



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

2008–2009–2010

MINUTES OF PROCEEDINGS

No. 65

THURSDAY, 24 JUNE 2010

- 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 **SHEPHERD CENTRE AND NOAH'S ARK—FUNDING—STATEMENT BY MINISTER**

Mr Barr (Minister for Education and Training), by leave, made a statement in relation to the resolution of the Assembly yesterday concerning funding for the Shepherd Centre and Noah's Ark and the tender processes of the Department of Education and Training.

- 3 **ROAD TRANSPORT (DRINK DRIVING) LEGISLATION AMENDMENT BILL 2010**

Mr Stanhope (Minister for Transport), pursuant to notice, presented a Bill for an Act to amend legislation about driving under the influence of alcohol, and for other purposes.

Papers: Mr Stanhope presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 23 June 2010.

Title read by Clerk.

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

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

4 LIQUOR BILL 2010

Mr Corbell (Attorney-General), pursuant to notice, presented a Bill for an Act relating to the supply of liquor.

Papers: Mr Corbell presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 23 June 2010.

Title read by Clerk.

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

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

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

5 PAPERS

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

Liquor Regulation 2010—

Exposure draft.

Explanatory statement to exposure draft.

6 SECURITY INDUSTRY AMENDMENT BILL 2010

Mr Corbell (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Security Industry Act 2003*, 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 23 June 2010.

Title read by Clerk.

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

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

7 PUBLIC ACCOUNTS—STANDING COMMITTEE—GOVERNMENT PROCUREMENT ACT—REPORTABLE CONTRACTS—TABLING—STATEMENT BY CHAIR—PAPER

Ms Le Couteur (Chair), pursuant to standing order 246A, informed the Assembly of certain action taken by the Standing Committee on Public Accounts in relation to the tabling of reportable contracts provided to the Committee under section 39 of the Government Procurement Act.

Paper: Ms Le Couteur, by leave, presented the following paper:

Reportable contracts—Agencies reporting reportable contracts for period 1 October 2009 to 31 March 2010—Table.

8 EXECUTIVE BUSINESS—PRECEDENCE

Ordered—That Executive business be called on forthwith.

9 PAY EQUITY AUDIT—STATEMENT BY MINISTER

Ms Burch (Minister for Women), by leave, made a statement concerning the pay equity audit of the ACT Public Service.

10 CRIMES (SURVEILLANCE DEVICES) BILL 2010

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 10, by leave, taken together and agreed to.

Clause 11—

On the motion of Mrs Dunne, her amendment No. 1 (*see* [Schedule 2](#)) was made, after debate.

Clause 11, as amended, agreed to.

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

Mr Rattenbury, by leave, moved his amendments Nos. 2 to 12 (*see* [Schedule 1](#)) together.

Ordered—That the question be divided.

Amendments Nos. 6 and 9 debated and agreed to.

Amendments 2 to 5, 7 and 8 and 10 to 12 debated and negatived.

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

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

11 CONSTRUCTION OCCUPATIONS LEGISLATION (EXEMPTION ASSESSMENT) AMENDMENT BILL 2010

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.

Leave granted to dispense with the detail stage.

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

12 QUESTIONS

Questions without notice being asked—

Mr Hanson sought leave to move a motion of censure of the Minister for Health.

Objection being raised, leave not granted.

Suspension of standing and temporary orders moved—Precedence to motion:
Mr Smyth moved—That so much of the standing and temporary orders be suspended as would prevent Mr Hanson from moving a motion of censure of the Minister for Health.

Question—put.

The Assembly voted—

AYES, 6

Mr Coe
Mr Doszpot
Mrs Dunne
Mr Hanson
Mr Seselja
Mr Smyth

NOES, 11

Mr Barr
Ms Bresnan
Ms Burch
Mr Corbell
Ms Gallagher
Mr Hargreaves
Ms Hunter
Ms Le Couteur
Ms Porter
Mr Rattenbury
Mr Stanhope

And so it was negatived.

Questions continued.

13 PAPER

Ms Gallagher (Minister for Health), having added to an answer, presented the following paper:

Best Practice Australia Survey—Copy of letter from the Executive Director, Best Practice Australia.

14 ANNUAL REPORTS (GOVERNMENT AGENCIES) ACT—CHIEF MINISTER'S 2007-2010 ANNUAL REPORT DIRECTIONS—PAPER AND STATEMENT BY MINISTER

Mr Stanhope (Chief Minister) presented the following paper:

Annual Reports (Government Agencies) Act, pursuant to subsection 9(5)—Chief Minister's 2007-2010 Annual Report Directions, dated June 2010—

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

15 FINANCIAL MANAGEMENT ACT—INSTRUMENT—PAPER AND STATEMENT BY MINISTER

Ms Gallagher (Treasurer) presented the following paper:

Financial Management Act, pursuant to section 16B—Instrument authorising the rollover of undisbursed appropriation of the Department of Territory and Municipal Services, including a statement of reasons, dated 17 June 2010—

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

16 FINANCIAL MANAGEMENT ACT—INSTRUMENT—PAPER AND STATEMENT BY MINISTER

Ms Gallagher (Treasurer) presented the following paper:

Financial Management Act, pursuant to section 17—Instrument varying appropriations relating to Commonwealth funding to the Department of Treasury, including a statement of reasons, dated 16 June 2010—

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

17 FINANCIAL MANAGEMENT ACT—INSTRUMENTS—PAPERS AND STATEMENT BY MINISTER

Ms Gallagher (Treasurer) presented the following papers:

Financial Management Act—Instruments, including statements of reasons—

Pursuant to section 14—Directing a transfer of funds from the Department of Treasury to the Department of Land and Property Services, dated 18 June 2010.

Pursuant to section 17—Varying appropriations relating to Commonwealth funding to—

ACT Health, dated 18 June 2010.

Department of Education and Training, dated 18 June 2010.

Department of Disability, Housing and Community Services, dated 18 June 2010.

Housing ACT, dated 18 June 2010.

Department of Treasury, dated 18 June 2010.

Pursuant to section 18A—

Authorisation of Expenditure from the Treasurer's Advance to the Department of Territory and Municipal Services, dated 18 June 2010.

Pursuant to section 19B—Varying appropriations related to—

Essential Vaccines NPP and Elective Surgery Waiting List Reduction Program NPP—ACT Health, dated 18 June 2010.

TAFE Fee Waivers for Childcare Qualifications NPP—Canberra Institute of Technology, dated 18 June 2010.

National Partnership—Water for the Future—Department of the Environment, Climate Change, Energy and Water, dated 18 June 2010.

Quality on the Job Workplace Learning Program—Department of Education and Training, dated 18 June 2010.

Natural Disaster Mitigation and Resilience Programs—Departments of Justice and Community Safety, Territory and Municipal Services, Education and Training and Housing ACT, dated 18 June 2010—

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

18 FINANCIAL MANAGEMENT ACT—INSTRUMENTS—PAPERS AND STATEMENT BY MINISTER—PAPERS NOTED

Ms Gallagher (Treasurer) presented the following papers:

Financial Management Act—Pursuant to section 18A—Authorisations of expenditure from the Treasurer's Advance, including statements of reasons, to—

Department of Territory and Municipal Services (2), dated 18 June 2010.

Department of Land and Property Services, dated 18 June 2010.

ACT Planning and Land Authority, dated 18 June 2010.

Department of Education and Training, dated 18 June 2010.

Department of Justice and Community Safety (2), dated 18 June 2010.

Department of Disability, Housing and Community Services, dated 18 June 2010.

Chief Minister's Department, dated 18 June 2010.

Legal Aid Commission (ACT), dated 18 June 2010.

Department of Treasury, dated 18 June 2010.

Territory Banking Account, dated 18 June 2010.

Independent Competition and Regulatory Commission, dated 23 June 2010—

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

Ms Gallagher moved—That the Assembly take note of the papers.

Debate ensued.

Question—put and passed.

19 PRESENTATION OF PAPER

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

ACT Criminal Justice—Statistical Profile 2010—March quarter.

20 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—ACTION BUS NETWORK

The Assembly was informed that Ms Bresnan, Mr Coe, Mr Doszpot, Mrs Dunne, Mr Hanson, Mr Hargreaves, Ms Hunter, Ms Le Couteur, Ms Porter, Mr Seselja (Leader of the Opposition) and Mr Smyth had proposed that matters of public importance be submitted to the Assembly for discussion. In accordance with the provisions of standing order 79, the Speaker had determined that the matter proposed by Mrs Dunne be submitted to the Assembly, namely, "The ACTION bus network".

Discussion ensued.

The time for discussion having expired—

Discussion concluded.

21 CRIMES (SERIOUS ORGANISED CRIME) AMENDMENT BILL 2010

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 8, by leave, taken together and agreed to.

Clause 9—

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

Mrs Dunne moved her amendment No. 1 (*see* [Schedule 4](#)).

Debate continued.

Question—put

The Assembly voted—

AYES, 6

Mr Coe
Mr Doszpot
Mrs Dunne
Mr Hanson
Mr Seselja
Mr Smyth

NOES, 11

Mr Barr	Ms Hunter
Ms Bresnan	Ms Le Couteur
Ms Burch	Ms Porter
Mr Corbell	Mr Rattenbury
Ms Gallagher	Mr Stanhope
Mr Hargreaves	

And so it was negatived.

Clause 9, as amended, 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.

22 ADJOURNMENT

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

Debate ensued.

Question—put and passed.

And then the Assembly, at 5.42 p.m., adjourned until Tuesday, 29 June 2010 at 10 a.m.

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

M M KIERMAIER
Acting Clerk of the Legislative Assembly

SCHEDULE OF AMENDMENTS

Schedule 1

CRIMES (SURVEILLANCE DEVICES) BILL 2010

Amendments circulated by Mr Rattenbury

1

Clause 11 (1)

Page 6, line 21—

omit

suspects

substitute

believes

2

Clause 13 (1) (a)

Page 8, line 20—

omit

suspicion or

3

Clause 19 (1) (b)

Page 16, line 8—

omit

suspects or

4

Clause 21 (1) (a)

Page 17, line 17—

omit

suspicion or

5

Clause 25 (1)

Page 21, line 7—

omit

suspects or

6
Clause 25 (1) (d)**Proposed new example****Page 21, line 16—***insert***Example—par (d)**

the law enforcement officer has tried, unsuccessfully, to contact an on-call duty magistrate or judge by telephone

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).

7
Clause 25 (3)**Page 21, line 21—***omit*

suspicion or

8
Clause 26 (1) (b)**Page 22, line 9—***omit*

suspects or

9
Clause 26 (1) (b) (iv)**Proposed new example****Page 22, line 21—***insert***Example—par (b) (iv)**

the law enforcement officer has tried, unsuccessfully, to contact an on-call duty magistrate or judge by telephone

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).

10
Clause 26 (3) (b)**Page 23, line 1—***omit*

suspicion or

11
Clause 29 (1)**Page 25, line 10—***omit*

suspect or

12**Clause 29 (2) (b)****Page 25, line 25—***omit*suspect or

Schedule 2

CRIMES (SURVEILLANCE DEVICES) BILL 2010

Amendment circulated by Mrs Dunne

1

Clause 11 (1)

Page 6, line 21—

after

suspects

insert

or believes

Schedule 3**CRIMES (SERIOUS ORGANISED CRIME) AMENDMENT
BILL 2010**

Amendment circulated by Mr Rattenbury

1

Clause 9**Proposed new section 652 (c)****Page 9, line 18—**

omit

knows, or ought to have known, that

substitute

knows that, or was reckless about whether,

Schedule 4**CRIMES (SERIOUS ORGANISED CRIME) AMENDMENT
BILL 2010**

Amendment circulated by Mrs Dunne

1**Clause 9****Proposed new section 653A****Page 10, line 17—***insert***653A Participating in a criminal group—causing harm to
law enforcement officer**

- (1) A person commits an offence if the person—
- (a) participates in, or intends to participate in, a criminal group; and
 - (b) in the course of participating in, or intending to participate in, the criminal group, engages in conduct that causes harm to a law enforcement officer while carrying out the officer's duty; and
 - (c) is reckless about causing harm to the law enforcement officer by the conduct.

Maximum penalty: imprisonment for 14 years.

Note The fault element of recklessness can be satisfied by proof of intention, knowledge or recklessness (see s 20 (4)).

- (2) A person commits an offence if the person—
- (a) participates in, or intends to participate in, a criminal group; and
 - (b) in the course of participating in, or intending to participate in, the criminal group, intentionally makes to a law enforcement officer a threat to cause harm to the law enforcement officer while carrying out the officer's duty; and
 - (c) intends the law enforcement officer to fear that the threat will be carried out.

Maximum penalty: imprisonment for 14 years.

- (3) In the prosecution for an offence against subsection (2), it is not necessary to prove that the law enforcement officer threatened actually feared that the threat would be carried out.

- (4) For this section, a person is taken to cause harm, or make a threat to cause harm, to a law enforcement officer while carrying out the officer's duty, even though the officer is not on duty, if the person causes the harm, or makes the threat to cause harm—
 - (a) because of, or in retaliation for, previous conduct of the officer while the officer was on duty; or
 - (b) because the officer is a law enforcement officer.
- (5) In this section:

law enforcement officer—see section 700 (Definitions—ch 7).
