



# LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

2004–2005–2006

## MINUTES OF PROCEEDINGS

No. 77

**TUESDAY, 17 OCTOBER 2006**

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- 1 The Assembly met at 10.30 a.m., pursuant to adjournment. A quorum of Members not being present, the Speaker (Mr Berry) ordered the bells to be rung. A quorum having been formed, the Speaker took the Chair and made a formal recognition that the Assembly was meeting on the lands of the traditional owners. The Speaker asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

- 2 **WEBSTREAMING OF ASSEMBLY PROCEEDINGS—STATEMENT BY SPEAKER**

The Speaker made a statement concerning webstreaming of Assembly proceedings and announced that a six month trial would be commencing from today's sitting.

- 3 **PETITIONS**

The Clerk announced that the following Members had lodged petitions for presentation:

Ms MacDonald, from 617 residents, requesting that the Assembly keep Chifley Pre-School open because it is a valued community asset and established educational facility for the ACT community.

Ms MacDonald, from 475 residents, requesting that the Assembly allows Melrose Primary School to remain open.

Mr Smyth, from 525 residents, requesting that the Assembly reconsider the imposition of paid parking and parking restrictions on patients, and visitors of patients, and workers of The Canberra Hospital, and the businesses on or near the hospital precinct.

**4 LEGAL AFFAIRS—STANDING COMMITTEE (PERFORMING THE DUTIES OF A SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION COMMITTEE)—SCRUTINY REPORT 33—STATEMENT BY CHAIR**

Mr Seselja (Chair) presented the following report:

Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 33, dated 16 October 2006, together with the relevant minutes of proceedings—

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

**5 PLANNING AND ENVIRONMENT—STANDING COMMITTEE—REPORT 22—EXPOSURE DRAFT PLANNING AND DEVELOPMENT BILL 2006—PUBLICATION OF REPORT—MOTION THAT REPORT BE NOTED**

Mr Gentleman (Chair) presented the following report:

Planning and Environment—Standing Committee—Report 22—*Exposure Draft Planning and Development Bill 2006*, dated 13 October 2006, including additional and dissenting comments (*Mr Seselja*), dated 16 October 2006, together with a copy of the extracts of the relevant minutes of proceedings—

and, by leave, moved—That the report be authorised for publication.

Question—put and passed.

Mr Gentleman moved—That the report be noted.

Debate ensued.

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

**6 LEGAL AFFAIRS—STANDING COMMITTEE—SENTENCING AND THE COMMUNITY CONFERENCE, MELBOURNE—21 AND 22 JULY 2006—STATEMENT BY CHAIR**

Mr Seselja (Chair), pursuant to standing order 246A, made a statement concerning the attendance, by the Standing Committee on Legal Affairs, at the Sentencing and the Community Conference, held in Melbourne on 21 and 22 July 2006.

**7 PUBLIC ACCOUNTS—STANDING COMMITTEE—INQUIRY—AUDITOR-GENERAL'S REPORTS—STATEMENT BY CHAIR**

Mr Mulcahy (Chair), pursuant to standing order 246A, informed the Assembly that the Standing Committee on Public Accounts had examined the following Auditor-General's Reports:

No. 6/2005—Government Procurement.

No. 5/2006—Rhodium Asset Solutions Limited—

and had resolved to conduct an inquiry into and report on Auditor-General's Report No. 5/2006.

**8 STANDING COMMITTEES—REFERENCE—2005-2006 ANNUAL REPORTS**

Mr Corbell (Manager of Government Business), pursuant to notice, moved—That:

- (1) the annual and financial reports for the calendar years 2005 and 2006, and the financial year 2005-2006 presented to the Assembly pursuant to the *Annual Reports (Government Agencies) Act 2004* stand referred to the standing committees, on presentation, in accordance with the schedule below;
- (2) notwithstanding standing order 229, only one standing committee may meet for the consideration of the inquiry into the calendar years 2005 and 2006 and 2005–2006 annual and financial reports at any given time; and
- (3) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.

Standing Committee	Annual Report	Minister/s responsible
Public Accounts	ACT Auditor-General	Chief Minister
	ACT Cleaning Industry Long Service Leave Board	Minister for Industrial Relations
	ACT Construction Industry Long Service Leave Board	Minister for Industrial Relations
	ACTEW Corporation	Treasurer
	ACT Government Procurement Board	Treasurer
	ACT Insurance Authority	Treasurer
	ACTTAB Limited	Treasurer
	ACT Legislative Assembly Secretariat	Speaker
	Australian Capital Tourism Corporation	Minister for Tourism, Sport and Recreation
	Australian International Hotel School	Treasurer
	Chief Minister's Department <sup>1</sup>	Chief Minister Minister for Indigenous Affairs Minister for Women Minister for the Arts Minister for Industrial Relations
	Office of the Occupational Health and Safety Commissioner and ACT WorkCover	Minister for Industrial Relations

<b>Standing Committee</b>	<b>Annual Report</b>	<b>Minister/s responsible</b>
Public Accounts (cont'd)	Commissioner for Public Administration	Chief Minister
	Cultural Facilities Corporation	Minister for the Arts
	Department of Economic Development	Minister for Business and Economic Development
	Department of Treasury	Treasurer
	Exhibition Park in Canberra	Treasurer
	ACT Gambling and Racing Commission	Treasurer
	Nominal Defendant	Treasurer
	Rhodium Asset Solutions	Treasurer
	Office of the Small Business Commissioner	Minister for Business and Economic Development
	Stadiums Authority	Minister for Tourism, Sport and Recreation
Legal Affairs	ACT Electoral Commission	Attorney-General
	ACT Ombudsman	Attorney-General
	ACT Policing	Minister for Police and Emergency Services
	Public Advocate of the ACT	Attorney-General
	Department of Justice and Community Safety	Attorney-General
	Office of the Director of Public Prosecutions	Attorney-General
	ACT Emergency Services Authority	Minister for Police and Emergency Services
	ACT Human Rights Office	Attorney-General
	Independent Competition and Regulatory Commission	Attorney-General
	Legal Aid Commission	Attorney-General
	Public Trustee for the ACT	Attorney-General

Standing Committee	Annual Report	Minister/s responsible
Legal Affairs (cont'd)	Victims of Crime Support Program (incorporating Victims of Crime Co-ordinator, ACT Victims Services Scheme, ACT Policing Victim Liaison Program and the <i>Victims of Crime (Financial Assistance) Act 1983</i> )	Attorney-General
Health and Disability	ACT Health	Minister for Health
	ACT Health Promotion Board (Healthpact)	Minister for Health
	Community and Health Services Complaints Commissioner	Minister for Health
	Department of Disability, Housing and Community Services <sup>2</sup>	Minister for Disability and Community Services Minister for Housing Minister for Multicultural Affairs
Education, Training and Young People	Canberra Institute of Technology	Minister for Education and Training
	Department of Education and Training	Minister for Education and Training
	ACT Building and Construction Industry Training Fund Authority	Minister for Education and Training
	Department of Disability, Housing and Community Services <sup>3</sup>	Minister for Disability and Community Services
Planning and Environment	ACT Planning and Land Authority	Minister for Planning
	Land Development Agency	Minister for Planning
	ACTION Authority	Minister for the Territory and Municipal Services
	ACT Public Cemeteries Authority	Minister for the Territory and Municipal Services
	Commissioner for the Environment	Minister for the Territory and Municipal Services
	Department of Urban Services	Minister for the Territory and Municipal Services

Standing Committee	Annual Report	Minister/s responsible
Planning and Environment (cont'd)	Chief Minister's Department <sup>4</sup>	Minister for the Territory and Municipal Services

### Notes

1. Those sections of the Chief Minister's Department Annual Report concerning the environment (refer 2005–06 BP4 Output class 2: Arts Heritage and Environment. Output 2.1: Environment Management and Regulation; Output 2.2: Nature Conservation & Land Management), are referred to the Standing Committee on Planning and Environment with the Minister for the Territory and Municipal Services as the responsible Minister.
2. Those sections of the Department of Disability, Housing and Community Services concerning housing are to be dealt with by the Minister for Housing.  
  
Those sections of the Department of Disability, Housing and Community Services dealing with the Office of Children, Youth and Family Support and the Official Visitor—*Children and Young People Act 1999* be referred to the Standing Committee on Education, Training and Young People.
3. Those sections of the Department of Disability, Housing and Community Services concerning the Office of Children, Youth and Family Support and the Official Visitor—*Children and Young People Act 1999*.
4. Those sections of the Chief Minister's Department Annual Report concerning the environment (refer 2005–06 BP4 Output Class 2: Arts Heritage and Environment. Output 2.1: Environment Management and Regulation; Output 2.2: Nature Conservation and Land Management).

Question—put and passed.

## 9 HUMAN RIGHTS COMMISSION AMENDMENT BILL 2006

Mr Corbell (Attorney-General), by leave, presented a Bill for an Act to amend the *Human Rights Commission Act 2005*.

*Papers:* Mr Corbell presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 17 October 2006.

Title read by Clerk.

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

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

## 10 TOBACCO (COMPLIANCE TESTING) AMENDMENT BILL 2006

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*

Clauses 1 to 3, by leave, taken together and agreed to.

Clause 4—

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

Mr Smyth, by leave, moved his amendments Nos. 2 to 4 together (*see* [Schedule 1](#)).

Debate continued.

Amendments negatived.

Clause 4, as amended, agreed to.

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

On the motion of Mr Smyth, his amendment No. 5 (*see* [Schedule 1](#)) was made.

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

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

## **11 STATUTE LAW AMENDMENT BILL 2006**

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Debate resumed.

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

Leave granted to dispense with the detail stage.

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

## **12 QUESTIONS**

Questions without notice were asked.

## **13 PRESENTATION OF PAPERS**

The Speaker presented the following papers:

Annual Reports (Government Agencies) Act, pursuant to section 15—Annual Report 2005-2006—ACT Auditor-General's Office—Report No. 7/2006, dated 25 September 2006.

Quarterly travel report—Non-Executive MLAs—1 April to 30 June 2006.

Study trip report—Ms Porter MLA—37<sup>th</sup> British Islands and Mediterranean Regional Conference—Malta, 23 to 29 April 2006.

## **14 PUBLIC SECTOR MANAGEMENT ACT—EXECUTIVE CONTRACTS—PAPERS AND STATEMENT BY MINISTER**

Mr Stanhope (Chief Minister) presented the following papers:

Public Sector Management Act, pursuant to sections 31A and 79—Copies of executive contracts or instruments—

Contract variations:

Marion Wands.

Pauline Brown, dated 12 September 2006.

Peter Matthews, dated 31 August 2006.

Long-term contracts:

Jill Circosta, dated 23 June 2006.

Stephen Ryan, dated 7 June 2006.

Tom Elliott, dated 7 June 2006.

Short-term contracts:

Anita Hargreaves, dated 17 August 2006.

Annie Glover, dated 2 and 9 August 2006.

Anthony Polinelli, dated 8 August 2006.

Grant Carey-Ide, dated 27 July 2006.

John Clifford, dated 29 August and 8 September 2006.

Jon Quiggin, dated 25 September 2006.

Kaaren Blom.

Karl Phillips, dated 22 and 23 August 2006.

Kuan Yian (Sky) Sim, dated 16 August 2006.

Lisa Holmes, dated 22 August 2006.

Michael Lai, dated 14 September 2006.

Pauline Brown, dated 12 September 2006.

Phillip Thompson, dated 30 June and 5 July 2006.

Rosemary Kennedy, dated 26 June 2006.

Tracey Lee Bessell, dated 19 and 31 July 2006—

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

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

Mr Stanhope (Treasurer) presented the following paper:

Financial Management Act, pursuant to section 18A—Authorisation of expenditure from the Treasurers' Advance to the Chief Minister's Department, including a statement of reasons, dated 27 September 2006—

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

**16 TERRITORY OWNED CORPORATIONS ACT—STATEMENTS OF CORPORATE INTENT—ACTEW CORPORATION LTD AND RHODIUM ASSET SOLUTIONS—PAPERS AND STATEMENT BY MINISTER**

Mr Stanhope (Treasurer) presented the following papers:

Territory Owned Corporations Act, pursuant to subsection 19(3)—Statements of Corporate Intent—



ACTEW Corporation Ltd—2006/07 to 2009/10.

Rhodium Asset Solutions—

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

**17 CRIMES (RESTORATIVE JUSTICE) ACT—RESTORATIVE JUSTICE—FIRST PHASE REVIEW—PAPER AND STATEMENT BY MINISTER—MOTION TO TAKE NOTE OF PAPER**

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

Crimes (Restorative Justice) Act, pursuant to section 75—Restorative justice—First phase review—

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

Mr Corbell moved—That the Assembly takes note of the paper.

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

**18 LAND (PLANNING AND ENVIRONMENT) ACT—APPROVAL—VARIATION NO. 229 TO THE TERRITORY PLAN—ADAPTABLE HOUSING—PAPER AND STATEMENT BY MINISTER**

Mr Corbell (Minister for Planning) presented the following paper:

Land (Planning and Environment) Act, pursuant to subsection 29(1)—Approval of Variation No. 229 to the Territory Plan—Adaptable housing, dated 13 September 2006, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required—

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

**19 PRESENTATION OF PAPER**

Mr Corbell (Minister for Planning) presented the following paper:

Planning and Environment—Standing Committee—Report 13—*Draft Variation to the Territory Plan No. 229—Supportive Housing and Adaptable Housing Provisions and Other Minor Amendments*—Government response.

**20 PRESENTATION OF PAPERS**

Mr Corbell (Manager of Government Business) presented the following papers:

**Annual reports 2005-2006**

Annual Reports (Government Agencies) Act, pursuant to section 13—

ACT Building and Construction Industry Training Fund Authority, dated 6 September 2006.

ACT Electoral Commission, dated 6 September 2006.

ACT Emergency Services Authority, dated 15 September 2006

ACT Gambling and Racing Commission, dated 13 September 2006.

ACT Government Procurement Board, dated 14 September 2006.

ACT Health Promotion Authority (Healthpact).

ACT Health, dated 7 September 2006.

ACT Human Rights Office, dated 22 September 2006.

ACT Insurance Authority, dated 1 September 2006.

ACT Ombudsman, dated 11 September 2006.

ACT Planning and Land Authority, dated 22 September 2006

ACT Planning and Land Authority (Revised), dated 12 October 2006.

ACT Policing, dated 22 September 2006.

ACT Public Cemeteries Authority, dated 20 September 2006

ACT Public Cemeteries Authority (Revised), dated 20 September 2006.

ACTEW Corporation Limited.

ACTION Authority, dated 14 September 2006.

ACTTAB Limited, dated 1 September 2006

Australian Capital Tourism Corporation, dated 8 September 2006.

Australian International Hotel School, dated 18 September 2006.

Chief Minister's Department (2 volumes), dated 4 and 19 September 2006, including a corrigendum.

Commissioner for Public Administration, dated 22 September 2006.

Commissioner for the Environment, dated 18 September 2006.

Community and Health Services Complaints Commissioner, dated 22 September 2006.

Cultural Facilities Corporation, dated 21 September 2006.

Department of Disability, Housing and Community Services (2 volumes), dated 11 September 2006.

Department of Economic Development, dated 4 September 2006.

Department of Education and Training, dated 13 September 2006.

Department of Justice and Community Safety (2 volumes), dated 22 September 2006.

Department of Treasury (2 volumes), dated 15 and 20 September 2006.

Department of Urban Services (2 volumes), dated 18 September 2006.

Exhibition Park in Canberra, dated 31 August 2006.

Independent Competition and Regulatory Commission, dated 18 September 2006.

Land Development Agency, dated 21 September 2006.

Legal Aid Commission (ACT), dated 5 September 2006.

Office of the Director of Public Prosecutions, dated 11 September 2006.

Office of the Occupational Health and Safety Commissioner and ACT Workcover, dated 15 September 2006.

Office of the Small Business Commissioner, dated 30 June 2006.

Public Advocate of the ACT, dated 22 September 2006.

Public Trustee for the ACT.

Stadiums Authority.

Victims of Crime Support Program (incorporating Victims of Crime Co-ordinator, ACT Victims Services Scheme, ACT Policing Victim Liaison Program and the *Victims of Crime (Financial Assistance) Act 1983*), dated 15 September 2006.

**Subordinate legislation (including explanatory statements unless otherwise stated)**

Legislation Act, pursuant to section 64—

Health Act—Health (Fees) Determination 2006 (No. 3)—Disallowable Instrument DI2006-213 (LR, 21 September 2006).

Public Place Names Act—

Public Place Names (Franklin) Determination 2006 (No. 1)—Disallowable Instrument DI2006-215 (LR, 4 October 2006).

Public Place Names (Jerrabomberra & Majura Districts) Determination 2006 (No. 1)—Disallowable Instrument DI2006-211 (LR, 14 September 2006).

Public Place Names (Oaks Estate) Determination 2006 (No. 1)—Disallowable Instrument DI2006-210 (LR, 14 September 2006).

Race and Sports Bookmaking Act—Race and Sports Bookmaking (Sports Bookmaking Venues) Determination 2006 (No. 6)—Disallowable Instrument DI2006-214 (LR, 3 October 2006).

Radiation Act—Radiation (Fees) Determination 2006 (No. 1)—Disallowable Instrument DI2006-209 (LR, 14 September 2006).

Utilities Act and Utilities (Water Conservation) Regulations—Utilities (Water Restriction Scheme) Approval 2006 (No. 1)—Disallowable Instrument DI2006-212 (LR, 21 September 2006).

**21 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—SUSTAINABLE WATER SUPPLY**

The Assembly was informed that Mrs Burke, Dr Foskey, Mr Gentleman, Ms MacDonald, Ms Porter, Mr Pratt, Mr Seselja, Mr Smyth and Mr Stefaniak (Leader of the Opposition) had proposed that matters of public importance be submitted to the Assembly for discussion. In accordance with the provisions of standing order 79, the Speaker had determined that the matter proposed by Mr Gentleman be submitted to the Assembly, namely, “The importance of securing a sustainable water supply for the future.”

Discussion ensued.

*Papers:* Mr Mulcahy, by leave, presented the following papers:

Water inflow—Graphs—

Perth’s Annual Storage Inflow GL (1911-2005).

River Murray System Inflows (including Darling)—Annual Totals.

Lal Lal Reservoir levels.

Discussion continued.

Discussion concluded.

**22 SUPREME COURT (JUDGES PENSIONS) AMENDMENT BILL 2006**

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.

**23 ADJOURNMENT**

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

Debate ensued.

Question—put and passed.

And then the Assembly, at 5.37 p.m., adjourned until tomorrow at 10.30 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

## SCHEDULE OF AMENDMENTS

### Schedule 1

#### **TOBACCO (COMPLIANCE TESTING) AMENDMENT BILL 2006**

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Amendments circulated by Mr Smyth

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**1**

**Clause 4**

**Proposed new section 42A, definition of *young person***

**Page 3, line 2—**

*omit the definition, substitute*

*young person* means a child who is 15 years old or older.

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**2**

**Clause 4**

**Proposed new section 42H heading**

**Page 8, line 1—**

*omit the heading, substitute*

**42H**

**Chief executive's annual report about compliance testing**

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**3**

**Clause 4**

**Proposed new section 42I**

**Page 8, line 9—**

*insert*

**42I**

**Minister's annual report to Legislative Assembly about compliance testing**

The Minister must, not later than 3 sitting days after the end of a financial year, present to the Legislative Assembly a report about the following matters:

- (a) the number of compliance tests carried out during the year;
- (b) the number of contraventions of section 14 (Supply of smoking product to under 18 year olds) detected by the tests;
- (c) the action taken in relation to the contraventions;
- (d) the effectiveness of the compliance tests.

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4

## Clause 4

## Proposed new section 42J

## Page 8, line 9—

*insert*

**42J      Expiry—pt 6A**

- (1) This part expires 2 years after the day this section commences.
- (2) The following provisions of the dictionary expire 2 years after the day this section commences:
  - (a) definition of *approved procedures*;
  - (b) definition of *approved program*;
  - (c) definition of *authorised officer*, paragraph (b);
  - (d) definition of *compliance test*;
  - (e) definition of *conduct*;
  - (f) definition of *engage in conduct*;
  - (g) definition of *purchase assistant*;
  - (h) definition of *young person*.

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5

## Clause 7

Proposed new definition of *young person*

## Page 9, line 5—

*omit the definition, substitute*

*young person*, for part 6A (Tobacco compliance testing)—see section 42A.

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