



## **LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**2008–2009–2010–2011–2012**

### **MINUTES OF PROCEEDINGS**

**No. 149**

**WEDNESDAY, 9 MAY 2012**

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- 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 ELECTION COMMITMENTS COSTING BILL 2011 EXPOSURE DRAFT—SELECT COMMITTEE—ESTABLISHMENT—REPORTING DATE—AMENDMENT TO RESOLUTION**

Mr Smyth (Chair), by leave, moved—that the resolution of the Assembly of 17 November 2011, as amended 29 March 2012, referring the exposure draft of the Election Commitments Costing Bill 2011 to a select committee for inquiry and report be amended by omitting the words “by the last sitting day in May 2012” and substituting “by the last sitting day in June 2012” and inserting a new paragraph 1A:

“(1A) If the Assembly is not sitting when the report is completed the Speaker, or, in the absence of the Speaker, the Deputy Speaker, is authorised to give directions for its printing, publication and circulation.”.

Question—put and passed.

- 3 FINANCIAL MANAGEMENT (INVESTMENT) LEGISLATION AMENDMENT BILL 2012**

Ms Hunter, pursuant to notice, presented a Bill for an Act to amend the *Financial Management Act 1996* and the *Territory Superannuation Provision Protection Act 2000*.

*Paper:* Ms Hunter presented an explanatory statement to the Bill.

Title read by Clerk.

Ms Hunter moved—that this Bill be agreed to in principle.

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

#### **4 BAIL AMENDMENT BILL 2012**

Ms Hunter, pursuant to notice, presented a Bill for an Act to amend the *Bail Act 1992*.

*Paper:* Ms Hunter presented an explanatory statement to the Bill.

Title read by Clerk.

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

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

#### **5 ROAD TRANSPORT (GENERAL) (INFRINGEMENT NOTICES) AMENDMENT 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.

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*Detail Stage*

Bill, by leave, taken as a whole—

On the motion of Ms Bresnan, by leave, her amendments Nos. 1 to 10 (see [Schedule 1](#)) were made together, after debate.

*Paper:* Ms Bresnan presented a supplementary explanatory statement to her amendments.

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

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

#### **6 BAIL CONDITIONS**

Mrs Dunne, pursuant to notice, moved—That this Assembly:

(1) notes that:

- (a) bail is an important element of the criminal justice system;
- (b) generally accused people are entitled to be released on bail unless there is an unacceptable risk to the safety of the community; and
- (c) recent high profile incidents of offenders released on bail reoffending; and

(2) calls on the Attorney-General to advise the Assembly by 5 June 2012 on:

- (a) the number of people, in the last two financial years:
  - (i) remanded in custody who were subsequently acquitted;
  - (ii) granted bail who failed to comply with their bail conditions; and

- (iii) granted bail who committed further offences while on bail; and
- (b) how the Government proposes to protect the public from the instances of non-compliance and further offending while on bail.

Mrs Dunne addressing the Assembly—

*Deputy Speaker's ruling:* The Deputy Speaker ruled that comments made by Mrs Dunne during debate on her motion breached the sub judice convention and Continuing Resolution 10.

*Dissent from Deputy Speaker's ruling moved:* Mrs Dunne, by leave, moved—That the Deputy Speaker's ruling be dissented from.

Debate ensued.

Mr Hanson addressing the Assembly—

Mr Rattenbury sought leave to make a personal explanation.

Objection being raised, leave not granted.

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*Suspension of standing orders moved—Member to make personal explanation:* Mr Rattenbury moved—That so much of the standing orders be suspended as would prevent Mr Rattenbury from making a personal explanation.

Debate ensued.

Mr Rattenbury, by leave, withdrew his motion.

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Mr Hanson continued.

Question—That the Deputy Speaker's ruling be dissented from—put.

The Assembly voted—

AYES, 6

Mr Coe  
Mr Dosspot  
Mrs Dunne  
Mr Hanson  
Mr Seselja  
Mr Smyth

NOES, 11

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

And so it was negatived.

Mrs Dunne continued.

Mr Corbell (Attorney-General) moved the following amendment: Omit paragraphs (1) and (2), substitute:

- “(1) notes that:
- (a) bail is an important element of the criminal justice system;
  - (b) generally accused people are entitled to be released on bail unless there is an unacceptable risk to the safety of the community; and
  - (c) community concern about the possibility of people released on bail committing other crimes; and

- (2) calls on the Attorney-General to advise the Assembly by 5 June 2012 on how the Government monitors and enforces instances of non-compliance with bail conditions.”.

Mr Rattenbury moved the following amendment to Mr Corbell’s proposed amendment: Omit paragraph (2), substitute:

- “(2) calls on the Attorney-General to advise the Assembly by 5 June 2012 on:
- (a) how the Government monitors and enforces instances of non-compliance with bail conditions; and
  - (b) what projects are currently underway to improve the data recording and publishing ability of the ACT justice system, the current status of each project, the expected outcomes of each project and the expected time frame for completion of each project.”.

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.

## **7 QUESTIONS**

Questions without notice were asked.

## **8 BAIL CONDITIONS**

The order of the day having been read for the resumption of the debate on the motion of Mrs Dunne, the amendment moved by Mr Corbell (Attorney-General) and the amendment moved by Mr Rattenbury to Mr Corbell’s amendment (*see entry 6*)—

Debate resumed.

Amendment to amendment agreed to.

Question—That the amendment, as amended, be agreed to—put.

The Assembly voted—

AYES, 11

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

NOES, 6

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

And so it was resolved in the affirmative.

Question—That the motion, as amended, viz:

“That this Assembly:

- (1) notes that:

- (a) bail is an important element of the criminal justice system;
- (b) generally accused people are entitled to be released on bail unless there is an unacceptable risk to the safety of the community; and
- (c) community concern about the possibility of people released on bail committing other crimes; and

- (2) calls on the Attorney-General to advise the Assembly by 5 June 2012 on:
- (a) how the Government monitors and enforces instances of non-compliance with bail conditions; and
  - (b) what projects are currently underway to improve the data recording and publishing ability of the ACT justice system, the current status of each project, the expected outcomes of each project and the expected time frame for completion of each project.”—

be agreed to—put and passed.

## **9 A.C.T. TAXATION REVIEW**

Ms Porter, pursuant to notice, moved—That this Assembly:

- (1) notes that the:

  - (a) Government released the *ACT Taxation Review* (the Quinlan Review) on 7 May 2012;
  - (b) Quinlan Review builds upon recommendations made by the *A Future Tax System* review by Dr Ken Henry;
  - (c) Quinlan Review recommends staged and structural reform of the ACT’s taxation system;
  - (d) structural reform recommended includes abolition of a number of inefficient taxes such as stamp duty and insurance duties and revenue replacement by broad-based more efficient taxation levied on land;
  - (e) Government has released its response to the Quinlan Review; and
  - (f) Government response is based upon the central principles of improving the fairness, simplicity and efficiency of the system; and

- (2) calls on the Government to:

  - (a) undertake structural reform to improve the fairness, simplicity and economic efficiency of the ACT taxation system; and
  - (b) undertake reform in a staged way to allow for appropriate transition time.

Debate ensued.

Question—put and passed.

## **10 COMMONWEALTH PUBLIC SERVANTS—CONTRIBUTION TO THE A.C.T.**

Mr Seselja (Leader of the Opposition), pursuant to notice, moved—That this Assembly:

- (1) notes:

  - (a) the significant contribution to the life of Australia made by Commonwealth public servants in Canberra;
  - (b) the importance of the Commonwealth public service to the entire economic stability of the Territory;
  - (c) “Canberra bashing” is often engaged in by Federal politicians on both sides of politics;

- (d) Commonwealth public servants in Canberra are often a particular target for “Canberra bashing”; and
- (e) Commonwealth public servants are experiencing significant uncertainty as job losses occur in many departments and agencies;
- (2) affirms the role of Commonwealth public servants in Canberra;
- (3) demands of the Commonwealth Government that it protect Commonwealth public servants in Canberra from bearing a disproportionate burden on its efforts to save money;
- (4) demands of Federal politicians of all parties that they recognise and respect the contribution made by Commonwealth public servants, rather than denigrating them; and
- (5) calls on the Speaker to inform the Prime Minister of the Assembly’s resolution.

Ms Gallagher (Chief Minister) moved the following amendment: Omit paragraphs (3), (4) and (5), substitute:

- “(3) notes that the Chief Minister has written to the Prime Minister seeking an urgent meeting to discuss the impact on the ACT of the Federal Budget and the need to ensure that a disproportionate burden does not fall on the ACT economy;
- (4) supports efforts to assist the local economy, respond with a responsible ACT budget strategy and to work with local business and community leaders to ensure we maximise private sector opportunities and minimise hardship for affected workers.”.

Debate continued.

Ms Hunter, by leave, moved the following amendments to Ms Gallagher’s proposed amendment together:

- (1) Omit paragraph (3), substitute:
  - “(3) notes that the:
    - (a) Chief Minister has written to the Prime Minister seeking an urgent meeting to discuss the impact on the ACT of the Federal Budget and the need to ensure that a disproportionate burden does not fall on the ACT economy; and
    - (b) Leader of the Federal Greens has proposed a series of alternatives that would prevent the need for public service job cuts;”.
- (2) Add:
  - “(5) calls on the Commonwealth Government to protect Commonwealth public servants in Canberra from bearing a disproportionate burden of its efforts to save money.”.

Debate continued.

Amendments to amendment agreed to.

Question—That the amendment, as amended, be agreed to—put.

Ordered—That the question be divided.

Question—That paragraph (3) be omitted—put and passed.

Question—That paragraph (4) be omitted—put and passed.

Question—That paragraph (5) be omitted—put and negatived.

Question—That new paragraphs (3), (4) and (5) be inserted—put and passed.

Question—That the motion, as amended, viz:

“That this Assembly:

- (1) notes:
  - (a) the significant contribution to the life of Australia made by Commonwealth public servants in Canberra;
  - (b) the importance of the Commonwealth public service to the entire economic stability of the Territory;
  - (c) “Canberra bashing” is often engaged in by Federal politicians on both sides of politics;
  - (d) Commonwealth public servants in Canberra are often a particular target for “Canberra bashing”; and
  - (e) Commonwealth public servants are experiencing significant uncertainty as job losses occur in many departments and agencies;
- (2) affirms the role of Commonwealth public servants in Canberra;
- (3) notes that the:
  - (a) Chief Minister has written to the Prime Minister seeking an urgent meeting to discuss the impact on the ACT of the Federal Budget and the need to ensure that a disproportionate burden does not fall on the ACT economy; and
  - (b) Leader of the Federal Greens has proposed a series of alternatives that would prevent the need for public service job cuts;
- (4) supports efforts to assist the local economy, respond with a responsible ACT budget strategy and to work with local business and community leaders to ensure we maximise private sector opportunities and minimise hardship for affected workers;
- (5) calls on the Speaker to inform the Prime Minister of the Assembly’s resolution; and
- (6) calls on the Commonwealth Government to protect Commonwealth public servants in Canberra from bearing a disproportionate burden of its efforts to save money.”—

be agreed to—put and passed.

## **11 COMMISSIONER FOR THE ENVIRONMENT AMENDMENT 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.

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.

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*Detail Stage*

Bill, by leave, taken as a whole—

On the motion of Mr Corbell (Minister for the Environment and Sustainable Development), by leave, his amendments Nos. 1 to 18 (*see Schedule 2*) were made together, after debate.

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

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

## 12 ANU SCHOOL OF MUSIC

Mrs Dunne, pursuant to notice, moved—That this Assembly:

- (1) notes the:
  - (a) role and reputation of the Australian National University (ANU) School of Music as a leading music educator;
  - (b) particular connection between the ANU School of Music and the Canberra Symphony Orchestra;
  - (c) contribution the ANU School of Music makes to the broader music fraternity locally, nationally and internationally;
  - (d) announcement of the Vice-Chancellor of the ANU to make significant cuts to the funding of the School of Music; and
  - (e) consequent impacts this will have on staffing, course options, education quality and the community generally;
- (2) expresses its support for the:
  - (a) ANU School of Music;
  - (b) School's reputation established under the existing staffing and course structure; and
  - (c) contribution the School makes to the Canberra community, as well as the national and international music industries; and
- (3) calls on the Speaker to write to the Vice-Chancellor of the ANU to advise him of the Assembly's resolution.

Ms Le Couteur, by leave, moved the following amendments together:

- (1) Omit subparagraph (1)(e), substitute:
- “(e) concerns of staff and students about a lack of meaningful consultation conducted by ANU with their staff and student body regarding recent proposed changes; and
  - (f) potential negative impacts these cuts will have on staffing, course option, education quality and the broader musical community;”.
- (2) Add:
- “(4) calls on the Chief Minister to write to the Hon Simon Crean MP, Minister for the Arts, requesting that the Canberra Symphony Orchestra receives a more equitable distribution of existing Federal Government funding to Australia’s symphony orchestras.”.

Debate continued.

Ordered—That the question be divided.

Amendment (1) agreed to.

Amendment (2) negated.

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

Ms Burch (Minister for the Arts) requiring the question to be put forthwith without debate—

Question—put and negated.

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Ms Burch moved the following amendment to the motion, as amended: Insert new subparagraph (1)(g):

“(g) ACT Government provides \$1.4 million per year to the ANU to support a Community Outreach Program, which provides a range of music and visual art programs through the School of Music and School of Art, for access by the ACT community and school students;”.

Debate continued.

Amendment agreed to.

Question—That the motion, as amended, viz:

“That this Assembly:

- (1) notes the:
- (a) role and reputation of the Australian National University (ANU) School of Music as a leading music educator;
  - (b) particular connection between the ANU School of Music and the Canberra Symphony Orchestra;
  - (c) contribution the ANU School of Music makes to the broader music fraternity locally, nationally and internationally;
  - (d) announcement of the Vice-Chancellor of the ANU to make significant cuts to the funding of the School of Music;

- (e) concerns of staff and students about a lack of meaningful consultation conducted by ANU with their staff and student body regarding recent proposed changes;
  - (f) potential negative impacts these cuts will have on staffing, course option, education quality and the broader musical community; and
  - (g) ACT Government provides \$1.4 million per year to the ANU to support a Community Outreach Program, which provides a range of music and visual art programs through the School of Music and School of Art, for access by the ACT community and school students;
- (2) expresses its support for the:
- (a) ANU School of Music;
  - (b) School's reputation established under the existing staffing and course structure; and
  - (c) contribution the School makes to the Canberra community, as well as the national and international music industries; and
- (3) calls on the Speaker to write to the Vice-Chancellor of the ANU to advise him of the Assembly's resolution.”—

be agreed to—put and passed.

### **13 ADJOURNMENT**

Ms Burch (Minister for Community Services) moved—That the Assembly do now adjourn.

Debate ensued.

Question—put and passed.

And then the Assembly, at 6.30 p.m., adjourned until tomorrow at 10 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 (GENERAL) (INFRINGEMENT NOTICES) AMENDMENT BILL 2012**

Amendments circulated by Ms Bresnan

**1**

**Clause 2**

**Page 2, line 4—**

*omit clause 2, substitute*

**2**

#### **Commencement**

- (1) This Act commences on a day fixed by the Minister by written notice.

*Note 1* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

*Note 2* A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see the Legislation Act, s 77 (1)).

- (2) If this Act has not commenced within 1 year beginning on its notification day, it automatically commences on the first day after that period.
- (3) The Legislation Act, section 79 (Automatic commencement of postponed law) does not apply to this Act.

**2**

**Clause 3**

**Proposed new dot point**

**Page 2, line 19—**

*insert*

*Road Transport (Offences) Regulation 2005.*

**3**

**Clauses 4 and 5**

**Page 2, line 20—**

*omit clauses 4 and 5, substitute*

**4**

#### **Infringement notice—payment of penalty etc New section 26 (2) (aa)**

*insert*

- (aa) apply to the administering authority for—

- (i) payment of the infringement notice penalty by instalments; or

*Note* See s 30A for applications to pay infringement notice penalties by instalments.

- (ii) discharge of the infringement notice penalty by completing an approved community work or social development program; or

*Note* See s 30C for applications to discharge infringement notice penalties.

- (iii) waiver of the infringement notice penalty;

*Note* See s 30F for applications for waiver of infringement notice penalties.

## 5 Action on service of reminder notice—payment of penalty etc New section 28 (2) (aa)

*insert*

- (aa) apply to the administering authority for—

- (i) payment of the infringement notice penalty by instalments; or

*Note* See s 30A for applications to pay infringement notice penalties by instalments.

- (ii) discharge of the infringement notice penalty by completing an approved community work or social development program; or

*Note* See s 30B for applications to discharge infringement notice penalties.

- (iii) waiver of the infringement notice penalty;

*Note* See s 30D for applications for waiver of infringement notice penalties.

## 4

### Clause 6

Page 3, line 11—

*omit clause 6, substitute*

## 6 New sections 30A to 30G

*insert*

### 30A Application for payment of penalty by instalments

- (1) A person served with an infringement notice or reminder notice for an infringement notice offence may apply to the administering authority for payment of all or part of the infringement notice penalty by instalments over a period of time that may be longer than 6 months.

*Note* If a form is approved under s 225 for this provision, the form must be used.

- (2) The application must be made within 28 days after the date of service of the infringement notice or reminder notice.
- (3) However, the application may be made at a later time if the administering authority is satisfied on reasonable grounds that there are circumstances why the application could not be made within the 28-day period.
- (4) The application—
  - (a) must include information about the financial circumstances of the person served with the notice; and
  - (b) may include information about whether the person served with the notice is the holder of 1 of the following cards—
    - (i) a current health care card issued under the *Social Security Act 1991* (Cwlth);
    - (ii) a current pensioner concession card issued under the *Social Security Act 1991* (Cwlth);
    - (iii) 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);
    - (iv) a current gold card;
    - (v) a card prescribed by regulation; and
  - (c) may give the administering authority written authorisation for the automatic deduction of a nominated maximum amount each fortnight from a nominated pension or benefit the person is receiving; and
  - (d) must include anything else prescribed by regulation.
- (5) In this section:

**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.

**30B Application for payment of penalty by instalments—decision**

- (1) On application by a person under section 30A, the administering authority must—
  - (a) allow the application; or
  - (b) refuse the application.
- (2) The administering authority may, in writing, ask the applicant or a person mentioned in the application for more information to assist the authority to make a decision under this section.
- (3) The administering authority—
  - (a) must allow payment by instalments if the person is the holder of a card mentioned in section 30A (4) (b); and
  - (b) in any other case—may allow payment by instalments if satisfied on reasonable grounds that it is justified because of the person's financial circumstances.
- (4) The administering authority must—
  - (a) if the application is allowed—tell the person in writing about the arrangements for paying the infringement notice penalty by instalments; and
  - (b) if the application is refused—tell the person in writing about the refusal and the reasons for the refusal.
- (5) A regulation may make provision in relation to the following:
  - (a) any conditions applying to allowing an application under section 30A;
  - (b) the way payment of an infringement notice penalty by instalments is to be made.

**30C Application to discharge penalty by community work or social development program**

- (1) A person served with an infringement notice or reminder notice for an infringement notice offence may apply to the administering authority to discharge the infringement notice penalty for the offence by completing an approved community work or social development program.

*Note* If a form is approved under s 225 for this provision, the form must be used.
- (2) The application must be made within 28 days after the date of service of the infringement notice or reminder notice.
- (3) However, the application may be made at a later time if the administering authority is satisfied on reasonable grounds that there are circumstances why the application could not be made within the 28-day period.

- (4) The application must set out—
  - (a) either or both of the following:
    - (i) the financial circumstances of the person;
    - (ii) any special circumstances of the person; and
  - (b) anything else prescribed by regulation.

**30D Application to discharge penalty by community work or social development program—decision**

- (1) On application by a person under section 30C, the administering authority must send the application to the director-general responsible for the *Crimes (Sentence Administration) Act 2005*, part 6.2 (Good behaviour—community service work).
- (2) The director-general must—
  - (a) allow the application; or
  - (b) refuse the application.
- (3) The director-general may, in writing, ask the applicant or a person mentioned in the application for more information to assist the director-general to make a decision under this section.
- (4) The director-general may allow the application if satisfied on reasonable grounds that it is justified because of—
  - (a) either or both of the following:
    - (i) the financial circumstances of the person;
    - (ii) any special circumstances of the person; and
  - (b) anything else prescribed by regulation.
- (5) The director-general must—
  - (a) if the application is allowed—
    - (i) tell the administering authority that the application is allowed; and
    - (ii) tell the applicant in writing about the arrangements for completing the approved community work or social development program; and
  - (b) if the application is refused—
    - (i) tell the administering authority that the application is refused; and
    - (ii) tell the applicant in writing about the refusal and the reasons for the refusal.
- (6) A regulation may make provision in relation to the following:
  - (a) any conditions applying to allowing an application under section 30C;

- (b) the arrangements for completing an approved community work or social development program, including when an approved community work or social development program is taken to be completed and evidence of completion;
  - (c) the administration of approved community work or social development programs by a prescribed agency.
- (7) In this section:
- special circumstances***, of a person, means any of the following circumstances that relate to the person and significantly affect his or her ability to pay an infringement notice penalty:
- (a) mental or intellectual disability, disease or illness;
  - (b) physical disability, disease or illness;
  - (c) addiction to drugs, alcohol or another substance;
  - (d) being a victim of domestic violence;
  - (e) homelessness, or living in crisis or transitional or supported accommodation;
  - (f) anything else prescribed by regulation.

### **30E Approval of community work or social development program**

- (1) The director-general responsible for the *Crimes (Sentence Administration) Act 2005*, part 6.2 (Good behaviour—community service work) may approve a community work or social development program for this division.
- (2) An approval is a disallowable instrument.

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

### **30F Application for waiver of penalty**

- (1) A person served with an infringement notice or reminder notice for an infringement notice offence may apply to the administering authority for waiver of—
  - (a) the infringement notice penalty for the infringement notice offence; and
  - (b) the amount payable for the cost of serving a reminder notice.

*Note* If a form is approved under s 225 for this provision, the form must be used.

- (2) The application must set out—
  - (a) the person's financial circumstances; and
  - (b) the person's special circumstances; and
  - (c) anything else prescribed by regulation.

- (3) In this section:
- special circumstances*, of a person—see section 30D (7).

### **30G Application for waiver of penalty—decision**

- (1) On application by a person under section 30F, the administering authority must—
    - (a) allow the application; or
    - (b) refuse the application.
  - (2) The administering authority may, in writing, ask the applicant or a person mentioned in the application for more information to assist the authority to make a decision under this section.
  - (3) The administering authority must allow an application if satisfied on reasonable grounds that—
    - (a) the applicant does not have, and is unlikely to have, the financial ability to pay the infringement notice penalty; and
    - (b) special circumstances exist in relation to the applicant; and
    - (c) enforcement action has not resulted in, or is unlikely to result in, the payment of the infringement notice penalty; and
    - (d) the applicant is not a suitable person to discharge the penalty by completing an approved community work or social development program.
  - (4) For subsection (3) (d), the administering authority may consult with the director-general responsible for the *Crimes (Sentence Administration) Act 2005*, part 6.2 (Good behaviour—community service work).
  - (5) The administering authority must—
    - (a) if the application is allowed—tell the person in writing about the waiver of the infringement notice penalty; and
    - (b) if the application is refused—tell the person in writing about the refusal and the reasons for the refusal.
  - (6) In this section:
- special circumstances*, of a person—see section 30D (7).

**5**

**Clause 7**

**Proposed new section 47 (1) (b) (ii)**

**Page 8, line 10—**

*omit*

section 28B (Discharging penalty by community work or social development program)

*substitute*

section 30C (Application to discharge penalty by community work or social development program)

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**6**

**Clause 7**

**Proposed new section 47 (1) (b) (iii)**

**Page 8, line 13—**

*omit*

section 28D (Waiver of penalty)

*substitute*

section 30G (Application for waiver of penalty)

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**7**

**Clause 8**

**Page 8, line 14—**

*omit clause 8, substitute*

## **8      New section 47A**

*insert*

### **47A      Discharge of penalty by other means—revocation of suspension action**

- (1) This section applies if—
  - (a) a suspension is in force under this division because of an infringement notice offence for which an infringement notice has been served on a person; and
  - (b) the person is—
    - (i) paying the infringement notice penalty for the offence in compliance with arrangements made under section 30B (Application for payment of penalty by instalments—decision); or
    - (ii) discharging the infringement notice penalty for the offence in compliance with arrangements made under section 30D (Application to discharge penalty by community work or social development program—decision).
- (2) The road transport authority must—
  - (a) revoke the suspension; and
  - (b) tell the person in writing that the suspension has been revoked.

- (3) The administering authority may send the person a written notice to reinstate the suspension (a **suspension reinstatement notice**)—
  - (a) if—
    - (i) a suspension is revoked under subsection (2); and
    - (ii) the person does not continue to comply with the arrangements made under section 30B or section 30D; or
  - (b) in circumstances prescribed by regulation.
- (4) A regulation may prescribe the matters to be considered by the road transport authority in relation to reinstating a suspension.
- (5) A suspension reinstatement notice must state—
  - (a) particulars of the infringement notice and reminder notice to which the suspension relates; and
  - (b) particulars of the arrangements made under section 30B or section 30D that apply in relation to the infringement notice penalty; and
  - (c) if subsection (3) (a) applies, that if the person does not take the stated steps to comply with the arrangements made under section 30B or section 30D by a stated date (the **suspension reinstatement date**) the road transport authority will take suspension action on the suspension reinstatement date; and
  - (d) any information prescribed by regulation; and
  - (e) any other information that the road transport authority considers appropriate.
- (6) However, the suspension reinstatement date must not be earlier than 10 days after the day the suspension reinstatement notice is sent to the person.
- (7) A suspension reinstatement under this section takes effect on the suspension reinstatement date.
- (8) If the road transport authority takes suspension reinstatement action, the authority must send a suspension reinstatement confirmation notice to the person that states—
  - (a) the suspension reinstatement date; and
  - (b) the action that was taken on the suspension reinstatement date; and
  - (c) any information prescribed by regulation; and
  - (d) any other information that the road transport authority considers appropriate.

(9) A regulation may make provision in relation to information to be given to the road transport authority about when a person is complying with arrangements made under section 30B or section 30D.

(10) In this section:

**suspension action**—see section 44 (2) (b).

**8**

**Proposed new clause 9**

**Page 10, line 9—**

*insert*

**9**

**Dictionary, new definition of *approved community work or social development program***

*insert*

***approved community work or social development program***, for division 3.2 (Infringement and reminder notices), means a community work or social development program approved by the director-general under section 30E (Approval of community work or social development program).

**9**

**Schedule 1, part 1.2**

**Amendment 1.2**

**Page 12, line 3—**

*omit amendment 1.2, substitute*

**[1.2] Schedule 1, part 1.5, new items 1A to 1C**

*insert*

1A	30B (1) (b)	administering authority—refuse to allow payment by instalments
1B	30D (2) (b)	director-general responsible for the <i>Crimes (Sentence Administration) Act 2005</i> , pt 6.2—refuse to allow discharge of penalty by completing community work or social development program
1C	30G (1) (b)	administering authority—refuse to allow waiver of payment

10

**Schedule 1  
Proposed new part 1.3  
Page 12—**

*after the table, insert*

**[1.3] New section 14A (2) (a) (ia)**

*insert*

- (ia) apply to the administering authority for—

  - (A) payment of the infringement notice penalty by instalments; or
  - (B) discharge of the infringement notice penalty by completing an approved community work or social development program; or
  - (C) waiver of the infringement notice penalty;

## [1.4] New section 14A (2) (ia)

### *insert*

- (ia) how the person may apply for—

  - (i) payment of the infringement notice penalty by instalments; or
  - (ii) discharge of the infringement notice penalty by completing an approved community work or social development program; or
  - (iii) waiver of the infringement notice penalty;

## [1.5] New section 14B (1) (m) (ia)

*insert*

- (ia) apply to the administering authority for—

  - (A) payment of the infringement notice penalty by instalments; or
  - (B) discharge of the infringement notice penalty by completing an approved community work or social development program; or
  - (C) waiver of the infringement notice penalty;

**[1.6] New section 14B (2) (aa)***insert*

(aa) how the person may apply for—

- (i) payment of the infringement notice penalty by instalments; or
- (ii) discharge of the infringement notice penalty by attending an approved community work or social development program; or
- (iii) waiver of the infringement notice penalty;

**[1.7] Dictionary, note 3***insert*

approved community work or social development program

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## **Schedule 2**

### **COMMISSIONER FOR THE ENVIRONMENT AMENDMENT BILL 2012**

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Amendments circulated by the Minister for the Environment and Sustainable Development

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**1**

**Clause 6**

**Proposed new section 2B (a)**

**Page 3, line 5—**

*omit proposed new section 2B (a), substitute*

- (a) ensure regular and consistent reporting on matters relating to the condition and management of the environment in the Territory; and
- 

**2**

**Clause 6**

**Proposed new section 2B (b)**

**Page 3, line 7—**

*omit*

and independent

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**3**

**Clause 6**

**Proposed new section 2B (f)**

**Page 3, line 17—**

*omit*

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**4**

**Clause 9**

**Proposed new section 12 (1) (a) (i)**

**Page 4, line 10—**

*omit*

of the ACT

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**5**

**Clause 10**

**Proposed new section 13 (1) (a)**

**Page 4, line 19—**

*omit*

of the ACT

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**6****Clause 11****Page 5, line 1—**

*[oppose the clause]*

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**7****Clause 12****Proposed new section 19 (2) (c)****Page 5, line 9—**

*omit proposed new section 19 (2) (c), substitute*

- (c) an assessment of pressures and sustainability trends; and
- 

**8****Clause 12****Proposed new section 19 (2) (d)****Page 5, line 16—**

*omit proposed new section 19 (2) (d), substitute*

- (d) an evaluation of the effectiveness of sustainability plans; and
- 

**9****Clause 12****Proposed new section 19 (2) (e)****Page 5, line 18—**

*omit*

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**10****Clause 12****Proposed new section 19 (2) (f) and note****Page 5, line 21—**

*omit*

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**11****Clause 13****Page 6, line 6—**

*omit clause 13, substitute*

**13      Section 19 (3)**

*substitute*

- (3) The Minister must, within 6 months after the day of receiving a state of the environment report, present to the Legislative Assembly a statement that sets out the response of the government to the report.
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12

**Clause 14**

**Page 7, line 1—**

*[oppose the clause]*

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13

**Clause 15**

**Page 7, line 8—**

*[oppose the clause]*

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14

**Clause 16**

**Page 7, line 13—**

*[oppose the clause]*

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15

**Proposed new clause 16A**

**Page 7, line 20—**

*insert*

**16A      Section 19 (7), new definition of *sustainability plan***

*insert*

***sustainability plan*** means a plan that—

- (a) includes a sustainability goal; and
- (b) is a disallowable instrument.

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

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16

**Clause 17**

**Page 7, line 21—**

*omit clause 17, substitute*

**17**

**New section 21 (2)**

*insert*

- (2) The Minister must, within 6 months after the day of receiving a special report required by the Minister under subsection (1) (a), present to the Legislative Assembly a statement that sets out the response of the government to the report.
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**17****Clause 18****Page 9, line 1—***omit clause 18, substitute***18****Minister to table reports and recommendations****Section 22***omit*

15

*substitute*

6

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**18****Clause 19****Dictionary, proposed new note 2****Page 9, line 20—***omit*

- Speaker
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