



**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**2008–2009**

**MINUTES OF PROCEEDINGS**

**No. 29**

**THURSDAY, 20 AUGUST 2009**

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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 FIRST HOME OWNER GRANT AMENDMENT BILL 2009 (NO. 2)**

Ms Gallagher (Treasurer), pursuant to notice, presented a Bill for an Act to amend the *First Home Owner Grant Act 2000*, and for other purposes.

*Papers:* Ms Gallagher presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 19 August 2009.

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.

**3 CRIMES (ASSUMED IDENTITIES) BILL 2009**

Mr Corbell (Attorney-General), pursuant to notice, presented a Bill for an Act to provide for the lawful acquisition and use of assumed identities for law enforcement purposes.

*Papers:* Mr Corbell presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 19 August 2009.

Title read by Clerk.

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

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

#### **4 LEGISLATION (PENALTY UNITS) AMENDMENT BILL 2009**

Mr Corbell (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Legislation Act 2001*.

*Papers:* Mr Corbell presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 19 August 2009.

Title read by Clerk.

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

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

#### **5 ESTIMATES 2009-2010—SELECT COMMITTEE—REPORT—APPROPRIATION BILL 2009-2010—GOVERNMENT RESPONSE—PAPER NOTED**

The order of the day having been read for the resumption of the debate on the motion of Ms Gallagher (Treasurer)—That the Assembly takes note of the paper (*presented 23 June 2009*), viz:

Estimates 2009-2010—Select Committee—Report—*Appropriation Bill 2009-2010*—Government response, dated June 2009—

Question—put and passed.

#### **6 ADMINISTRATION AND PROCEDURE—STANDING COMMITTEE—REPORT 1—THE MERIT OF APPOINTING A PARLIAMENTARY BUDGET OFFICER—MOTION THAT REPORT BE NOTED**

Mr Rattenbury (Chair), pursuant to order, presented the following report:

Administration and Procedure—Standing Committee—Report 1—*The Merit of Appointing a Parliamentary Budget Officer*, dated 20 August 2009, together with a copy of the extracts of the relevant minutes of proceedings—

Mrs Dunne moved—That the report be noted.

Debate adjourned (Mr Corbell—Manager of Government Business) and the resumption of the debate made an order of the day for the next sitting.

#### **7 ADMINISTRATION AND PROCEDURE—STANDING COMMITTEE—REPORT 2—LATIMER HOUSE PRINCIPLES—MOTION THAT REPORT BE NOTED**

Mr Rattenbury (Chair), pursuant to order, presented the following report:

Administration and Procedure—Standing Committee—Report 2—*Latimer House Principles*, dated 20 August 2009, together with a copy of the extracts of the relevant minutes of proceedings—

Ms Bresnan moved—That the report be noted.

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

**8 PUBLIC ACCOUNTS—STANDING COMMITTEE—GOVERNMENT PROCUREMENT ACT—REPORTABLE CONTRACTS—TABLING—STATEMENT BY CHAIR—PAPERS**

Ms Le Couteur (Chair), pursuant to standing order 246A, informed the Assembly of certain action by the Standing Committee on Public Accounts in relation to the tabling of reportable contracts provided to the Committee under section 39 of the *Government Procurement Act 2001*.

*Papers:* Ms Le Couteur, by leave, presented the following papers:

Reportable contracts—Copies of letters to the Chair of the Standing Committee on Public Accounts from the following Departments and Agencies for the period 1 October 2008 to 31 March 2009:

ACT Planning and Land Authority, dated 17 April 2009.

Cultural Facilities Corporation, dated 20 April 2009.

Disability, Housing and Community Services, dated 30 April 2009.

Education and Training, dated 20 April 2009.

Independent Competition and Regulatory Commission, dated 20 April 2009.

Legislative Assembly Secretariat, dated 21 April 2009.

Treasury, dated 21 April 2009.

**9 PUBLIC ACCOUNTS—STANDING COMMITTEE—INQUIRY—AUDITOR-GENERAL'S REPORT NO. 4/2008—MAINTENANCE OF PUBLIC HOUSING—STATEMENT BY CHAIR**

Ms Le Couteur (Chair), pursuant to standing order 246A, informed the Assembly that the Standing Committee on Public Accounts had resolved to conduct an inquiry into, and report on, Auditor-General's Report No. 4/2008—Maintenance of Public Housing.

**10 EXECUTIVE BUSINESS—PRECEDENCE**

Ordered—That Executive business be called on forthwith.

**11 ROAD TRANSPORT (MASS, DIMENSIONS AND LOADING) BILL 2009**

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

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*Detail Stage*

Bill as a whole—

Consideration resumed on Mr Coe's amendment No. 1 (*see* [Schedule 1](#)).

Debate continued.

Amendment agreed to.

Mr Coe's amendment No. 2 (*see* [Schedule 1](#)) agreed to.

Mr Coe's amendment No. 3 (*see* [Schedule 1](#))—

Debate continued.

Mr Stanhope (Minister for Transport) moved his amendment No. 1 to Mr Coe's amendment No. 3 (*see* [Schedule 2](#)).

Debate continued.

Amendment to amendment agreed to.

Amendment, as amended, agreed to.

Mr Coe's amendment No. 4 (*see* [Schedule 1](#)) debated and negatived.

Mr Coe's amendment No. 5 (*see* [Schedule 1](#)) debated and agreed to.

Mr Coe's amendment No. 6 (*see* [Schedule 1](#)) negatived.

Mr Coe's amendment No. 7 (*see* [Schedule 1](#)) negatived.

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 POSTPONEMENT OF ORDER OF THE DAY**

Ordered—That order of the day No. 2, Executive business, relating to the Crimes Legislation Amendment Bill 2009, be postponed until a later hour this day.

## **13 WORKERS COMPENSATION (DEFAULT INSURANCE FUND) AMENDMENT BILL 2009**

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 CRIMES LEGISLATION AMENDMENT BILL 2009**

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.

*Paper:* Mr Corbell (Attorney-General) presented a revised explanatory statement to the Bill.

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.

## **15 QUESTIONS**

Questions without notice were asked.

**16 STATEMENT BY MEMBER**

Ms Le Couteur, by leave, made a statement concerning the Water and Sewerage (Energy Efficient Hot-Water Systems) Legislation Amendment Bill 2009 and sought further clarification from Mr Barr (Minister for Planning).

Mr Barr undertook to take the question on notice.

**17 PRESENTATION OF PAPER**

Ms Gallagher (Treasurer), on behalf of the Minister for Territory and Municipal Services, presented the following paper:

Strategic Budget Review—Department of Territory and Municipal Services, including appendices, prepared by Ernst and Young, dated 9 December 2008.

**18 GENE TECHNOLOGY ACT—OPERATIONS OF THE GENE TECHNOLOGY REGULATOR—QUARTERLY REPORT—PAPER AND STATEMENT BY MINISTER**

Ms Gallagher (Minister for Health) presented the following paper:

Gene Technology Act, pursuant to subsection 136A(3)—Operations of the Gene Technology Regulator—Quarterly report—1 January to 31 March 2009, dated 26 May 2009—

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

**19 HUMAN CLONING AND EMBRYO RESEARCH ACT—NATIONAL HEALTH AND MEDICAL RESEARCH COUNCIL—EMBRYO RESEARCH LICENSING COMMITTEE—REPORT TO THE PARLIAMENT OF AUSTRALIA—PAPER AND STATEMENT BY MINISTER**

Ms Gallagher (Minister for Health) presented the following paper:

Human Cloning and Embryo Research Act, pursuant to section 50—National Health and Medical Research Council—Embryo Research Licensing Committee—Report to the Parliament of Australia for the period 1 October 2008 to 31 March 2009, dated June 2009—

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

**20 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—MINISTERIAL CODE OF CONDUCT**

The Assembly was informed that Ms Bresnan, Ms Burch, Mr Coe, Mr Doszpot, Mrs Dunne, Mr Hanson, Ms Hunter, Ms Le Couteur, Ms Porter, Mr Seselja and Mr Smyth had proposed that matters of public importance be submitted to the Assembly for discussion. In accordance with the provisions of standing order 79, the Speaker had determined that the matter proposed by Mr Doszpot be submitted to the Assembly, namely, “The importance of the Code of Conduct for Ministers”.

Discussion ensued.

The time for discussion having expired—

Discussion concluded.

**21 ADJOURNMENT**

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

Debate ensued.

*Paper:* Ms Gallagher (Deputy Chief Minister) presented the following paper:

Facebook—Katy Gallagher's photos—Profile pictures—Copy of photograph.

Debate continued.

Question—put and passed.

And then the Assembly, at 4.28 p.m., adjourned until Tuesday, 25 August 2009 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 (MASS, DIMENSIONS AND LOADING) BILL 2008**

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Amendments circulated by Mr Coe

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**1**  
**Clause 10 (1) (a)**  
**Page 7, line 27—**

*omit*

log book

*substitute*

work diary

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**2**  
**Clause 19, example 4**  
**Page 17, line 3—**

*omit*

a log book entry

*substitute*

a work diary entry

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**3**  
**Clause 137 (3)**  
**Page 48, line 6—**

*omit clause 137 (3), substitute*

- (3) An authorisation may be conditional if the police officer or authorised person believes on reasonable grounds that particular conditions are necessary to minimise an appreciable risk of harm to public safety, the environment, road infrastructure or public amenity.
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**4**  
**Proposed new clause 185A**  
**Page 90, line 3—**

*insert*

**185A Reasonable steps exception—compliance with industry code**

- (1) This section applies if a defendant for a heavy vehicle road law offence has the benefit of the reasonable steps exception for the offence.

- (2) It is evidence that the defendant took reasonable steps to comply with the heavy vehicle road law if the defendant complied with all relevant standards and procedures under a registered industry code of practice, and with the spirit of the code, in relation to matters to which the failure to comply relates.

*Note 1* **Registered industry code of practice**—see s 222.

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

- (3) However, subsection (2) is not available unless the defendant gives notice of intention to establish the matters mentioned in subsection (2) to the prosecution at least 28 working days before the day when the matter is to be heard.

5

**Clause 200 (3)**

**Page 100, line 23—**

*omit*

if the officer or person believes that—

*substitute*

if the officer or person believes on reasonable grounds that—

6

**Proposed new division 2.5.4**

**Page 117, line 2—**

*insert*

**Division 2.5.4 Registered industry codes of practice**

**222 Meaning of *registered industry code of practice***

In this chapter:

*registered industry code of practice* means an industry code of practice that is registered by—

- (a) the road transport authority under section 224; or
- (b) a corresponding road transport authority under a corresponding heavy vehicle road law.

**223 Guidelines for industry codes of practice**

- (1) The road transport authority may issue guidelines about the preparation and contents of an industry code of practice.

*Note* Power to make an instrument includes power to amend or repeal the instrument (Legislation Act, s 46).



- (2) The guidelines may make provision in relation to—
  - (a) the review of a registered industry code of practice; and
  - (b) the period for which registration, under section 224, of an industry code of practice remains in force (unless sooner revoked).
- (3) A guideline is a notifiable instrument.

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

## **224 Registration of industry codes of practice**

- (1) This section applies to an industry code of practice prepared in accordance with the guidelines under section 223.
- (2) The road transport authority may register the industry code of practice.
- (3) The registration of an industry code of practice may be conditional.
- (4) Registration of an industry code of practice remains in force (unless sooner revoked) until the earlier of the following:
  - (a) the end of the period of effect (if any) stated in the instrument of registration;
  - (b) the end of the period (if any) stated in the guidelines.
- (5) The registration of an industry code of practice is a notifiable instrument.

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

- (6) The registration instrument must include the industry code of practice being registered by the instrument.

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### **7**

#### **Dictionary**

#### **Proposed new definition of *registered industry code of practice***

#### **Page 248, line 2—**

*insert*

*registered industry code of practice*—see section 222.

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**Schedule 2****ROAD TRANSPORT (MASS, DIMENSIONS AND  
LOADING) BILL 2008**

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Amendment circulated by the Minister for Transport to Mr Coe's  
amendment No. 3

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**1**  
**Mr Coe's amendment No. 3**  
**Clause 137 (3)**  
**Page 48, line 6—**

*omit* “an appreciable”

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