

1998-99

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

MINUTES OF PROCEEDINGS

No. 59

TUESDAY, 31 AUGUST 1999

- 1** The Assembly met at 10.30 a.m., pursuant to adjournment. A quorum of Members not being present, the Speaker (Mr Cornwell) ordered the bells to be rung. A quorum having been formed the Speaker took the Chair and asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

**2 JUSTICE AND COMMUNITY SAFETY - STANDING COMMITTEE
(INCORPORATING THE DUTIES OF A SCRUTINY OF BILLS AND SUBORDINATE
LEGISLATION COMMITTEE) - SCRUTINY REPORT
NO. 10 OF 1999 - STATEMENT BY CHAIR**

Mr Osborne (Chair) presented the following report:

Justice and Community Safety - Standing Committee (incorporating the duties of a Scrutiny of Bills and Subordinate Legislation Committee) - Scrutiny Report No. 10 of 1999, dated 31 August 1999

-

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

3 APPROPRIATION BILL (NO 2) 1999-2000

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.

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

Debate continued.

The debate having been closed by the reply of Mr Humphries (Treasurer) -

Paper: Mr Stanhope (Leader of the Opposition) speaking again, pursuant to standing order 47, by leave, presented the following paper:

V8 super cars - Key issues - Facsimile copy of document from J G Service Pty Ltd (page 2), prepared by Canberra Tourism & Events Corporation, dated 15 July 1999.

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

Detail stage

Bill, by leave, taken as a whole -

Ms Tucker, by leave, moved the following amendments together:

Clause 5, page 2 -

Line 8, subclause (1), omit the subclause.

Line 12, subclause (2), omit the subclause.

Debate continued.

Question - That Ms Tucker's amendments be agreed to - put.

The Assembly voted -

Ayes, 1

Ms Tucker

Noes, 16

Mr Berry

Ms Carnell

Mr Corbell

Mr Cornwell

Mr Hargreaves

Mr Hird

Mr Humphries

Mr Kaine

Mr Moore

Mr Osborne

Mr Quinlan

Mr Rugendyke

Mr Smyth

Mr Stanhope

Mr Stefaniak

Mr Wood

And so it was negatived.

Bill, as a whole, agreed to.

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

4 MOTOR TRAFFIC (AMENDMENT) BILL (NO. 2) 1999

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.

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour this day.

5 QUESTIONS

Questions without notice were asked.

6 PRESENTATION OF PAPER

The Speaker presented the following paper:

Auditor-General Act, pursuant to subsection 31 (3) - Report of the Independent Auditor - Performance Audit of the Operation of the Auditor-General of the Australian Capital Territory, dated 27 August 1999.

7 PRESENTATION OF PAPER

Ms Carnell (Chief Minister) presented the following paper:

ACT Government Workforce Statistical Report - Fourth quarter 1998/99.

8 PRESENTATION OF PAPERS

Ms Carnell (Chief Minister) presented the following papers:

Ministerial Travel Report (1 April - 30 June 1999).

Canberra Tourism and Events Corporation Act, pursuant to subsection 28 (3) - Canberra Tourism and Events Corporation - Quarterly report for April - June 1999.

9 PRESENTATION OF PAPERS

Mr Humphries (Manager of Government Business and Treasurer) presented the following papers:

Subordinate legislation (including explanatory statements)

Dental Technicians and Dental Prosthetists Registration Act - Determination of fees - Instrument No. 198 of 1999 (No. 33, dated 18 August 1999).

Motor Omnibus Services Act - Motor Omnibus Services Regulations (Amendment) - Subordinate Law No. 14 of 1999 (S48, dated 12 August 1999).

Physiotherapists Act - Determination of fees - Instrument No. 197 of 1999 (No. 33, dated 18 August 1999).

Tobacco Licensing Act - Determination of tobacco licence fees - Instrument No. 196 of 1999 (No. 33, dated 18 August 1999).

Water Resources Act - Approval of Water Resources Management Plan and Water Resources Management Plan - Instrument No. 203 of 1999 (S51, dated 27 August 1999).

Miscellaneous paper

Financial Management Act, pursuant to section 26 - Consolidated Financial Management Report for the month and financial year to date ending 31 July 1999.

10 LAND (PLANNING AND ENVIRONMENT) ACT – VARIATION (NO. 137) TO THE TERRITORY PLAN – O’CONNOR SECTION 86 BLOCK 2 (MACPHERSON COURT) – PAPERS AND STATEMENT BY MINISTER

Mr Smyth (Minister for Urban Services) presented the following papers:

Land (Planning and Environment) Act, pursuant to section 29 – Variation (No. 137) to the Territory Plan relating to O’Connor section 86 block 2 (Macpherson Court), together with background papers, a copy of the summaries and reports, and a copy of any directions or reports required – and, by leave, made a statement in relation to the papers.

11 MOTOR TRAFFIC (AMENDMENT) BILL (NO. 2) 1999

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 Osborne, by leave, the following amendments were made together, after debate:

Clause 13, page 10 -

Line 26, proposed new paragraphs 180H (b) and (c), omit “longer time” (wherever occurring), substitute “additional time”.

Line 35, proposed new subsection 180I (1), omit “a stated longer time”, substitute “additional time of not longer than 6 months”.

Line 38, proposed new paragraph 180I (2) (a), omit “longer period”, substitute “additional time”.

Mr Hargreaves moved the following amendment:

Clause 13, page 25, line 16, after proposed new section 180MS, insert the following section in Division 6:

“ ‘180MSA **Amnesty for camera-detected offences for first 2 months**

‘(1) This section applies to a camera-detected offence if the offence—

(a) is an offence against this Act; and

(b) is committed within 2 months after the day when this Part commences.

‘(2) The administering authority may serve a notice (a **warning notice**) on a person who could, apart from subsection (4), be served with an infringement notice for the offence.

‘(3) The warning notice must tell the person about the detection of the offence and the infringement notice penalty for the offence.

‘(4) Despite anything else in this Act, a person must not be prosecuted in a court for the offence, or served with an infringement notice for the offence, unless the person has been served with a warning notice for a previous offence.

‘(5) This section expires 12 months after the day it commences.”.

Debate continued.

Amendment negatived.

Mr Osborne moved the following amendment:

Clause 14, page 28, line 22, after proposed new subsection 180ZF (2), insert the following subsection:

“ ‘(3) However, the regulations must not—

(a) require or authorise people other than police officers to use traffic offence detection devices; or

(b) authorise the registrar to approve people other than police officers to use traffic offence detection devices.”.

Question - That the amendment be agreed to - put.

The Assembly voted -

Ayes, 3

Mr Kaine
Mr Osborne
Mr Rugendyke

Noes, 14

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

And so it was negatived.

On the motion of Mr Osborne, by leave, the following amendment was made, after debate:

Clause 14, page 31, line 3, after proposed new section 180ZJ, insert the following section:

“ ‘180ZK **Expiry of Pt 11C**

This Part expires 2 years after the day it commences.’”.

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

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

12 LIQUOR (AMENDMENT) BILL 1999

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.

Paper: Mr Humphries (Attorney-General) presented the following paper:

Liquor (Amendment) Bill 1999 - Copy of letter from Mr Humphries (Attorney-General) to the Chair of the Scrutiny of Bills and Subordinate Legislation Committee in response to Report No. 8 of 1999 of the Standing Committee on Justice and Community Safety Committee (incorporating the duties of a Scrutiny of Bills and Subordinate Legislation Committee), dated 30 August 1999.

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

Detail stage

Bill, by leave, taken as a whole -

Paper: Mr Humphries presented an explanatory memorandum to Government amendments to the Bill.

On the motion of Mr Humphries, by leave, the following amendments were made together:

Schedule -

Page 19, line 26, insert the following amendments:

“Subsection 17A (2)—

Omit ‘80, 81, 82 or 84’, substitute ‘84, 93E, 93F, 93G or 93H’.

Subparagraph 17B (1) (a) (i)—

Omit ‘81 or 83’, substitute ‘93G or 93I’.

Subparagraph 17B (1) (a) (ii)—

Omit ‘83A’, substitute ‘93K’.

Paragraph 17B (2) (a)—

Omit ‘80 or 82’, substitute ‘93E or 93H’.

Paragraph 17C (7) (d)—

Omit ‘81 or 83’, substitute ‘93G or 93I’.”.

Page 21, line 5, insert the following amendment:

“Subsection 94 (5)—

Omit ‘81, 82 or 84, subsection 91 (1) or section 93’, substitute ‘84, subsection 91 (1) or section 93, 93G or 93H’.”.

Page 21, line 10, insert the following amendments:

“Paragraph 104 (ca)—

Omit the paragraph.

Paragraph 104 (e)—

Omit ‘42C (1)’, substitute ‘42B (2)’.

Paragraph 104 (f)—

Omit the paragraph.

Paragraphs 104 (h) and (ha)—

Omit ‘55 (2) (aa)’, substitute ‘55 (2) (b)’.”.

Page 21, line 13, proposed new paragraph 104 (i), after “45C (2) (a),”, insert “46B (2) (b)”.

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

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

13 SUBORDINATE LAWS (AMENDMENT) BILL 1999

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 Stanhope (Leader of the Opposition) the following amendment was made:

Clause 4, page 1, line 10, before paragraph (a), insert the following new paragraphs:

“(aa) by omitting from paragraph (1) (c) ‘15’ and substituting ‘6’; and

(ab) by omitting from subsection (4) ‘15’ and substituting ‘12’; and”.

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

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

Question - put and negatived.

Mr Stanhope, by leave, moved the following amendments together:

Clause 4 -

Page 1, line 11, paragraph (a), omit “6”, substitute “12”.

Page 1, line 13, paragraph (b), omit “6”, substitute “12”.

Page 2, line 1, paragraph (c), omit “6”, substitute “12”.

Debate continued.

Amendments negatived.

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

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

14 ENVIRONMENT PROTECTION (AMENDMENT) BILL 1999

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

Clauses 1 to 6, by leave, taken together and agreed to.

Clause 7 -

Ms Tucker moved the following amendment:

Page 4, line 29, paragraph (b), omit the paragraph, substitute the following paragraph:

“(b) by inserting after paragraph (1) (k) the following paragraphs:

‘(ka) an order for assessment under section 91C;

(kb) an assessment under paragraph 91C (4) (a);

(kc) an environmental audit under paragraph 91C (4) (b);

(kd) a remediation order under section 91D;

(ke) an environmental audit under paragraph 91D (4) (b);

(kf) the register;’.”.

Question proposed - That the amendment be agreed to -

Debate continued.

The Speaker having drawn attention to the fact that copies of the amendment were not available for circulation to Members as required by the standing orders -

Debate adjourned (Mr Rugendyke) and the resumption of the debate made an order of the day for a later hour this day.

15 POSTPONEMENT OF ORDERS OF THE DAY

Mr Smyth (Minister for Urban Services), pursuant to standing order 150, moved - That orders of the day Nos 6, 7 and 8, Executive business relating to the ministerial statements on the Commonwealth's Year 2000 Information Disclosure Legislation and the Draft Drugs Education Policy Framework in ACT Government Schools, respectively and the Gaming Legislation Amendment Bill 1999 be postponed until the next day of sitting.

Question - put and passed.

16 ELECTRICITY (AMENDMENT) BILL 1999

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 -

Paper: Mr Smyth (Minister for Urban Services) presented a supplementary explanatory memorandum to the Bill.

On the motion of Mr Smyth, by leave, the following amendments were made together:

Clause 4 , page 1, line 9, omit the clause, substitute the following clause:

“4 Interpretation

Section 3 of the Principal Act is amended—

- (a) by omitting from the definition of ‘electrical installation’ in subsection (1) ‘supplied by the Authority’; and
- (b) by omitting the definition of ‘electrical wiring work’ in subsection (1) and substituting the following definition:
 - ‘ “electrical wiring work” means the actual physical work of installing, altering or repairing an electrical installation other than—
 - (a) an electrical installation that operates at extra low voltage; or
 - (b) telecommunications cabling or equipment that operates at a voltage not exceeding 90 volts alternating current;’ .”.

Clause 6, page 2, line 29, omit the clause.

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

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

17 ENVIRONMENT PROTECTION (AMENDMENT) BILL 1999

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

Detail stage

Consideration resumed on the question - That clause 7 be agreed to.

On the motion of Ms Tucker the following amendment was made: Page 4, line 29, paragraph (b), omit the paragraph, substitute the following paragraph:

- “(b) by inserting after paragraph (1) (k) the following paragraphs:
- ‘(ka) an order for assessment under section 91C;
 - (kb) an assessment under paragraph 91C (4) (a);
 - (kc) an environmental audit under paragraph 91C (4) (b);
 - (kd) a remediation order under section 91D;
 - (ke) an environmental audit under paragraph 91D (4) (b);
 - (kf) the register;’ .”.

Clause 7, as amended, agreed to.

Clause 8 agreed to.

Clause 9 -

Ms Tucker, by leave, moved the following amendments together:

Page 5 -

Line 17, proposed new paragraph 21A (2) (b), omit “which an order is in force”, substitute “an order”.

Line 25, proposed new subsections 21A (4) and (5), omit the subsections, substitute the following subsections:

“ (4) The Authority shall make an entry in the register—

- (a) for an order under subsection 91D (1)—if satisfied that the remediation of the land has been conducted as mentioned in paragraph 91D (4) (a); and
- (b) for an order under subsection 125 (1A)—if the Authority is no longer satisfied as referred to in that subsection, or the order is revoked, whichever occurs first.

‘(5) The Authority shall remove an entry from the register for an order under subsection 91C (1) within 60 days after receipt of an audit of assessment under section 91C in relation to that entry unless the Authority has, within that period, made an order under subsection 91D (1) or 125 (1A).’.

Debate continued.

Question - That Ms Tucker’s amendments be agreed to - put.

The Assembly voted -

Ayes, 10

Noes, 7

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

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

On the motion of Ms Tucker the following amendment was made, after debate:

Page 6, line 9, after proposed new section 21A, insert the following section:

“ 21B. **Notification of making of certain entries in register**

‘(1) If the Authority makes an entry in the register under paragraph 21A (2) (b) or subsection 21A (4) or removes an entry under subsection 21A (5), the Authority shall—

- (a) notify the making of the entry or removal in the *Gazette* within 10 working days beginning after the day the entry was made; and
- (b) publish a copy of the notice in a daily newspaper.

‘(2) A notice under subsection (1) shall state the places at which a copy of any of the following documents may be inspected or obtained:

- (a) an order under subsection 91C (1);
- (b) an assessment under paragraph 91C (4) (a);
- (c) an environmental audit under paragraph 91C (4) (b);
- (d) an order under subsection 91D (1);
- (e) an environmental audit under paragraph 91D (4) (b).’.

Clause 9, as amended, agreed to.

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

On the motion of Ms Tucker, by leave, the following amendments were made together:

Clause 16 -

Page 10, line 30, proposed new paragraph 91C (3) (c), omit the paragraph.

Page 12, line 23, proposed new paragraph 91D (3) (c), omit the paragraph.

Page 13, line 22, after proposed new section 91D, insert the following sections:

“ ‘91EA. **Notification of certain persons about orders for assessment or remediation**

‘(1) The Authority shall, by written notice, notify the occupier and, if the occupier is not the lessee, the lessee, of land adjacent to land to which subsection 91C (1) or 91D (1) relates—

- (a) that notice of an assessment or remediation of the land has been given to the appropriate person; or
- (b) that the Authority is carrying out the requirements of an assessment order or remediation order in relation to the land.

- ‘(2) A notice under subsection (1) shall—
- (a) invite the person to whom notice is given to make written submissions to the Authority within 21 days beginning the day after the day the person received the notice; and
 - (b) state the places at which a copy of any of the following documents may inspected:
 - (i) a report of the outcome of an assessment under subsection 91C (1);
 - (ii) a progress report on the assessment under subsection 91C (3);
 - (iii) an assessment under paragraph 91C (4) (a);
 - (iv) an audit under paragraph 91C (4) (b);
 - (v) a report of the outcome of an assessment under subsection 91D (1);
 - (vi) a progress report on the assessment under subsection 91D (3);
 - (vii) an audit under paragraph 91C (4) (b).

‘91EB. Certain documents to be available free of charge

The Authority shall—

- (a) make available for inspection by any person free of charge a document mentioned in paragraph 91EA (2) (b); and
- (b) on the request of a person, give a copy of a document mentioned in that paragraph to the person free of charge.”.

On the motion of Mr Smyth (Minister for Urban Services), by leave, the following amendments were made together:

Clause 16 -

Page 9, line 8, proposed new subsection 91B (1), before “include”, insert “the Authority shall”.

Page 13, line 24, proposed new subsection 91E (1), omit the subsection, substitute the following subsection:

“(1) The Authority may, on application in writing by a person on whom an order is served under subsection 91C (1) or 91D (1) for an extension of the period within which the person shall conduct an assessment or remediation—

- (a) extend or refuse to extend the period; or
- (b) extend the period for a period less than that applied for.”.

Page 14, line 33, proposed new subsection 91I (1), omit the subsection, substitute the following subsection:

“(1) If the Authority takes action under subsection 91C (1) (b) or 91D (1) (b), the Authority may, by written notice, require an appropriate person against whom an order under that section may be made, to pay to the Authority the reasonable costs and expenses incurred by it in taking that action.”.

Clause 19 -

Page 21, line 17, before paragraph (a), insert the following paragraph:

“(aa) by inserting after paragraph (1) (a) the following paragraph:

‘(aa) under paragraph 21A (4) (b) or (c) refusing to remove an entry from the register;’.”.

Page 21, line 25, paragraph (b), proposed new paragraph 135 (1) (zcc), omit the paragraph, substitute the following paragraph:

“(zcc) under subsection 91D (8) refusing to consent;”.

Page 21, line 30, paragraph (b), after proposed new paragraph 135 (1) (zce), insert the following paragraph:

“(zcf) under section 91I requiring a stated person to pay reasonable costs and expenses;”.

Page 21, line 36, paragraph (f), omit the paragraph, substitute the following paragraph:

“(f) by omitting paragraph (2) (a) and substituting the following paragraphs:

‘(a) in the case of a decision referred to in paragraph (1) (a)—the applicant;

(aa) in the case of a decision referred to in paragraph (1) (aa)—the person to whom the entry relates;

(ab) in the case of a decision referred to in paragraph (1) (d), (e), (f), (g), (y), (z), (zcc), (zcd) or (zce)—the applicant;”.

Page 22, line 1, paragraph (h), omit the paragraph.

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

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

18 PUBLIC SECTOR MANAGEMENT (AMENDMENT) BILL 1999

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

Clauses 1 to 7, by leave, taken together -

On the motion of Ms Carnell (Chief Minister) the following amendment was made:

Clause 2, page 1, line 9, subclause (2), omit “1 July 1999”, substitute “1 January 2000”.

Clause 1 to 7, as amended, agreed to.

Clause 8 -

Debate continued.

Question - That clause 8 be agreed to - put.

The Assembly voted -

Ayes, 8

Noes, 7

Ms Carnell
Mr Cornwell
Mr Hird
Mr Humphries

Mr Osborne
Mr Rugendyke
Mr Stefaniak

Mr Berry
Mr Hargreaves
Mr Kaine
Mr Quinlan

Ms Tucker
Mr Wood

Mr Moore

Mr Stanhope

And so it was resolved in the affirmative - Clause 8 agreed to.

Remainder of Bill, by leave, taken as a whole and agreed to.

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

19 ADJOURNMENT

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

Question - put and passed.

And then the Assembly, at 6.21 p.m., adjourned until tomorrow at 10.30 a.m.

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

M.J. McRAE

Clerk of the Legislative Assembly