



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

2008–2009–2010

MINUTES OF PROCEEDINGS

No. 73

WEDNESDAY, 25 AUGUST 2010

1 The Assembly met at 10 a.m., pursuant to adjournment. A quorum of Members not being present, the Speaker (Mr Rattenbury) ordered the bells to be rung. A quorum having been formed, the Speaker 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 PETITION

The Clerk announced that the following Member had lodged a petition for presentation:

Mr Seselja, from 329 residents, requesting that the Assembly provide a direct school bus service between the suburbs of Yarralumla and Deakin and Marist College Canberra or extend an existing bus service to cover these students and suburbs (Pet 110).

3 CHILDREN AND YOUNG PEOPLE (DEATH REVIEW) AMENDMENT BILL 2010

Ms Hunter, pursuant to notice, presented a Bill for an Act to amend the *Children and Young People Act 2008*.

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 (Ms Burch—Minister for Children and Young People) and the resumption of the debate made an order of the day for the next sitting.

4 FINANCIAL MANAGEMENT (APPOINTMENTS) AMENDMENT BILL 2010

Mr Seselja (Leader of the Opposition), pursuant to notice, presented a Bill for an Act to amend the *Financial Management Act 1996*, and for other purposes.

Title read by Clerk.

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

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

5 EDUCATION FUNDING

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

- (1) notes:
 - (a) the importance of the non-government school sector to the ACT;
 - (b) the strong performance of the non-government school sector in the ACT;
 - (c) the substantial contribution non-government schools make to the education system in the ACT and surrounding region;
 - (d) that non-government schools provide broad, inclusive and diverse education options to parents;
 - (e) the substantial services provided by the non-government school sector to the community which reduce the financial burden on the ACT Government;
 - (f) that the ACT Government's 17.2 per cent per capita contribution to non-government students is below the national average; and
 - (g) the autonomy of principals to hire staff is vital to maintain the vitality of their school's culture;
- (2) reaffirms its strong support for:
 - (a) the non-government school sector;
 - (b) funding for non-government schools to, at the very least, be maintained in real terms; and
 - (c) non-government school principals to retain their autonomy to manage their schools in accordance with their values; and
- (3) calls on:
 - (a) the Commonwealth and ACT Governments to ensure that funding for the sector does not fall in real terms; and
 - (b) the ACT Government to explore options on how to enhance funding to non-government schools and report back to the Assembly by the last sitting day in 2010.

Mr Barr (Minister for Education and Training) moved the following amendment: Omit all words after "That this Assembly", substitute:

- "(1) notes:
- (a) the old public-private debate is over; and
 - (b) all children in all schools should get the best education possible;

- (2) reaffirms:
- (a) its strong support for the Australian Government’s comprehensive review into education funding; and
 - (b) its strong support for a system that provides the most funding to the neediest schools, whether public, Catholic or independent; and
- (3) calls on all parties in this Assembly to:
- (a) support needs-based education funding in future; and
 - (b) work together in the interests of all students in all schools, not to attempt to profit from the politics of division.”.

Debate continued.

Question—That Mr Barr’s amendment be agreed to—put.

The Assembly voted—

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

And so it was resolved in the affirmative.

Debate continued.

Question—That the motion, as amended, viz:

“That this Assembly:

- (1) notes:
- (a) the old public-private debate is over; and
 - (b) all children in all schools should get the best education possible;
- (2) reaffirms:
- (a) its strong support for the Australian Government’s comprehensive review into education funding; and
 - (b) its strong support for a system that provides the most funding to the neediest schools, whether public, Catholic or independent; and
- (3) calls on all parties in this Assembly to:
- (a) support needs-based education funding in future; and
 - (b) work together in the interests of all students in all schools, not to attempt to profit from the politics of division.”—

be agreed to—put and passed.

6 BILINGUAL EDUCATION

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

- (1) commends the ACT Government on its commitment to bilingual education in the ACT; and

- (2) encourages the ACT Government to investigate the viability of establishing further bilingual schools in the ACT.

Debate ensued.

Question—put and passed.

7 QUESTIONS

Questions without notice were asked.

8 KAMBAH VILLAGE—MASTER PLAN

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

- (1) notes:
- (a) the increasingly rundown state of Kambah Village shopping centre and the surrounding environment;
 - (b) the way in which the suburb of Kambah has evolved over the past 10 years, particularly in relation to the provision of shopping facilities; and
 - (c) the need for appropriate planning for this area to take account of:
 - (i) developments that have taken place;
 - (ii) the loss of schools from this area;
 - (iii) the existing infrastructure; and
 - (iv) developments which are proposed; and
- (2) calls on the ACT Government to:
- (a) commission a master plan of the Kambah Village site and surrounding environment, taking into account relevant economic, environment and social objectives;
 - (b) consult with local businesses, residents, community and sporting organisations and other people with appropriate expertise in preparing this master plan;
 - (c) take into account in preparing this master plan:
 - (i) the potential for the redevelopment of existing businesses and infrastructure;
 - (ii) the opportunities for new commercial and community activities; and
 - (iii) the existing road structure; and
 - (d) report to the Legislative Assembly with a completed Kambah Village Master Plan by the first sitting week in September 2011.

Mr Stanhope (Minister for Territory and Municipal Services) moved the following amendment: Omit all words after “That this Assembly”, substitute:

- “(1) the significant ACT Government investment in the Kambah Village shopping centre over the past decade, including the \$1.4m refurbishment in 2002-2003, which included:

- (a) addressing access needs of the disabled, elderly, young children and families;
 - (b) improving signage;
 - (c) planting low maintenance vegetation;
 - (d) enhancing vehicle movement and parking measures;
 - (e) revitalising the internal shopping centre courtyard through the replacement of the existing paving, lighting, street furniture and play equipment; and
 - (f) installing shade structures, as well as timber decking and associated artworks;
- (2) through consultation, the potential for further redevelopment of existing businesses and opportunities for new commercial and community activities that will flow from further upgrade works being examined by LAPS, including:
- (a) land release and development opportunities at Kambah Village;
 - (b) the current physical design of the Village;
 - (c) car parking access and circulation issues;
 - (d) a new ‘front door’ entrance that will direct shoppers from the main car park into the Village;
 - (e) improved weather protection for shoppers and pedestrian movement between the shops and car park; and
 - (f) ensuring parking capacity and requirements are met and are consistent with ACT parking guidelines;
- (3) that the ACT Government will report on these upgrade works to the Assembly and the community in the 2010-2011 Annual Report; and
- (4) that master planning priorities should be determined through the budget process on the basis of need, reflected through community consultation, rather than through a political process.”.

Debate continued.

Question—That Mr Stanhope’s amendment be agreed to—put and negatived.

Ms Le Couteur, by leave, moved the following amendment: Omit all words after “notes”, substitute:

- (a) the increasingly rundown state of Kambah Village shopping centre and the surrounding environment;
- (b) the way in which the suburb of Kambah has evolved over the past 10 years, particularly in relation to the provision of shopping facilities;
- (c) that the Government is embarking on consultation relating to the expansion of the supermarket in Kambah Village;
- (d) the need for appropriate planning for this area to take account of:
 - (i) developments that have taken place;
 - (ii) the loss of schools from this area;
 - (iii) the existing infrastructure; and

- (iv) developments which are proposed;
 - (e) that there is wide community concern about changes to local suburbs and shops around Canberra; and
 - (f) there is no systematic process for involving local communities in the planning processes that are impacting on communities; and
- (2) calls on the ACT Government to:
- (a) extend currently proposed consultation to include a master plan of the Kambah Village site and surrounding environment, taking into account relevant economic, environment and social objectives;
 - (b) consult with local businesses, residents, community and sporting organisations and other people with appropriate expertise in preparing this master plan;
 - (c) take into account in preparing this master plan:
 - (i) the potential for the redevelopment of existing businesses and infrastructure;
 - (ii) the opportunities for new commercial and community activities;
 - (iii) whether there is need for a Park and Ride; and
 - (iv) the existing road structure;
 - (d) report to the Legislative Assembly with a completed Kambah Village Master Plan by the first sitting week in September 2011; and
 - (e) develop a process for meaningful consultation with the Canberra community on planning, by:
 - (i) improving Canberra wide consultation on planning issues such as DV301 and DV303;
 - (ii) developing a priority list of areas on the basis of need, reflected through community consultation, to be master planned and subject to further localised planning;
 - (iii) undertaking localised planning and consultation in suburban areas and town, group and local centres where significant changes are anticipated;
 - (iv) incorporating these master plans and precinct plans into the Territory Plan; and
 - (v) reporting back to the Assembly by end June 2011 with the results of the priority list.”.

Debate continued.

Question—That Ms Le Couteur’s amendment be agreed to—put and passed.

Question—That the motion, as amended, viz:

“That this Assembly:

- (1) notes:
 - (a) the increasingly rundown state of Kambah Village shopping centre and the surrounding environment;

- (b) the way in which the suburb of Kambah has evolved over the past 10 years, particularly in relation to the provision of shopping facilities;
 - (c) that the Government is embarking on consultation relating to the expansion of the supermarket in Kambah Village;
 - (d) the need for appropriate planning for this area to take account of:
 - (i) developments that have taken place;
 - (ii) the loss of schools from this area;
 - (iii) the existing infrastructure; and
 - (iv) developments which are proposed;
 - (e) that there is wide community concern about changes to local suburbs and shops around Canberra; and
 - (f) there is no systematic process for involving local communities in the planning processes that are impacting on communities; and
- (2) calls on the ACT Government to:
- (a) extend currently proposed consultation to include a master plan of the Kambah Village site and surrounding environment, taking into account relevant economic, environment and social objectives;
 - (b) consult with local businesses, residents, community and sporting organisations and other people with appropriate expertise in preparing this master plan;
 - (c) take into account in preparing this master plan:
 - (i) the potential for the redevelopment of existing businesses and infrastructure;
 - (ii) the opportunities for new commercial and community activities;
 - (iii) whether there is need for a Park and Ride; and
 - (iv) the existing road structure;
 - (d) report to the Legislative Assembly with a completed Kambah Village Master Plan by the first sitting week in September 2011; and
 - (e) develop a process for meaningful consultation with the Canberra community on planning, by:
 - (i) improving Canberra wide consultation on planning issues such as DV301 and DV303;
 - (ii) developing a priority list of areas on the basis of need, reflected through community consultation, to be master planned and subject to further localised planning;
 - (iii) undertaking localised planning and consultation in suburban areas and town, group and local centres where significant changes are anticipated;
 - (iv) incorporating these master plans and precinct plans into the Territory Plan; and

- (v) reporting back to the Assembly by end June 2011 with the results of the priority list.”—

be agreed to—put and passed.

9 LITTER (SHOPPING TROLLEYS) AMENDMENT BILL 2010

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

Detail Stage

Clause 1 agreed to.

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

On the motion of Mr Stanhope (Minister for Territory and Municipal Services), by leave, his amendments Nos. 1 to 30 (*see* Schedule 1) were made together, after debate.

Debate continued.

Question—That the remainder of Bill, as a whole, as amended, be agreed to—put.

The Assembly voted—

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

And so it was resolved in the affirmative.

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

10 CALVARY PUBLIC HOSPITAL

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

- (1) notes:
- (a) that the Minister for Health has pursued the purchase of Calvary Public Hospital for two years at a proposed price of approximately \$77 million;
 - (b) that the Opposition and others have argued that the purchase should not proceed based on the Minister’s flawed rationale that spending \$77 million was necessary to fix an “accounting problem”;
 - (c) that accounting advice provided to the Government has shown that the hospital does not need to be purchased before further investment can be made in Calvary;
 - (d) that, if the Opposition and others had not opposed the purchase and had not delayed the Minister’s plans, then she would have wasted \$77 million of taxpayer’s money; and

- (e) that the Calvary purchase fiasco has caused significant aggravation to staff at the hospital and several community groups and has disrupted and distracted the Little Company of Mary, ACT Treasury, ACT Health and the Assembly; and
- (2) calls on the Minister to:
 - (a) table all accounting advice she has been provided in full; and
 - (b) rule out further attempts to purchase Calvary Hospital.

Debate ensued.

Mr Stanhope (Chief Minister) addressing the Assembly—

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

Mr Barr (Minister for Education and Training) requiring the question to be put forthwith without debate—

Question—put and negatived.

Debate continued.

Ms Bresnan moved the following amendment: Omit all words after “notes”, substitute:

- (a) that the needs of public health patients should come before that of private health corporations;
- (b) that the outcome of community consultations conducted by the ACT Government in 2009 with regard to Calvary Public Hospital and Clare Holland House showed that the majority of the community supported public health facilities being under public ownership;
- (c) findings by the ACT Auditor-General Performance Audit report into the management of Calvary Hospital agreements which showed that:
 - (i) there was ‘risk that the public hospital has subsidised the private hospital’;
 - (ii) ‘Calvary Health Care ACT Limited (CHC) disputed claims of under-payments identified in ... consultant reports, and subsequent discussions with ACT Health have led to agreed, often lower, amounts being repaid’; and
 - (iii) ‘costs were not appropriately recovered by ACT Health from Calvary Private Hospital’;
- (d) statements by the Minister for Health on 17 May 2010 in the 2010-2011 Estimates Committee hearings that although CHC had done work to separate their private and public hospital functions in line with the Auditor-General’s report, the separation was impacting on the hospital’s efficiency and throughput; and

- (e) the release on 24 May 2010 of the Australian Accounting Standards Board (AASB) Exposure Draft on Service Concession Arrangements for Grantors read in conjunction with AASB's Interpretation 12 of Service Concession Arrangements which suggests that the ACT Government can recognise Calvary Public Hospital as an asset. However problems remain between CHC and the ACT Government about transparency of funding for services, efficiency of throughput, and control over decision making on capital investments; and
- (2) calls on the ACT Government to:
- (a) work towards having as much of major public health facilities under public ownership as possible; and
 - (b) outline, as soon as practicable, the process that will be undertaken for engaging with the public about the way forward and what timeframes can be expected.”.

Debate continued.

Ms Gallagher (Minister for Health), by leave, moved the following amendment to Ms Bresnan's proposed amendment: Omit paragraph (2), substitute:

- “(2) calls on the ACT Government to:
- (a) outline, as soon as practicable, the process that will be undertaken for engaging with the public about the way forward and what timeframes can be expected; and
 - (b) present to the Assembly, as soon as practicable, further detail regarding the four options to proceed with Calvary Public Hospital and, in particular, providing an overview of the positives and negatives of these options.”.

Debate continued.

Question—That Ms Gallagher's amendment to Ms Bresnan's proposed amendment be agreed to—put.

The Assembly voted—

AYES, 9		NOES, 5
Mr Barr	Ms Hunter	Mr Coe
Ms Bresnan	Ms Le Couteur	Mr Doszpot
Ms Burch	Ms Porter	Mrs Dunne
Mr Corbell	Mr Stanhope	Mr Hanson
Ms Gallagher		Mr Seselja

And so it was resolved in the affirmative.

Question—That Ms Bresnan's amendment, as amended, be agreed to—put.

The Assembly voted—

AYES, 9		NOES, 5
Mr Barr	Ms Hunter	Mr Coe
Ms Bresnan	Ms Le Couteur	Mr Doszpot
Ms Burch	Ms Porter	Mrs Dunne
Mr Corbell	Mr Stanhope	Mr Hanson
Ms Gallagher		Mr Seselja

And so it was resolved in the affirmative.

Debate continued.

Question—That the motion, as amended, viz:

“That this Assembly:

- (1) notes:
 - (a) that the needs of public health patients should come before that of private health corporations;
 - (b) that the outcome of community consultations conducted by the ACT Government in 2009 with regard to Calvary Public Hospital and Clare Holland House showed that the majority of the community supported public health facilities being under public ownership;
 - (c) findings by the ACT Auditor-General Performance Audit report into the management of Calvary Hospital agreements which showed that:
 - (i) there was ‘risk that the public hospital has subsidised the private hospital’;
 - (ii) ‘Calvary Health Care ACT Limited (CHC) disputed claims of under-payments identified in ... consultant reports, and subsequent discussions with ACT Health have led to agreed, often lower, amounts being repaid’; and
 - (iii) ‘costs were not appropriately recovered by ACT Health from Calvary Private Hospital’;
 - (d) statements by the Minister for Health on 17 May 2010 in the 2010-2011 Estimates Committee hearings that although CHC had done work to separate their private and public hospital functions in line with the Auditor-General’s report, the separation was impacting on the hospital’s efficiency and throughput; and
 - (e) the release on 24 May 2010 of the Australian Accounting Standards Board (AASB) Exposure Draft on Service Concession Arrangements for Grantors read in conjunction with AASB’s Interpretation 12 of Service Concession Arrangements which suggests that the ACT Government can recognise Calvary Public Hospital as an asset. However problems remain between CHC and the ACT Government about transparency of funding for services, efficiency of throughput, and control over decision making on capital investments; and
- (2) calls on the ACT Government to:
 - (a) outline, as soon as practicable, the process that will be undertaken for engaging with the public about the way forward and what timeframes can be expected; and
 - (b) present to the Assembly, as soon as practicable, further detail regarding the four options to proceed with Calvary Public Hospital and, in particular, providing an overview of the positives and negatives of these options.”—

be agreed to—put.

The Assembly voted—

AYES, 9		NOES, 5
Mr Barr	Ms Hunter	Mr Coe
Ms Bresnan	Ms Le Couteur	Mr Dospot
Ms Burch	Ms Porter	Mrs Dunne
Ms Gallagher	Mr Stanhope	Mr Hanson
Mr Hargreaves		Mr Seselja

And so it was resolved in the affirmative.

11 CHILDREN AND YOUNG PEOPLE—SEXUALISATION IN ADVERTISING AND THE MEDIA

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

- (1) notes that:
 - (a) there is a significant level of community concern about the sexualisation of children and young people in advertising and the media; and
 - (b) evidence suggests that the sexualisation of children and young people is having a significant detrimental impact on children's and young people's health; and
- (2) calls upon the Government to:
 - (a) explore options for the development of a voluntary code of conduct for retailers in the ACT to promote awareness and active decision making about the types of materials sold to children and young people and the advertising that depicts them;
 - (b) ensure that education programs provided in ACT schools give students the opportunity to talk about their media consumption and how it informs their ideas about relationships and their perceptions and expectations of themselves; and
 - (c) report to the Assembly on the progress by the end of 2010.

Ms Burch (Minister for Children and Young People) moved the following amendment: Omit paragraph (2)(c), substitute:

- “(2) (c) ask the Youth Advisory Council to investigate the possibility of organising a competition, campaign or event designed to promote positive body image amongst children and young people;
- (d) request that the Children and Young People's Commissioner explore issues regarding any sexualisation of children and young people in the ACT; and
- (e) report to the Assembly on the progress by the end of 2010.”.

Debate continued.

Question—That Ms Burch's amendment be agreed to—put and passed.

Question—That the motion, as amended, viz:

“That this Assembly:

- (1) notes that:

- (a) there is a significant level of community concern about the sexualisation of children and young people in advertising and the media; and
 - (b) evidence suggests that the sexualisation of children and young people is having a significant detrimental impact on children's and young people's health; and
- (2) calls upon the Government to:
- (a) explore options for the development of a voluntary code of conduct for retailers in the ACT to promote awareness and active decision making about the types of materials sold to children and young people and the advertising that depicts them;
 - (b) ensure that education programs provided in ACT schools give students the opportunity to talk about their media consumption and how it informs their ideas about relationships and their perceptions and expectations of themselves;
 - (c) ask the Youth Advisory Council to investigate the possibility of organising a competition, campaign or event designed to promote positive body image amongst children and young people;
 - (d) request that the Children and Young People's Commissioner explore issues regarding any sexualisation of children and young people in the ACT; and
 - (e) report to the Assembly on the progress by the end of 2010.”—

be agreed to—put and passed.

12 ADJOURNMENT

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

Debate ensued.

Question—put and passed.

And then the Assembly, at 9:42 p.m., adjourned until tomorrow 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

LITTER (SHOPPING TROLLEYS) AMENDMENT BILL 2010

Amendments circulated by the Minister for Territory and Municipal Services

1

Clause 4

Proposed new section 24C, definition of *collection notice*
Page 2, line 23—

omit the definition, substitute

collection area—see section 24FB (2) (c).

collection day—see section 24FB (2) (b).

collection day notice—see section 24FB (1).

2

Clause 4

Proposed new section 24C, definition of *removal notice*
Page 2, line 24—

omit

section 24G (3) (a)

substitute

section 24FC (3)

3

Clause 4

Proposed new section 24C, definition of *removal notice location*
Page 3, line 1—

omit the definition, substitute

removal notice location, of a retailer's shopping trolley, means—

- (a) the place mentioned in section 24FC (1) where the trolley was found; and
 - (b) any place outside the retailer's shopping centre precinct that can be clearly seen from the place mentioned in paragraph (a).
-

4

Clause 4

Proposed new section 24C, new definitions of *retailer collection notice* and *retailer's shopping centre precinct*

Page 3, line 7—

insert

retailer collection notice—see section 24J (2).

retailer's shopping centre precinct, for a retailer's shopping trolley, means the shopping centre precinct where the retailer's premises identified on the trolley are located.

5

Clause 4

Proposed new section 24C, new definitions of *shopping centre* and *shopping centre precinct*

Page 3, line 8—

insert

shopping centre, for retail premises which provide shopping trolleys for use in the premises, means—

- (a) if the premises occupy a single building—the retail premises; or
- (b) if the premises are in a shopping centre, shopping mall, shopping court or shopping arcade—the centre, mall, court or arcade.

shopping centre precinct means—

- (a) an area consisting of—
 - (i) a shopping centre; and
 - (ii) any car park provided for the use of customers of the shopping centre; and
 - (iii) any area, including a road or other public place, between the shopping centre and the car park; and
 - (iv) any other area provided for the use of customers of the shopping centre immediately adjacent to the shopping centre; or
- (b) an area prescribed by regulation.

6

Clause 4

Proposed new section 24C, definition of *shopping trolley*

Page 3, line 9—

omit the definition, substitute

shopping trolley means—

- (a) a predominantly metal trolley incorporating a basket that cannot be removed; or
- (b) a trolley or handcart prescribed by regulation.

7

Clause 4**Proposed new section 24D****Page 3, line 10—**

omit proposed new section 24D, substitute

24D Direction to return shopping trolley

- (1) This section applies if an authorised person or police officer believes on reasonable grounds that—
 - (a) a person—
 - (i) has taken a retailer’s shopping trolley from the retailer’s shopping centre precinct; or
 - (ii) is using a retailer’s shopping trolley in a place outside the retailer’s shopping centre precinct; or
 - (iii) has left a retailer’s shopping trolley at a place outside the retailer’s shopping centre precinct; and
 - (b) for paragraph (a) (i) and (ii), the person is not—
 - (i) the retailer identified on the trolley; or
 - (ii) a person authorised by the retailer to do the things mentioned in paragraph (a) (i) and (ii).
- (2) The authorised person or police officer may give the person a written direction to return the shopping trolley to the retailer’s premises identified on the trolley.
- (3) The person must comply with the direction.

Maximum penalty: 10 penalty units.
- (4) An offence against this section is a strict liability offence.
- (5) The authorised person or police officer must not give the person a written direction under subsection (2) if it is harsh or unreasonable in the circumstances to do so.

Note The defendant has an evidential burden in relation to the matters mentioned in s (5) (see Criminal Code, s 58).
- (6) A direction must—
 - (a) state that it is an offence against subsection (3) not to comply with the direction; and
 - (b) state a reasonable time within which the direction must be complied with; and

- (c) include a statement that the person may be served with an infringement notice or prosecuted under subsection (3) if the person does not comply with the direction.

(7) In this section:

infringement notice—see the *Magistrates Court Act 1930*, section 117.

8

Clause 4

Proposed new section 24E

Page 3, line 19—

omit proposed new section 24E, substitute

24E Notice about taking etc shopping trolley outside of shopping centre precinct

- (1) A retailer must place prominently at or near the customer exits in the retailer's premises a notice that—
- (a) contains the following statement:

‘Under the *Litter Act 2004* fines can apply for taking, using or leaving a shopping trolley outside this shopping centre precinct’; and
 - (b) describes the retailer's shopping centre precinct; and
 - (c) contains anything else prescribed by regulation; and
 - (d) can be seen and read easily by a person leaving the retailer's premises.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

9

Clause 4

Proposed new section 24F (1) (a)

Page 4, line 15—

omit

10

Clause 4

Proposed new section 24F (1) (c)

Page 4, line 17—

omit proposed new section 24F (1) (c), substitute

- (c) the address of the retailer's premises at which the retailer keeps the trolley;

11
Clause 4**Proposed new section 24F (4), note****Page 5, line 8—***insert*

Note The defendant has an evidential burden in relation to the matters mentioned in s (4) (see Criminal Code, s 58).

12
Clause 4**Proposed new section 24F (6)****Page 5, line 12—***omit*

territory

substitute

Territory

13
Clause 4**Proposed new sections 24FA, 24FB and 24FC****Page 5, line 13—***insert***24FA Retailer must keep shopping trolleys within shopping centre precinct**

- (1) A retailer commits an offence if the retailer fails to keep a shopping trolley identified as belonging to the retailer under section 24F (1) within the retailer's shopping centre precinct.

Maximum penalty: 60 penalty units.

- (2) This section does not apply if the shopping trolley is—
- (a) in premises owned or leased by the retailer or a person authorised by the retailer to keep the trolley; or
 - (b) in the possession of the retailer or a person authorised by the retailer to be in possession of the trolley; or
 - (c) in a shopping centre precinct other than the retailer's shopping centre precinct.
- (3) This section does not apply if—
- (a) the retailer operates and maintains a trolley containment system at the retailer's premises where the shopping trolley came from and the containment system applied to the trolley; or
 - (b) the retailer took all reasonable measures to ensure that the trolley was kept within the retailer's shopping centre precinct; or

- (c) the number of trolleys provided by the retailer at the retailer's premises where the trolley came from is less than the number prescribed by regulation.

Note The defendant has an evidential burden in relation to the matters mentioned in s (2) and (3) (see Criminal Code, s 58).

- (4) In this section:

trolley containment system means a system approved by the chief executive that is designed to reduce the number of a retailer's shopping trolleys taken out of the retailer's shopping centre precinct.

Example—trolley containment system

a system which requires the deposit of money by customers to use a shopping trolley which is refundable on the return of the trolley

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).

24FB Notice of shopping trolley collection days

- (1) The chief executive may give a retailer a notice (a ***collection day notice***) of the chief executive's intention to remove shopping trolleys left in places outside a shopping centre precinct.

Note For how documents may be served, see the Legislation Act, pt 19.5.

- (2) A collection day notice must state the following:

- (a) the date the notice is given;
- (b) the day (the ***collection day***) that the removal of shopping trolleys will take place, being a day not less than 2 days after the date the notice is given;
- (c) the area (the ***collection area***) from where trolleys will be removed;
- (d) if a trolley is found in a place outside a shopping centre precinct in a collection area on a collection day, the trolley may—
 - (i) be removed to a retention area; and
 - (ii) only be collected by the retailer from the retention area if the retailer pays all fees, charges and other amounts payable under this Act;

Note A fee for removing and storing the trolley may be determined under s 25 for this provision.

- (e) it is an offence against section 24FA if the retailer fails to keep a trolley identified as belonging to the retailer under section 24F (1) within the retailer's shopping centre precinct;

- (f) the maximum penalty for the offence;
- (g) how the retailer may contact an authorised person, including, for example, by giving a telephone number.

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).

24FC Notice to remove individual shopping trolley

- (1) This section applies if a retailer's shopping trolley is found in a place outside the retailer's shopping centre precinct by an authorised person or police officer.
- (2) This section does not apply if the retailer identified on the shopping trolley has been given a collection day notice and the trolley is found on a collection day in a collection area.
- (3) An authorised person or police officer may give the retailer a notice (a **removal notice**) to remove the shopping trolley from the removal notice location.
- (4) A removal notice must state the following:
 - (a) the time and date the notice is given;
 - (b) the place where the shopping trolley was found;
 - (c) that the trolley must be removed from the removal notice location within 24 hours after the time the notice is given;
 - (d) if the trolley is not removed from the removal notice location within 24 hours after the time the notice is given, the trolley may—
 - (i) be removed to a retention area; and
 - (ii) only be collected by the retailer from the retention area if the retailer pays all fees, charges and other amounts payable under this Act;

Note A fee for removing and storing the trolley may be determined under s 25 for this provision.

- (e) it is an offence against section 24FA if the retailer fails to keep a trolley identified as belonging to the retailer under section 24F (1) within the retailer's shopping centre precinct;
- (f) the maximum penalty for the offence;
- (g) how the retailer may contact an authorised person, including, for example, by giving a telephone number.

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).

- (5) The removal notice must be given by—
 - (a) securely attaching the notice, addressed to the retailer, to the shopping trolley in a conspicuous position; and
 - (b) calling the contact telephone number stated on the trolley and giving the information in the notice to the retailer.
- (6) For subsection (5) (b), information in the removal notice is taken to have been given to the retailer if—
 - (a) the information is given to—
 - (i) a person who answers the telephone call; or
 - (ii) a telephone answering or recording device; or
 - (b) a reasonable attempt was made to give the information to the retailer by telephone.
- (7) A removal notice given in the way mentioned in subsection (5) is taken to have been given to the retailer at the time and date the telephone call is made.

14

Clause 4

Proposed new section 24G

Page 5, line 14—

omit proposed new section 24G, substitute

24G Removal of shopping trolley to retention area

- (1) The chief executive may authorise a person (a *trolley collector*) to remove shopping trolleys found outside shopping centre precincts to a retention area.
- (2) A trolley collector or authorised person may remove a shopping trolley found outside a shopping centre precinct to a retention area if the retailer identified on the trolley has been given—
 - (a) a collection day notice and the trolley is found on a collection day in a collection area; or
 - (b) a removal notice in relation to the trolley and the trolley has not been removed from the removal notice location within 24 hours after the time the notice was given.
- (3) Subsection (2) does not apply if the shopping trolley is—
 - (a) in premises owned or leased by the retailer or a person authorised by the retailer to keep the trolley; or
 - (b) in the possession of the retailer or a person authorised by the retailer to be in possession of the trolley; or
 - (c) in a shopping centre precinct other than the retailer's shopping centre precinct.

- (4) However, an authorised person or a police officer may remove a shopping trolley to a retention area without a notice under section 24FB or section 24FC having been given if the authorised person or a police officer believes on reasonable grounds that—
- (a) the trolley may cause injury to a person or animal or damage to property or a public place if it is not removed; or
 - (b) it is impractical for the retailer to remove the trolley.

Example—par (a)

A shopping trolley is left next to a main road. Prompt removal is necessary because the trolley could roll or be pushed onto the road.

Example—par (b)

A shopping trolley is dumped in a waterway. Removal by the retailer is impractical because it requires specialised equipment to remove it.

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).

15**Clause 4****Proposed new section 24H****Page 6, line 16—***omit***16****Clause 4****Proposed new section 24I****Page 8, line 9—***omit***17****Clause 4****Proposed new section 24J heading****Page 9, line 1—***omit***left in public places****18****Clause 4****Proposed new section 24J (1)****Page 9, line 3—***omit*

section 24G (2)

substitute

section 24G

19**Clause 4****Proposed new section 24J (2)****Page 9, line 4—***omit**collection notice**substitute**retailer collection notice*

20**Clause 4****Proposed new section 24J (3)****Page 9, line 8—***omit*

collection notice

substitute

retailer collection notice

21**Clause 4****Proposed new section 24J (3) (b)****Page 9, line 10—***omit*

22**Clause 4****Proposed new section 24J (3) (e) and note****Page 9, line 15—***omit proposed new section 24J (3) (e) and note, substitute*

(e) any fee the retailer must pay before the trolley may be collected;

Note A fee for removing and storing the trolley may be determined under s 25 for this provision.

23**Clause 4****Proposed new section 24J (3) (f)****Page 9, line 20—***omit*

24**Clause 4****Proposed new section 24K****Page 10, line 3—***omit*

section 24G (2)

substitute

section 24G

25**Clause 4****Proposed new section 24K (b)****Page 10, line 7—***omit*

collection notice

substitute

retailer collection notice

26**Clause 4****Proposed new section 24K (d)****Page 10, line 11—***omit*

collection notice

substitute

retailer collection notice

27**Clause 4****Proposed new section 24K (f)****Page 10, line 16—***omit proposed new section 24K (f), substitute*

- (f) for that Act, section 26 (2) (a) and (b) and section 30 (1) (a) and (b), the reasonable costs incurred by the chief executive are taken to be any fee determined under this Act for the removal, storage and disposal of the trolley; and

Note A fee for removing, storing and disposing of the trolley may be determined under s 25 for this provision.

- (g) that Act, section 27 does not apply.
-

 28

Clause 4

Proposed new section 24KA

Page 10, line 19—

insert
24KA Recovery of cost of disposal etc of shopping trolley

- (1) This section applies if a shopping trolley has been disposed of under section 24K and the *Uncollected Goods Act 1996*, part 3.
- (2) A fee for the removal, storage and disposal of the shopping trolley is a debt due to the Territory by the retailer.

Note A fee for removing, storing and disposing of the trolley may be determined under s 25 for s 24K (f).
- (3) The debt is payable within 14 days after the date of the invoice.
- (4) Interest is payable on the amount of the debt that remains unpaid after the payment date at the interest rate mentioned in the *Court Procedures Rules 2006*, schedule 2, rule 2.3 (Interest on judgment after 30 June 2010—Supreme Court).

 29

Proposed new clause 4A

Page 11, line 3—

insert
4A Dictionary, new definitions
insert

collection area, for part 4A (Shopping trolleys)—see section 24FB (2) (c).

collection day, for part 4A (Shopping trolleys)—see section 24FB (2) (b).

collection day notice, for part 4A (Shopping trolleys)—see section 24FB (1).

removal notice, for part 4A (Shopping trolleys)—see section 24C.

removal notice location, for part 4A (Shopping trolleys)—see section 24C.

retailer, for part 4A (Shopping trolleys)—see section 24C.

retailer collection notice, for part 4A (Shopping trolleys)—see section 24J (2).

retailer's shopping centre precinct, for part 4A (Shopping trolleys)—see section 24C.

retention area, for part 4A (Shopping trolleys)—see the *Uncollected Goods Act 1996*, dictionary.

shopping centre, for part 4A (Shopping trolleys)—see section 24C.

shopping centre precinct, for part 4A (Shopping trolleys)—see section 24C.

shopping trolley, for part 4A (Shopping trolleys)—see section 24C.

30

Clause 5

Proposed new items 12 to 14

Page 11, line 6—

omit proposed new items 12 to 14, substitute

12	24D (3)	10	60
13	24E (1)	10	200
14	24F (3)	10	20