



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

2004–2005–2006–2007–2008

MINUTES OF PROCEEDINGS

No. 153

WEDNESDAY, 20 AUGUST 2008

1 The Assembly met at 10.30 a.m., pursuant to adjournment. The Speaker (Mr Berry) 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 PETITIONS—MINISTERIAL RESPONSE

The Clerk announced that the following response to petitions had been lodged by a Minister:

Mr Hargreaves (Minister for Territory and Municipal Services)—Response to petitions lodged by Mrs Burke on 8 May and 25 June 2008 concerning the implementation of a preservation plan for the Caretakers Cottage at Weston Creek, dated 15 August 2008.

3 CRIMINAL CODE (DRUG EQUIPMENT) AMENDMENT BILL 2008

Mr Mulcahy, pursuant to notice, presented a Bill for an Act to amend the *Criminal Code 2002*.

Paper: Mr Mulcahy presented an explanatory statement to the Bill.

Title read by Clerk.

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

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

4 ROAD TRANSPORT (THIRD-PARTY INSURANCE) AMENDMENT BILL 2008

Mr Stefaniak, pursuant to notice, presented a Bill for an Act to amend the *Road Transport (Third-Party Insurance) Act 2008*.

Title read by Clerk.

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

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

5 ACT CIVIL AND ADMINISTRATIVE TRIBUNAL BILL 2008, ACT CIVIL AND ADMINISTRATIVE TRIBUNAL LEGISLATION AMENDMENT BILL 2008 AND ACT CIVIL AND ADMINISTRATIVE TRIBUNAL LEGISLATION AMENDMENT BILL 2008 (NO. 2)—GOVERNMENT RESPONSE TO THE STANDING COMMITTEE ON LEGAL AFFAIRS (PERFORMING THE DUTIES OF A SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION COMMITTEE)—STATEMENT BY MINISTER

Mr Corbell (Attorney-General), by leave, made a statement regarding comments made by him yesterday during debate on the ACT Civil and Administrative Tribunal Bill 2008, the ACT Civil and Administrative Tribunal Legislation Amendment Bill 2008 and the ACT Civil and Administrative Tribunal Legislation Amendment Bill 2008 (No. 2) concerning the Government response to the Standing Committee on Legal Affairs (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee).

6 HEALTH SERVICES IN THE A.C.T.

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

- (1) notes:
 - (a) that Canberra is facing a chronic shortage of doctors with outer-suburban areas being particularly badly affected;
 - (b) that under the Stanhope Government bulk-billing rates are lower than all of the States; and
 - (c) that access to bulk-billing clinics after hours is particularly problematic for Canberrans; and
- (2) welcomes the commitment by the Canberra Liberals to:
 - (a) establish bulk-billing after hours clinics in south Tuggeranong, Gungahlin and west Belconnen;
 - (b) provide an incentive fund to encourage general practitioners (GPs) from interstate to relocate in the ACT;
 - (c) guarantee internship places at The Canberra Hospital to all ANU Medical School graduates who want one; and
 - (d) help young GPs into private practice through the establishment of a Young GP Entrepreneurs Fund.

Ms Gallagher (Minister for Health) moved the following amendment: Omit all words after “notes” in paragraph (1), substitute:

- “(a) the hard work of our primary health care industry, particularly our community GPs who continue to provide first-class health care despite workforce shortage;
- (b) the responsibility of the Commonwealth to ensure adequate primary health care services are provided in our community;
- (c) the efforts of the ACT Government to support our local GP workforce;
- (d) the ACT Government’s \$1 billion, ten year plan, to overhaul the public health system; and
- (e) the complexity of the health care system and the need to provide responsible, realistic and achievable solutions; and
- (2) calls on the Leader of the Opposition to table, by 5 p.m. today, his revised costings for his proposal to establish three after-hours clinics, following his admission that they would now be established without Commonwealth funding.”.

Debate continued.

Member named and suspended: The Speaker named Mr Stanhope (Chief Minister) for persistently and wilfully disregarding the authority of the Chair.

The Speaker, pursuant to standing order 203, proposed—That Mr Stanhope be suspended from the service of the Assembly.

Question—put and passed.

Mr Stanhope was therefore suspended at 12.28 p.m. for 3 sitting hours in accordance with standing order 204, and he accordingly withdrew from the Chamber.

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour this day.

7 MINISTERIAL ARRANGEMENTS

Ms Gallagher (Deputy Chief Minister) informed the Assembly of the absences of Mr Stanhope (Chief Minister) and Mr Hargreaves (Minister for Territory and Municipal Services) and advised the Assembly that questions without notice normally directed to Mr Stanhope could be directed to Ms Gallagher and those normally directed to Mr Hargreaves could be directed to Mr Barr (Minister for Education and Training).

8 QUESTIONS

Questions without notice were asked.

9 QUESTION ON NOTICE NO. 2100—ANSWER—EXPLANATION

Mr Mulcahy, pursuant to standing order 118A, asked Mr Corbell (Attorney-General) for an explanation concerning the answer to question on notice No. 2100.

Mr Corbell gave an explanation.

10 PRESENTATION OF PAPER

The Speaker presented the following paper:

Superannuation (Legislative Assembly Members) Act, pursuant to section 22—Australian Capital Territory Legislative Assembly Members Superannuation Board—Annual report—2007-2008, dated 18 August 2008.

11 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—INVESTMENT IN QUALITY EDUCATION

The Assembly was informed that Mrs Burke, Mrs Dunne, Dr Foskey, Mr Gentleman, Ms MacDonald, Ms Porter, Mr Pratt, Mr Seselja (Leader of the Opposition) 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 Ms MacDonald be submitted to the Assembly, namely, “The importance of building a better future for our children through investment in quality education”.

Discussion ensued.

The time for discussion having expired—

Discussion concluded.

12 HEALTH SERVICES IN THE A.C.T.

The order of the day having been read for the resumption of the debate on the motion of Mrs Burke, and on the amendment moved by Ms Gallagher (Minister for Health) (*see entry 6*)—

Debate resumed.

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

Question—That the motion, as amended, viz:

“That this Assembly:

- (1) notes:
 - (a) the hard work of our primary health care industry, particularly our community GPs who continue to provide first-class health care despite workforce shortage;
 - (b) the responsibility of the Commonwealth to ensure adequate primary health care services are provided in our community;
 - (c) the efforts of the ACT Government to support our local GP workforce;
 - (d) the ACT Government’s \$1 billion, ten year plan, to overhaul the public health system; and
 - (e) the complexity of the health care system and the need to provide responsible, realistic and achievable solutions; and
- (2) calls on the Leader of the Opposition to table, by 5 p.m. today, his revised costings for his proposal to establish three after-hours clinics, following his admission that they would now be established without Commonwealth funding.”—

be agreed to—put and passed.

13 ASBESTOS RELATED DISEASE AND INJURY

The order of the day having been read for the resumption of the debate on the motion of Ms MacDonald—That this Assembly:

- (1) honours the extraordinary life of anti-asbestos campaigner Bernie Banton; and
- (2) acknowledges the leading role taken by the ACT Government to minimise the prevalence of asbestos related disease and injury—

and on the amendment moved by Mr Stefaniak: Omit the word “Government” in paragraph (2), substitute “Assembly”—

Mr Hargreaves (Minister for Territory and Municipal Services) moved—That debate be adjourned.

Question—put.

The Assembly voted—

AYES, 14		NOES, 2
Mr Barr	Mr Hargreaves	Dr Foskey
Mr Berry	Ms MacDonald	Mr Mulcahy
Mrs Burke	Ms Porter	
Mr Corbell	Mr Pratt	
Mrs Dunne	Mr Seselja	
Ms Gallagher	Mr Smyth	
Mr Gentleman	Mr Stefaniak	

And so it was resolved in the affirmative.

Question—That the resumption of the debate be made an order of the day for the next sitting—put and passed.

14 WASTE MANAGEMENT AND THE STATE OF THE ENVIRONMENT REPORT

Dr Foskey, pursuant to notice, moved—That this Assembly:

- (1) calls on the ACT Government to implement the recent State of the Environment Report recommendations relating to waste, to:
 - (a) use resources more wisely by:
 - (i) developing and implementing a sustainability community awareness program that emphasises waste minimisation and avoidance as the fundamental first step in effective waste management; and
 - (ii) requiring all ACT Government agencies to report annually on their waste generation, and actions they propose undertaking to use resources more efficiently; and
 - (b) further advance waste management by:
 - (i) developing and implementing a waste minimisation/avoidance action plan with specific measurable performance measures;
 - (ii) progressing a domestic and business organic waste collection system;

- (iii) developing and implementing a Business Waste Reduction Strategy that includes:
 - (A) reducing waste;
 - (B) recycling and reusing waste;
 - (C) collecting and reporting on data; and
 - (D) holding a businesses waste forum to encourage innovative and cost effective approaches for reducing waste;
 - (iv) providing more facilities for recycling in public places and at major events; and
 - (v) establishing an ACT e-waste consortium, including Australian and ACT Government agencies, universities and the Canberra Institute of Technology, the CSIRO, businesses, industry and other major e-waste generators to:
 - (A) provide data on e-waste;
 - (B) raise awareness about e-waste;
 - (C) develop e-waste minimisation and management strategies; and
 - (D) promote waste minimisation as a practical way to advance sustainability;
- (2) affirms the principles of extended producer responsibility that underpin the Waste Minimisation (Container Recovery) Amendment Bill 2008; and
- (3) calls on the ACT Government to:
- (a) adopt a whole of life cycle analysis approach to procurement policies;
 - (b) purchase goods made of recycled materials wherever possible;
 - (c) develop recycling and reuse performance targets for the construction, commercial and retail sectors;
 - (d) develop and implement a plan for green and organic waste, including a green waste kerbside collection service, and an onsite organic waste recycling scheme in new suburbs;
 - (e) develop a “zero waste” education facility;
 - (f) include waste as a separate identifiable component of domestic and business rates;
 - (g) institute a regular collection of large households items to promote reuse;
 - (h) establish a tyre recycling facility in the ACT and marketing of its end products; and
 - (i) develop and implement reduction strategies for hazardous waste, including:
 - (i) increasing fines for illegally dumping chemicals and other wastes in wastewater and stormwater systems, with more trained inspectors; and

- (ii) instituting a regular collection of toxic chemicals and other items, including batteries, from households and farms, with a complementary education campaign.

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

- “(1) notes that the State of the Environment Report contains recommendations relating to waste, suggesting that Government agencies should:
- (a) use resources more wisely by:
 - (i) developing and implementing a sustainability community awareness program that emphasises waste minimisation and avoidance as the fundamental first step in effective waste management; and
 - (ii) requiring all ACT Government agencies to report annually on their waste generation, and actions they propose undertaking to use resources more efficiently; and
 - (b) further advance waste management by:
 - (i) developing and implementing a waste minimisation and avoidance action plan with specific measurable performance measures; and
 - (ii) progressing a domestic and business organic waste collection system;
- (2) notes that the Government is still considering the recommendations and, in accordance with the usual processes, will respond to the Report publicly, including tabling that response in the Assembly;
- (3) notes that there are many activities that could be implemented that reduce waste streams and encourage greater re-use or recycling but that these require introduction as a coherent strategy within a reasonable budget;
- (4) notes that the Government is working cooperatively with other jurisdictions in national forums to have the principles of extended producer responsibility accepted through such mechanisms as the National Packaging Covenant;
- (5) notes that the Government, if re-elected, will commit to holding a business waste forum to encourage innovative and cost effective approaches to reducing waste; and
- (6) commends the Government and the Canberra community for the actions taken to date in reducing waste streams and encouraging greater re-use and recycling.”.

Debate continued.

Question—That Mr Hargreaves’ amendment be agreed to—put.

The Assembly voted—

AYES, 8		NOES, 7	
Mr Barr	Mr Gentleman	Mrs Burke	Mr Pratt
Mr Berry	Mr Hargreaves	Mrs Dunne	Mr Smyth
Mr Corbell	Ms Porter	Dr Foskey	Mr Stefaniak
Ms Gallagher	Mr Stanhope	Mr Mulcahy	

And so it was resolved in the affirmative.

Question—That the motion, as amended, viz:

“That this Assembly:

- (1) notes that the State of the Environment Report contains recommendations relating to waste, suggesting that Government agencies should:
 - (a) use resources more wisely by:
 - (i) developing and implementing a sustainability community awareness program that emphasises waste minimisation and avoidance as the fundamental first step in effective waste management; and
 - (ii) requiring all ACT Government agencies to report annually on their waste generation, and actions they propose undertaking to use resources more efficiently; and
 - (b) further advance waste management by:
 - (i) developing and implementing a waste minimisation and avoidance action plan with specific measurable performance measures; and
 - (ii) progressing a domestic and business organic waste collection system;
- (2) notes that the Government is still considering the recommendations and, in accordance with the usual processes, will respond to the Report publicly, including tabling that response in the Assembly;
- (3) notes that there are many activities that could be implemented that reduce waste streams and encourage greater re-use or recycling but that these require introduction as a coherent strategy within a reasonable budget;
- (4) notes that the Government is working cooperatively with other jurisdictions in national forums to have the principles of extended producer responsibility accepted through such mechanisms as the National Packaging Covenant;
- (5) notes that the Government, if re-elected, will commit to holding a business waste forum to encourage innovative and cost effective approaches to reducing waste; and
- (6) commends the Government and the Canberra community for the actions taken to date in reducing waste streams and encouraging greater re-use and recycling.”—

be agreed to—put and passed.

15 CHIEF MINISTER—SUSPENSION FROM SERVICE OF THE ASSEMBLY—STATEMENT BY MINISTER

Mr Stanhope (Chief Minister), by leave, made a statement regarding his suspension from the service of the Assembly earlier today.

16 EXECUTIVE BUSINESS—PRECEDENCE

Ordered—That Executive business be called on forthwith.

17 ACT CIVIL AND ADMINISTRATIVE TRIBUNAL BILL 2008

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

Detail Stage

Bill as a whole—

Mr Corbell (Attorney-General), by leave, moved his amendments Nos. 1 to 26 together (*see* [Schedule 1](#)).

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

Mr Corbell addressing the Assembly—

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

Mr Corbell requiring the question to be forthwith without debate—

Question—put and negatived.

Debate continued.

Amendments agreed to.

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

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

18 ACT CIVIL AND ADMINISTRATIVE TRIBUNAL LEGISLATION AMENDMENT BILL 2008

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—

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 (Attorney-General), by leave, his amendments Nos. 1 to 30 (*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.

**19 ACT CIVIL AND ADMINISTRATIVE TRIBUNAL LEGISLATION
AMENDMENT BILL 2008 (NO. 2)**

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—

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 (Attorney-General), by leave, his amendments Nos. 1 and 2 (*see* [Schedule 3](#)) 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.

20 ADJOURNMENT

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

Debate ensued.

Paper: Mr Barr (Minister for Planning) presented the following paper:

Canberra Technology City, Block 1671, District of Tuggeranong—Development Application—Environmental assessment—Copy of letter to Mr Brooke O’Mahoney from the Minister for Planning, dated 18 August 2008.

Question—put and passed.

And then the Assembly, at 6.28 p.m., adjourned until tomorrow at 10.30 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

ACT CIVIL AND ADMINISTRATIVE TRIBUNAL BILL 2008

Amendments circulated by the Attorney-General

1

**Clause 8 (2) and (3)
Page 5, line 10—**

omit

2

**Clause 10 (d) and note
Page 6, line 12—**

omit

3

**Proposed new clause 10 (2) and (3)
Page 6, line 20—**

insert

- (2) An application to the tribunal for review of a decision must be made by a person within 28 days after the day the decision to be reviewed is made.

Note The rules may prescribe a longer period for making the application (see s 25 (1) (e) and (2)).

- (3) However—
- (a) if notice of the decision is given to the person later than 5 days after the day the decision is made—the application may be made within 28 days after the day the notice is given; and
 - (b) if notice of the decision is required to be given to the person under this Act or an authorising law, but is not given—the application may be made within 28 days after the day the person becomes aware of the decision; and
 - (c) if the decision is taken to have been made under section 12 (When no action taken to be decision)—the application may be made within 28 days after the end of the period or reasonable period mentioned in the section.

4**Clause 15, definition of *residential tenancy application***
Page 9, line 23—

omit

5**Clause 15, definition of *standard occupancy terms***
Page 10, line 2—

omit

6**Clause 15, definition of *standard residential tenancy terms***
Page 10, line 4—

omit

7**Clause 18 (3) (b)**
Page 11, line 18—

omit

8**Clause 30**
Page 18, line 3—

omit

other person prescribed under the rules

substitute

someone else (other than a person prescribed under the rules)

9**Clause 31**
Page 18, line 9—

omit

The tribunal must

substitute

If the tribunal considers it appropriate, the tribunal may

10**Clause 34 (1)**
Page 19, line 23—

omit clause 34 (1), substitute

- (1) Evidence given by a person before the tribunal during a preliminary conference is not admissible in evidence against the person in a criminal proceeding, other than a proceeding for—
 - (a) an offence in relation to the falsity or misleading nature of the evidence; or

- (b) an offence against the Criminal Code, chapter 7 (Administration of justice offences).
- (1A) Also, any information obtained, directly or indirectly, because of the giving of further information by a person in accordance with a requirement under section 33 (2), or the giving of evidence by a person before the tribunal during a preliminary conference, is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for—
- (a) an offence in relation to the falsity or the misleading nature of the information or evidence; or
- (b) an offence against the Criminal Code, chapter 7 (Administration of justice offences).

11**Clause 39 (1)****Page 21, line 17—***omit clause 39 (1), substitute*

- (1) This section applies in relation to an application, or part of an application, if the tribunal is satisfied that the right to a public hearing is outweighed by competing interests.

Note See s (4) in relation to competing interests.

12**Clause 39 (2)****Page 22, line 1—***omit*

If this section applies in relation to an application, or part of an application, the tribunal may

substitute

The tribunal may

13**Proposed new clause 39 (2A)****Page 22, line 14—***insert*

- (2A) The tribunal may make an order under subsection (2) on application by a party or on its own initiative.

14**Clause 41 (3)****Page 25, line 1—***after*

inspect

insert

, or make a copy of,

15**Clause 41 (5) (b)**
Page 25, line 18—

omit clause 41 (5) (b), substitute

(b) include—

- (i) a statement to the effect that the person may be represented before the tribunal by a lawyer or someone else; and
- (ii) if the rules prescribe someone who may not represent the person—a statement that the other person may not represent the person; and
- (iii) a statement to the effect that the person may wish to obtain legal advice in relation to the subpoena; and

16**Proposed new clause 41 (6)**
Page 25, line 26—

insert

- (6) On application by a party or someone else having a sufficient interest, the tribunal may set aside a subpoena completely or partly.

17**Clause 50 (4), definition of *associate***
Page 31, line 10—

omit

means

substitute

includes

18**Clause 50 (4), definition of *material interest***
Page 32, line 12—

after

conflict

insert

, or reasonably be seen to conflict,

19**Clause 56 (b), proposed new example and note**
Page 37, line 13—*insert***Example**

an order dismissing a proceeding with the consent of the parties to the proceeding

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).

20**Clause 56 (d), proposed new examples**
Page 37, line 24—*insert***Examples**

- 1 an order dismissing a proceeding on the withdrawal of the applicant
- 2 an order dismissing a proceeding for want of prosecution

21**Clause 69 (2) (b)**
Page 44, line 23—*omit clause 69 (2) (b), substitute*

- (b) takes effect from the day the tribunal makes the order, unless the tribunal orders otherwise.

22**Clause 107 (1) (a)**
Page 63, line 20—*omit clause 107 (1) (a), substitute*

- (a) this Act or an authorising law provides otherwise; or

23**Clause 111 (1) (a)**
Page 65, line 4—*omit clause 111 (1) (a), substitute*

- (a) this Act or an authorising law provides otherwise; or

24**Dictionary, definition of *residential tenancy application***
Page 72, line 7—*omit*

25**Dictionary, definition of *standard occupancy terms*****Page 72, line 10—***omit*

26**Dictionary, definition of *standard residential tenancy terms*****Page 72, line 12—***omit*

Schedule 2**ACT CIVIL AND ADMINISTRATIVE TRIBUNAL
LEGISLATION AMENDMENT BILL 2008**

Amendments circulated by the Attorney-General

1**Clause 2 (2)****Page 2, line 17—***after*

special commencement

*insert*provision

2**Schedule 1****Amendment 1.1****Proposed new section 220A****Page 15, line 1—***insert***220A Time for deciding land, planning and environment applications**

- (1) This section applies in relation to an application for review by the tribunal of a decision under any of the following Acts:
 - *Heritage Act 2004*
 - *Planning and Development Act 2007*
 - *Tree Protection Act 2005*.
- (2) The tribunal must decide the application within 120 days after the day the application is made.
- (3) However, the general president may, in writing, extend the period for deciding the application if satisfied that the extension is in the interests of justice.
- (4) If the tribunal does not decide the application within the 120 days, the general president must ensure that the tribunal's annual report for the year when the application was decided includes—
 - (a) details of the period of time it took to decide the application; and
 - (b) if the 120 day period was extended under subsection (3)—the reasons for the extension.

- (5) A failure to comply with this section in relation to an application does not affect the validity of a decision on the application.
- (6) In this section:

tribunal's annual report means the report prepared by the tribunal under the *Annual Reports (Government Agencies) Act 2004*.

3

Schedule 1

Amendment 1.8

Proposed new section 301 (1)

Page 18, line 10—

omit proposed new section 301 (1), substitute

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of—
- (a) this Act; or
 - (b) the *ACT Civil and Administrative Tribunal Legislation Amendment Act 2008*; or
 - (c) the *ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2)*.

4

Schedule 1

Amendment 1.8

Proposed new section 302

Page 18, line 21—

omit

chapter

substitute

part

5

Schedule 1

Amendment 1.8

Proposed new section 306 heading

Page 20, line 19—

omit the heading, substitute

**306A Certain applications under pre-amendment Act—
hearing**

6
Schedule 1
Amendment 1.71
Page 51, line 15—

omit amendment 1.71, substitute

[1.71] Section 421, new definition of ACAT mental health provision

insert

ACAT mental health provision, in a care and protection order—see section 491.

7
Schedule 1
Amendment 1.72
Page 51, line 20—

omit

Section 420

substitute

Section 421

8
Schedule 1
Amendment 1.73
Page 52, line 1—

omit

Section 420

substitute

Section 421

9
Schedule 1
Amendment 1.74
Page 52, line 4—

omit

Section 421

substitute

Section 422

10
Schedule 1
Amendment 1.75
Page 52, line 8—

omit

Section 432 (2) (c)

substitute

Section 433 (2) (c)

11
Schedule 1
Amendment 1.76
Page 52, line 11—

omit

Section 463 (2) (d)

substitute

Section 464 (2) (d)

12
Schedule 1
Amendment 1.77
Proposed new section 490 heading
Page 52, line 17—

omit the heading, substitute

491 **What is an *ACAT mental health provision*?**

13
Schedule 1
Amendment 1.78
Page 53, line 5—

omit

Section 544 (2)

substitute

Section 545 (2)

14
Schedule 1
Amendment 1.79
Page 53, line 10—

omit amendment 1.79, substitute

[1.79] Section 549 (e), note*substitute*

Note The Childrens Court must make an interim therapeutic protection order for a child or young person if an application for a therapeutic protection order for the child or young person has been made but not finally decided and the court suspects on reasonable grounds that the child or young person is suffering from a mental illness or mental dysfunction. The order must direct the child or young person to submit to the jurisdiction of the ACAT (see s 545).

15**Schedule 1****Amendment 1.80****Proposed new section 838****Page 53, line 22—***omit proposed new section 838, substitute***839 Meaning of *reviewable decision*—div 24.1.3**

reviewable decision means a decision mentioned in table 839.1, 839.2 or 839.3, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

Table 839.1 Review of decisions—ch 15 (Care and protection—chief executive has aspect of parental responsibility)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	516	refuse to authorise person as kinship carer	person
2	517	refuse to authorise entity as foster care service	entity
3	518 or 519	refuse to authorise person as foster carer	person
4	520	refuse to authorise entity as residential care service	person
5	522 (4) or 523 (4)	revoke authorisation of entity or person as foster carer	entity or person
6	524 (4)	revoke authorisation of entity as residential care service	entity
7	525 (1)	refuse to approve place operated by residential care service as place of care	residential care service
8	525 (4)	revoke approval of place operated by residential care service as place of care	residential care service

Table 839.2 Review of decisions—ch 20 (Childcare services)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	747 (3)	refuse to give proprietor childcare service licence	proprietor
2	751 (4)	refuse to extend childcare service licence	licensed proprietor
3	752 (3)	refuse to amend childcare service licence	licensed proprietor
4	753 (3)	refuse to transfer childcare service licence	licensed proprietor
5	758 (3)	refuse to renew childcare service licence	licensed proprietor
6	760 (4) (a)	confirm compliance notice	licensed proprietor
7	761 (2)	suspend childcare service licence	proprietor whose licence suspended
8	762 (3) (a)	confirm suspension of childcare service licence	proprietor whose licence suspended
9	763 (2)	immediately suspend childcare service licence	proprietor whose licence suspended
10	765 (3)	cancel childcare service licence	proprietor whose licence cancelled

Table 839.3 Review of decisions—ch 21 (Employment of children and young people)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	786	suspend educational institution's exemption (in relation to work experience program)	educational institution
2	787	revoke educational institution's exemption (in relation to work experience program)	educational institution
3	788	prohibit employer from employing, or continuing to employ, child or young person	<ul style="list-style-type: none"> • employer • child or young person
4	790	state conditions in relation to employment of child or young person that must be complied with	<ul style="list-style-type: none"> • employer • child or young person
5	800 (2)	refuse to issue high risk employment permit	<ul style="list-style-type: none"> • employer • child or young person

column 1 item	column 2 section	column 3 decision	column 4 entity
6	800 (3)	issue high risk employment permit subject to conditions	<ul style="list-style-type: none"> • employer • child or young person

16

Schedule 1

Amendment 1.80

Proposed new section 838A, except notes

Page 57, line 1—

omit proposed new section 838A, except notes, substitute

839A Reviewable decision notices

If a person makes a reviewable decision, the person must give a reviewable decision notice to each entity mentioned in table 839.1, 839.2 or 839.3, column 4 in relation to the decision.

17

Schedule 1

Amendment 1.80

Proposed new section 838B heading

Page 57, line 10—

omit the heading, substitute

839B Applications for review

18

Schedule 1

Amendment 1.81

Page 58, line 1—

omit amendment 1.81, substitute

[1.81] Section 840 (1)

substitute

- (1) The ACAT must not make an interim order staying or otherwise affecting the operation or implementation of a decision under section 747 (3) (Childcare service licence—decision on application) to refuse to give a childcare service licence.
-

19
Schedule 1
Amendment 1.82
Page 58, line 12—

omit

Section 839, table 838.3

substitute

Section 840, table 840

20
Schedule 1
Amendment 1.83
Page 58, line 19—

omit amendment 1.83, substitute

[1.83] Section 927 (2) (e) and note

substitute

- (e) for an order mentioned in the repealed Act, section 246 (3) (e)—a care and protection order with an ACAT mental health provision under this Act, section 464 (2) (d); and

Note Under s 246 (3) (e) a specific issues order may include an order that the child or young person submit to the jurisdiction of the ACAT for a decision whether the child or young person has a mental impairment.

21
Schedule 1
Amendment 1.84
Page 59, line 1—

omit amendment 1.84, substitute

[1.84] Section 929 (2) (d) and note

substitute

- (d) for an order mentioned in the repealed Act, section 255 (4) (d)—a care and protection order with an ACAT mental health provision under this Act, section 464 (2) (d); and

Note Under s 255 (4) (d) a final care and protection order may include an order that the child or young person submit to the jurisdiction of the ACAT for a decision whether the child or young person has a mental impairment.

22
Schedule 1
Amendment 1.85
Page 59, line 10—

omit

Section 940

substitute

Section 941

23
Schedule 1
Amendment 1.85
Proposed new section 940 heading
Page 59, line 12—

omit the heading, substitute

941 ACAT review of decisions

24
Schedule 1
Amendment 1.89
Proposed new definition of *ACAT mental health provision*
Page 60, line 14—

omit

section 490

substitute

section 491

25
Schedule 1
Amendment 1.91
Proposed new definition of *reviewable decision*
Page 60, line 20—

omit

section 838

substitute

section 839

26**Schedule 1****Amendment 1.319****Proposed new section 41 (1) (a)****Page 166, line 5—***omit*

applied

substitute

applies

27**Schedule 1****Amendment 1.387****Proposed new section 416 (4)****Page 192, line 7—***omit*

subsection (4)

substitute

subsection (3)

28**Schedule 1****Amendment 1.391****Proposed new section 420 (2)****Page 194, line 9—***omit*

29**Schedule 1****Amendment 1.391****Proposed new section 429****Page 199, line 22—***omit*

tribunal

substitute

ACAT

30

Schedule 1

Amendment 1.391

Proposed new section 433 (4), note

Page 203, line 21—

omit

public purpose fund

substitute

statutory interest account

Schedule 3**ACT CIVIL AND ADMINISTRATIVE TRIBUNAL
LEGISLATION AMENDMENT BILL 2008 (NO. 2)**

Amendments circulated by the Attorney-General

1

Schedule 1

Amendment 1.23

Proposed new schedule 1, item 14

Page 21—

omit

2

Schedule 1

Amendment 1.322

Proposed new section 266A (1A) and note

Page 222, line 12—

insert

- (1A) To remove any doubt, this section does not apply in relation to the enforcement of an order made by the ACAT.

Note The *ACT Civil and Administrative Tribunal Act 2008*, s 71 provides that a money order or non-money order made by the ACAT is taken to have been filed in the Magistrates Court for enforcement under the *Court Procedures Rules 2006*, pt 2.18 (Enforcement).
