notice	Date moved	Results
23 November 1989 ¹⁴⁴	Mr Collaery—to move on Tuesday, 5 December 1989 <i>(announcement made by Clerk—standing order 103)</i>	That this Assembly no longer has confidence in the Chief Minister of the ACT and the minority Labor Government and has confidence in the ability of Mr Kaine to form a government.	5 December 1989 ¹⁴⁵ (11 clear days after notice given)	Motion resolved in the affirmative by an absolute majority (Ayes 10, Noes 7) Mr Kaine was elected Chief Minister on 5 December 1989
30 May 1990 ¹⁴⁶	Mr Stevenson—to move on the first day of sitting following Wednesday, 6 June 1990 <i>(announcement made by Clerk—standing order 103)</i>	That this Assembly has no confidence in the Chief Minister of the ACT in view of his lack of integrity, lack of credibility and extreme hypocrisy as demonstrated by his intention to have the Alliance “Government” introduce a Bill to tax X-rated videos, in absolute contradiction of his statements in this House on 21 November 1989, in total condemnation of such a tax.	7 June 1990 ¹⁴⁷ (7 clear days after notice given)	Motion negated (Ayes 5, Noes 11)

Bill 1988 being (at p 14): ‘Where a general election is to be held this provision enables a “caretaker” government until a new government is formed’.

143 MoP, No 104, 18 October 2000, p 1014; MoP, No 52, 22 June 1999, p 427; MoP, No 53, 30 June 1999, pp 433-435.

144 MoP, No 37, 23 November 1989, p 155. The Assembly did not sit again until 5 December 1989.

145 MoP, No 38, 5 December 1989, pp 157-158.

146 MoP, No 60, 30 May 1990, p 242. The Assembly sat on 31 May 1990, 5 and 6 June 1990.

147 MoP, No 64, 7 June 1990, p 261.

Notice lodged	Lodged by	Terms of notice	Date moved	Results
29 May 1991 ¹⁴⁸	Ms Follett—to move on Thursday, 6 June 1991 <i>(announcement made by Clerk—standing order 103)</i>	That this Assembly has no confidence in the Chief Minister, Mr Kaine, and his minority Government.	6 June 1991 ¹⁴⁹ (7 clear days after notice given)	Motion resolved in the affirmative by an absolute majority (Ayes 9, Noes 7) Ms Follett was elected Chief Minister on 6 June 1991
22 June 1999 ¹⁵⁰	Mr Stanhope—to move in seven days hence <i>(announcement made by Clerk—standing order 103)</i>	That this Assembly no longer has confidence in the Chief Minister, Ms Carnell, MLA.	30 June 1999 ¹⁵¹ (7 clear days after notice given)	Motion amended to read— That this Assembly censures the Chief Minister, Ms Carnell, MLA for her failure to ensure the requirements of the <i>Financial Management Act 1996</i> were met in relation to the funding of the redevelopment of the Bruce Stadium. (Ayes 10, Noes 7)
16 November 1999 ¹⁵²	Mr Stanhope—to move in seven days hence <i>(announcement made by Clerk—standing order 103)</i>	That this Assembly no longer has confidence in the Chief Minister, Ms Carnell, MLA.	24 November 1999 ¹⁵³ (7 clear days after notice given)	Motion negatived in accordance with standing order 162 (Ayes 8, Noes 8) ¹⁵⁴

148 MoP, No 111, 29 May 1991, p 467. The Assembly did not sit again until 6 June 1991.

149 MoP, No 112, 6 June 1991, p 469.

150 MoP, No 52, 22 June 1999, p 427. The Assembly did not sit again until 30 June 1999.

151 MoP, No 53, 30 June 1999, p 433.

152 MoP, No 68, 16 November 1999, p 607. The Assembly did not sit again until 24 November 1999.

153 MoP, No 69, 24 November 1999, pp 613-614.

154 A member of the crossbench had been granted leave by the Assembly for that day.

Notice lodged	Lodged by	Terms of notice	Date moved	Results
10 October 2000 ¹⁵⁵	Mr Stanhope—to move in seven days hence <i>(announcement made by Clerk—standing order 103)</i>	That this Assembly no longer has confidence in the Chief Minister, Ms Carnell, MLA.	-	The member failing to move the motion, the notice was removed from <i>Notice Paper</i> — Speaker having announced that in accordance with section 45 of the <i>Australian Capital Territory (Self-Government) Act 1988</i> he had received a letter from Ms Carnell MLA, Chief Minister, dated 17 October 2000, in which she tendered her resignation as Chief Minister.
5 May 2004 ¹⁵⁶	Mr Smyth, in accordance with standing order 81 <i>(announcement made by Clerk—standing order 103)</i>	That, since the Chief Minister has repeatedly misled the Legislative Assembly on the question of advice given to him and contact made with him during the period 17-18 January 2003 regarding the 2003 bushfires, this Assembly no longer has confidence in the Chief Minister, Mr Jon Stanhope, MLA.	13 May 2004 ¹⁵⁷ (7 clear days after notice given)	Motion amended to read— That, since the Chief Minister has misled the Legislative Assembly on the question of advice given to him and contact made with him during the period 17-18 January 2003 regarding the 2003 bushfires, this Assembly expresses its grave concern at the conduct of the Chief Minister, Mr Jon Stanhope, MLA. (Ayes 9, Noes 8)

155 MoP, No 103, 10 October 2000, p 1011. The Assembly did not sit again until 18 October 2000.

156 MoP, No 100, 5 May 2004, p 1323. The Assembly did not sit again until 13 May 2004.

157 MoP, No 101, 13 May 2004, pp 1327-1329.

Notice lodged	Lodged by	Terms of notice	Date moved	Results
20 February 2007 ¹⁵⁸	Mr Stefaniak, in accordance with standing order 81 <i>(announcement made by Clerk—standing order 103)</i>	That this Assembly no longer has confidence in the Chief Minister, Mr Jon Stanhope, MLA, particularly in view of his and his Government's handling of the 2003 bushfires.	28 February 2007 ¹⁵⁹ (7 clear days after notice given)	Motion negated (Ayes 7, Noes 10)
17 June 2008 ¹⁶⁰	Mr Seselja, in accordance with standing order 81 <i>(announcement made by Clerk—standing order 103)</i>	That this Assembly no longer has confidence in the Chief Minister due to his: (a) repeatedly giving inconsistent testimony and testimony that is inconsistent with the written record of events relating to the data centre and gas fired power plant at Tuggeranong and, therefore, misleading the Estimates Committee and consequently the Assembly; (b) mismanaging the process associated with the data centre and gas fired power plant at Tuggeranong, jeopardising an important project for the Australian Capital Territory and, as a consequence, costing the Territory around \$1 billion in investment; (c) selectively releasing materials to the media which were withheld from the Assembly and withholding the substantial part of (the	25 June 2008 ¹⁶¹ (7 clear days after notice given)	Motion negated (Ayes 6, Noes 11)

158 MoP, No 89, 20 February 2007, p 928. The Assembly did not sit again until 28 February 2007.

159 MoP, No 90, 28 February 2007, p 935.

160 MoP, No 142, 17 June 2008, p 1538. Assembly did not sit again until 25 June 2008.

161 MoP, No 143, 25 June 2008, p 1543.

Notice lodged	Lodged by	Terms of notice	Date moved	Results
		<p>records, showing contempt for the people and Parliament of the Australian Capital Territory; and</p> <p>(d) failing to properly consider the impact on residents of the data centre and gas fired power plant, and failing to adequately notify or consult with residents, which jeopardised the entire project.</p>		
14 August 2012 ¹⁶²	Mr Seselja, in accordance with standing order 81 (<i>announcement made by Clerk—standing order 103</i>)	<p>That this Assembly no longer has confidence in the Chief Minister, Ms Katy Gallagher MLA, due to:</p> <p>(1) being the minister responsible for taking the ACT health system from one of the best performing in the country and turning it into one of the worst;</p> <p>(2) being the minister responsible when the systematic deception of the community about the declining state of health system occurred, including the altering of at least 11 700 health records over a number of years to make the system appear to be performing better than it was; and</p> <p>(3) personally failing to disclose conflicts of interest and personal connections to the</p>	22 August 2012 ¹⁶³ (7 clear days after notice given)	Motion negatived (Ayes 6, Noes 11)

162 MoP, No 154, 14 August 2012, pp 2030-2031. The Assembly did not sit again until 22 August 2012.

163 MoP, No 155, 22 August 2012, p 2043.

Notice lodged	Lodged by	Terms of notice	Date moved	Results
		executive responsible for the alteration of many of the health records.		
25 October 2017 ¹⁶⁴	Mr Coe, in accordance with standing order 81 (<i>announcement made by Acting Clerk—standing order 103</i>)	That this Assembly no longer has confidence in the Chief Minister, Mr Andrew Barr MLA, due to the Government's engagement in corrupt decisions.	2 November 2017 ¹⁶⁵	Motion negatived (Ayes 9, Noes 12)

Ministers

Appointment to office and number

- 6.70. The Chief Minister must appoint ministers from among the Members of the Legislative Assembly. The Speaker and Deputy Speaker are not eligible to be ministers.¹⁶⁶ The Self-Government Act provided that the Assembly could legislate to set the number of ministers but until it did so the number was not to exceed five.¹⁶⁷ With the passage of the *Australian Capital Territory (Ministers) Act 2013*, the Assembly set the maximum number of ministers at nine.¹⁶⁸
- 6.71. As the term of office of a member duly elected commences at the end of the day on which the election of a member is declared,¹⁶⁹ the Chief Minister is not precluded from appointing a member as a minister before the member takes their seat. In the

164 MoP, No 36, 25 October 2017, p 482. The Assembly sat on 26 and 27 October and 1 November 2017.

165 MoP, No 40, 2 November 2017, p 535.

166 Self-Government Act, ss 41(1) and 42. The instrument of appointment is usually presented in the Assembly (MoP, No 59, 2 May 2006, p 630) and is entered on the ACT Legislation Register and numbered as a notifiable instrument even though the instrument is not taken to be a notifiable instrument under s 10 of the Legislation Act.

167 Self-Government Act, ss 41(2) and 41(2A). Originally, the Self-Government Act provided that the Chief Minister could appoint three ministers for the Territory and that the regulations may fix a different number but only in accordance with a resolution of the Assembly. In its April 1990 report, the Select Committee on Self-Government recommended that the Chief Minister make a request to the Commonwealth that the power to determine the number of ministers be transferred to the Assembly. Steps were taken to seek the Commonwealth's agreement to concur in amending the number by regulation (MoP, No 69, 15 August 1990, p 286 and MoP, No 70, 16 August 1990, p 289) and in February 1991 the Chief Minister advised the Assembly that the Federal Government had agreed to introduce legislation to enact the provisions that currently stand (Assembly Debates, 12 February 1991, pp 15-16). The provision was amended by the *Australian Capital Territory Self-Government Legislation Amendment Act 1992* (Cth).

168 MoP, No 41, 26 November 2013, p 421.

169 Self-Government Act, s 10.

Sixth Assembly, Mr Barr filled a casual vacancy, his term commencing on 5 April 2006. He was appointed a minister the following day but did not formally take his seat in the Assembly until 2 May 2006.¹⁷⁰

Role and duties

- 6.72. The Chief Minister allocates responsibilities to the members of the executive. Typically, ministerial portfolios cover a range of directorates and agencies. The Chief Minister may also authorise a minister or ministers to act on behalf of the Chief Minister or any other minister and must publish particulars of these arrangements in the *Territory Gazette*.¹⁷¹ It is usual practice for a minister to undertake the duties of Manager of Government Business in the Assembly.¹⁷²
- 6.73. The Administrative Arrangements made pursuant to section 43 of the Self-Government Act and ss 13 and 14 of the Public Sector Management Act¹⁷³ list the ministerial portfolios and set out details of ministerial responsibility, showing:
- the areas of responsibility of each minister;
 - the Territory enactments, the subordinate laws made under those enactments and the Commonwealth laws administered by each minister;
 - the administrative units (directorates and agencies) that are the responsibility of each minister; and
 - the chief executives responsible to the minister for the administration of these units.
- 6.74. The practice is that the Administrative Arrangements are tabled in the Assembly.¹⁷⁴
- 6.75. Administrative Arrangements may also set down an authorisation (subject to s 41 of the Legislation Act) for ministers to act on the Chief Minister's behalf or on behalf of another minister (for the purposes of s 43(2) of the Self-Government Act).¹⁷⁵ The prevailing administrative arrangements at any given time are available on the ACT Legislation Register.

170 MoP, No 59, 2 May 2006, pp 627-628.

171 Self-Government Act, s 43.

172 Although the duties have not always been undertaken by a minister; MoP, No 99, 13 April 1994, p 553. Mr Berry resigned as minister but remained as Manager of Government Business.

173 Sections 13 and 14 of the Public Sector Management Act make provision for the Chief Minister from time to time to constitute administrative units and place chief executives in control thereof and to allocate ministerial responsibility for administrative units and allocate to administrative units responsibility for all or any of the enactments and matters for which the relevant minister is responsible.

174 See, for example, Administrative Arrangements 2020 (No 2), MoP, No 130, 7 May 2020, p 1938.

175 Legislation Act, s 41 (Making of certain statutory instruments by the executive) provides a restriction on the powers of ministers to act on each other's behalf in that a subordinate law or disallowable instrument is taken to be made by the executive if it is signed by two or more ministers who are members of the executive, one of whom must be the responsible minister (the minister for the time being administering the Act). See also Chapter 8: Sitings of the Assembly, under the heading 'Proceedings at the first meeting'.

Duration of appointment (including resignation and vacation of office)

- 6.76. A minister vacates their office:
- upon resignation of office;
 - when the person ceases to be a Member of the Legislative Assembly¹⁷⁶ (not because of a general election);
 - upon dismissal from office by the Chief Minister;
 - immediately before another Chief Minister is elected after the next general election; or
 - the passing of a resolution of no confidence in the Chief Minister.¹⁷⁷
- 6.77. A minister may resign office as a minister by written notice delivered to the Chief Minister.¹⁷⁸ It has been considered that, in resigning as members of the Assembly, Mr De Domenico¹⁷⁹ (on 30 January 1997) and Mrs Carnell¹⁸⁰ (on 13 December 2000), automatically vacated the ministerial offices they held at the time.
- 6.78. On 29 May 1991, Chief Minister Kaine dismissed the Deputy Chief Minister, Mr Collaery, pursuant to the provisions of s 41(3) of the Self-Government Act.¹⁸¹
- 6.79. On 17 October 2000, Ms Carnell resigned as Chief Minister by written notice delivered to the Speaker. On the following day, Mr Humphries was elected Chief Minister. In response to a request for advice as to when the ministers appointed by Ms Carnell when she was Chief Minister ceased to be ministers, the then Government Solicitor advised that the ministers previously appointed by Ms Carnell ceased to be ministers immediately before the election of Mr Humphries as Chief Minister. In that advice, the Government Solicitor stated that the fact that section 46 did not specifically cover the situation could not result in the former ministers continuing to hold office as ministers beyond the appointment of a new Chief Minister. Such an outcome was seen as being contrary to the structure of government provided for in the Self-Government Act.¹⁸²

176 See Chapter 4: Membership of the Assembly, including under the heading 'Death while in office'.

177 Self-Government Act, s 46(1A).

178 Self-Government Act, s 45(2).

179 MoP, No 77, 18 February 1997, p 575.

180 MoP, No 111, 13 February 2001, p 1145.

181 See Assembly Debates, 29 May 1991, p 2125. The actual letter of dismissal was tabled (MoP, No 113, 21 June 1991, p 473) and the terms read into Hansard. See Assembly Debates, 21 June 1991, p 2270. The dismissal as a minister was 'from the time of your receipt of this letter'.

182 Advice of Government Solicitor to the Director, Corporate Services, Chief Minister's Department, 19 October 2000. Section 46(1A) refers to ministers vacating office immediately before a Chief Minister is elected after a general election or the passage of a no confidence motion in the previous Chief Minister. It does not mention the resignation of a Chief Minister.

6.80. However, in more recent advice to the Clerk, the Solicitor-General expresses the opinion that neither the text nor the structure of Part V of the Self-Government Act supports such a construction. In the opinion of the Solicitor-General, the structure of self-government preserves the continuity of executive government. This is discernible in the fact that ministers continue to hold office during the election period and following the declaration of the result of the election until ‘immediately before’ the election of the Chief Minister at the first meeting of the Assembly after a general election (even where a person ceases to be a member due to the election outcome).¹⁸³ It is the opinion of the Solicitor-General that if the Chief Minister resigns, the ministers appointed by that Chief Minister retain their offices, a new Chief Minister is then elected by the Assembly, and it is open to the new Chief Minister to dismiss any minister from office.¹⁸⁴

Censure and no-confidence

6.81. Like the Chief Minister, ministers are also subject to censure and no confidence motions. Since the Ninth Assembly, where a minister is to be the subject of such a motion, a copy of the motion must be provided to the Speaker for circulation to all members 90 minutes prior to the time at which the motion is proposed to be moved.¹⁸⁵

Governor-General

6.82. The Self-Government Act makes no provision for either an Administrator or a Governor of the ACT having powers equivalent to the Northern Territory Administrator or state governors.¹⁸⁶ However, the Governor-General of the Commonwealth retains significant power within the ACT system of government. The Self-Government Act makes provision for the Governor-General to dissolve the Assembly if, in the opinion of the Governor-General, the Assembly:

- is incapable of effectively performing its functions; or
- is conducting its affairs in a grossly improper manner.¹⁸⁷

183 Self-Government Act, s 46(1A)(b)

184 Advice of the Solicitor-General to the Clerk of the Legislative Assembly, 22 June 2021.

185 Standing order 81A, inserted 29 November 2018. See for example, MoP, No 108, 20 August 2019, p 1598.

186 Note that, as a consequence, the Territory does not have a process of assent to legislation by the monarch or a representative of the monarch as is found in other Australian jurisdictions. The process of certification and notification of Acts is discussed in Chapter 12: Legislation, under the heading ‘Certification and notification of enactment’.

187 Self-Government Act, s 16. The Governor-General does not perform executive acts alone but does so ‘in Council’; that is, acting on the advice of the Federal Executive Council (effectively the Federal Government) as required by s 63 of the Constitution. See *House of Representatives Practice*, pp 1-14, for a detailed overview of the powers and functions of the Governor-General.

- 6.83. This is the only provision for dissolution of the Assembly¹⁸⁸ and, to date, the Assembly has never been dissolved.
- 6.84. In reaching a decision to dissolve the Assembly, the Governor-General would act on the advice of the Federal Executive Council. The Self-Government Act provides no guide regarding the criteria to be applied in reaching the decision, other than the general grounds cited above. However, s 16(8) of the Self-Government Act does require the responsible Commonwealth minister to publish a statement of reasons in the *Commonwealth Gazette* as soon as practicable after the dissolution, and to table it in both Houses of the parliament within 15 sitting days of that House after the day the Assembly is dissolved.
- 6.85. Where the Assembly is dissolved, the Self-Government Act requires the Governor-General to appoint a commissioner and provides that the Governor-General may, at any time, give directions to the commissioner about the exercise of the powers of the executive. Sections 16(4)-(6) of the Self-Government Act make a number of provisions concerning the appointment and exercise of power by the commissioner, and their remuneration, allowances, and term of office.
- 6.86. In addition, a general election for the Assembly must be held on a day specified by the Commonwealth minister by notice published in the *Commonwealth Gazette*. The date of the general election for the Assembly must be between 36 and 90 days after the dissolution of the Assembly.
- 6.87. Assembly standing orders make provision for Addresses to the Queen and to the Governor-General, an Address being a method traditionally employed by a legislature for making its desires, feelings and opinions known to the Crown.¹⁸⁹ Standing orders provide that whenever it is deemed proper to present an Address to Her Majesty or the Governor-General, a motion on notice stating the terms of an Address shall be moved. Addresses to Her Majesty shall be transmitted by the Speaker to the Governor-General to be forwarded for presentation. Addresses to the Governor-General are presented by the Speaker, and standing orders require that the Speaker shall report the response to any Address to the Assembly.¹⁹⁰
- 6.88. Addresses to the monarch tend to be largely formal—for example, the Address expressing condolences on the death of the Queen Mother.¹⁹¹ Addresses may also deal with government matters relevant to the ACT or the Governor-General's exercise of powers under the Self-Government Act.

188 The Legislative Assembly currently has a fixed term of four years. See Chapter 8: Sittings of the Assembly, under the heading 'Term of the Assembly'.

189 *House of Representatives Practice*, p 327.

190 Standing orders 268-271.

191 MoP, No 11, 9 April 2002, p 101. See also MoP, No 101, 2 September 1997, p 761 (Condolences on the death of Diana, Princess of Wales); MoP, No 107, 4 November 1997, p 831 (Response from the Royal Household to the condolence motion).

6.89. In August 1990, the Assembly requested that the Speaker ‘address the Governor-General in the terms of’ a resolution concerning the Commonwealth fixing, by regulation, an increase in the number of ministers (in accordance with the then provisions of the Self-Government Act).¹⁹² The Speaker, however, did not proceed as requested, advising the Assembly that, having considered the nature of the relationship between the Assembly and the Governor-General, he had concluded that:

... we do not have the same constitutional link between the Governor-General and the Assembly as there is between the Governor-General and the House of Representatives and the Senate, nor are there the same traditional ceremonial links.

I therefore propose not to proceed with the presentation of the address ... In conclusion, I understand that the Chief Minister will be conveying the terms of the resolution to the Commonwealth Government.¹⁹³

6.90. The Speaker, on behalf of the Legislative Assembly, presented an Address to the Governor-General concerning the possible disallowance of the *Civil Unions Act 2006* (see Chapter 1: The Assembly’s powers to make laws under the heading ‘Disallowance powers of the Commonwealth’).

6.91. In communicating the views of the Assembly to the Commonwealth on matters for which the Commonwealth has constitutional responsibility, it may be considered more appropriate for the ACT Executive, in response to a direction or request from the Assembly, to communicate directly with the relevant minister—for example, the minister responsible for the administration of the Self-Government Act.

6.92. On occasion, the Legislative Assembly has had direct communication with the Commonwealth Parliament by exchanging correspondence between Presiding Officers. In 1992, the Commonwealth Parliament was considering amendments to the Self-Government Act. The Legislative Assembly adopted a resolution inviting the Commonwealth Parliament to make certain amendments to the Act (and consequential amendments to other legislation) and including the detailed terms of the proposed amendments. The resolution was transmitted to the Speaker of the House of Representatives and the President of the Senate by the Assembly Speaker, with a request that the Presiding Officers inform all members of its contents.¹⁹⁴

192 MoP, No 69, 15 August 1990, p 286; MoP, No 70, 16 August 1990, p 289.

193 Assembly Debates, 20 September 1990, p 3591.

194 MoP, No 4, 9 April 1992, pp 22-23, Speaker of the Legislative Assembly to the Presiding Officers of the Commonwealth Parliament, 10 April 1992.