



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

2012–2013–2014

MINUTES OF PROCEEDINGS

No. 79

THURSDAY, 30 OCTOBER 2014

1 The Assembly met at 10 a.m., pursuant to adjournment. The Speaker (Mrs Dunne) took the Chair and asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

2 PETITION—STATEMENT BY MEMBER—STATEMENT BY MINISTER

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

Mrs Jones, from 63 residents, requesting that the Assembly provide a footpath along Tarraleah Crescent, Lyons (Pet 17-14).

Mrs Jones, by leave, made a statement in relation to the petition.

Papers: Mrs Jones, by leave, presented the following papers:

Lyons, Tarraleah Crescent—Provision of a footpath near the Lyons Early Childhood School—Copies of letters from—

Service Director Children's Services, Woden Community Service, dated 6 August 2014.

Principal, Lyons Early Childhood School, dated 14 August 2014.

Mr Rattenbury (Minister for Territory and Municipal Services), by leave, also made a statement in relation to the petition.

3 MR FLUFFY LOOSE FILL ASBESTOS—UPDATE ON THE A.C.T. GOVERNMENT RESPONSE TO THE ISSUE—MINISTERIAL STATEMENT—PAPER—PAPER NOTED

Ms Gallagher (Chief Minister), by leave, made a ministerial statement concerning an update on the Government response to the Mr Fluffy loose fill asbestos issue and presented the following paper:



Mr Fluffy loose fill asbestos—Update on the ACT Government response to the issue—Ministerial statement, 30 October 2014.

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

Debate ensued.

Question—put and passed.

4 PRESENTATION OF PAPER

Ms Gallagher (Chief Minister) presented the following paper:

Fluffy Owners and Residents' Action Group—First Group Impact Statement—Hope in grief: confronting Mr Fluffy's toxic legacy in Canberra and Queabeyan, dated October 2014.

5 CANBERRA CONNECT EMERGENCY RESPONSE CAPABILITY—PAPER—PAPER NOTED

Mr Rattenbury (Minister for Territory and Municipal Services) presented the following paper:

Canberra Connect Emergency Response Capability—Statement by Minister.

Suspension of sitting: The Speaker, at 10.27 a.m., suspended the sitting and announced that the Chair would be resumed at the ringing of the bells.

Resumption of sitting: The bells having been rung, the Speaker resumed the Chair at 10.34 a.m.

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

Question—put and passed.

6 DANGEROUS SUBSTANCES (ASBESTOS SAFETY REFORM) LEGISLATION AMENDMENT BILL 2014

Ms Gallagher (Chief Minister), pursuant to notice, presented a Bill for an Act to amend legislation about asbestos.

Papers: Ms Gallagher presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 28 October 2014.

Title read by Clerk.

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

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

7 CRIMES (SENTENCING) AMENDMENT BILL 2014

Mr Corbell (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Crimes (Sentencing) Act 2005*, and for other purposes.

Papers: Mr Corbell presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 28 October 2014.

Title read by Clerk.

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

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

8 WATER EFFICIENCY LABELLING AND STANDARDS (A.C.T.) BILL 2014

Mr Corbell (Minister for the Environment), pursuant to notice, presented a Bill for an Act to apply as a law of the Territory a national law relating to water efficiency labelling and standards, and for other purposes.

Papers: Mr Corbell presented the following papers:

Explanatory statement to the Bill.

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

Title read by Clerk.

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

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

9 GAMING MACHINE (RED TAPE REDUCTION) AMENDMENT BILL 2014

Ms Burch (Minister for Racing and Gaming), pursuant to notice, presented a Bill for an Act to amend the *Gaming Machine Act 2004*.

Papers: Ms Burch presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 28 October 2014.

Title read by Clerk.

Ms Burch 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.

10 CANBERRA INSTITUTE OF TECHNOLOGY AMENDMENT BILL 2014

Ms Burch (Minister for Education and Training), pursuant to notice, presented a Bill for an Act to amend the *Canberra Institute of Technology Act 1987*, and for other purposes.

Papers: Ms Burch presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 28 October 2014.

Title read by Clerk.

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

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

11 EXECUTIVE BUSINESS—PRECEDENCE

Ordered—That Executive business be called on forthwith.

12 MENTAL HEALTH (TREATMENT AND CARE) AMENDMENT BILL 2014

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: Ms Gallagher (Minister for Health) presented a revised explanatory statement to the Bill.

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

Detail Stage

Bill, by leave, taken as a whole—

On the motion of Ms Gallagher, pursuant to standing orders 182A(b) and (c), by leave, her amendments Nos. 1 to 52 (*see* Schedule 1) were made together, after debate.

Paper: Ms Gallagher presented a supplementary explanatory statement to the Government amendments.

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

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

13 ENVIRONMENT PROTECTION AMENDMENT BILL 2014

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.

Detail Stage

Bill, by leave, taken as a whole—

On the motion of Mr Corbell (Minister for the Environment), pursuant to standing order 182A(c), by leave, his amendments Nos. 1 to 3 (*see* Schedule 2) were made together.

Paper: Mr Corbell presented a supplementary explanatory statement to the Government amendments.

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

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

14 QUESTIONS

Questions without notice were asked.

15 PRESENTATION OF PAPERS

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

Official Visitor Act, pursuant to section 17—Official Visitor for Mental Health—Annual Report 2013-14—Summary.

Health Act, pursuant to subsection 15(4)—ACT Local Hospital Network Council—Annual Report to the ACT Minister for Health—2013-2014 Financial Year, dated 22 September 2014.

16 PRESENTATION OF PAPERS

Mr Barr (Minister for Economic Development) presented the following papers:

Annual Reports (Government Agencies) Act, pursuant to section 13—Annual Reports 2013-2014—

Economic Development Directorate—Corrigendum, dated October 2014.

Land Development Agency—Corrigendum, dated October 2014.

17 OFFICIAL VISITOR ACT—OFFICIAL VISITOR FOR DISABILITY SERVICES—ANNUAL REPORT 2013-14—PAPER AND STATEMENT BY MINISTER

Ms Burch (Minister for Disability) presented the following paper:

Official Visitor Act, pursuant to section 17—Official Visitor for Disability Services—Annual Report 2013-14—

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

18 PRESENTATION OF PAPER

Mr Rattenbury (Minister for Territory and Municipal Services) presented the following paper:

Annual Reports (Government Agencies) Act, pursuant to section 13—Annual Report 2013-2014—Territory and Municipal Services Directorate, including the ACT Public Cemeteries Authority—Corrigendum.

19 PAPER—PETITION OUT-OF-ORDER

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

Petition which does not conform with the standing orders—Lyons, Tarraleah Crescent—Provision of a footpath near the Lyons Early Childhood School—Mrs Jones (6 signatures).

20 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—PARENTAL ENGAGEMENT AND EMPOWERMENT IN OUR SCHOOLS

The Assembly was informed that Ms Berry, Dr Bourke, Mr Doszpot, Mr Hanson (Leader of the Opposition), Ms Lawder, Ms Porter, Mr Smyth and Mr Wall had proposed that matters of public importance be submitted to the Assembly for discussion. In accordance with the provisions of standing order 79, the Speaker had determined that the matter proposed by Ms Berry be submitted to the Assembly, namely, “The importance of parental engagement and empowerment in our schools”.

Discussion ensued.

Discussion concluded.

21 CAPITAL METRO—SELECT COMMITTEE—PROPOSED ESTABLISHMENT—RESOLUTION OF CONSIDERATION BY COMMITTEES

Mr Coe, by leave, moved—That:

- (1) this Assembly notes that the ACT Government has announced that the business case for Capital Metro will be published on 31 October 2014;
- (2) a select committee on Capital Metro be established;
- (3) the select committee shall consist of two members nominated by the Government and two members nominated by the Opposition, to be nominated to the Speaker by 5 pm on this sitting day;
- (4) the chair of the select committee will be an Opposition member;
- (5) the select committee shall inquire and report into the financial, economic, social and environmental aspects of the business case; and
- (6) the select committee shall report no later than the last sitting week in February 2015.

Mr Rattenbury moved the following amendment: Omit all words after “That” (first occurring), substitute: “this Assembly:

- (1) notes that:
 - (a) the ACT Government is delivering on its commitment to being open and transparent by releasing the full business case for Capital Metro to the community on 31 October 2014;
 - (b) this is a step rarely taken by governments across Australia, and many other governments are working to prevent the public release of information about their transport infrastructure projects;
 - (c) this Assembly has already debated this topic a number of times this year;
 - (d) this Assembly resolved to give additional time for scrutiny of Capital Metro Agency through the Estimates Committee and an additional special public hearing of the Standing Committee on Planning, Environment and Territory and Municipal Services, whose remit specifically includes examination of transport services;

- (e) on 27 February 2014, the Assembly agreed that:
- (i) at both the annual reports hearings and the estimates hearings, the relevant standing or select committee provide for a period of at least two hours to question the Capital Metro Agency, if required; and
 - (ii) officials from the Capital Metro Agency and relevant Ministers should be available for an additional 3.5 hours in 2014 for a public hearing before the Standing Committee on Planning, Environment and Territory and Municipal Services to discuss the Capital Metro project; and
- (f) further annual reports hearings by the Standing Committee on Planning, Environment and Territory and Municipal Services on Capital Metro are scheduled to occur on 21 November 2014; and
- (2) calls on the Government to:
- (a) commit to making further time available for hearings if the time allocated to the Standing Committee on Planning, Environment and Territory and Municipal Services on Capital Metro and the 2015 Estimates Committee hearings are found to be insufficient to allow for full discussion of questions.”.

Debate continued.

Question—That the amendment be agreed to—put.

The Assembly voted—

AYES, 9		NOES, 8	
Mr Barr	Ms Gallagher	Mr Coe	Ms Lawder
Ms Berry	Mr Gentleman	Mr Doszpot	Mr Smyth
Dr Bourke	Ms Porter	Mrs Dunne	Mr Wall
Ms Burch	Mr Rattenbury	Mr Hanson	
Mr Corbell		Mrs Jones	

And so it was resolved in the affirmative.

Question—That the motion, as amended, viz:

“That this Assembly:

- (1) notes that:
- (a) the ACT Government is delivering on its commitment to being open and transparent by releasing the full business case for Capital Metro to the community on 31 October 2014;
 - (b) this is a step rarely taken by governments across Australia, and many other governments are working to prevent the public release of information about their transport infrastructure projects;
 - (c) this Assembly has already debated this topic a number of times this year;
 - (d) this Assembly resolved to give additional time for scrutiny of Capital Metro Agency through the Estimates Committee and an additional special public hearing of the Standing Committee on Planning, Environment and Territory and Municipal Services, whose remit specifically includes examination of transport services;

- (e) on 27 February 2014, the Assembly agreed that:
- (i) at both the annual reports hearings and the estimates hearings, the relevant standing or select committee provide for a period of at least two hours to question the Capital Metro Agency, if required; and
 - (ii) officials from the Capital Metro Agency and relevant Ministers should be available for an additional 3.5 hours in 2014 for a public hearing before the Standing Committee on Planning, Environment and Territory and Municipal Services to discuss the Capital Metro project; and
- (f) further annual reports hearings by the Standing Committee on Planning, Environment and Territory and Municipal Services on Capital Metro are scheduled to occur on 21 November 2014; and
- (2) calls on the Government to commit to making further time available for hearings if the time allocated to the Standing Committee on Planning, Environment and Territory and Municipal Services on Capital Metro and the 2015 Estimates Committee hearings are found to be insufficient to allow for full discussion of questions.”—

be agreed to—put.

The Assembly voted—

AYES, 9		NOES, 8	
Mr Barr	Ms Gallagher	Mr Coe	Ms Lawder
Ms Berry	Mr Gentleman	Mr Doszpot	Mr Smyth
Dr Bourke	Ms Porter	Mrs Dunne	Mr Wall
Ms Burch	Mr Rattenbury	Mr Hanson	
Mr Corbell		Mrs Jones	

And so it was resolved in the affirmative.

22 ADJOURNMENT

Mr Gentleman (Minister for Planning) moved—That the Assembly do now adjourn.

Debate ensued.

Question—put and passed.

And then the Assembly, at 4.56 p.m., adjourned until Tuesday, 25 November 2014 at 10 a.m.

MEMBERS' ATTENDANCE: All Members were present at some time during the sitting.

Tom Duncan
Clerk of the Legislative Assembly

SCHEDULES OF AMENDMENTS

Schedule 1

MENTAL HEALTH (TREATMENT AND CARE) AMENDMENT BILL 2014

Amendments circulated by the Minister for Health

1

Clause 11

Proposed new section 16 (1)

Page 14, line 20—

omit

must ensure that the following information is

substitute

must ensure that current copies of the following information are

2

Clause 11

Proposed new section 16 (1) (a)

Page 14, line 23—

omit

copies of

3

Clause 11

Proposed new section 16 (1) (b)

Page 14, line 25—

omit

copies of

4

Clause 11

Proposed new section 16 (1) (c)

Page 14, line 28—

omit

copies of

5**Clause 11****Proposed new section 16 (1) (d)****Page 15, line 1—**

omit proposed new section 16 (1) (d), substitute

- (d) a list of the names, addresses, telephone numbers and relevant functions of the entities prescribed by regulation.

6**Clause 11****Proposed new section 22 (4) (a)****Page 19, line 13—**

omit

is satisfied

substitute

believes

7**Clause 11****Proposed new section 22 (5) (b) (iii)****Page 20, line 3—**

omit

persons'

substitute

person's

8**Clause 11****Proposed new section 27 (2) (a)****Page 25, line 28—**

omit

9**Clause 11****Proposed new section 28 (6)****Page 29, line 3—**

omit

subsection (5)

substitute

subsection (5) (a)

10**Clause 11****Proposed new section 29 (3) (a)****Page 29, line 17—***omit*

persons'

substitute

person's

11**Clause 11****Proposed new section 29 (3) (b)****Page 29, line 19—***omit*

persons'

substitute

person's

12**Clause 11****Proposed new section 36D (1) (b)****Page 38, line 5—***omit*

the mental health facility

substitute

the approved mental health facility

13**Clause 11****Proposed new section 36D (3)****Page 38, line 23—***omit*

14**Clause 11****Proposed new section 36G (2) (a)****Page 40, line 19—***omit proposed new section 36G (2) (a), substitute*

- (a) the person has been made aware of the assessment order (unless the assessment order is an emergency assessment order); and
-

15
Clause 11**Proposed new section 36T (1) (d)****Page 49, line 5—***omit proposed new section 36T (1) (d), substitute*

- (d) the views of the people responsible for the day-to-day care of the person, so far as those views are made known to the ACAT;

16
Clause 11**Proposed new section 36T (2)****Page 50, line 11—***omit proposed new section 36T (2), substitute*

- (2) Before the ACAT makes a mental health order for the provision of particular treatment, care or support at a stated facility or by a stated person, the ACAT must be satisfied that the treatment, care or support can be provided at the stated facility or by the stated person.
- (3) The ACAT may ask the relevant person to provide information on the options that the relevant person considers are appropriate for the provision of particular treatment, care or support under the proposed mental health order.
- (4) The relevant person must respond to the ACAT within 7 days after receiving a request under subsection (3), or any longer time allowed by the ACAT.

17
Clause 11**Proposed new section 36X****Page 53, line 5—***omit*

satisfied

substitute

it believes on reasonable grounds

18
Clause 11**Proposed new section 36Z (5) (a) (viii) to (xi)****Page 55, line 16—***insert*

- (viii) if the person is a detainee, a person released on licence, or a person serving a community-based sentence—the corrections director-general;

- (ix) if the person is covered by a bail order that includes a condition that the person accept supervision under the *Bail Act 1992*, section 25 (4) (e) or section 25A—the director-general responsible for the supervision of the person under the *Bail Act 1992*;
- (x) if the person is a child covered by a bail order that includes a condition that the child accept supervision under the *Bail Act 1992*, section 26 (2)—the CYP director-general;
- (xi) if the person is a young detainee or a young offender serving a community-based sentence—the CYP director-general; and

19**Clause 11****Proposed new section 36ZB (3) (d) and note****Page 57, line 25—**

omit proposed new section 36ZB (3) (d) and note, substitute

- (d) tell the carer that the carer is entitled to do either or both of the following:
 - (i) make a submission to the ACAT review of the psychiatric treatment order or restriction order;
 - (ii) apply to the ACAT to attend the hearing; and
- (e) tell the nominated person that the nominated person is entitled to make a submission to the ACAT review of the psychiatric treatment order or restriction order.

Note If a form is approved under s 146A for this provision, the form must be used.

20**Clause 11****Proposed new section 36ZD (2) (g)****Page 61, line 17—**

omit

forensic community care order

substitute

forensic mental health order

21**Clause 11****Proposed new section 36ZF****Page 62, line 18—***omit*

satisfied

substitute

it believes on reasonable grounds

22**Clause 11****Proposed new section 36ZG (1) (a) (ii)****Page 63, line 8—***omit*

stated community

substitute

stated approved community

23**Clause 11****Proposed new section 36ZG (2)****Page 63, line 12—***omit*

stated community

substitute

stated approved community

24**Clause 11****Proposed new section 36ZG (3)****Page 63, line 15—***omit*

stated community

substitute

stated approved community

25**Clause 11****Proposed new section 36ZH (3) (a) (viii) to (xi)****Page 64, line 16—***insert*

- (viii) if the person is a detainee, a person released on licence, or a person serving a community-based sentence—the corrections director-general;

- (ix) if the person is covered by a bail order that includes a condition that the person accept supervision under the *Bail Act 1992*, section 25 (4) (e) or section 25A—the director-general responsible for the supervision of the person under the *Bail Act 1992*;
- (x) if the person is a child covered by a bail order that includes a condition that the child accept supervision under the *Bail Act 1992*, section 26 (2)—the CYP director-general;
- (xi) if the person is a young detainee or a young offender serving a community-based sentence—the CYP director-general; and

26**Clause 11****Proposed new section 36ZJ (3) (d) and note****Page 66, line 26—**

omit proposed new section 36ZJ (3) (d) and note, substitute

- (d) tell the carer that the carer is entitled to do either or both of the following:
 - (i) make a submission to the ACAT review of the community care order or restriction order;
 - (ii) apply to the ACAT to attend the hearing; and
- (e) tell the nominated person that the nominated person is entitled to make a submission to the ACAT review of the community care order or restriction order.

Note If a form is approved under s 146A for this provision, the form must be used.

27**Clause 12****Proposed new section 41AA (3)****Page 83, line 4—**

omit proposed new section 41AA (3), substitute

- (3) The examination must not be conducted by a doctor who conducted the initial examination of the person under section 40.

28**Clause 12****Proposed new section 41AA (4)****Page 83, line 8—**

insert

- (4) However, a thorough examination mentioned in subsection (1) (a) or (b) is not required if the chief psychiatrist is satisfied on reasonable grounds that—

- (a) a doctor or psychiatrist recently gave the person such an examination; and
- (b) the examination provides sufficient relevant information about the current physical or psychiatric condition of the person.

29**Clause 16****Proposed new section 42 (2A) and (2B)****Page 84, line 23—***insert*

- (2A) If a doctor or mental health officer does not give the required information about the detention of a person to at least 1 of the people mentioned in subsection (2) (a) to (e), the doctor or mental health officer must tell the public advocate of that fact.
- (2B) The ACAT must, as soon as practicable after ordering under section 41 (3) that a period of detention be extended—
 - (a) take all reasonable steps to give the required information about the detention to at least 1 of the people mentioned in subsection (2) (a) to (e); and
 - (b) if the required information is not given to at least 1 of the people mentioned in subsection (2) (a) to (e), tell the public advocate of that fact.

30**Clause 16****Proposed new section 42 (3)****Page 84, line 26—***omit*

opportunity to notify

substitute

opportunity and assistance to notify

31**Clause 43****Proposed new section 48Y (1) (e)****Page 95, line 19—***omit proposed new section 48Y (1) (e), substitute*

- (e) the views of the people responsible for the day-to-day care of the person, so far as those views are made known to the ACAT;

32**Clause 43****Proposed new section 48Y (2) to (4)****Page 97, line 4—**

omit proposed new section 48Y (2) to (4), substitute

- (2) Before the ACAT makes a forensic mental health order for the provision of particular treatment, care or support at a stated facility or by a stated person, the ACAT must be satisfied that the treatment, care or support can be provided at the stated facility or by the stated person.
- (3) The ACAT may ask the relevant person to provide information on the options that the relevant person considers are appropriate for the provision of particular treatment, care or support under the proposed forensic mental health order.
- (4) The relevant person must respond to the ACAT within 7 days after receiving a request under subsection (3), or any longer time allowed by the ACAT.

33**Clause 43****Proposed new section 48ZC (6) (a) (vii) to (x)****Page 102, line 11—**

insert

- (vii) if the person is a detainee, a person released on licence, or a person serving a community-based sentence—the corrections director-general;
 - (viii) if the person is covered by a bail order that includes a condition that the person accept supervision under the *Bail Act 1992*, section 25 (4) (e) or section 25A—the director-general responsible for the supervision of the person under the *Bail Act 1992*;
 - (ix) if the person is a child covered by a bail order that includes a condition that the child accept supervision under the *Bail Act 1992*, section 26 (2)—the CYP director-general;
 - (x) if the person is a young detainee or a young offender serving a community-based sentence—the CYP director-general; and
-

34**Clause 43****Proposed new section 48ZE (3) (d) and note****Page 104, line 14—**

omit proposed new section 48ZE (3) (d) and note, substitute

- (d) tell the carer that the carer is entitled to do either or both of the following:
 - (i) make a submission to the ACAT review of the forensic psychiatric treatment order;
 - (ii) apply to the ACAT to attend the hearing; and
- (e) tell the nominated person that the nominated person is entitled to make a submission to the ACAT review of the forensic psychiatric treatment order.

Note If a form is approved under s 146A for this provision, the form must be used.

35**Clause 43****Proposed new section 48ZF (3) (d) and notes****Page 106, line 1—**

omit proposed new section 48ZF (3) (d) and notes, substitute

- (d) tell the carer that the carer is entitled to do either or both of the following:
 - (i) make a submission to the ACAT review of the forensic psychiatric treatment order;
 - (ii) apply to the ACAT to attend the hearing; and
- (e) tell the nominated person that the nominated person is entitled to make a submission to the ACAT review of the forensic psychiatric treatment order.

Note 1 For principles that must be taken into account when exercising a function under this Act, see s 6.

Note 2 If a form is approved under s 146A for this provision, the form must be used.

36**Clause 43****Proposed new section 48ZI (2)****Page 110, line 18—**

omit proposed new section 48ZI (2), substitute

- (2) A forensic community care order made in relation to a person must—
 - (a) state that the person must comply with any determination made under section 48ZJ (Role of care coordinator—forensic community care order); and

- (b) be accompanied by a statement about how the person meets the criteria under section 48ZH (2) (Forensic community care order).

37

Clause 43

Proposed new section 48ZJ (4) (a) (vii) to (x)

Page 111, line 28—

insert

- (vii) if the person is a detainee, a person released on licence, or a person serving a community-based sentence—the corrections director-general;
- (viii) if the person is covered by a bail order that includes a condition that the person accept supervision under the *Bail Act 1992*, section 25 (4) (e) or section 25A—the director-general responsible for the supervision of the person under the *Bail Act 1992*;
- (ix) if the person is a child covered by a bail order that includes a condition that the child accept supervision under the *Bail Act 1992*, section 26 (2)—the CYP director-general;
- (x) if the person is a young detainee or a young offender serving a community-based sentence—the CYP director-general; and

38

Clause 43

Proposed new section 48ZL (3) (d) and notes

Page 114, line 1—

omit proposed new section 48ZL (3) (d) and notes, substitute

- (d) tell the carer that the carer is entitled to do either or both of the following:
 - (i) make a submission to the ACAT review of the forensic community care order;
 - (ii) apply to the ACAT to attend the hearing; and
- (e) tell the nominated person that the nominated person is entitled to make a submission to the ACAT review of the forensic community care order.

Note 1 For principles that must be taken into account when exercising a function under this Act, see s 6.

Note 2 If a form is approved under s 146A for this provision, the form must be used.

39**Clause 43****Proposed new section 48ZM (3) (d) and note****Page 115, line 16—**

omit proposed new section 48ZM (3) (d) and note, substitute

- (d) tell the carer that the carer is entitled to do either or both of the following:
 - (i) make a submission to the ACAT review of the forensic community care order;
 - (ii) apply to the ACAT to attend the hearing; and
- (e) tell the nominated person that the nominated person is entitled to make a submission to the ACAT review of the forensic community care order.

Note If a form is approved under s 146A for this provision, the form must be used.

40**Clause 43****Proposed new section 48ZZF (5) (b)****Page 140, line 8—**

omit proposed new section 48ZZF (5) (b), substitute

- (b) any other entity except the following:
 - (i) the registered affected person;
 - (ii) a person mentioned in subsection (4);
 - (iii) a person with legal authority to act for the registered affected person;
 - (iv) if disclosure of the information is or may be relevant for a matter before a court—the court.

41**Clause 46****Proposed new section 62 (3) (a)****Page 153, line 13—**

omit proposed new section 62 (3) (a), substitute

- (a) the committee believes on reasonable grounds that—
 - (i) the surgery will result in substantial benefit to the subject person; and
 - (ii) all alternative forms of treatment reasonably available have failed, or are likely to fail, to benefit the subject person; and
-

42**Clause 56****Proposed new section 72 (2) (b)****Page 156, line 5—**

omit proposed new section 72 (2) (b), substitute

- (b) if the ACAT does not order the release of the person—at least monthly while the detention continues.

43**Clause 56****Proposed new section 72 (5) (b)****Page 157, line 5—**

omit proposed new section 72 (5) (b), substitute

- (b) make forensic mental health orders (including additional orders) in relation to the person; or
- (c) vary or revoke any of the mental health orders or forensic mental health orders in force in relation to the person.

44**Clause 56****Proposed new section 74 (1)****Page 157, line 16—**

omit proposed new section 74 (1), substitute

- (1) The ACAT must review a condition under section 72 (4) to which an order for release of a person is subject at least every 6 months while the order is subject to the condition.

45**Clause 119****Proposed new section 139E (2) and note 1****Page 186, line 22—**

omit proposed new section 139E (2) and note 1, substitute

- (2) Before approving a community care facility, the Minister must consult with any other Minister responsible for the operation of the facility.
- (3) An approval is a notifiable instrument.

Note 1 A notifiable instrument must be notified under the Legislation Act.

46**Clause 156****Proposed new definition of *treatment, care or support*, paragraph (c)****Page 202, line 7—**

omit

47**Schedule 1, part 1.3****Amendment 1.9****Proposed new section 301 (4)****Page 206, line 7—**

omit proposed new section 301 (4), substitute

- (4) A nominated term in relation to an offence takes effect on the day the Supreme Court nominates the term unless the court—
- (a) after taking into account any periods mentioned in subsection (3), nominates an earlier day; or
 - (b) orders that the term take effect on a later day so as to be served consecutively with (or partly concurrently and partly consecutively with) another term nominated for the person under this part or a sentence of imprisonment imposed on the person.

48**Schedule 1, part 1.3****Amendment 1.12****Proposed new section 302 (4)****Page 207, line 7—**

omit proposed new section 302 (4), substitute

- (4) A nominated term in relation to an offence takes effect on the day the Supreme Court nominates the term unless the court—
- (a) after taking into account any periods mentioned in subsection (3), nominates an earlier day; or
 - (b) orders that the term take effect on a later day so as to be served consecutively with (or partly concurrently and partly consecutively with) another term nominated for the person under this part or a sentence of imprisonment imposed on the person.

49**Schedule 1, part 1.3****Amendment 1.16****Proposed new section 304 (4)****Page 208, line 12—**

omit proposed new section 304 (4), substitute

- (4) A nominated term in relation to an offence takes effect on the day the Magistrates Court nominates the term unless the court—
- (a) after taking into account any periods mentioned in subsection (3), nominates an earlier day; or
 - (b) orders that the term take effect on a later day so as to be served consecutively with (or partly concurrently and partly consecutively with) another term nominated for the person under this part or a sentence of imprisonment imposed on the person.
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 50

Schedule 1, part 1.3

Amendment 1.19

Proposed new section 305 (4)

Page 209, line 12—

omit proposed new section 305 (4), substitute

- (4) A nominated term in relation to an offence takes effect on the day the Magistrates Court nominates the term unless the court—
- (a) after taking into account any periods mentioned in subsection (3), nominates an earlier day; or
 - (b) orders that the term take effect on a later day so as to be served consecutively with (or partly concurrently and partly consecutively with) another term nominated for the person under this part or a sentence of imprisonment imposed on the person.

 51

Schedule 1, part 1.7

Amendment 1.49

Proposed new section 32JA (4)

Page 220, line 18—

omit proposed new section 32JA (4), substitute

- (4) If treatment, care or support in accordance with the consent is likely to be required for longer than the initial consent period, the health professional must, before the end of that period—
- (a) apply to the ACAT for approval to continue providing treatment, care or support in accordance with the consent; and
 - (b) unless the health professional believes on reasonable grounds that someone else has applied to the ACAT for an order appointing a guardian for the person—apply to the ACAT under part 2 for an order appointing a guardian for the person.

 52

Schedule 1, part 1.9

Proposed new amendment 1.63A

Page 225, line 13—

insert

[1.63A] Section 16 (1), new example
insert

- 4 if I do not have capacity to make a decision that needs to be made about my treatment, care or support for a mental illness
-

Schedule 2

ENVIRONMENT PROTECTION AMENDMENT BILL 2014

Amendments circulated by the Minister for the Environment

1

Clause 6

Proposed new section 3D (1) (e)

Page 5, line 24—

insert

(e) the polluter pays principle.

2

Clause 6

Proposed new section 3D (2), proposed new definition of *polluter pays principle*

Page 6, line 5—

insert

polluter pays principle means that polluters should bear the appropriate share of the costs that arise from their activities.

3

Clause 33

Proposed new section 136K (4)

Page 19, line 9—

omit
