



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

2008–2009–2010–2011–2012

MINUTES OF PROCEEDINGS

No. 157

FRIDAY, 24 AUGUST 2012

1 The Assembly met at 10 a.m., pursuant to adjournment. The Speaker (Mr Rattenbury) 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 A.C.T. SUPERMARKET COMPETITION POLICY—SELECT COMMITTEE—REPORT—INQUIRY INTO A.C.T. SUPERMARKET COMPETITION POLICY—REPORT NOTED

Ms Le Couteur (Chair), pursuant to order, presented the following report:

ACT Supermarket Competition Policy—Select Committee—Report—*Inquiry into ACT Supermarket Competition Policy*, dated August 2012, including additional comments (*Ms Le Couteur, Mr Seselja*), together with a copy of the relevant minutes of proceedings—

and moved—That the report be noted.

Debate ensued.

Question—put and passed.

3 VALEDICTORY

Mr Hargreaves, by leave, made a statement concerning his retirement from the Assembly.

Ms Gallagher (Chief Minister), Mr Barr (Deputy Chief Minister), Mr Corbell (Attorney-General), Ms Burch (Minister for Community Services), Dr Bourke (Minister for Education and Training), Ms Porter, Mr Seselja (Leader of the Opposition) and Ms Hunter, by leave, made statements in relation to the retirement of Mr Hargreaves.



4 LAINIE LOEWE—RETIREMENT—STATEMENT BY SPEAKER

The Speaker made a statement concerning the retirement of Attendant, Lainie Loewe.

5 CLIMATE CHANGE, ENVIRONMENT AND WATER—STANDING COMMITTEE—REPORT 7—REPORT ON ANNUAL AND FINANCIAL REPORTS 2010-11—REPORT NOTED

Ms Hunter (Chair) presented the following report:

Climate Change, Environment and Water—Standing Committee—Report 7—*Report on Annual and Financial Reports 2010-11*, dated 24 August 2012, together with a copy of the extracts of the relevant minutes of proceedings—

and moved—That the report be noted.

Question—put and passed.

6 PUBLIC ACCOUNTS—STANDING COMMITTEE—REPORT 30—REPORT ON COMMITTEE ACTIVITY—SEVENTH ASSEMBLY—MOTION THAT REPORT BE NOTED

Ms Le Couteur (Chair) presented the following report:

Public Accounts—Standing Committee—Report 30—*Report on Committee Activity—Seventh Assembly*, dated 13 August 2012, together with a copy of the extracts of the relevant minutes of proceedings—

and 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.

7 PUBLIC ACCOUNTS—STANDING COMMITTEE—INQUIRIES—AUDITOR-GENERAL'S REPORTS—STATEMENT BY CHAIR

Ms Le Couteur (Chair), pursuant to standing order 246A, informed the Assembly of the status of the following Auditor-General's reports that were being considered by the Standing Committee on Public Accounts:

No. 6 2009—Government Office Accommodation.

No. 6/2011—Management of Food Safety in the Australian Capital Territory.

No. 1/2012—Monitoring and minimising harm caused by problem gambling in the ACT.

2/2012—Whole-of-Government Information and Communication Technology Security Management and Services.

3/2012—Early Childhood Schooling.

4/2012—Development Application and Approval System for High Density Residential and Commercial Developments.

5/2012—Management of Recycling Estates and E-waste.

6/2012—Emergency Department Performance Information.

8 CLIMATE CHANGE, ENVIRONMENT AND WATER—STANDING COMMITTEE—REPORT 8—INQUIRY INTO CURRENT AND POTENTIAL ECOTOURISM IN THE A.C.T. AND REGION—REPORT NOTED

Ms Hunter (Chair) presented the following report:

Climate Change, Environment and Water—Standing Committee—Report 8—*Inquiry into Current and Potential Ecotourism in the ACT and Region*, dated 22 August 2012, together with a copy of the extracts of the relevant minutes of proceedings—

and moved—That the report be noted.

Debate ensued.

Question—put and passed.

9 ADMINISTRATION AND PROCEDURE—STANDING COMMITTEE—REPORT 5—REVIEW OF THE AUSTRALIAN CAPITAL TERRITORY (SELF-GOVERNMENT) ACT 1988 (CWLTH)—REPORT NOTED

Mr Rattenbury (Chair) presented the following report:

Administration and Procedure—Standing Committee—Report 5—*Review of the Australian Capital Territory (Self-Government) Act 1988* (Cwlth), dated 24 August 2012, including additional comments (*Mr Hanson*), together with a copy of the extracts of the relevant minutes of proceedings—

and moved—That the report be noted.

Debate ensued.

Question—put and passed.

10 JUSTICE AND COMMUNITY SAFETY—STANDING COMMITTEE (PERFORMING THE DUTIES OF A SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION COMMITTEE)—DISCRIMINATION AMENDMENT BILL 2012—STATEMENT BY CHAIR

Mrs Dunne (Chair), pursuant to standing order 246A, made a statement concerning the consideration by the Standing Committee on Justice and Community Safety (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee) of the Discrimination Amendment Bill 2012.

11 SUSPENSION OF STANDING ORDERS—EXTENSION OF ADJOURNMENT DEBATE

Mr Corbell (Manager of Government Business) moved—That so much of the standing orders be suspended as would prevent the adjournment debate for this sitting extending beyond the 30 minute time limit.

Question—put and passed, with the concurrence of an absolute majority.

12 LEAVE OF ABSENCE TO MEMBERS

Mr Corbell (Manager of Government Business) moved—That leave of absence from 25 August to 19 October 2012 inclusive be given to all Members.

Question—put and passed.

13 ROAD TRANSPORT (THIRD-PARTY INSURANCE) AMENDMENT BILL 2011

The order of the day having been read for the resumption of debate on the question that Clause 1 be agreed to—

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

14 APPROPRIATION BILL 2012-2013

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

Detail Stage

Schedule 1—Appropriations—Proposed expenditure—

Consideration resumed on Part 1.14—Community Services Directorate—\$229 199 000 (net cost of outputs), \$30 993 000 (capital injection), \$41 658 000 (payments on behalf of Territory), totalling \$301 850 000—

Debate continued.

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.

15 PRESENTATION OF PAPERS

Mr Corbell (Manager of Government Business), on behalf of the 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:

Alan Traves, dated 22 June 2012.

Andrew Cappie-Wood, dated 21 August 2012.

Andrew Kefford, dated 28 May 2012.

Andrew Stark, dated 8 December 2011.

Anthony Graham, dated 8 December 2011.

Baden McMaster, dated 10 January 2012.

Bernadette Mitcherson, dated 2 February 2012.

Bernard Sheville, dated 6 January 2011.

Brett Phillips, dated 3 August 2012.

Brook Dixon, dated 30 May 2012.

Catherine Hudson, dated 28 March 2012.

Chris Tully, dated 18 November 2011.

Christine Murray (2), dated 3 December 2010 and 28 March 2012.

Daniel Bailey, dated 27 February 2012.

Daniel Stewart, dated 4 April 2012.

Danielle Krajina, dated 3 August 2012.
Dave Peffer, dated 28 May 2012.
David Metcalf, dated 15 June 2012.
Dermot Walsh, dated 4 April 2012.
Don Taylor, dated 2 February 2012.
Fleur Flanery, dated 24 May 2012.
Geoffrey Rutledge, dated 8 August 2012.
Glenn Bain, dated 4 April 2012.
Gordon Elliott, dated 7 and 24 October 2011.
Greg Ellis, dated 4 April 2012.
Ian Cox, dated 28 March 2012.
Ian Hill, dated 28 June 2012.
Jennifer Dodd, dated 8 May 2012.
Jenny Priest, dated 15 June 2012.
Jeremy Lasek, dated 20 June 2012.
Lana Junakovic, dated 3 August 2012.
Michael Chisnall, dated 30 May 2012.
Nicole Elizabeth Stenlake, dated 15 November 2011.
Pamela Davoren, dated 10 August 2012.
Paul Peters, dated 4 November 2011.
Paul Swain, dated 8 December 2011.
Shane O’Leary, dated 7 June 2012.
Stephen Goggs, dated 2 August 2012.
Susan Hall, dated 28 May 2012.

Short-term contracts:

Amanda Casimer, dated 7 April 2012.
Andrew Kefford, dated 25 February 2012.
Anita Hargreaves, dated 8 August 2012.
Benjamin Ponton, dated 28 June 2012.
Bethan Mitchell, dated 4 and 12 June 2012.
Brett Stanton, dated 11 and 12 June 2012.
Brett Wilesmith, dated 1 May 2012.
Bruce Fitzgerald, dated 6 August 2012.
Carolyn Grayson, dated 28 April 2012.
Carolyn O’Neill, dated 20 and 23 April 2012.
Colm Mooney, dated 30 July and 1 August 2012.

Conrad Barr, dated 31 May 2012.
Coralie McAlister, dated 4 and 9 June 2012.
Danielle Krajina, dated 31 January and 3 February 2012.
David Collett, dated 4 July 2012.
David Dutton, dated 23 and 27 January 2012.
David Dutton.
David Matthews, dated 31 May and 5 June 2012.
Denise London, dated 8 April 2012.
Grant Doran.
Ian Thompson, dated 19 June 2012.
John Rees, dated 10 August 2012.
Karen Hansen, dated 25 July 2012.
Louise Gilding (2), dated 5 June and 20 July 2012.
Louise Gilding.
Maureen Sheehan, dated 13 June 2012.
Philip Canham, dated 7 May 2012.
Ross O'Donoghue, dated 9 May 2012.
Savvas Pertsinidis, dated 2 July 2012.
Simon Kinsmore, dated 30 May 2012.
Stephen Gniel, dated 4 and 25 June 2012.
Stephen Goggs, dated 9 and 16 July 2012.
Stewart Ellis, dated 28 June 2012.

Contract variations:

Adrian Walsh, dated 16 and 20 April 2012.
Allan McLean, dated 5 July 2012.
Brett Wilesmith, dated 3 and 8 August 2012.
Bronwen Overton-Clarke, dated 4 and 12 July 2012.
Carolyn Grayson, dated 26 June 2012.
Conrad Barr, dated 1 December 2010.
Daniel Walters, dated 8 June 2012.
David Butt, dated 18 March 2009.
David Snowden, dated 21 June and 3 July 2012.
Graeme Dowell, dated 5 March 2012.
Grant Doran, dated 9 July 2012.
Ian Primrose, dated 25 and 30 May 2012.
Jayne Johnston, dated 8 and 15 June 2012.

Jennifer Dodd, dated 28 March 2012.

Judith Redmond, dated 14 and 29 March 2012.

Lana Junakovic, dated 12 July 2012.

Lisa Holmes, dated 15 August 2011.

Liz Beattie, dated 26 and 27 June 2012.

Louise Gilding, dated 27 June 2012.

Mark Doverty, dated 3 and 10 August 2012.

Nicole Stenlake (2), dated 27 April and 26 June 2012.

Paul Wyles, dated 31 May 2012.

Penny Farnsworth, dated 4 June 2012.

Richard Baumgart, dated 4 and 30 July 2012.

Shane Kay (2), dated 1 May, 26 and 27 June 2012.

William Mudge, dated 25 and 30 May 2012.

16 PRESENTATION OF PAPER

Mr Corbell (Manager of Government Business), on behalf of the Minister for Health, presented the following paper:

Public Health Act, pursuant to subsection 10(3)—ACT Chief Health Officer's Report 2012, dated 10 August 2012.

17 PRESENTATION OF PAPER

Mr Corbell (Manager of Government Business), on behalf of the Minister for Territory and Municipal Services, presented the following paper:

ACT Disabled Parking Study 2008—Recommendations—Report to Assembly on progress, dated August 2012, pursuant to the resolution of 2 May 2012.

18 PRESENTATION OF PAPER

Mr Barr (Minister for Economic Development) presented the following paper:

Narrabundah Park—Final Report on Options for the Future Ownership and Management of the Park, prepared for ACT Land and Property Services by SGS Economics and Planning Pty Ltd, dated April 2011.

19 PRESENTATION OF PAPERS

Mr Corbell (Minister for the Environment and Sustainable Development) presented the following papers:

Planning and Development Act, pursuant to subsection 161(2)—Statements regarding exercise of call-in powers—

Development application No. 201221565—Construction of a dual carriageway between the Federal Highway and Monaro Highway, dated 13 July 2012.

Development application No. 201222020—Blocks 4, 14 and 15, Section 15 Griffith (Manuka Oval), dated 8 August 2012.

20 PLANNING, PUBLIC WORKS AND TERRITORY AND MUNICIPAL SERVICES—STANDING COMMITTEE—REPORT 13—INQUIRY INTO THE TIDBINBILLA REVISED DRAFT PLAN OF MANAGEMENT 2011—GOVERNMENT RESPONSE

Mr Corbell (Minister for the Environment and Sustainable Development) presented the following paper:

Planning, Public Works and Territory and Municipal Services—Standing Committee—Report 13—*Inquiry into the Tidbinbilla Revised Draft Plan of Management 2011*—Government response, dated August 2012.

21 PLANNING, BUILDING AND ENVIRONMENT LEGISLATION AMENDMENT BILL 2012—SUPPLEMENTARY EXPLANATORY STATEMENT

Mr Corbell (Minister for the Environment and Sustainable Development) presented the following paper:

Planning, Building and Environment Legislation Amendment Act 2012—Supplementary explanatory statement.

22 PRESENTATION OF PAPER

Mr Corbell (Minister for the Environment and Sustainable Development) presented the following paper:

Murray-Darling Basin Authority—Proposed Basin Plan—ACT Government Six Month Report on Progress with the ACT's Basin Plan Negotiations, dated August 2012, pursuant to the resolution of the Assembly of 27 October 2010.

23 PAPER—PETITION OUT-OF-ORDER

Petition which does not conform with the standing orders—Kambah Ovals—Upgrading of facilities—Mr Seselja (370 signatures).

24 PRESENTATION OF PAPERS

Ms Burch (Minister for the Arts) presented the following papers:

Cultural Facilities Corporation Act, pursuant to subsection 15(2)—Cultural Facilities Corporation—Quarterly reports 2011-2012:

Third quarter (1 January to 31 March 2012).

Fourth quarter (1 April to 30 June 2012).

25 PRESENTATION OF PAPER

Ms Burch (Minister for Community Services) presented the following paper:

Bimberi Youth Justice Centre—Staffing—Answer to question without notice, taken on notice during question time on 23 August 2012, dated 24 August 2012.

26 APPROPRIATION BILL 2012-2013

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

Detail Stage

Schedule 1—Appropriations—Proposed expenditure—

Consideration resumed on Part 1.14—Community Services Directorate—\$229 199 000 (net cost of outputs), \$30 993 000 (capital injection), \$41 658 000 (payments on behalf of Territory), totalling \$301 850 000—

Debate continued.

The time allotted for debate on proposed expenditure Part 1.14 having expired—

Question—put and passed—Proposed expenditure agreed to.

Part 1.15—Housing ACT—\$42 295 000 (net cost of outputs), \$17 876 000 (capital injection), totalling \$60 171 000—debated.

Papers: Ms Burch (Minister for Community Services) presented the following papers:

Election flyer—Tom Sefton, Liberal candidate for Molonglo.

Homelessness—Youth Emergency Accommodation Network Cluster in Chisholm—Flyer.

Proposed expenditure agreed to.

Part 1.16—Education and Training Directorate—\$558 459 000 (net cost of outputs), \$122 318 000 (capital injection), \$228 229 000 (payments on behalf of Territory), totalling \$909 006 000—debated and agreed to.

Part 1.17—ACT Gambling and Racing Commission—\$4 408 000 (net cost of outputs), totalling \$4 408 000—debated and agreed to.

Part 1.18—ACT Public Cemeteries Authority—\$369 000 (capital injection), totalling \$369 000—debated and agreed to.

Part 1.19—ACTEW Corporation—\$10 587 000 (net cost of outputs), totalling \$10 587 000—debated and agreed to.

Part 1.20—Canberra Institute of Technology—\$69 592 000 (net cost of outputs), \$4 843 000 (capital injection), totalling \$74 435 000—debated and agreed to.

Part 1.21—Cultural Facilities Corporation—\$7 835 000 (net cost of outputs), \$1 445 000 (capital injection), totalling \$9 280 000—debated and agreed to.

Part 1.22—Exhibition Park Corporation—\$412 000 (net cost of outputs), \$1 826 000 (capital injection), totalling \$2 238 000—debated and agreed to.

Part 1.23—Independent Competition and Regulatory Commission—\$527 000 (net cost of outputs), totalling \$527 000—debated and agreed to.

Part 1.24—Legal Aid Commission (ACT)—\$9 680 000 (net cost of outputs), totalling \$9 680 000—debated and agreed to.

Part 1.25—Public Trustee for the ACT—\$695 000 (net cost of outputs), totalling \$695 000—agreed to.

Total appropriated to agencies—\$2 512 195 000 (net cost of outputs), \$1 158 691 000 (capital injection), \$489 351 000 (payments on behalf of Territory), totalling \$4 160 237 000—agreed to.

Part 1.26—Treasurer's Advance—\$31 300 000—agreed to.

Total appropriations—\$2 512 195 000 (net cost of outputs), \$1 158 691 000 (capital injection), \$489 351 000 (payments on behalf of Territory), totalling \$4 191 537 000—

Question—put.

The Assembly voted—

AYES, 11		NOES, 6
Mr Barr	Mr Hargreaves	Mr Coe
Dr Bourke	Ms Hunter	Mr Doszpot
Ms Bresnan	Ms Le Couteur	Mrs Dunne
Ms Burch	Ms Porter	Mr Hanson
Mr Corbell	Mr Rattenbury	Mr Seselja
Ms Gallagher		Mr Smyth

And so it was resolved in the affirmative.

Clauses 1 to 11, by leave, taken together and agreed to.

Schedule 2 agreed to.

Title debated and agreed to.

Question—That this Bill be agreed to—put.

The Assembly voted—

AYES, 11		NOES, 6
Mr Barr	Mr Hargreaves	Mr Coe
Dr Bourke	Ms Hunter	Mr Doszpot
Ms Bresnan	Ms Le Couteur	Mrs Dunne
Ms Burch	Ms Porter	Mr Hanson
Mr Corbell	Mr Rattenbury	Mr Seselja
Ms Gallagher		Mr Smyth

And so it was resolved in the affirmative—Bill agreed to.

27 APPROPRIATION (OFFICE OF THE LEGISLATIVE ASSEMBLY) BILL 2012-2013

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—

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

Leave granted to dispense with the detail stage.

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

28 ESTIMATES 2012-2013—SELECT COMMITTEE—REPORT—APPROPRIATION BILL 2012-2013 AND APPROPRIATION (OFFICE OF THE LEGISLATIVE ASSEMBLY) BILL 2012-2013—REPORT NOTED

The order of the day having been read for the resumption of the debate on the motion of Ms Bresnan (Chair)—That the report be noted (*presented 14 August 2012*), viz:

Estimates 2012-2013—Select Committee—Report—*Appropriation Bill 2012-2013 and Appropriation (Office of the Legislative Assembly) Bill 2012-2013* (3 volumes), dated 8 August 2012, incorporating additional comments (*Ms Bresnan and Ms Hunter*) and dissenting report (*Mr Smyth and Mr Coe*)—

Question—put and passed.

29 ESTIMATES 2012-2013—SELECT COMMITTEE—REPORT—APPROPRIATION BILL 2012-2013 AND APPROPRIATION (OFFICE OF THE LEGISLATIVE ASSEMBLY) BILL 2012-2013—GOVERNMENT RESPONSE—PAPER NOTED

The order of the day having been read for the resumption of the debate on the motion of Mr Barr (Treasurer)—That the Assembly takes note of the paper (*presented 22 August 2012*), viz:

Estimates 2012-2013—Select Committee—Report—*Appropriation Bill 2012-2013 and Appropriation (Office of the Legislative Assembly) Bill 2012-2013*—Government response—

Question—put and passed.

30 ELECTION COMMITMENTS COSTING BILL 2012

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 Rattenbury, by leave, his amendments Nos. 1 and 2 (*see [Schedule 3](#)*) were made together.

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

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

31 CLIMATE CHANGE, ENVIRONMENT AND WATER—STANDING COMMITTEE—REPORT 7—REPORT ON ANNUAL AND FINANCIAL REPORTS 2010-11—CORRIGENDUM—PAPER AND STATEMENT BY CHAIR

Ms Hunter (Chair), by leave, presented the following paper:

Climate Change, Environment and Water—Standing Committee—Report 7—*Report on Annual and Financial Reports 2010-11*—Corrigendum—

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

32 ROAD TRANSPORT (THIRD-PARTY INSURANCE) AMENDMENT BILL 2011

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

Detail Stage

Clause 1 agreed to.

Clause 2—

Mr Barr (Treasurer) moved his amendment No. 1 (*see [Schedule 1](#)*).

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

Suspension of sitting: The Speaker, at 5.15 p.m., suspended the sitting and announced that the Chair would be resumed at the ringing of the bells.

Resumption of sitting: The bells having been rung, the Speaker resumed the Chair at 5.28 p.m.

Amendment agreed to.

Clause 2, as amended, agreed to.

Clause 3—

On the motion of Ms Hunter, her amendment No. 1 (*see* [Schedule 4](#)) was made, after debate.

Clause 3, as amended, agreed to.

Clauses 4 to 6, by leave, taken together and agreed to.

New clauses—

On the motion of Mr Barr, new clauses 6A and 6B (his amendment No. 2—*see* [Schedule 1](#)) were inserted in the Bill, after debate.

Clause 7—

On the motion of Ms Hunter, her amendment No. 2 (*see* [Schedule 4](#)) was made.

Clause 7, as amended, agreed to.

Clause 8—

On the motion of Ms Hunter, her amendment No. 3 (*see* [Schedule 4](#)) was made.

Clause 8, as amended, agreed to.

New clause—

On the motion of Ms Hunter, new clause 8A, (her amendment No. 4—*see* [Schedule 4](#)), was inserted in the Bill.

New clauses—

On the motion of Ms Hunter, new clauses 8B and 8C (her amendment No. 5—*see* [Schedule 4](#)), were inserted in the Bill.

New clause—

On the motion of Ms Hunter, new clause 8D (her amendment No. 6—*see* [Schedule 4](#)), was inserted in the Bill.

Clause 9 agreed to.

Clause 10 debated and negatived.

Clauses 11 and 12, by leave, taken together and agreed to.

Clause 13—Debated and negatived.

New clause—

On the motion of Mr Smyth, new Clause 14A (his amendment No. 1—*see* [Schedule 2](#)), was inserted in the Bill, after debate.

Clause 15—

Mr Smyth moved his amendment No. 2 (*see* [Schedule 2](#)).

Debate continued.

Amendment negatived.

Clause 15 agreed to.

Proposed new clause—

Mr Smyth moved his amendment No. 3 (*see* [Schedule 2](#)), which would insert a new clause 15A in the Bill.

Debate continued.

Amendment negatived.

Proposed new clause—

Mr Smyth moved his amendment No. 4 (*see* [Schedule 2](#)), which would insert a new clause 15B in the Bill.

Amendment negatived.

Clause 16 agreed to.

New clause—

On the motion of Ms Hunter, new clause 16A (her amendment No. 9—*see* [Schedule 4](#)), was inserted in the Bill, after debate.

Clause 17—

On the motion of Ms Hunter, her amendment No. 10 (*see* [Schedule 4](#)) was made.

Clause 17, as amended, agreed to.

Clauses 18 to 20, by leave, taken together and agreed to.

Clause 21—

On the motion of Ms Hunter, her amendment No. 11 (*see* [Schedule 4](#)) was made.

Clause 21, as amended, agreed to.

New clauses—

On the motion of Ms Hunter, new clauses 21A, 21B and 21C (her amendment No. 12—*see* [Schedule 4](#)), were inserted in the Bill.

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

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

Question—put and negatived.

Proposed new clause—

Mr Smyth moved his amendment No. 9 (*see* [Schedule 2](#)), which would insert a new clause 21C in the Bill.

Debate continued.

Amendment negatived.

New clause—

On the motion of Ms Hunter, new clause 21D (her amendment No. 13—*see* [Schedule 4](#)), was inserted in the Bill.

Clause 22—

Debate continued.

On the motion of Ms Hunter, her amendment No. 14 (*see* [Schedule 4](#)) was made.

Clause 22, as amended, agreed to.

Clauses 23 to 26, by leave, taken together and agreed to.

Clause 27—

Mr Smyth moved his amendment No. 10 (*see* [Schedule 2](#)).

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

Mr Smyth's amendment, as amended, agreed to.

Clause 27, as amended, agreed to.

Clause 28 debated and negatived.

Clauses 29 to 34, by leave, taken together and negatived.

Suspension of sitting: The Speaker, at 6.16 p.m., suspended the sitting and announced that the Chair would be resumed at the ringing of the bells.

Resumption of sitting: The bells having been rung, the Speaker resumed the Chair at 6.27 p.m.

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

On the motion of Ms Hunter, by leave, her amendments Nos. 26 to 28 (*see* [Schedule 4](#)), were made together.

Clauses 23 to 26—Reconsideration: Mr Smyth, pursuant to standing order 187, moved—That clauses 23 to 26 be reconsidered.

Question—put and passed.

Clauses 23 to 26 negatived.

Clause 27, as amended—Reconsideration: Mr Smyth, pursuant to standing order 187, moved—That clause 27, as amended, be reconsidered.

Question—put and passed.

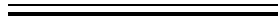
Clause 27, as amended—

Question—That subsection 275(3) be omitted—put and passed, after debate.

Clause 27, as amended, agreed to.

Clause 14, by leave, agreed to.

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



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

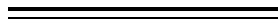
33 ADJOURNMENT

Mr Corbell (Manager of Government Business) moved—That the Assembly do now adjourn.

Debate ensued.

Question—put and passed.

And then the Assembly, at 7.56 p.m. adjourned until adjourned until a day and hour to be fixed by the Speaker.



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



Tom Duncan
Clerk of the Legislative Assembly

SCHEDULES OF AMENDMENTS

Schedule 1

ROAD TRANSPORT (THIRD-PARTY INSURANCE) AMENDMENT BILL 2012

Amendments circulated by the Treasurer

1

Clause 2

Page 2, line 5—

omit

the 7th day after its notification day

substitute

1 January 2013

2

Proposed new clauses 6A and 6B

Page 3, line 14—

insert

6A Entitlement to early payment—injured person to give forms to insurer within 28 days Section 72 (1) (c)

omit

28 days after the motor accident

substitute

the end of the relevant period

6B New section 72 (3)

insert

(3) In this section:

legal disability—see section 98 (5).

relevant period means—

(a) if the person is under a legal disability—28 days after the person's legal disability ends; or

(b) in any other case—28 days after the motor accident.

Schedule 2

ROAD TRANSPORT (THIRD-PARTY INSURANCE) AMENDMENT BILL 2012

Amendments circulated by Mr Smyth

1

Proposed new clause 14A
Page 5, line 17—

insert

**14A Section 139 (3), definition of *certificate of readiness*,
paragraph (a)**

substitute

(a) the party is in all respects ready for the compulsory
conference; and

2

Clause 15
Page 5, line 18—

omit clause 15, substitute

15 Mandatory final offers
Section 141 (5), except notes

omit

3

Proposed new clause 15A
Page 5, line 23—

insert

15A Section 141, note 2

substitute

Note 2 A mandatory final offer for \$100 000 or less must be exclusive of
any amount for costs (see s 144 (1)).

4

Proposed new clause 15B
Page 5, line 23—

insert

15B New section 141A

insert

141A Mandatory final offers—deemed settlement

- (1) This section applies if the claimant and the respondent for a motor accident claim exchange mandatory final offers for more than \$0.
- (2) The motor accident claim is taken to be settled for the amount that is midway between the claimant's mandatory final offer and the respondent's mandatory final offer (the *midpoint*) if—
 - (a) the highest mandatory final offer is for not more than \$70 000, and the mandatory final offers are not more than \$20 000 apart; or
 - (b) the highest mandatory final offer is for more than \$70 000 but not more than \$100 000, and the mandatory final offers are not more than \$30 000 apart.
- (3) For working out costs, the midpoint is taken to be a mandatory final offer that is accepted.

5**Clause 17****Page 6, line 6—***omit clause 17, substitute***17 Section 144***substitute***144 Working out costs for mandatory final offers**

- (1) A mandatory final offer for \$100 000 or less must be exclusive of any amount for costs, including disbursements.
- (2) If a mandatory final offer is for \$100 000 or less but for more than \$70 000, and is accepted, the claimant's costs including disbursements must not be more than \$15 000.
- (3) If a mandatory final offer is for \$70 000 or less, and is accepted, the claimant's costs including disbursements must not be more than the lesser of—
 - (a) the amount of the mandatory final offer; and
 - (b) \$10 000.

6**Clause 21****Page 7, line 1—***omit clause 21, substitute*

21 Section 155*substitute***155 Costs—awards of damages more than \$100 000**

- (1) This section applies if a court awards more than \$100 000 in damages in a proceeding based on a motor accident claim.
- (2) For an application by a party to the proceeding in relation to costs in the proceeding, a mandatory final offer in the proceeding is taken to be made on the condition that—
 - (a) if the mandatory final offer is made by the claimant—if the offer is not accepted and the amount of the damages awarded by the court is equal to or more than the amount of the offer, the claimant may apply to the court for an order that the respondent pay the claimant's costs on a party and party basis up to the day the offer was made, and on an indemnity basis from that day; and
 - (b) if the mandatory final offer is made by the respondent—if the offer is not accepted and the amount of damages awarded to the claimant is less than the amount of the offer, the respondent may apply to the court for an order that the respondent pay the claimant's costs on a party and party basis up to the day the offer was made, and the claimant pay the respondent's costs on a party and party basis from that day.

155A Costs—award of damages more than \$70 000 but not more than \$100 000

- (1) This section applies if a court awards more than \$70 000 but not more than \$100 000 in damages in a proceeding based on a motor accident claim.
- (2) In an application by a party to the proceeding in relation to costs in the proceeding—
 - (a) if the amount awarded for damages is more than the respondent's mandatory final offer, and equal to or more than the claimant's mandatory final offer, the court must order the respondent to pay the claimant's costs not exceeding the lesser of—
 - (i) the claimant's costs in the proceeding calculated on a party and party basis up to the day the claimant's mandatory final offer was rejected or closed and on an indemnity basis after that day; and
 - (ii) \$30 000; and

- (b) if the amount awarded for damages is more than the respondent's mandatory final offer, but less than the claimant's mandatory final offer, the court must order the respondent to pay the claimant's costs not exceeding the lesser of—
 - (i) the claimant's costs in the proceeding calculated on a party and party basis; and
 - (ii) \$30 000; and
- (c) if the amount awarded for damages is not more than the respondent's mandatory final offer, the court must order—
 - (i) that the claimant's costs in the proceeding up to the day the respondent's mandatory final offer was rejected or closed are not payable by the respondent; and
 - (ii) the claimant to pay the respondent's costs not exceeding the lesser of—
 - (A) the respondent's costs in the proceeding calculated on an indemnity basis from the day the respondent's mandatory final offer was rejected or closed; and
 - (B) \$15 000.

155B Costs—award of damages \$70 000 or less

- (1) This section applies if a court awards \$70 000 or less in damages in a proceeding based on a motor accident claim.
- (2) In an application by a party to the proceeding in relation to costs in the proceeding—
 - (a) if the amount awarded for damages is more than the respondent's mandatory final offer, and equal to or more than the claimant's mandatory final offer, the court must order the respondent to pay the claimant's costs not exceeding the lesser of—
 - (i) the claimant's costs in the proceeding calculated on a party and party basis up to the day the claimant's mandatory final offer was rejected or closed and on an indemnity basis after that day; and
 - (ii) \$20 000; and
 - (b) if the amount awarded for damages is more than the respondent's mandatory final offer, but less than the claimant's mandatory final offer, the court must order the respondent to pay the claimant's costs not exceeding the lesser of—
 - (i) the claimant's costs in the proceeding calculated on a party and party basis; and

- (ii) \$20 000; and
- (c) if the amount awarded for damages is not more than the respondent's mandatory final offer, the court must order—
 - (i) that the claimant's costs in the proceeding up to the day the respondent's mandatory final offer was rejected or closed are not payable by the respondent; and
 - (ii) the claimant to pay the respondent's costs not exceeding the lesser of—
 - (A) the respondent's costs in the proceeding calculated on an indemnity basis from the day the respondent's mandatory final offer was rejected or closed; and
 - (B) \$10 000.

7

Proposed new clause 21A

Page 7, line 2—

insert

21A Costs—small awards of damages—exceptions
Section 156 (1)

omit

\$50 000

substitute

\$100 000

8

Proposed new clause 21B

Page 7, line 2—

insert

21B Section 156 (1), note

omit

9

Proposed new clause 21C

Page 7, line 2—

insert

21C Section 156 (6) and (7)

substitute

- (6) Subsection (5) does not apply to the costs related to obtaining a supplementary expert report.

- (7) If an award of damages is affected by factors that were not reasonably foreseeable by a party at the time of making the party's mandatory final offer, the court may, if satisfied that it is just to do so, make an order for costs under section 155, section 155A or section 155B as if the reference to a mandatory final offer in the relevant section were a reference to a later offer made in the light of the factors that became apparent after the parties completed the exchange of mandatory final offers.

Example

If a claimant's medical condition suddenly and unexpectedly deteriorates after the date of the mandatory final offers and the court makes a much higher award of damages than would have been reasonably expected at that date, the court may ignore the mandatory final offers and award costs on the basis of later offers of settlement.

10**Clause 27****Proposed new section 275 (1)****Page 27, line 7—***omit*

as soon as practicable after the end of 5 years

substitute

every 2 years

11**Schedule 1, part 1.2****Proposed new amendment 1.2A****Page 31, line 15—***insert*

[1.2A] Section 27*omit*

12**Schedule 1, part 1.2****Amendment 1.4****Page 32, line 11—***omit amendment 1.4, substitute*

[1.4] Section 28*omit*

13**Schedule 1, part 1.2****Amendment 1.5****Page 32, line 16—***omit amendment 1.5, substitute*

[1.5] Section 29

omit

14
Schedule 1, part 1.2
Amendment 1.6
Page 32, line 21—

omit amendment 1.6, substitute

[1.6] Section 30

omit

Schedule 3

ELECTION COMMITMENTS COSTING BILL 2011

Amendments circulated by Mr Rattenbury

1

Dictionary, definition of *costing period*

Page 10, line 10—

omit the definition, substitute

costing period, for an election of the Legislative Assembly, means the period—

- (a) starting—
 - (i) for an election held in 2012—on Monday 3 September 2012; or
 - (ii) for an election held in a later year—1 week after the last sitting day of the Legislative Assembly before the election; and
- (b) ending when the Chief Minister is elected on the first sitting day of the Legislative Assembly after the election.

2

Dictionary, definition of *pre-election period*

Page 10, line 18—

omit

Schedule 4**ROAD TRANSPORT (THIRD-PARTY INSURANCE) AMENDMENT
BILL 2012**

Amendments circulated by Ms Hunter

1
Clause 3, note
Page 2, line 11—*omit the note, substitute**Note* This Act also amends the *Civil Law (Wrongs) Act 2002* (see sch 1).**2**
Clause 7
Page 3, line 15—*omit clause 7, substitute***7 Section 72 heading***substitute***72 Entitlement to early payment—injured person to give
forms to insurer within 30 working days****3**
Clause 8
Page 4, line 1—*omit clause 8, substitute***8 Section 72 (1) (c)***omit*

28 days

substitute

30 working days

4
Proposed new clause 8A
Page 4, line 6—*insert***8A Section 72 (1) (c) (ii)***omit*

5**Proposed new clauses 8B and 8C****Page 4, line 6—***insert***8B New section 72 (1A)***insert*

(1A) However, the documents mentioned in subsection (1) (c) may be given to the insurer of a person identified in the police report mentioned in subsection (1) (c) (iii) as being at fault in the motor accident within 30 working days if the injured person—

- (a) is not insured; and
- (b) is not wholly or mainly at fault in the motor accident.

**8C What kinds of expenses must be paid by insurer?
Section 73 (1)***omit*

person's

6**Proposed new clause 8D****Page 4, line 6—***insert***8D New section 75A***in part 3.2, insert***75A Early payment guidelines**

- (1) The CTP regulator may make guidelines (the *early payment guidelines*) for an insurer to comply with in relation to making early payments for medical expenses under this chapter.
- (2) A guideline is a disallowable instrument.

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

7**Clause 10****Page 4, line 13—***[oppose the clause]*

8**Clause 13****Page 5, line 6—***[oppose the clause]*

 9

Proposed new clause 16A
Page 6, line 5—
insert
16A Working out costs for mandatory final offers
Section 144 (3)
substitute

- (3) If a mandatory final offer is for \$30 000 or less, and is accepted—
- (a) for a claimant who was a child at the time of the motor accident or holds a Commonwealth concession card when the offer is accepted—costs (including disbursements) must not exceed \$5 000; or
 - (b) in any other case—costs must be \$0.

 10

Clause 17
Proposed new section 144 (5)
Page 6, line 10—
insert

- (5) In this section:

Commonwealth concession card means any of the following cards:

- (a) a current health care card issued under the *Social Security Act 1991* (Cwlth);
- (b) a current pensioner concession card issued under the *Social Security Act 1991* (Cwlth);
- (c) a current pensioner concession card issued in relation to a pension under the *Veterans' Entitlements Act 1986* (Cwlth) or the *Military Rehabilitation and Compensation Act 2004* (Cwlth);
- (d) a current gold card;
- (e) a card prescribed by regulation.

gold card means a card known as the Repatriation Health Card—For All Conditions that evidences a person's eligibility, under the *Veterans' Entitlements Act 1986* (Cwlth) or the *Military Rehabilitation and Compensation Act 2004* (Cwlth), to be provided with treatment for all injuries or diseases.

 11

Clause 21
Page 7, line 1—
omit clause 21, substitute

21 Sections 155 and 156*omit*

pain and suffering

substitute

non-economic loss

12**Proposed new clauses 21A to 21C****Page 7, line 2—***insert***21A Section 155 (2) (a)***before*

if the amount

insert

for a claimant other than a claimant mentioned in paragraph (aa)—

21B New section 155 (2) (aa)*insert*

- (aa) for a claimant who was a child at the time of the motor accident or holds a Commonwealth concession card when the damages are awarded—costs not exceeding \$5 000 may be awarded;

21C Section 155 (5), new definition of *Commonwealth concession card**insert**Commonwealth concession card*—see section 144 (5).

13**Proposed new clause 21D****Page 7, line 2—***insert***21D New section 156A***in part 4.9, insert***156A Costs—awards of damages over \$50 000**

- (1) This section applies if a court awards more than \$50 000 in damages in a proceeding (other than an appellate proceeding) based on a motor accident claim.

Note **Damages** does not include damages for non-economic loss (see s (5)).

- (2) If the amount of damages is equal to or more than a mandatory final offer made by the claimant, the claimant may apply to the court for an order that the respondent pay the claimant's costs on a party and party basis up to the day the offer was made, and on an indemnity basis from that day.
- (3) If the amount of damages is less than a mandatory final offer made by the respondent, the respondent may apply to the court for an order that—
- (a) the respondent pay the claimant's costs on a party and party basis up to the day the offer was made; and
 - (b) the claimant pay the respondent's costs on an indemnity basis from that day.
- (4) Also, the court may make an award of costs on an indemnity basis to compensate a party for costs resulting from a failure by another party to comply with a procedural obligation under this part.
- (5) In this section:
damages does not include an amount for non-economic loss.

14
Clause 22
 Page 7, line 3—

omit clause 22, substitute

22 **New part 4.9A**

insert

Part 4.9A **Damages for non-economic loss**

Note The *Civil Law (Wrongs) Act 2002*, pt 7.1 also applies to the award of damages for motor accident claims (see that Act, s 93).

156B **Meaning of *non-economic loss***

In this Act:

non-economic loss includes the following:

- (a) pain and suffering;
- (b) loss of amenities of life;
- (c) loss of expectation of life;
- (d) disfigurement.

156C Guidelines to assist determining non-economic loss

- (1) The CTP regulator may make guidelines (the *non-economic loss guidelines*) setting out information to assist courts in deciding the appropriate level of damages for non-economic loss in motor accident claims.
- (2) A court must have regard to the non-economic loss guidelines when awarding damages, but is not bound by the guidelines.
- (3) A guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

15**Clause 23****Page 26, line 17—**

[oppose the clause]

16**Clause 24****Page 26, line 19—**

[oppose the clause]

17**Clause 25****Page 26, line 21—**

[oppose the clause]

18**Clause 26****Page 27, line 1—**

[oppose the clause]

19**Clause 29****Page 28, line 5—**

[oppose the clause]

20**Clause 30****Page 28, line 10—**

[oppose the clause]

21**Clause 31****Page 28, line 15—**

[oppose the clause]

22
Clause 32
Page 29, line 1—

[oppose the clause]

23
Clause 33
Page 29, line 6—

[oppose the clause]

24
Clause 34
Page 29, line 12—

[oppose the clause]

25
Clause 35
Page 29, line 17—

omit clause 35, substitute

35 **Dictionary, new definition of *non-economic loss***

insert

non-economic loss—see section 156C.

26
Clause 36
Page 30, line 2—

[oppose the clause]

27
Clause 37
Page 30, line 7—

[oppose the clause]

28
Schedule 1, part 1.2
Page 31, line 14—

omit

Schedule 5**ROAD TRANSPORT (THIRD-PARTY INSURANCE) AMENDMENT
BILL 2012**

Amendment circulated by Ms Hunter to Mr Smyth's amendment No. 10

1

Amendment 10**Proposed new section 275 (1)**

omit

2

substitute

3
