



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

2012–2013

MINUTES OF PROCEEDINGS

No. 40

THURSDAY, 31 OCTOBER 2013

1 The Assembly met at 10 a.m., pursuant to adjournment. The Speaker (Mrs Dunne) 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 STRENGTHENING FAMILIES—MINISTERIAL STATEMENT—PAPER NOTED

Ms Burch (Minister for Disability, Children and Young People), by leave, made a ministerial statement concerning strengthening families and presented the following paper:

Strengthening Families—Ministerial statement, dated 31 October 2013.

Ms Burch moved—That the Assembly takes note of the paper.

Question—put and passed.

3 AUSTRALIAN CAPITAL TERRITORY (MINISTERS) BILL 2013 (NO. 2)

Ms Gallagher (Chief Minister), pursuant to notice, presented a Bill for an Act to provide for the number of Ministers for the Territory.

Papers: Ms Gallagher presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement.

Title read by Clerk.

Ms Gallagher moved—That this Bill be agreed to in principle.

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



4 PAYROLL TAX AMENDMENT BILL 2013 (NO. 2)

Ms Gallagher (Chief Minister), on behalf of Mr Barr (Treasurer), pursuant to notice, presented a Bill for an Act to amend the *Payroll Tax Act 2011*.

Papers: Ms Gallagher presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement.

Title read by Clerk.

Ms Gallagher moved—That this Bill be agreed to in principle.

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

5 CRIMES LEGISLATION AMENDMENT BILL 2013

Mr Corbell (Attorney-General), pursuant to notice, presented a Bill for an Act to amend legislation about crimes, 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.

Title read by Clerk.

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

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

6 LONG SERVICE LEAVE (PORTABLE SCHEMES) AMENDMENT BILL 2013

Mr Corbell (Minister for Workplace Safety and Industrial Relations), pursuant to notice, presented a Bill for an Act to amend the *Long Service Leave (Portable Schemes) Act 2009*.

Papers: Mr Corbell presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement.

Title read by Clerk.

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

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

7 NATURE CONSERVATION BILL 2013—EXPOSURE DRAFT—PAPERS AND STATEMENT BY MINISTER

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

Nature Conservation Bill 2013—

Exposure Draft.

Draft Explanatory statement to the Exposure Draft—
and, by leave, made a statement in relation to the papers.

8 STANDING ORDERS—AMENDMENTS

Mr Gentleman, pursuant to notice, moved—That standing order 77(e) be amended by:

- (1) Inserting “or Executive Members’ business” after “Assembly business”; and
- (2) adding “provided further that at any time during the consideration of Assembly business any Member may move that Executive Members’ business be called on and the question on such motion shall be put forthwith without amendment or debate.”.

Debate ensued.

Question—put and passed.

9 COMMISSIONER FOR STANDARDS—APPOINTMENT

The order of the day having been read for the resumption of the debate on the motion of Mr Rattenbury—That the following continuing resolution be adopted:

COMMISSIONER FOR STANDARDS

That this Assembly requests the Speaker to appoint a Legislative Assembly Commissioner for Standards on the following terms:

- (1) Before appointing a Commissioner the Speaker must consult with the Chief Minister, the Leader of the Opposition and Crossbench Members.
- (2) The Commissioner may be dismissed only following a resolution of the Legislative Assembly resolving to require the Speaker to end the Commissioner’s appointment—
 - (a) for misbehaviour; or
 - (b) for physical or mental incapacity, if the incapacity substantially affects the exercise of the Commissioner’s functions.

However, a motion for such a resolution may only be debated after the Standing Committee on Administration and Procedure has reported to the Assembly that it is satisfied that the Commissioner is unfit for the office or unable to fulfil the Commissioner’s functions.

- (3) The function of the Commissioner is to investigate specific matters which have been referred to the Commissioner by the Speaker or Deputy Speaker relating to the conduct of Members and to report to the Standing Committee on Administration and Procedure.
- (4) Members of the public, members of the ACT public service and Members of the Assembly may make a complaint to the Speaker about a Member’s compliance, or to the Deputy Speaker about the Speaker’s compliance, with the Member’s Code of Conduct or the rules relating to the registration or declaration of interests.
- (5) If the Speaker or Deputy Speaker receives a complaint about a Member’s conduct, the Speaker or Deputy Speaker may refer the complaint to the Commissioner for investigation and report if the Speaker or Deputy Speaker believes on reasonable grounds that there is sufficient evidence that the

Member's Code of Conduct or the rules relating to the registration or declaration of interests may have been breached in such a manner as to justify investigating the matter.

- (6) In exercising the functions of Commissioner the following must be observed:
- (a) No report may be made by the Commissioner to the Committee in any case where the Member concerned has agreed that he or she has failed to register or declare an interest if:
 - (i) in the Commissioner's opinion the interest involved is minor or the failure was inadvertent; and
 - (ii) the Member concerned has taken such action to rectify the failure as the Commissioner may have required within any procedure approved by the Committee for this purpose.
 - (b) The Commissioner may not provide a report to the Committee unless the Commissioner has:
 - (i) given a copy of the proposed report to the Member who is the subject of the complaint under investigation;
 - (ii) the Member has had a reasonable time to provide comments on the proposed report; and
 - (iii) the Commissioner has considered any comments provided by the Member.
 - (c) The Commissioner must report each year to the Speaker on the exercise by him or her of the functions of the Commissioner.

This resolution has effect from the date of its agreement by the Legislative Assembly and continues in force unless amended or repealed by this or a subsequent Assembly.

And on the amendment moved by Mr Hanson (Leader of the Opposition)—Omit all words after "adopted", substitute:

"COMMISSIONER FOR STANDARDS

That this Assembly requests the Speaker to appoint a Legislative Assembly Commissioner for Standards on the following terms:

- (1) The Speaker must, after each Assembly is elected or whenever the office becomes vacant, appoint a Commissioner for the life of that Assembly and the period of three months after each election. The initial appointment is for the term of the 8th Assembly and the period of three months after the election at the conclusion of that term.
- (2) Before appointing a Commissioner, the Speaker must consult with the Chief Minister, the Leader of the Opposition and Crossbench Members.
- (3) The Commissioner may be dismissed only following a resolution of the Legislative Assembly resolving to require the Speaker to end the Commissioner's appointment—
 - (a) for misbehaviour; or
 - (b) for physical or mental incapacity, if the incapacity substantially affects the exercise of the Commissioner's functions.

However, a motion for such a resolution may only be debated after the Standing Committee on Administration and Procedure ('the Committee') has reported to the Assembly that it is satisfied that the Commissioner is unfit for the office or unable to fulfil the Commissioner's functions.

- (4) The functions of the Commissioner are to:
 - (a) investigate specific matters referred to the Commissioner—
 - (i) by the Speaker in relation to complaints against Members; or
 - (ii) by the Deputy Speaker in relation to complaints against the Speaker; and
 - (b) report to the Standing Committee on Administration and Procedure.
- (5) Members of the public, members of the ACT Public Service and Members of the Assembly may make a complaint to the Speaker about a Member's compliance with the Members' Code of Conduct or the rules relating to the registration or declaration of interests.
- (6) If the Speaker—
 - (a) receives a complaint about a Member pursuant to paragraph (5); and
 - (b) believes there are reasonable grounds for the complaint;the Speaker may refer the complaint to the Commissioner for investigation and report.
- (7) Members of the public or members of the ACT Public Service may make a complaint to a Member of the Assembly about the Speaker's compliance with the Members' Code of Conduct or the rules relating to the registration or declaration of interests.
- (8) If a Member—
 - (a) receives a complaint about the Speaker pursuant to paragraph (7); and
 - (b) believes there are reasonable grounds for the complaint;the Member may refer the matter to the Deputy Speaker.
- (9) If a Member of the Assembly, on their own initiative, believes on reasonable grounds that the Speaker has not complied with the Members' Code of Conduct or the rules relating to the registration or declaration of interests, the Member may refer the matter to the Deputy Speaker.
- (10) If the Deputy Speaker—
 - (a) receives a complaint about the Speaker pursuant to paragraphs (8) or (9); and
 - (b) believes there are reasonable grounds for the complaint;the Deputy Speaker may refer the matter to the Commissioner for investigation and report.
- (11) In exercising the functions of Commissioner, the following must be observed—
 - (a) Subject to paragraphs (b) and (c), the Commissioner must not conduct an investigation into a complaint nor make any report in relation thereto unless the Commissioner is satisfied—

- (i) there are reasonable grounds for the complaint; and
 - (ii) the complaint is not frivolous, vexatious or only for political advantage.
- (b) If the Commissioner refuses to conduct an investigation into a complaint made to the Speaker about a Member, the Commissioner must write to the Speaker indicating that the investigation would not be conducted and a report would not be made and stating the reasons therefore. The Speaker must give a copy of the letter to the complainant and the Member about whom the complaint was made.
- (c) If the Commissioner refuses to conduct an investigation into a complaint about the Speaker referred by the Deputy Speaker, the Commissioner must write to the Deputy Speaker, indicating that the investigation would not be conducted and a report would not be made and stating the reasons therefore. The Deputy Speaker must give a copy of the letter to the Speaker and to the Member who referred the matter to the Deputy Speaker.
- (d) The Commissioner must not make a report to the Committee if the Member or the Speaker about whom the complaint was made has agreed that he or she has failed to register or declare an interest if—
- (i) in the Commissioner’s opinion the interest involved is minor or the failure was inadvertent; and
 - (ii) the Member concerned has taken such action to rectify the failure as the Commissioner may have required within any procedure approved by the Committee for this purpose.
- (e) The Commissioner must not make a report to the Committee unless the Commissioner has—
- (i) given a copy of the proposed report to the Member or the Speaker who is the subject of the complaint under investigation;
 - (ii) the Member or the Speaker has had a reasonable time to provide comments on the proposed report; and
 - (iii) the Commissioner has considered any comments provided by the Member or the Speaker.
- (f) The Commissioner must report by 31 August each year to the Speaker on the exercise of the functions of the Commissioner.
- (12) The Committee must review the operation of the Commissioner after two years following the initial appointment of the Commissioner and report to the Assembly in the first sitting period in 2016.”—

Debate resumed.

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

- (1) Omit paragraph (6), substitute:
- “If the Speaker receives a complaint about a Member pursuant to paragraph (5) and the Speaker believes on reasonable grounds that—
- (a) there is sufficient evidence as to justify investigating the matter; and

- (b) the complaint is not frivolous, vexatious or only for political advantage; the Speaker may refer the complaint to the Commissioner for investigation and report.”.
- (2) Omit paragraph (7), substitute:
 “Members of the public, members of the ACT public service and Members of the Assembly may make a complaint to the Deputy Speaker about the Speaker’s compliance with the Members’ Code of Conduct or the rules relating to the registration or declaration of interests.”.
- (3) Omit paragraph 8.
- (4) Omit paragraph 9.
- (5) Omit paragraph 10, substitute:
 “If the Deputy Speaker receives a complaint about the Speaker pursuant to paragraph (7) and the Deputy Speaker believes on reasonable grounds that—
- (a) there is sufficient evidence to justify investigating the matter; and
- (b) the complaint is not frivolous, vexatious or only for political advantage; the Deputy Speaker may refer the complaint to the Commissioner for investigation and report.”.
- (6) Omit paragraph (11), substitute:
 “In exercising the functions of Commissioner the following must be observed:
- (a) The Commissioner must not make a report to the Committee if the Member or the Speaker about whom the complaint was made has agreed that he or she has failed to register or declare an interest if—
- (i) in the Commissioner’s opinion the interest involved is minor or the failure was inadvertent; and
- (ii) the Member concerned has taken such action to rectify the failure as the Commissioner may have required within any procedure approved by the Committee for this purpose.
- (b) The Commissioner must not make a report to the Committee unless the Commissioner has—
- (i) given a copy of the proposed report to the Member or the Speaker who is the subject of the complaint under investigation;
- (ii) the Member or the Speaker has had a reasonable time to provide comments on the proposed report; and
- (iii) the Commissioner has considered any comments provided by the Member or the Speaker.
- (c) The Commissioner must report by 31 August each year to the Speaker on the exercise of the functions of the Commissioner.”.

Debate continued.

Question—That Mr Rattenbury’s amendments to Mr Hanson’s proposed amendment be agreed to—put and passed.

Question—That Mr Hanson’s amendment, as amended, be agreed to—put and passed.

Debate continued.

Question—That the motion, as amended, viz:

“That the following continuing resolution be adopted:

COMMISSIONER FOR STANDARDS

That this Assembly requests the Speaker to appoint a Legislative Assembly Commissioner for Standards on the following terms:

- (1) The Speaker must, after each Assembly is elected or whenever the office becomes vacant, appoint a Commissioner for the life of that Assembly and the period of three months after each election. The initial appointment is for the term of the 8th Assembly and the period of three months after the election at the conclusion of that term.
- (2) Before appointing a Commissioner, the Speaker must consult with the Chief Minister, the Leader of the Opposition and Crossbench Members.
- (3) The Commissioner may be dismissed only following a resolution of the Legislative Assembly resolving to require the Speaker to end the Commissioner’s appointment—
 - (a) for misbehaviour; or
 - (b) for physical or mental incapacity, if the incapacity substantially affects the exercise of the Commissioner’s functions.

However, a motion for such a resolution may only be debated after the Standing Committee on Administration and Procedure (‘the Committee’) has reported to the Assembly that it is satisfied that the Commissioner is unfit for the office or unable to fulfil the Commissioner’s functions.

- (4) The functions of the Commissioner are to:
 - (a) investigate specific matters referred to the Commissioner—
 - (i) by the Speaker in relation to complaints against Members; or
 - (ii) by the Deputy Speaker in relation to complaints against the Speaker; and
 - (b) report to the Standing Committee on Administration and Procedure.
- (5) Members of the public, members of the ACT Public Service and Members of the Assembly may make a complaint to the Speaker about a Member’s compliance with the Members’ Code of Conduct or the rules relating to the registration or declaration of interests.
- (6) If the Speaker receives a complaint about a Member pursuant to paragraph (5) and the Speaker believes on reasonable grounds that—
 - (a) there is sufficient evidence as to justify investigating the matter; and
 - (b) the complaint is not frivolous, vexatious or only for political advantage;
 the Speaker may refer the complaint to the Commissioner for investigation and report.
- (7) Members of the public, members of the ACT public service and Members of the Assembly may make a complaint to the Deputy Speaker about the

Speaker's compliance with the Members' Code of Conduct or the rules relating to the registration or declaration of interests.

- (8) If the Deputy Speaker receives a complaint about the Speaker pursuant to paragraph (7) and the Deputy Speaker believes on reasonable grounds that—
- (a) there is sufficient evidence to justify investigating the matter; and
 - (b) the complaint is not frivolous, vexatious or only for political advantage;
- the Deputy Speaker may refer the complaint to the Commissioner for investigation and report.
- (9) In exercising the functions of Commissioner the following must be observed:
- (a) The Commissioner must not make a report to the Committee if the Member or the Speaker about whom the complaint was made has agreed that he or she has failed to register or declare an interest if —
 - (i) in the Commissioner's opinion the interest involved is minor or the failure was inadvertent; and
 - (ii) the Member concerned has taken such action to rectify the failure as the Commissioner may have required within any procedure approved by the Committee for this purpose.
 - (b) The Commissioner must not make a report to the Committee unless the Commissioner has—
 - (i) given a copy of the proposed report to the Member or the Speaker who is the subject of the complaint under investigation;
 - (ii) the Member or the Speaker has had a reasonable time to provide comments on the proposed report; and
 - (iii) the Commissioner has considered any comments provided by the Member or the Speaker.
 - (c) The Commissioner must report by 31 August each year to the Speaker on the exercise of the functions of the Commissioner.
- (10) The Committee must review the operation of the Commissioner after two years following the initial appointment of the Commissioner and report to the Assembly in the first sitting period in 2016.”—

be agreed to—put and passed.

10 EXECUTIVE MEMBER'S BUSINESS—PRECEDENCE

Ordered—That Executive Member's business be called on forthwith.

11 STUDENTS WITH LEARNING DIFFICULTIES—TASKFORCE

Mr Rattenbury, pursuant to notice, moved—That this Assembly:

- (1) notes:
 - (a) the importance of ACT schools having a best practice response to the management of children with learning difficulties;
 - (b) that the ACT Government and the Education and Training Directorate established a taskforce in 2012 to “consider how to improve assessment

and support for children and young people in ACT public schools with learning difficulties”;

- (c) that the Taskforce on Students with Learning Difficulties submitted their final report to the ACT Government in June 2013;
 - (d) that the Taskforce identifies 14 strategies under three key recommendations focussed around:
 - (i) A Consistent Systemic Approach;
 - (ii) Building Staff Capacity; and
 - (iii) Building Partnerships with Families;
 - (e) that on 16 August 2013, the Minister for Education and Training, Joy Burch MLA, announced that the ACT Government agreed to all the recommendations and strategies;
 - (f) that the ACT’s Literacy and Numeracy Strategy 2009-2013 is due for review this year; and
 - (g) that the Standing Council on School Education and Early Childhood is undertaking further consideration of issues relating to students with a disability;
- (2) thanks members of the Taskforce on Students with Learning Difficulties for their time and effort working on the report;
 - (3) calls on the ACT Government to integrate the recommendations and strategies from the Taskforce report into any review of the ACT’s Literacy and Numeracy Strategy; and
 - (4) calls on the Minister for Education and Training, Joy Burch MLA, to report back to the Legislative Assembly with an update of progress on implementing the Taskforce’s recommendations in February 2014.

Debate ensued.

Question—put and passed.

12 EXECUTIVE BUSINESS—PRECEDENCE

Ordered—That Executive business be called on forthwith.

13 JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2013 (NO. 4)

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.

14 WORKERS COMPENSATION AMENDMENT BILL 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—

Debate resumed.

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

The Assembly voted—

AYES, 8		NOES, 7	
Mr Barr	Mr Corbell	Mr Coe	Mrs Jones
Ms Berry	Ms Gallagher	Mr Doszpot	Ms Lawder
Dr Bourke	Mr Gentleman	Mrs Dunne	Mr Smyth
Ms Burch	Mr Rattenbury	Mr Hanson	

And so it was resolved in the affirmative.

Leave granted to dispense with the detail stage.

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

15 QUESTIONS

Questions without notice were asked.

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

Ms Gallagher (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:

Meredith Whitten, dated 24 October 2013.

Short-term contracts:

Derek Kettle, dated 10 and 11 October 2013.

Grant Kennealy, dated 8 and 12 August 2013—

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

17 A.C.T. GOVERNMENT'S TAX REFORM—MODELLING—ANALYSIS UNDERTAKEN—GOVERNMENT RESPONSE—PAPER AND STATEMENT BY MINISTER

Mr Barr (Treasurer), pursuant to the resolution of the Assembly of 19 September 2013, presented the following paper:

ACT Government's Tax Reform—Modelling—Analysis undertaken—Government response, dated October 2013—

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

18 PLANNING AND DEVELOPMENT ACT—VARIATION NO. 306 TO THE TERRITORY PLAN—PROGRESS OF TECHNICAL VARIATIONS RELATED TO V306—PAPER AND STATEMENT BY MINISTER

Mr Corbell (Minister for the Environment and Sustainable Development), pursuant to the resolution of the Assembly of 8 May 2013, presented the following paper:

Planning and Development Act—Variation No. 306 to the Territory Plan—Progress of technical variations related to V306, dated October 2013—

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

19 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—CHILDREN AND YOUNG PEOPLE—EARLY INTERVENTION

The Assembly was informed that Ms Berry, Dr Bourke, Mr Gentleman, Mr Hanson (Leader of the Opposition), Mrs Jones, Ms Lawder, Mr Smyth and Mr Wall 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 Gentleman be submitted to the Assembly, namely, “The importance of early intervention in improving outcomes for Canberra’s children and young people.”.

Discussion ensued.

Discussion concluded.

20 PRESENTATION OF PAPER

The Speaker presented the following paper:

Legislative Assembly (Members’ Superannuation) Act, pursuant to section 11A—Australian Capital Territory Legislative Assembly Members Superannuation Board—Annual Report 2012-2013, dated 31 October 2013.

21 ADJOURNMENT

Ms Burch (Minister for Education and Training) moved—That the Assembly do now adjourn.

Debate ensued.

Question—put and passed.

And then the Assembly, at 4.46 p.m., adjourned until Tuesday, 26 November 2013 at 10 a.m.

MEMBERS’ ATTENDANCE: All Members were present at some time during the sitting, except Ms Porter*.

*on leave

Tom Duncan
Clerk of the Legislative Assembly