



**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**2004–2005–2006–2007–2008**

**MINUTES OF PROCEEDINGS**

**No. 127**

**TUESDAY, 12 FEBRUARY 2008**

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**1** The Assembly met at 10.30 a.m., pursuant to adjournment.

**2 ABSENCE OF SPEAKER**

The Clerk having informed the Assembly that the Speaker (Mr Berry) was temporarily absent, the Deputy Speaker (Mr Pratt) took the Chair as Acting Speaker and made a formal recognition that the Assembly was meeting on the lands of the traditional owners. The Acting Speaker asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

**3 LEADER OF THE OPPOSITION—PAPER AND STATEMENT BY ACTING SPEAKER**

The Acting Speaker informed the Assembly that the Speaker had been advised, on 13 December 2007, that the Parliamentary Liberal Party had elected Mr Seselja as its leader and that he had consented to be Leader of the Opposition. The Acting Speaker advised the Assembly that Mr Seselja would be recognised as Leader of the Opposition from 13 December 2007, in accordance with the provisions of standing order 5A, and presented the following paper:

Leader of the Opposition—Consent— Copy of letter to the Speaker from Mr Seselja, dated 13 December 2007.

**4 LEADER OF THE OPPOSITION—STATEMENT**

Mr Seselja, by leave, made a statement concerning leadership of the ACT Liberal Party.

**5 INDEPENDENT MEMBER—STATEMENT**

Mr Mulcahy, by leave, informed the Assembly that he would be sitting in the Assembly as an independent Member and made a statement concerning his move to the crossbench.

**6 LEGAL AFFAIRS—STANDING COMMITTEE (PERFORMING THE DUTIES OF A SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION COMMITTEE)—SCRUTINY REPORT 50—STATEMENT BY CHAIR**

Mr Seselja (Chair) presented the following report:

Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 50, dated 4 February 2008, together with the relevant minutes of proceedings—

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

**7 LEGAL AFFAIRS—STANDING COMMITTEE—REPORT 7—STRICT AND ABSOLUTE LIABILITY OFFENCES—PUBLICATION OF REPORT—MOTION THAT REPORT BE NOTED**

Mr Seselja (Chair) presented the following report:

Legal Affairs—Standing Committee—Report 7—*Strict and Absolute Liability Offences*, dated 7 February 2008, together with a copy of the extracts of the relevant minutes of proceedings—

and, by leave, moved—That the report be authorised for publication.

Question—put and passed.

Mr Seselja moved—That the report be noted.

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

**8 PLANNING AND ENVIRONMENT—STANDING COMMITTEE—REPORT 32—VARIATION TO THE TERRITORY PLAN NO. 285—BLOCK 17 SECTION 102 SYMONSTON EXTENSION OF BROADACRE 10E AREA SPECIFIC POLICY—PUBLICATION OF REPORT—REPORT NOTED**

Mr Gentleman (Chair) presented the following report:

Planning and Environment—Standing Committee—Report 32—*Variation to the Territory Plan No. 285—Block 17 Section 102 Symonston Extension of Broadacre 10E Area Specific Policy*, dated 7 February 2008, together with a copy of the extracts of the relevant minutes of proceedings—

and, by leave, moved—That the report be authorised for publication.

Question—put and passed.

Mr Gentleman moved—That the report be noted.

Question—put and passed.

**9 STANDING COMMITTEES—MEMBERSHIP**

Mrs Burke, pursuant to standing order 223, moved—That:

Mr Seselja (Leader of the Opposition) be discharged from the Standing Committee on Planning and Environment and Mrs Dunne be appointed in his place;

Mr Seselja be discharged from the Standing Committee on Legal Affairs and Mr Stefaniak be appointed in his place;

Mrs Dunne be discharged from the Standing Committee on Education, Training and Young People and Mr Pratt be appointed in her place; and

Mr Smyth be discharged from the Standing Committee on Administration and Procedure and Mrs Burke be appointed in his place.

Question—put and passed.

#### **10 STANDING COMMITTEES—ESTABLISHMENT—PROPOSED AMENDMENT TO RESOLUTION**

Mrs Burke, by leave, moved—That the resolution of the Assembly of 7 December 2004 relating to the establishment of general purpose standing committees be amended by:

- (1) inserting the words “at least” after “shall consist of” in paragraph (4); and
- (2) omitting “one” and substituting “two” in paragraph (4)(e)(iii).

Debate ensued.

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

#### **11 ADMINISTRATION AND PROCEDURE—STANDING COMMITTEE—MEMBERSHIP**

Mr Corbell (Manager of Government Business), pursuant to standing order 223, moved—That Dr Foskey be discharged from the Standing Committee on Administration and Procedure and that Mr Mulcahy be appointed in her place.

Question—put and passed.

#### **12 CRIMES AMENDMENT BILL 2008**

Mr Corbell (Attorney-General), by leave, presented a Bill for an Act to amend the *Crimes Act 1900*, and for other purposes.

*Papers:* Mr Corbell presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 12 February 2008.

Title read by Clerk.

Mr Corbell moved—That this Bill be agreed to in principle.

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

#### **13 ROAD TRANSPORT (THIRD-PARTY INSURANCE) BILL 2007**

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 Stanhope (Treasurer) addressing the Assembly—

Dr Foskey, by leave, spoke to the question.

Debate continued.

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

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*Detail Stage*

Clauses 1 to 67, by leave, taken together and agreed to.

*Proposed new Chapter—*

Mr Stanhope moved his amendment No. 1 (*see* [Schedule 1](#)), which inserts a new Chapter 2A, comprising clauses 67A to 67H, in the Bill.

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

Mr Mulcahy, by leave, moved his amendments Nos. 1 and 2 together to Mr Stanhope's proposed amendment (*see* [Schedule 2](#)).

Debate continued.

Question—That Mr Mulcahy's amendments to Mr Stanhope's proposed amendment be agreed to—put.

The Assembly voted—

AYES, 2	NOES, 15
Dr Foskey	Mr Barr
Mr Mulcahy	Mr Berry
	Mrs Burke
	Mr Corbell
	Mrs Dunne
	Ms Gallagher
	Mr Gentleman
	Mr Hargreaves
	Ms MacDonald
	Ms Porter
	Mr Pratt
	Mr Seselja
	Mr Smyth
	Mr Stanhope
	Mr Stefaniak

And so it was negatived.

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.

#### 14 QUESTIONS

Questions without notice being asked—

*Paper:* Mr Stanhope (Chief Minister) presented the following paper:

School closures—Extract from *Hansard*, 26 August 2004.

Questions continued.

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

Mr Stanhope (Chief Minister) presented the following papers:

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

Long-term contracts:

Brett Phillips, dated 23 November 2007.  
Brian Parry, dated 17 December 2007.  
Danielle Krajina, dated 17 December 2007.  
David Dutton, dated 17 December 2007.  
Gregor Manson, dated 18 December 2007.  
Jocelyn Vasey, dated 26 November 2007.  
John Clifford, dated 18 December 2007.  
Jonathan Noel Quiggin, dated 17 December 2007.  
Julie Field, dated 28 November 2007.  
Lois Ford, dated 14 January 2008.  
Megan Mitchell, dated 15 January 2008.  
Moirra Crowhurst, dated 18 December 2007.  
Phillip Joyce, dated 18 December 2007.  
Ross Burton, dated 9 January 2008.  
Stephen Goggs, dated 14 December 2007.

Short-term contracts:

Danielle Krajina, dated 6 December 2007.  
David Dawes, dated 19 and 20 December 2007.  
David Dutton, dated 12 December 2007.  
Floyd Kennedy, dated 8 November 2007.  
Greg Kent, dated 14 December 2007.  
Howard Douglas Wren, dated 12 December 2007.  
Joy Vickerstaff, dated 21 December 2007 and 3 January 2008.  
Kate Scandrett, dated 7 January 2008.  
Liesl Centenera, dated 14 December 2007.  
Maxine Cooper, dated 17 December 2007.  
Meredith Lily Whitten (3), dated 14 November 2007 and 7 January 2008.  
Nic Manikis, dated 14 November 2007.  
Phil Joyce (2), dated 12 and 14 December 2007.  
Robert Carter, dated 13 December 2007.  
Robert Thorman, dated 7 and 14 January 2008.  
Sandra Kennedy, dated 12 November 2007.  
Sara-Jane Lynch, dated 10 December 2007.  
Stephen Goggs, dated 13 December 2007.

## Contract variations:

Hamish McNulty, dated 19 November 2007.  
 Jason McNamara, dated 8 November 2007.  
 Linda Lorraine Trompf, dated 20 December 2007.  
 Martin Hehir, dated 14 November 2007.  
 Maureen Sheehan.  
 Michele Bruniges, dated 10 January 2008.  
 Paul Dugdale, dated 28 November 2007.  
 Philip Dorling, dated 5 December 2007.  
 Robert Neil, dated 9 January 2008.  
 Robyn Mary Hardy, dated 3 December 2007.  
 Sandra Lambert, dated 10 January 2008.  
 Sara Lynch, dated 14 and 15 November 2007.  
 Sue Dever, dated 9 January 2008.  
 Susan Marriage, dated 14 January 2008.  
 Susanna Kiemann, dated 19 November 2007—

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

**16 ADMINISTRATIVE ARRANGEMENTS—ADMINISTRATIVE ARRANGEMENTS 2007 (NO. 2)—NOTIFIABLE INSTRUMENT NI2007-513—PAPER AND STATEMENT BY MINISTER**

Mr Stanhope (Chief Minister) presented the following paper:

Administrative arrangements—Administrative Arrangements 2007 (No. 2)—Notifiable Instrument NI2007-513 (Special Gazette No. S4, Saturday 22 December, 2007)—

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

**17 LEGISLATION PROGRAM 2008—PAPER AND STATEMENT BY MINISTER**

Mr Stanhope (Chief Minister) presented the following paper:

Legislation Program 2008, dated February 2008—

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

**18 PRESENTATION OF PAPER**

The Speaker presented the following paper:

Travel report—Non-Executive Members—Sixth Assembly, up to and including 31 December 2007.

**19 FINANCIAL MANAGEMENT ACT—INSTRUMENT—PAPER AND STATEMENT BY MINISTER**

Mr Stanhope (Treasurer) presented the following paper:

Financial Management Act, pursuant to section 18A—Instrument authorising expenditure from the Treasurer's Advance to the Chief Minister's Department, including statement of reasons, dated 14 December 2007—

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

**20 FINANCIAL MANAGEMENT ACT—INSTRUMENT—PAPER AND STATEMENT BY MINISTER**

Mr Stanhope (Treasurer) presented the following paper:

Financial Management Act, pursuant to section 18A—Instrument authorising expenditure from the Treasurer's Advance to the Department of Disability, Housing and Community Services, including a statement of reasons, dated 24 January 2008, and a summary of authorisation of expenditure from the Treasurer's Advance as at 19 December 2007—

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

**21 PRESENTATION OF PAPER**

Mr Stanhope (Minister for the Arts) presented the following paper:

Cultural Facilities Corporation Act, pursuant to subsection 15(2)—Cultural Facilities Corporation—Quarterly report 2007-2008 (1 July to 30 September 2007).

**22 HUMAN RIGHTS ACT—HUMAN RIGHTS AUDIT—OPERATION OF A.C.T. CORRECTIONAL FACILITIES UNDER CORRECTIONS LEGISLATION—GOVERNMENT RESPONSE—PAPER AND STATEMENT BY MINISTER—MOTION TO TAKE NOTE OF PAPER**

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

Human Rights Act, pursuant to subsection 41(2)—Human Rights Audit—Operation of ACT Correctional Facilities under Corrections Legislation—Government response, dated February 2008—

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

Mr Corbell moved—That the Assembly takes note of the paper.

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

**23 EDUCATION, TRAINING AND YOUNG PEOPLE—STANDING COMMITTEE—REPORT 5—INQUIRY INTO THE ELIGIBLE VOTING AGE—GOVERNMENT RESPONSE—PAPER NOTED**

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

Education, Training and Young People—Standing Committee—Report 5—*Inquiry into the Eligible Voting Age*—Government response, dated February 2008—

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

Question—put and passed.

**24 LAND (PLANNING AND ENVIRONMENT) ACT—APPROVAL—VARIATION NO. 287 TO THE TERRITORY PLAN—BLOCKS 1 AND 2 SECTION 23 NGUNNAWAL—GOLD CREEK HOMESTEAD AND PLANNING AND ENVIRONMENT—STANDING COMMITTEE—REPORT 31—GOVERNMENT RESPONSE—PAPERS AND STATEMENT BY MINISTER**

Mr Barr (Minister for Planning) presented the following papers:

Land (Planning and Environment) Act, pursuant to subsection 29(1)—Approval of Variation No. 287 to the Territory Plan—Blocks 1 and 2 Section 23 Ngunnawal—Gold Creek Homestead, dated 23 January 2008, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

Planning and Environment—Standing Committee—Report 31—*Variation to the Territory Plan No. 287—Blocks 1 and 2 Section 23 Ngunnawal Gold Creek Homestead*—Government response—

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

**25 LAND (PLANNING AND ENVIRONMENT) ACT—SCHEDULE—LEASES GRANTED—PAPER AND STATEMENT BY MINISTER**

Mr Barr (Minister for Planning) presented the following paper:

Land (Planning and Environment) Act, pursuant to section 216A—Schedule—Leases granted for the period 1 October to 31 December 2007—

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

**26 PRESENTATION OF PAPERS**

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

**Performance reports**

Financial Management Act, pursuant to section 30E—Half-yearly departmental performance reports—December 2007, for the following departments or agencies:

ACT Health, dated January 2008.

ACT Planning and Land Authority (including Strategic Indicators Report).

Chief Minister's, dated January 2008.

Disability, Housing and Community Services, dated January 2008.

Education and Training, dated January 2008.

Environment, Water and Climate Change and Territory and Municipal Services Portfolios.

Housing (within Disability, Housing and Community Services), dated January 2008.

Justice and Community Safety.

Multicultural Affairs (within Disability, Housing and Community Services), dated January 2008.

Tourism, Sport and Recreation Portfolio.

Treasury, dated January 2008.

**27 PRESENTATION OF PAPERS**

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

**Subordinate legislation (including explanatory statements unless otherwise stated)**

Legislation Act, pursuant to section 64—

Civil Law (Wrongs) Act—

Civil Law (Wrongs) Approved CPA Australia Ltd (ACT) Scheme 2008 (No. 1)—Disallowable Instrument DI2008-8 (LR, 24 January 2008).

Civil Law (Wrongs) Approved Institute of Chartered Accountants in Australia (ACT) Scheme 2008 (No. 1)—Disallowable Instrument DI2008-7 (LR, 24 January 2008).

Court Procedures Act—Court Procedures Amendment Rules 2007 (No. 2)—Subordinate Law SL2007-37 (LR, 20 December 2007).

Crimes (Sentence Administration) Act—Crimes (Sentence Administration) (Sentence Administration Board) Appointment 2007 (No. 1)—Disallowable Instrument DI2007-292 (LR, 3 December 2007).

Dangerous Substances Act—Dangerous Substances (General) Amendment Regulation 2007 (No. 2)—Subordinate Law SL2007-38 (LR, 17 December 2007).

Environment Protection Act—Environment Protection Amendment Regulation 2007 (No. 3)—Subordinate Law SL2007-39 (LR, 17 December 2007).

Gene Technology (GM Crop Moratorium) Act—Gene Technology Advisory Council Appointment 2007 (No. 1)—Disallowable Instrument DI2007-297 (without explanatory statement) (LR, 10 December 2007).

Health Professionals Act—

Health Professionals (Fees) Determination 2007 (No. 11)—Disallowable Instrument DI2007-299 (LR, 11 December 2007).

Health Professionals (Fees) Determination 2007 (No. 12)—Disallowable Instrument DI2007-300 (LR, 11 December 2007).

Health Professionals (Fees) Determination 2007 (No. 13)—Disallowable Instrument DI2007-301 (LR, 13 December 2007).

Health Professionals (Fees) Determination 2007 (No. 14)—Disallowable Instrument DI2007-302 (LR, 13 December 2007).

Health Professionals (Fees) Determination 2007 (No. 15)—Disallowable Instrument DI2007-303 (LR, 13 December 2007).

Health Professionals (Fees) Determination 2007 (No. 16)—Disallowable Instrument DI2007-304 (LR, 13 December 2007).

Health Professionals (Fees) Determination 2007 (No. 17)—Disallowable Instrument DI2007-305 (LR, 13 December 2007).

Health Professionals (Fees) Determination 2007 (No. 18)—Disallowable Instrument DI2007-306 (LR, 13 December 2007).

Health Professionals (Fees) Determination 2008 (No. 1)—Disallowable Instrument DI2008-3 (LR, 21 January 2008).

Health Professionals Amendment Regulation 2007 (No. 4)—Subordinate Law SL2007-43 (LR, 20 December 2007).

Health Professionals Regulation—

Health Professionals (ACT Nursing and Midwifery Board) Appointment 2008 (No. 1)—Disallowable Instrument DI2008-11 (LR, 29 January 2008).

Health Professionals (Pharmacy Board) Appointment 2008 (No. 1)—Disallowable Instrument DI2008-4 (LR, 24 January 2008).

Independent Competition and Regulatory Commission Act—Independent Competition and Regulatory Commission (Regulated Water and Sewerage Services) Terms of Reference Amendment Determination 2007—Disallowable Instrument DI2007-293 (LR, 6 December 2007).

Land (Planning and Environment) Act—Land (Planning and Environment) (Plan of Management for Urban Open Space and Public Access Sportsgrounds in the Gungahlin Region) Approval 2007—Disallowable Instrument DI2007-298 (LR, 10 December 2007).

Legal Profession Act—Legal Profession (Disciplinary Tribunal) Appointment 2008 (No. 1)—Disallowable Instrument DI2008-1 (LR, 10 January 2008).

Occupational Health and Safety Act—Occupational Health and Safety (General) Regulation 2007—Subordinate Law SL2007-36, including a Regulatory Impact Statement (LR, 26 November 2007).

Public Health Act—Public Health Amendment Regulation 2007 (No. 1)—Subordinate Law SL2007-42 (LR, 20 December 2007).

Public Place Names Act—

Public Place Names (Franklin) Determination 2008 (No. 1)—Disallowable Instrument DI2008-5 (LR, 21 January 2008).

Public Place Names (Macgregor) Determination 2007 (No. 1)—Disallowable Instrument DI2007-308 (LR, 14 December 2007).

Road Transport (General) Act—

Road Transport (General) (Application of Road Transport Legislation) Declaration 2007 (No. 6)—Disallowable Instrument DI2007-295 (LR, 6 December 2007).

Road Transport (General) (Application of Road Transport Legislation) Declaration 2008 (No. 1)—Disallowable Instrument DI2008-9 (LR, 24 January 2008).

Road Transport (Offences) Amendment Regulation 2007 (No. 1)—Subordinate Law SL2007-41 (LR, 19 December 2007).

Road Transport (Public Passenger Services) Act—Road Transport (Public Passenger Services) Maximum Fares Determination 2007 (No. 1)—Disallowable Instrument DI2007-307 (LR, 13 December 2007).

Road Transport (Safety and Traffic Management) Regulation—

Road Transport (Safety and Traffic Management) Parking Authority Declaration 2007 (No. 2)—Disallowable Instrument DI2007-296 (LR, 10 December 2007).

Road Transport (Safety and Traffic Management) Parking Authority Declaration 2008 (No. 1)—Disallowable Instrument DI2008-2 (LR, 16 January 2008).

Utilities Act—Utility (Electricity Retail) Licence Conditions Direction 2008 (No. 1)—Disallowable Instrument DI2008-10 (LR, 23 January 2008).

Victims of Crime Act—

Victims of Crime (Coordinator Appointment) 2007 (No. 1)—Disallowable Instrument DI2007-294 (LR, 6 December 2007).

Victims of Crime Amendment Regulation 2007 (No. 1)—Subordinate Law SL2007-40 (LR, 17 December 2007).

Victims of Crime Regulation—Victims of Crime (Victims Assistance Board) Appointment 2008 (No. 1)—Disallowable Instrument DI2008-6 (LR, 4 February 2008).

## **28 PUBLIC ACCOUNTS—STANDING COMMITTEE—MEMBERSHIP**

Mr Corbell (Manager of Government Business), pursuant to standing order 223, moved—That Mr Mulcahy be discharged from the Standing Committee on Public Accounts and Mr Smyth be appointed in his place.

Question—put and passed.

## **29 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—STANHOPE GOVERNMENT'S DECISION-MAKING PROCESSES**

The Assembly was informed that Mrs Burke, Mrs Dunne, Dr Foskey, Mr Gentleman, Ms MacDonald, Mr Mulcahy, Ms Porter, Mr Pratt, Mr Seselja (Leader of the Opposition), Mr Smyth and Mr Stefaniak had proposed that matters of public importance be submitted to the Assembly for discussion. In accordance with the provisions of standing order 79, the Speaker had determined that the matter proposed by Mr Pratt be submitted to the Assembly, namely, “The Stanhope Government’s decision-making processes.”.

Discussion ensued.

The time for discussion having expired—

Discussion concluded.

## **30 ROAD TRANSPORT (THIRD-PARTY INSURANCE) BILL 2007**

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

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### *Detail Stage*

*New Chapter—*

Consideration resumed on proposed new Chapter 2A (Mr Stanhope’s amendment No. 1—*see* [Schedule 1](#)).

Debate continued.

Chapter 2A, comprising new clauses 67A to 67H, inserted in the Bill.

Clauses 68 to 170, by leave, taken together—

On the motion of Mr Stanhope (Treasurer), by leave, his amendments Nos. 2 to 14 (*see* [Schedule 1](#)) were made together.

Clauses 68 to 170, as amended, agreed to.

*New clause—*

On the motion of Mr Stanhope, new clause 170A (his amendment No. 15—*see* [Schedule 1](#)) was inserted in the Bill.

Clauses 171 to 176, by leave, taken together and agreed to.

Clause 177—

On the motion of Mr Mulcahy, his amendment No. 1 (*see* [Schedule 3](#)) was made, after debate.

Clause 177, as amended, agreed to.

Clauses 178 to 190, by leave, taken together—

On the motion of Mr Stanhope, by leave, his amendments Nos. 17 to 19 (*see* [Schedule 1](#)) were made together.

Clauses 178 to 190, as amended, agreed to.

Clauses 191 to 193, by leave, taken together—

*New part—*

On the motion of Mr Stanhope, clauses 191 to 193 were omitted and new Part 4.3A, comprising clauses 191 to 193B (his amendment No. 20—*see* [Schedule 1](#)), was inserted in the Bill.

Clauses 194 to 265, by leave, taken together—

On the motion of Mr Stanhope, his amendment No. 21 (*see* [Schedule 1](#)) was made.

Clauses 194 to 265, as amended, agreed to.

*New clause—*

Mr Smyth moved his amendment No. 1 (*see* [Schedule 4](#)), which would insert a new clause 265A in the Bill.

On the motion of Dr Foskey, her amendment No. 1 to Mr Smyth's proposed amendment (*see* [Schedule 5](#)) was made, after debate.

Question—That new clause 265A, as amended, be inserted in the Bill—put and passed.

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

On the motion of Mr Stanhope, by leave, his amendments Nos. 22 to 29 (*see* [Schedule 1](#)) were made together.

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

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

### **31 REGULATORY SERVICES LEGISLATION AMENDMENT BILL 2007**

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 34 and the resumption of the debate made an order of the day for the next sitting.

**32 ADJOURNMENT**

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

Debate ensued.

Question—put and passed.

And then the Assembly, at 6.26 p.m., adjourned until tomorrow at 10.30 a.m.

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

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**Tom Duncan**  
Clerk of the Legislative Assembly

# SCHEDULES OF AMENDMENTS

## Schedule 1

### ROAD TRANSPORT (THIRD-PARTY INSURANCE) BILL 2007

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Amendments circulated by the Treasurer

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1

Proposed new chapter 2A

Page 44, line 6—

*insert*

## Chapter 2A            Early payment for treatment of motor accident injuries

### Part 2A.1            Important concepts

#### 67A            Who is a person's *insurer*?

In this chapter:

*insurer*, of a person, for payment of expenses under this chapter means—

- (a) if the person is a CTP insured person—the CTP insurer for the person; or
- (b) if the person is not a CTP insured person—the nominal defendant.

#### 67B            What is a *motor accident notification form*?

In this Act:

*motor accident notification form*, for a motor accident, means a form about the motor accident completed by or for the injured person.

*Note*        If a form is approved under s 266 for a motor accident notification form, the form must be used.

#### 67C            What is a *motor accident medical report*?

In this Act:

*motor accident medical report*, for a motor accident, means a medical report prepared by a doctor about the personal injuries caused to the injured person by the motor accident.

*Note*        If a form is approved under s 266 for a motor accident medical report, the form must be used.

**67D What are *medical expenses*?**

In this Act:

*medical expenses* includes hospital and pharmaceutical expenses.

**Part 2A.2 Early payment****67E Entitlement to early payment—injured person to give forms to insurer within 28 days**

- (1) A person is entitled to payment for medical expenses under this chapter in relation to a motor accident if—
  - (a) the person is an injured person for the accident; and
  - (b) the following documents are given to the injured person's insurer not later than 28 days after the motor accident:
    - (i) a motor accident notification form for the accident that includes a declaration by or for the person that the motor accident was not caused wholly or mainly by the fault of the person;
    - (ii) a motor accident medical report for the accident.
- (2) However, an injured person is entitled to payment for medical expenses under this chapter in relation to a motor accident only if—
  - (a) a police officer attended the motor accident; or
  - (b) the motor accident was reported to a police officer by or for the injured person.

**67F What kinds of expenses must be paid by insurer?**

- (1) If a person is entitled to payment for medical expenses under this chapter in relation to a motor accident, the person's insurer is required to pay only for medical expenses that are—
  - (a) incurred within 6 months after the day the motor accident happened; and
  - (b) reasonably incurred because of the personal injury caused by the motor accident.
- (2) The insurer must make a payment for expenses under this section on presentation of an account, or receipt, for the expenses made up, and verified, as prescribed by regulation.

*Note 1* Payments under this section may be recoverable under pt 3.11.

*Note 2* It is a condition of a CTP insurer licence that the licensed insurer must comply with this section (see s 178).

**67G Maximum amount insurer is required to pay**

- (1) If a person is entitled to payment for medical expenses under this chapter in relation to a motor accident, the person's insurer must make payments for the person's medical expenses under section 67F up to—
  - (a) \$5 000; or
  - (b) if a higher amount is determined by the CTP regulator—the determined amount.
- (2) The CTP regulator may determine an amount for this section.
- (3) A determination is a disallowable instrument.

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

- (4) To remove any doubt, a person's insurer may make payments for the person's medical expenses under section 67F in addition to the amount payable under subsection (1).

**67H Early payment—no effect on liability**

- (1) A payment made by an insurer to a person in relation to a motor accident under this chapter—
  - (a) is not an admission of liability in relation to the motor accident; and
  - (b) does not in any way prejudice or affect a claim or proceeding arising out of the motor accident.
- (2) To remove any doubt, an insurer may make a payment under this chapter in relation to a motor accident—
  - (a) whether or not the insurer has accepted liability in relation to a motor accident claim arising from the accident; and
  - (b) whether or not a motor accident claim has been made against an insured person in relation to the motor accident.

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**2****Clause 73****Page 48, line 17—***omit*

this Act

*substitute*this chapter

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**3****Proposed new clause 76 (2) (d)****Page 51, line 23—***insert*

- (d) if the claimant has not given the respondent a motor accident notification form and a motor accident medical report for the motor accident for the motor accident claim—be accompanied by a motor accident notification form and a motor accident medical report for the motor accident for the motor accident claim.

*Note* If the claimant has received early payment of treatment expenses under pt 2A.2 the claimant will have already given the respondent the motor accident notification form and a motor accident medical report for the motor accident (see s 67G).

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**4****Clause 89 (4), note****Page 65, line 16—***omit the note, substitute*

*Note 1* A respondent may be obliged to make early payments for an injured person's medical expenses whether or not liability is admitted for the motor accident claim (see ch 2A).

*Note 2* If a respondent admits liability for a motor accident claim, the respondent may be obliged to pay for the injured person's medical expenses and rehabilitation services (see pt 3.6).

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**5****Division 3.6.1****Page 82, line 4—***omit*

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**6****Clause 114****Page 83, line 2—***omit*

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**7****Proposed new clause 116 (3)****Page 84, line 4—***insert*

- (3) This section does not apply to any expenses already paid for the injured person under section 67F (What kinds of expenses must be paid by insurer?).
-

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**8****Proposed new clause 135 (5)****Page 96, line 17—***insert*

- (5) A mandatory final offer must identify how much of the offer is for pain and suffering.

*Note* If a form is approved under s 266 for a mandatory final offer or a mandatory final notice, the form must be used.

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**9****Clause 149 (1), proposed new note****Page 104, line 21—***insert*

*Note* **Damages** does not include damages for pain and suffering (see s (5)).

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**10****Clause 149 (2)****Page 104, line 22—***after*

\$30 000 or less

*insert*

in damages

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**11****Proposed new clause 149 (5)****Page 106, line 12—***insert*

- (5) In this section:  
**damages** does not include damages for pain and suffering.

---

**12****Clause 150 (1), proposed new note****Page 106, line 16—***insert*

*Note* **Damages** does not include damages for pain and suffering (see s (7)).

---

**13****Proposed new clause 150 (7)****Page 107, line 24—***insert*

- (7) In this section:  
**damages** does not include damages for pain and suffering.
-

---

 14

**Clause 158 (a), note**  
**Page 112, line 15—**

*omit the note, substitute*

*Note 1* Early payment of medical expenses is dealt with in ch 2A.

*Note 2* Medical expenses and rehabilitation services are dealt with in pt 3.6.

---

15

**Proposed new clause 170A**  
**Page 120, line 4—**

*insert*

**170A Extraterritorial operation**

- (1) It is the intention of the Legislative Assembly that any provision of a Territory law that provides for limits on liability for damages for personal injury arising out of motor vehicle accidents that happen in the ACT—
  - (a) is to apply to the full extent of the Legislative Assembly's capacity to legislate extraterritorially, even if damages are assessed outside the ACT; and
  - (b) is to be regarded by courts as a substantive rather than a procedural provision.
- (2) If a claimant, in a proceeding brought in another jurisdiction, recovers damages in excess of the maximum amount that could have been recovered if the proceeding had been brought in the ACT, the respondent may recover from the claimant the amount (the *excess amount*) by which the damages exceed the maximum amount of damages that could have been awarded had the proceeding been brought in the ACT.
- (3) The excess amount may be recovered as a debt to the claimant.
- (4) In this section:

*another jurisdiction* means a jurisdiction other than the ACT and includes a jurisdiction outside Australia.

---

16

**Clause 177 (1) (b) (i)**  
**Page 124, line 20—**

*omit clause 177 (1) (b) (i), substitute*

- (i) is satisfied that the applicant would not, or would not be able to, properly exercise the functions of a licensed insurer if issued with a licence; or
-

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**17****Proposed new clause 178 (1) (ca)****Page 126, line 4—***insert*

(ca) section 67F (What kinds of expenses must be paid by insurer?);

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**18****Clause 181 (2), note 2****Page 129, line 13—***omit note 2, substitute*

*Note 2* Contravention of a licence condition is also grounds for—

- suspension of the CTP insurer licence (see s 187)
- the CTP regulator to apply to the consumer and trader tribunal for the tribunal to take disciplinary action against the licensed insurer under the *Consumer and Trader Tribunal Act 2003* (see this Act, pt 4.3A).

However, if a licensed insurer is convicted of an offence under this section, the consumer and trader tribunal must not order the licensed insurer to pay an amount to the Territory or someone else in relation to the same act or omission (see s 193B (3)).

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**19****Clause 187 (2), proposed new note 2****Page 133, line 8—***insert*

*Note 2* The grounds in s (1) are also grounds for the CTP regulator to apply to the consumer and trader tribunal for the tribunal to take disciplinary action against the licensed insurer under the *Consumer and Trader Tribunal Act 2003* (see this Act, pt 4.3A).

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**20****Clause 191 to clause 193****Page 136, line 9—***omit clause 191 to clause 193, substitute***Part 4.3A                      Disciplinary action****191                      Meaning of *licensed insurer*—pt 4.3A**

In this part:

*licensed insurer* includes a former licensed insurer.

## 192 CTP regulator may choose disciplinary action instead of prosecution

In regulating the operation of licensed insurers, the CTP regulator may, but need not, choose to apply to the consumer and trader tribunal for the tribunal to take disciplinary action against licensed insurers rather than pursuing a prosecution under this Act if the CTP insurer believes on reasonable grounds it would be in the public interest to do so.

*Note* The CTP regulator may apply to the consumer and trader tribunal under s 193A.

## 193 What are the grounds for disciplinary action?

- (1) Each of the following is a *ground for disciplinary action* in relation to a licensed insurer:
- (a) the licensed insurer has contravened this Act;
  - (b) the licensed insurer has contravened a condition of the insurer's CTP insurer licence;
  - (c) the licensed insurer has contravened the insurance industry deed;
  - (d) the licensed insurer has contravened, or is contravening, an order of the consumer and trader tribunal;
  - (e) the licensed insurer's licence was obtained by fraud or mistake;
  - (f) another ground prescribed by regulation.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

- (2) However, subsection (1) (a), (b) and (c) apply to a former licensed insurer only in relation to anything that happened while the person was licensed.

*Note* The grounds in s (1) (a), (b) and (c) are also the grounds for licence suspension under s 187.

## 193A CTP regulator may refer matter to tribunal

- (1) This section applies if the CTP regulator believes on reasonable grounds that a ground for disciplinary action exists in relation to a licensed insurer.
- (2) The CTP regulator may apply to the consumer and trader tribunal for the tribunal to take disciplinary action against the licensed insurer.

*Note* An Act may provide for an application to be made to the consumer and trader tribunal for disciplinary action to be taken against a person (see *Consumer and Trader Tribunal Act 2003*, s 15).

**193B Disciplinary action tribunal may take**

- (1) On application by the CTP regulator, the consumer and trader tribunal may take disciplinary action against the licensed insurer that the consumer and trader tribunal may take under the *Consumer and Trader Tribunal Act 2003*.

**Examples—disciplinary action consumer and trader tribunal may take under *Consumer and Trader Tribunal Act 2003***

- 1 reprimand the person (see s 46 (1) (b))
- 2 order the person to give a written undertaking (see s 46 (1) (c))
- 3 direct the CTP regulator to place a condition on the person's licence, or to remove or amend a condition on the person's licence (see s 46 (1) (d))
- 4 give the person a direction (see s 46 (1) (e))

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) However, in taking disciplinary action against a licensed insurer under the *Consumer and Trader Tribunal Act 2003*—
- (a) a reference to the commissioner is taken to be a reference to the CTP regulator; and
  - (b) the reference in section 46 (1) (a) (Other disciplinary action) to—
    - (i) \$1 000 is taken to be a reference to \$10 000; and
    - (ii) \$5 000 is taken to be a reference to \$50 000.
- (3) Also, if a licensed insurer is convicted of an offence under section 181 (Offence—contravening licence condition) in relation to an act or omission, the consumer and trader tribunal must not order the licensed insurer to pay an amount to the Territory or someone else under the *Consumer and Trader Tribunal Act 2003*, section 46 (1) (a) in relation to the same act or omission.
- (4) If the consumer and trader tribunal orders a licensed insurer to pay a penalty, the penalty must be paid into the nominal defendant fund.

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 22

Schedule 1, proposed new part 1.1A  
Page 198, line 6—

## Part 1.1A                      Consumer and Trader Tribunal Act 2003

### [1.10A] Section 15, note

*substitute*

*Note*     The following Acts provide that applications may be made to the tribunal:

- *Agents Act 2003*
- *Road Transport (Third-Party Insurance) Act 2008*
- *Security Industry Act 2003*.

---

 23

Schedule 1  
Amendment 1.27  
Proposed new table, item 7  
Page 202, line 5—

*omit*

---

 24

Dictionary, definition of *civil penalty and censure committee*  
Page 207, line 1—

*omit*

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 25

Dictionary, proposed new definition of *ground for disciplinary action*  
Page 208, line 16—

*insert*

***ground for disciplinary action***—see section 193.

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 26

Dictionary, definition of *insurer*  
Page 208, line 24—

*omit the definition, substitute*

***insurer***—

- (a) for chapter 2A (Early payment for treatment of motor accident injuries)—see section 67A; or
  - (b) for chapter 3 (Motor accident claims)—see section 73.
-

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**27****Dictionary, definition of *licensed insurer***  
**page 209, line 5—**

*omit the definition, substitute*

***licensed insurer***—

- (a) see section 172; or
- (b) for part 4.3A (Disciplinary action)—see section 191.

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**28****Dictionary, definition of *medical expenses***  
**Page 209, line 13—**

*omit the definition, substitute*

***medical expenses***—see section 67D.

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**29****Dictionary, proposed new definitions**  
**Page 209, line 18—**

*insert*

***motor accident medical report***, for a motor accident—see section 67C.

***motor accident notification form***, for a motor accident—see section 67B.

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**Schedule 2**

**ROAD TRANSPORT (THIRD-PARTY INSURANCE) BILL  
2007**

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Amendments circulated by Mr Mulcahy to the Treasurer's amendments

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**1**

**Amendment 1**

**Proposed new section 67E, heading—**

*omit*

28

*substitute*

120

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**2**

**Amendment 1**

**Proposed new section 67E (1) (b)—**

*omit*

28

*substitute*

120

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**Schedule 3****ROAD TRANSPORT (THIRD-PARTY INSURANCE) BILL  
2007**

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Amendment circulated by Mr Mulcahy

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**1**

**Clause 177 (1) (b) (i)**  
**Page 124, line 20**

*omit clause 177 (1) (b) (i), substitute*

- (i) is not satisfied that the applicant would properly exercise the functions of a licensed insurer if issued with a licence; or
-

**Schedule 4****ROAD TRANSPORT (THIRD-PARTY INSURANCE) BILL  
2007**

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Amendment circulated by Mr Smyth

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**1**

**Proposed new clause 265A**

**Page 190, line 26—**

*insert*

**265A Review of Act**

- (1) The Minister must review the operation of this Act as soon as practicable after the end of its 3<sup>rd</sup> year of operation.
  - (2) The Minister must present a report on the review to the Legislative Assembly within 3 months after the day the review is started.
  - (3) In reviewing the Act, the Minister must have regard to—
    - (a) how effectively the scheme under the Act provides reduced premiums for compulsory third-party insurance policies for motor vehicles; and
    - (b) any reform to any scheme providing for compulsory third-party insurance for motor vehicles implemented in other jurisdictions in Australia.
  - (4) In reviewing the Act, the Minister may have regard to anything else that the Minister considers relevant.
  - (5) This section expires 5 years after the day it commences.
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**Schedule 5****ROAD TRANSPORT (THIRD-PARTY INSURANCE) BILL  
2007**

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Amendment circulated by Dr Foskey to Mr Smyth's amendment

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**1****Amendment 1****Proposed new clause 265A****Page 190, line 26—***insert*

- (3) (c) the impact of the changes on the recovery to health, well-being and work of the claimant.
-