



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

2004–2005–2006

MINUTES OF PROCEEDINGS

No. 64

THURSDAY, 11 MAY 2006

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 PETITION

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

Mr Stefaniak, from 1710 residents, requesting that the Civil Unions Bill 2006 be withdrawn and instead introduce legislation that would allow for the registration of same sex and caring relationships, which does not mimic or diminish marriage, such as is in force in the state of Tasmania.

3 REVENUE LEGISLATION AMENDMENT BILL 2006

Mr Stanhope (Treasurer), pursuant to notice, presented a Bill for an Act to amend the *Duties Act 1999*, the *Payroll Tax Act 1987* and the *Taxation Administration Act 1999*.

Papers: Mr Stanhope presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 10 May 2006.

Title read by Clerk.

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

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

4 HEALTH LEGISLATION AMENDMENT BILL 2006

Ms Gallagher (Minister for Health), pursuant to notice, presented a Bill for an Act to amend laws relating to health.

Papers: Ms Gallagher presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 10 May 2006.

Title read by Clerk.

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

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

5 SUSPENSION OF STANDING ORDERS—ADJOURNMENT OF IN PRINCIPLE DEBATE TO A LATER HOUR

Mr Corbell (Manager of Government Business) moved—That so much of the standing orders be suspended as would prevent, upon presentation of the Asbestos Legislation Amendment Bill 2006 (No 2), debate on the question “That this Bill be agreed to in principle” being adjourned until a later hour this day.

Question—put and passed, with the concurrence of an absolute majority.

6 ASBESTOS LEGISLATION AMENDMENT BILL 2006 (NO. 2)

Mr Barr (Minister for Industrial Relations), pursuant to notice, presented a Bill for an Act to amend the *Asbestos Legislation Amendment Act 2006*.

Papers: Mr Barr presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 11 May 2006.

Title read by Clerk.

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

Debate adjourned (Mr Mulcahy) and the resumption of the debate made an order of the day for a later hour this day.

7 WORKING FAMILIES IN THE AUSTRALIAN CAPITAL TERRITORY—SELECT COMMITTEE—APPOINTMENT—PROPOSED AMENDMENT TO RESOLUTION OF THE ASSEMBLY

The order of the day having been read for the resumption of the debate on the motion of Mrs Burke—That the resolution of the Assembly establishing the Select Committee on Working Families in the Australian Capital Territory, agreed to on 5 May 2005, be amended as follows: Omit paragraph (3), substitute:

“(3) noting that the Committee has tabled an interim report which indicated at paragraph 5.12 that time and evidence are needed to reliably and validly determine the effects on working families in the ACT of reforms to the industrial relations system:

- (a) suspends the operation of the Committee from the date this motion is agreed to until March 2007; and
- (b) calls on the Assembly to amend the terms of reference in March 2007 in light of comments in the interim report; and”—

Debate resumed.

Mr Gentleman moved the following amendment: Omit all words after “as follows:”, and substitute “Paragraph (3), omit ‘2006’, substitute ‘2007’”.

Debate continued.

Mrs Burke addressing the Assembly—

It being 45 minutes after the commencement of Assembly business, the debate was interrupted in accordance with standing order 77 and the resumption of the debate made an order of the day for the next sitting.

8 EDUCATION, TRAINING AND YOUNG PEOPLE—STANDING COMMITTEE—INQUIRY—VOCATIONAL EDUCATION AND TRAINING AND SKILLS SHORTAGES—STATEMENT BY CHAIR

Ms Porter (Chair), by leave, informed the Assembly that the Standing Committee on Education, Training and Young People had resolved to conduct an inquiry into and report on the responses of the vocational education and training sector to skill shortages in the ACT workforce.

9 ADMINISTRATION AND PROCEDURE—STANDING COMMITTEE—MEMBERSHIP

Ms MacDonald, pursuant to standing order 223, moved—That Ms MacDonald be discharged from the Standing Committee on Administration and Procedure, for the meetings scheduled for 23 May and 15 August 2006 and that Ms Porter be appointed in her place for those meetings.

Question—put and passed.

10 TERRORISM (EXTRAORDINARY TEMPORARY POWERS) BILL 2006

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

Detail Stage

Clause 16—

Consideration resumed on the clause and on amendments Nos. 7 and 8 (*see* [Schedule 1](#)) moved by Mr Stefaniak.

Debate continued.

Question—That Mr Stefaniak’s amendments be agreed to—put.

The Assembly voted—

AYES, 7		NOES, 10	
Mrs Burke	Mr Smyth	Mr Barr	Mr Gentleman
Mrs Dunne	Mr Stefaniak	Mr Berry	Mr Hargreaves
Mr Mulcahy		Mr Corbell	Ms MacDonald
Mr Pratt		Dr Foskey	Ms Porter
Mr Seselja		Ms Gallagher	Mr Stanhope

And so it was negatived.

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.

11 QUESTIONS

Questions without notice were asked.

12 PAPER

Mr Stanhope (Treasurer) presented the following paper:

Taxation per capita (\$) by jurisdiction.

13 PRESENTATION OF PAPERS

Mr Stanhope (Treasurer) presented the following papers:

Financial Management Act—

Pursuant to section 14—Instrument directing a transfer of funds within the Office of Children, Youth and Family Support, including statement of reasons, dated 3 May 2006.

Pursuant to section 19B—Instrument varying appropriations related to the Regulation Reduction Incentive Fund, including a statement of reasons, dated 3 May 2006.

14 FINANCIAL MANAGEMENT ACT—CONSOLIDATED FINANCIAL MANAGEMENT REPORT—PAPER AND STATEMENT BY MINISTER—MOTION TO TAKE NOTE OF PAPER

Mr Stanhope (Treasurer) presented the following paper:

Financial Management Act, pursuant to section 26—Consolidated Financial Management Report for the financial quarter and year-to-date ending 31 March 2006—

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

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

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

15 PRESENTATION OF PAPER

Mr Barr (Minister for Education and Training) presented the following paper:

Preferred approach to the distribution of funds for students with disabilities—Letter from the Non-Government Schools Education Council to the Minister for Education and Training, dated 17 April 2006.

16 PRESENTATION OF PAPERS

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

Subordinate legislation (including explanatory statements unless otherwise stated)

Legislation Act, pursuant to section 64—

Land (Planning and Environment) Act—

Land (Planning and Environment) Amendment Regulation 2006 (No. 1)—
Subordinate Law SL2006-12 (LR, 10 April 2006).

Land (Planning and Environment) Amendment Regulation 2006 (No. 2)—
Subordinate Law SL2006-13 (LR, 20 April 2006).

Water Resources Act—Water Resources Regulation 2006—Subordinate Law
SL2006-14 (LR, 1 May 2006).

17 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—ROADS AND INFRASTRUCTURE IN THE A.C.T.

The Assembly was informed that Mrs Burke, Dr Foskey, Mr Gentleman, Ms MacDonald, Mr Mulcahy, Ms Porter, Mr Pratt and Mr Smyth (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 Pratt be submitted to the Assembly, namely, “The state of roads and infrastructure in the ACT.”

Discussion ensued.

Discussion concluded.

18 TERRORISM (EXTRAORDINARY TEMPORARY POWERS) BILL 2006

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

Detail Stage

Clause 16 agreed to.

Clause 17—

Mr Stefaniak, by leave, moved his amendments Nos. 9 and 10 together (*see* [Schedule 1](#)).

Debate continued.

Amendments negatived.

Clause 17 agreed to.

Clause 18—

Mr Stefaniak, by leave, moved his amendments Nos. 11 and 12 together (*see* [Schedule 1](#)).

Debate continued.

Amendments negatived.

Clause 18 agreed to.

Clauses 19 and 20, by leave, taken together and agreed to.

Clause 21—

Mr Stefaniak moved his amendment No. 13 (*see* [Schedule 1](#)).

Debate continued.

Amendment negatived.

On the motion of Mr Corbell, his amendment No. 3 (*see* [Schedule 2](#)) was made, after debate.

On the motion of Mr Corbell, his amendment No. 4 (*see* [Schedule 2](#)) was made.

Clause 21, as amended, agreed to.

Clauses 22 to 25, by leave, taken together and agreed to.

Clause 26—

Mr Stefaniak moved his amendment No. 14 (*see* [Schedule 1](#)).

Debate continued.

Amendment negatived.

Clause 26 agreed to.

Clauses 27 to 51, by leave, taken together and agreed to.

Clause 52—

On the motion of Mr Corbell, his amendment No. 5 (*see* [Schedule 2](#)) was made.

Clause 52, as amended, agreed to.

Clauses 53 to 99, by leave, taken together and agreed to.

Clause 100—

Mr Stefaniak moved his amendment No. 15 (*see* [Schedule 1](#)).

Debate continued.

Amendment negatived.

Clause 100 agreed to.

Clause 101—

Mr Stefaniak moved his amendment No. 16 (*see* [Schedule 1](#)).

Debate continued.

Amendment negatived.

Clause 101 agreed to.

Remainder of Bill, by leave, taken as a whole and agreed to.

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

The Assembly voted—

	AYES, 16		NOES, 1
Mr Barr	Ms MacDonald	Dr Foskey	
Mr Berry	Mr Mulcahy		
Mrs Burke	Ms Porter		
Mr Corbell	Mr Pratt		
Mrs Dunne	Mr Seselja		
Ms Gallagher	Mr Smyth		
Mr Gentleman	Mr Stanhope		
Mr Hargreaves	Mr Stefaniak		

And so it was resolved in the affirmative.

19 SUSPENSION OF STANDING ORDERS—CONSIDERATION OF PRIVATE MEMBERS' BUSINESS

Mr Corbell (Manager of Government Business) moved—That so much of the standing orders be suspended as would prevent Order of the day No. 7, Private Members' business, relating to the Terrorism (Preventative Detention) Bill 2006, being called on forthwith.

Question—put and passed, with the concurrence of an absolute majority.

20 TERRORISM (PREVENTATIVE DETENTION) 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—

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

The Assembly voted—

	AYES, 7		NOES, 10
Mrs Burke	Mr Smyth	Mr Barr	Mr Gentleman
Mrs Dunne	Mr Stefaniak	Mr Berry	Mr Hargreaves
Mr Mulcahy		Mr Corbell	Ms MacDonald
Mr Pratt		Dr Foskey	Ms Porter
Mr Seselja		Ms Gallagher	Mr Stanhope

And so it was negated.

21 SUSPENSION OF STANDING ORDERS—CONSIDERATION OF PRIVATE MEMBERS' BUSINESS

Mr Corbell (Manager of Government Business) moved—That so much of the standing orders be suspended as would prevent Order of the day No. 8, Private Members' business, relating to the Registration of Relationships Bill 2006, being called on and debated cognately with Order of the day No. 2, Executive business, relating to the Civil Unions Bill 2006.

Question—put and passed, with the concurrence of an absolute majority.

22 CIVIL UNIONS 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.

Mr Barr (Minister for Education and Training) addressing the Assembly—

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

Mr Corbell (Manager of Government Business) requiring the question to be forthwith without debate—

Question—put and negatived.

Debate continued

Question—That this Bill be agreed to in principle—put

The Assembly voted—

AYES, 9		NOES, 6	
Mr Barr	Mr Hargreaves	Mrs Burke	Mr Stefaniak
Mr Berry	Ms MacDonald	Mrs Dunne	
Mr Corbell	Ms Porter	Mr Mulcahy	
Dr Foskey	Mr Stanhope	Mr Pratt	
Mr Gentleman		Mr Smyth	

And so it was resolved in the affirmative.

Detail Stage

Clauses 1 to 4, by leave, taken together and agreed to.

Clause 5—

Mr Corbell (Attorney-General) moved his amendment No. 1 (*see* [Schedule 3](#)).

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

Debate continued

Paper: Mr Stefaniak, by leave, presented the following paper:

Civil Unions Bill 2006—Advice received from Professor Parkinson, University of Sydney and Associate Professor Altobelli, University of Western Sydney, dated 4 April 2006.

Debate continued.

Amendment agreed to.

Clause 5, as amended, agreed to.

Clauses 6 to 8, by leave, taken together and agreed to.

Clause 9—

On the motion of Mr Corbell, by leave, his amendments Nos. 2 to 4 (*see* [Schedule 3](#)) were made together, after debate.

Clause 9, as amended, agreed to.

Clause 10—

Mr Corbell moved his amendment No. 5 (*see* [Schedule 3](#)).

Debate continued.

Question—That the amendment be agreed to—put.

The Assembly voted—

AYES, 9		NOES, 6	
Mr Barr	Mr Hargreaves	Mrs Burke	Mr Stefaniak
Mr Berry	Ms MacDonald	Mrs Dunne	
Mr Corbell	Ms Porter	Mr Mulcahy	
Dr Foskey	Mr Stanhope	Mr Pratt	
Mr Gentleman		Mr Smyth	

And so it was resolved in the affirmative.

Clause 10, as amended, agreed to.

Clause 11—

On the motion of Mr Corbell, by leave, his amendments Nos. 6 to 8 (*see* [Schedule 3](#)) were made together.

Clause 11, as amended, agreed to.

Clauses 12 to 14, by leave, taken together and agreed to.

New part—

On the motion of Mr Corbell, new part 2A (his amendment No. 9—*see* [Schedule 3](#)) was inserted in the Bill.

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

On the motion of Mr Corbell, by leave, his amendments Nos. 10 to 63 (*see* [Schedule 3](#)) were made together, after debate.

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

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

The Assembly voted—

AYES, 9		NOES, 6	
Mr Barr	Mr Hargreaves	Mrs Burke	Mr Stefaniak
Mr Berry	Ms MacDonald	Mrs Dunne	
Mr Corbell	Ms Porter	Mr Mulcahy	
Dr Foskey	Mr Stanhope	Mr Pratt	
Mr Gentleman		Mr Smyth	

And so it was resolved in the affirmative.

23 REGISTRATION OF RELATIONSHIPS 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—

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

The Assembly voted—

AYES, 6		NOES, 9	
Mrs Burke	Mr Stefaniak	Mr Barr	Mr Hargreaves
Mrs Dunne		Mr Berry	Ms MacDonald
Mr Mulcahy		Mr Corbell	Ms Porter
Mr Pratt		Dr Foskey	Mr Stanhope
Mr Smyth		Mr Gentleman	

And so it was negatived.

24 LEAVE OF ABSENCE TO MEMBER

Mr Corbell (Manager of Government Business) moved—That leave of absence be given to Ms MacDonald for the period 19 to 26 May 2006.

Question—put and passed.

25 SUSPENSION OF STANDING ORDER 76

Mr Corbell (Manager of Government Business) moved—That standing order 76 be suspended for the remainder of this sitting.

Question—put and passed, with the concurrence of an absolute majority.

26 SENTENCING LEGISLATION 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.

Detail Stage

Clauses 1 to 6, by leave, taken together and agreed to.

Schedule 1—

Dr Foskey sought leave to move her amendments Nos. 1 to 6 together.

Leave being granted—

Point of order: Mr Stefaniak took a point of order concerning the relevancy of the amendments proposed by Dr Foskey.

Speaker's ruling—Standing order 181: The Speaker ruled that the amendments were relevant and within the scope of the Bill.

Dr Foskey moved her amendments Nos. 1 to 6 together (*see* [Schedule 4](#)).

Debate continued.

Amendments negatived.

Schedule 1 agreed to.

Remainder of Bill, by leave, taken as a whole and agreed to.

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

27 ASBESTOS LEGISLATION AMENDMENT BILL 2006 (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—

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.

28 ADJOURNMENT

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

Debate ensued.

Adjournment debate—Broadcasting by 2XX FM—Statement by Speaker: The Speaker made a statement concerning the broadcasting of adjournment debates by 2XX FM.

Question—put and passed.

And then the Assembly, at 11.29 p.m., adjourned until Tuesday, 6 June 2006 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

TERRORISM (EXTRAORDINARY TEMPORARY POWERS) BILL 2006

Amendments circulated by Mr Stefaniak

1

Clause 11 heading

Page 10, line 13—

omit

children

substitute

people under 16 years old

2

Clause 11 (1)

Page 10, line 15—

omit

child

substitute

person who is under 16 years old

3

Clause 11 (1), note 1

Page 10, line 16—

omit

4

Clause 11 (1), note 2, 3rd dot point

Page 10, line 24—

omit

a child

substitute

under 16 years old

5

Clause 11 (2)

Page 10, line 27—

omit

a child

substitute

under 16 years old

6

Clause 11 (2) (b)

Page 11, line 2—

omit

a child

substitute

under 16 years old

7

Clause 16 (3) (b)

Page 15, line 19—

omit clause 16 (3) (b), substitute

(b) is satisfied, on reasonable grounds, that—

- (i) making the order would substantially assist in preventing a terrorist act happening; and
 - (ii) detaining the person for the period for which the person is to be detained under the order is reasonably necessary for the purpose of substantially assisting in preventing a terrorist act happening.
-

8

Clause 16 (5) (c)

Page 16, line 9—

omit

9

Clause 17 (1) (h)

Page 17, line 23—

omit

a child

substitute

under 16 years old

10
Clause 17 (1) (h), note
Page 17, line 25—

omit

11
Clause 18 (4) (b), (c) and (d)
Page 22, line 1—

omit clause 18 (4) (b), (c) and (d), substitute

- (b) that making the order would substantially assist in preventing a terrorist act happening; and
- (c) that detaining the person for the period for which the person is to be detained under the order is reasonably necessary for the purpose of substantially assisting in preventing a terrorist act happening.

12
Clause 18 (6) (c)
Page 22, line 17—

omit

13
Clause 21 (3) (a)
Page 25, line 10—

omit

14
Clause 26 (2) (a)
Page 30, line 23—

omit

15
Clause 100
Page 93, line 10—

omit clause 100, substitute

100 Review of Act after 5 years of operation

The Minister must—

- (a) review the operation and effectiveness of this Act after it has been in operation for 5 years; and
 - (b) present a report of the review to the Legislative Assembly before the end of the Act's 6th year of operation.
-

16

Clause 101 (1)

Page 93, line 17—

omit

5 years

substitute

10 years

Schedule 2**TERRORISM (EXTRAORDINARY TEMPORARY POWERS) BILL 2006**

Amendments circulated by the Attorney-General

1

Clause 12 (5) (a)
Page 12, line 19—

omit clause 12 (5) (a), substitute

- (a) the making of a preventative detention order for a person for a terrorist act while the person is detained under an interim preventative detention order or corresponding preventative detention order for the same terrorist act; or
-

2

Clause 12 (5) (c)
Page 12, line 24—

omit

3

Clause 21 (3) (b)
Page 25, line 14—

before

for the same terrorist act

insert

made on the same basis

4

Clause 21 (10)
Page 26, line 18—

omit clause 21 (10), substitute

- (10) The preventative detention order may state that the person may have contact under section 50 (4) (Contact with family members etc) with a stated person or stated people (including any child of the person) for the period, and on the days, stated in the order.
-

5

Clause 52 (12)

Page 59, line 3—

omit clause 52 (12), substitute

- (12) Any communication between a person detained under a preventative detention order and the person's lawyer is not admissible in evidence against the person in any court proceeding.

Note The Legislation Act, s 171 deals with the application of client legal privilege.

Schedule 3

CIVIL UNIONS BILL 2006

Amendments circulated by the Attorney-General

1

Clause 5 (2)

Page 5, line 6

omit clause 5 (2) and notes, substitute

- (2) A civil union is different to a marriage but is to be treated for all purposes under territory law in the same way as a marriage.

Note 1 **Marriage** is defined in the *Marriage Act 1961* (Cwlth) to mean the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.

Note 2 **Territory law** includes the common law (see *Legislation Act*, dict pt 1, def *law*).

2

Clause 9 (1)

Page 6, line 16—

omit

an authorised celebrant

substitute

a civil union celebrant

3

Clause 9 (2) (c)

Page 7, line 6

omit clause 9 (2) (c), substitute

- (c) if either or both of them are 16 or 17 years old, a copy of—
- (i) the authorisation (or each authorisation) required under section 10 (1) (a); and
 - (ii) each consent required under section 10 (1) (b) or, for any consent not given, the waiver given under section 10 (4); and
-

4

Clause 9 (3)
Page 7, line 10—*omit*

the authorised celebrant

substitute

the civil union celebrant

5

Clause 10
Page 7, line 13*omit clause 10, substitute***10 Authorisation and consents required for 16 or 17-year olds**

- (1) A person who is 16 or 17 years old may enter into a civil union only if—
- (a) the Childrens Court, by order, gives an authorisation for the person to enter into the civil union; and
 - (b) each person with responsibility to make long-term decisions for the person (for example, a parent or guardian) gives written consent to the person entering into the civil union, or the requirement for the consent is waived under subsection (5).

Note 1 If a form is approved under s 22 for a consent, the form must be used.

Note 2 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).

- (2) In deciding whether to give an authorisation under subsection (1) (a) in relation to a person, the Childrens Court must regard the best interests of the person as the paramount consideration.
- (3) Each consent required under subsection (1) (b) must—
 - (a) be witnessed by someone before whom a statutory declaration may be made; and
 - (b) state that the witness is satisfied on reasonable grounds about the identity of the person giving the consent.
- (4) If a consent required under subsection (1) (b) is not given, the Childrens Court may, by order, waive the requirement for the consent.
- (5) However, the court may act under subsection (4) only if the court considers that exceptional circumstances exist to justify the waiver.

- (6) The authorisation and consents or waivers required under this section must be given not earlier than 3 months before the day the notice of intention to enter into the civil union is given.

6

Clause 11 (1)**Page 8, line 7—***omit*

an authorised celebrant

substitute

a civil union celebrant

7

Clause 11 (1)**Page 8, line 10—***omit*

the authorised celebrant

substitute

the civil union celebrant

8

Clause 11 (2)**Page 8, line 13—***omit*

the authorised celebrant

substitute

the civil union celebrant

9

Proposed new part 2A**Page 11, line 15—***insert*

Part 2A Civil union celebrants

14A Registration of civil union celebrants

- (1) A person may apply, in writing, to the registrar-general to be registered as a civil union celebrant.

Note 1 If a form is approved under s 22 for this provision, the form must be used.

Note 2 A fee may be determined under s 21 for this provision.

- (2) On application by a person under subsection (1), the registrar-general may register the applicant if satisfied that the applicant—

- (a) is an individual aged 18 years or older; and
 - (b) has the knowledge and the skills or experience necessary to exercise the functions of a civil union celebrant under this Act; and
 - (c) is a suitable person to be registered as a civil union celebrant.
- (3) If the registrar-general is not satisfied under subsection (2), the registrar-general must refuse to register the applicant.
- (4) In deciding whether a person is a *suitable person* to be registered as a civil union celebrant, the registrar-general must have regard to the following:
- (a) whether the person has been convicted, or found guilty, in Australia of an offence punishable by imprisonment for 1 year or longer;
 - (b) whether the person has been convicted, or found guilty, outside Australia of an offence that, if it had been committed in the ACT, would have been punishable by imprisonment for 1 year or longer;
 - (c) whether the person has been convicted, or found guilty, of an offence against, or otherwise contravened, this Act or the *Births, Deaths and Marriages Act 1997*, part 5A (Registration of civil unions);
 - (d) whether the person is or has been an undischarged bankrupt or has executed a personal insolvency agreement;
 - (e) whether the person has a physical or mental incapacity that may affect the exercise of the person's functions as a civil union celebrant.
- (5) In deciding whether a person is a *suitable person* to be a civil union celebrant, the registrar-general may have regard to anything else the registrar-general considers relevant.

14B Register of civil union celebrants

- (1) The registrar-general must keep a register of people registered as civil union celebrants under this Act.
- (2) The register may be kept in any form, including electronically, that the registrar-general decides.
- (3) The register must include the following information for each person registered as a civil union celebrant:
 - (a) the person's full name;
 - (b) the person's address and contact details;
 - (c) the date the person was registered;

- (d) if the person's registration is cancelled or the person otherwise ceases to be registered—the date the registration ceases.
- (4) The register may also include any other information the registrar-general considers appropriate.
- (5) The register must be available for public inspection at reasonable times.
- (6) However, a person's address and contact details and any other information included in the register about the person under subsection (4) must only be available for public inspection if the person consents.

14C Cancellation of registration

The registrar-general may cancel a person's registration as a civil union celebrant if the registrar-general considers that the person does not satisfy, or no longer satisfies, the criteria for registration under section 14A (2).

14D Review of decisions

Application may be made to the administrative appeals tribunal for review of a decision of the registrar-general—

- (a) to refuse to register a person as a civil union celebrant under section 14A; or
- (b) to cancel a person's registration as a civil union celebrant under section 14C.

14E Notice of reviewable decisions

- (1) If the registrar-general makes a decision mentioned in section 14D, the registrar-general must give a written notice of the decision to each person affected by the decision.
- (2) The notice must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

10

Clause 16 (2)

Page 12, line 18—

omit

an authorised celebrant

substitute

a civil union celebrant

11**Clause 16 (2)****Page 12, line 20—***omit*

an authorised celebrant

substitute

a civil union celebrant

12**Clause 19 (1)****Page 15, line 2—***omit*

marriage solemnised in a foreign country

substitute

union entered into by any 2 people under the law of a foreign country and

13**Clause 20 (1)****Page 15, line 19—***omit*

An authorised celebrant

substitute

A civil union celebrant

14**Clause 20 (2)****Page 16, line 5—***omit*

An authorised celebrant

substitute

A civil union celebrant

15**Clause 20 (3) (b)****Page 16, line 17—***omit*

an authorised celebrant

substitute

a civil union celebrant

16**Clause 20 (3) (c)****Page 16, line 18—***omit*

an authorised celebrant

substitute

a civil union celebrant

17**Clause 20 (3) (d)****Page 16, line 21—***omit*

an authorised celebrant

substitute

a civil union celebrant

18**Schedule 1, part 1.1****Page 18, line 3—***omit part 1.1, substitute***Part 1.1****Administration and Probate
Act 1929****[1.1] Section 44 (1), definition of *eligible partner****after*

spouse

insert

or civil union partner

[1.2] Section 44 (1), definition of *partner*, paragraph (a)*after*

spouse

insert

or civil union partner

[1.3] Section 45A (1)*after*

spouse

insert

or civil union partner

[1.4] Section 46 (1)

after

married

insert

or in a civil union

[1.4A] Section 46 (1)

after

marrying

insert

or entering into a civil union

[1.4B] Section 46 (2) and (3)

after

married

insert

or entered into a civil union

[1.5] Section 49BA (4) (c) (i)

after

spouse

insert

or civil union partner

19

Schedule 1, parts 1.2 and 1.3

Page 19, line 1—

omit parts 1.2 and 1.3, substitute

Part 1.2 Adoption Act 1993

[1.6] Section 13 heading

substitute

13 Child married or in civil union**[1.6A] Section 13**

after

married

insert

or in a civil union

[1.7] Section 18 (1) (b)*omit*

, whether married or not,

substitute

, whether or not married or in a civil union,

[1.8] Section 18 (4) (a)*substitute*

- (a) married or in a civil union and not living separately and apart from his or her spouse or civil union partner; or

Part 1.3 Adoption Regulation 1993**[1.9] Section 11 (b) (viii) and (ix)***substitute*

- (viii) if married or in a civil union—date and place of marriage or civil union;
- (ix) if not married or in a civil union—whether in another domestic partnership or single;

20**Schedule 1****Proposed new amendments 1.9A and 1.9B****Page 20, line 2—***insert***[1.9A] Long title***after*

marriages

insert

, civil unions

[1.9B] Section 4, definition of *adult*, paragraph (b)*after*

married

*insert*or in a civil union

21
Schedule 1, amendment 1.10
Page 20, line 3—

substitute

[1.10] Section 16 (3) (b)

after

marriage

insert

or civil union

22
Schedule 1, amendment 1.12
Page 20, line 8—

omit

23
Schedule 1, amendment 1.13
Proposed new section 32B (2)
Page 21, line 1—

omit

authorised celebrant

substitute

civil union celebrant

24
Schedule 1, amendment 1.14
Page 22, line 1—

omit amendment 1.14, substitute

[1.14] Dictionary, note 2, new dot point

insert

- civil union

25
Schedule 1, amendment 1.16
Page 22, line 12—

omit amendment 1.16, substitute

[1.16] Section 5 (k)

substitute

- (k) if the parents of the child are married or in a civil union—
the date and place of the marriage or civil union;
-

26**Schedule 1, amendment 1.18****Page 22, line 18—***omit amendment 1.18, substitute***[1.18] Section 7 (b)***substitute*

- (b) a spouse or civil union partner, or former spouse or civil union partner, of the transsexual person;

27**Schedule 1, amendment 1.19****Page 22, line 21—***omit amendment 1.19, substitute***[1.19] Section 9 (g) (i)***substitute*

- (i) if the deceased had been married or in a civil union—
the date and place of each marriage and civil union;
and

28**Schedule 1, part 1.6****Page 23, line 3—***omit*

29**Schedule 1, amendment 1.22****Page 23, line 11—***omit amendment 1.22, substitute***[1.22] Section 23, definition of *member*, paragraph (g)***after*

spouse

*insert*or civil union partner

30

Schedule 1, amendment 1.23

Page 23, line 15—

omit amendment 1.23, substitute

[1.23] Section 395 (2) (a)

after

marriage

insert

, civil union

31

Schedule 1

Proposed new amendment 1.23A

Page 23, line 17—

insert

[1.23A] Dictionary, note 2, new dot point

insert

- civil union

32

Schedule 1, amendment 1.27

Page 24, line 12—

omit amendment 1.27, substitute

[1.27] Dictionary, note 2, new dot point

insert

- civil union

33

Schedule 1, amendment 1.28

Page 24, line 16—

omit amendment 1.28, substitute

[1.28] Dictionary, new definition of *affinity*

insert

affinity means affinity derived through marriage, civil union or any other domestic partnership.

34**Schedule 1****Proposed new amendment 1.28A****Page 25, line 6***insert***[1.28A] Dictionary, definition of relationship status, paragraph (f)***after*

spouse

insert

or civil union partner

35**Schedule 1, amendment 1.34****Page 26, line 8—***omit*under the *Marriage Act 1961* (Cwlth)

36**Schedule 1, part 1.12****Page 28, line 15—***omit part 1.12, substitute***Part 1.12****Domestic Violence and
Protection Orders Act 2001****[1.39] Section 10A (b)***after*

spouse

insert

or civil union partner

[1.40] Section 10A (b)*omit*

legally married to

substitute

married to or in a civil union with

[1.40A] Section 10A (b), note

substitute

Note For the meaning of *domestic partner*, see the Legislation Act, s 169.

For ACT law, a person acquires relatives through civil union in the same way as they acquire them through marriage (see the *Civil Unions Act 2006*).

37

Schedule 1, amendment 1.41

Proposed new section 72 (1), note

Page 29, line 5—

omit

Spouse includes civil union partner (see Legislation Act, s 168A).

38

Schedule 1, amendment 1.42

Proposed new section 74B (1), note

Page 29, line 12—

omit

Spouse includes civil union partner (see Legislation Act, s 168A).

39

Schedule 1, amendment 1.44

Proposed new section 115H (1), note

Page 30, line 4—

omit

Spouse includes civil union partner (see Legislation Act, s 168A).

40

Schedule 1, amendment 1.46

Proposed new section 213 (1), note

Page 30, line 21—

omit

Spouse includes civil union partner (see Legislation Act, s 168A).

41

Schedule 1, amendment 1.51

Page 31, line 13—

omit

 42

Schedule 1, amendment 1.52

Page 31, line 16—

omit

43

Schedule 1, amendment 1.53

Page 31, line 19—

omit

44

Schedule 1, amendment 1.60

Page 33, line 12—

omit amendment 1.60, substitute

[1.60] Section 7 (9), definition of *partner*, paragraph (b) (i)
after

spouse

insert

 or civil union partner

45

Schedule 1, part 1.16

Page 34, line 1—

omit part 1.16, substitute

Part 1.16 First Home Owner Grant Act 2000

[1.63] Section 6 (2)
omit

the person to whom an applicant is legally married

substitute

 if the applicant is married or in a civil union, the applicant's
spouse or civil union partner

[1.64] Dictionary, note 2, new dot point
insert

- civil union
-

46

Schedule 1, amendment 1.65

Page 34, line 10—

omit amendment 1.65, substitute

[1.65] Section 7B (d)

after

marriage

insert

or civil union

47

Schedule 1, amendment 1.66

Page 34, line 14—

omit amendment 1.66, substitute

[1.66] Section 8, definition of *bill of sale*

after

marriage

insert

or civil union

48

Schedule 1, amendment 1.68

Page 35, line 9—

omit amendment 1.68, substitute

[1.68] Section 6 (1), definition of *transmission*

omit

or marriage

substitute

, marriage or civil union

49

Schedule 1, amendment 1.70

Page 36, line 2—

omit

50**Schedule 1, amendment 1.71****Page 36, line 11—**

omit amendment 1.71, substitute

[1.71] Section 169 (1)

after

spouse

insert

or civil union partner

51**Schedule 1, amendment 1.72****Page 36, line 19—**

omit

under the *Marriage Act 1961* (Cwlth)

52**Schedule 1, amendment 1.73****Page 36, line 21—**

omit amendment 1.73, substitute

[1.73] Dictionary, part 1, new definition of *civil union*

insert

civil union means a civil union under the *Civil Unions Act 2006*.

53**Schedule 1, part 1.23****Page 37, line 2—**

omit part 1.23, substitute

**Part 1.23 Married Persons Property Act
1986****[1.74] Title**

omit

married persons

substitute

people who are married or in a civil union

[1.75] Section 9 heading

substitute

9 Transfer of property to spouse, civil union partner or child**[1.76] Section 9 (2) (a)**

omit

husband and his wife

substitute

person and the person's spouse or civil union partner

[1.77] Section 9 (2)

after

spouse

insert

or civil union partner

[1.78] Section 10 heading

substitute

10 Purchase or transfer of property before marriage or civil union**[1.79] Section 10 (1)**

after

marriage to

insert

or civil union with

[1.80] Section 10 (1) (a)

after

marriage

insert

or civil union

[1.81] Section 10 (1) (b)

omit

marriage of the transferor to the transferee

substitute

marriage or civil union

[1.81A] Section 10 (2)

after

marriage to

insert

or civil union with

[1.81B] Section 10 (2) (a)

after

marriage

insert

or civil union

[1.81C] Section 10 (2) (b)

omit

marriage of the transferor to the transferee

insert

marriage or civil union

[1.81D] Section 10 (3) (a)

after

marriage to

insert

or civil union with

[1.81E] Section 10 (3) (c)

after

marriage

insert

or civil union

[1.81F] Section 10 (3) (d)

omit

marriage of those persons

insert

marriage or civil union

[1.81G] Section 11

omit

married person

substitute

person who is married or in a civil union

[1.81H] Section 11

after

spouse

insert

or civil union partner

[1.81I] Section 12 heading

substitute

12 Beneficiaries who are married or in civil union**[1.81J] Section 12**

omit

husband and his wife

substitute

person and his or her spouse or civil union partner

[1.81K] Section 13

substitute

13 Applications to decide property disputes

- (1) This section applies if any question arises between a person and his or her spouse or civil union partner in relation to the title to, or possession or disposition of, any property (including any question in relation to the investment by one of them of money of the other without the consent of the other).
- (2) The person, or a third party on whom conflicting claims are being or are expected to be made by the person and his or her spouse or civil union partner in relation to any property, may apply to the court to hear and decide the question.

[1.81L] Section 15 (5)*substitute*

- (5) If an application under section 13 relates to money of the spouse or civil union partner of a person that was invested by the person without the consent of the spouse or civil union partner, the court may order that the amount of the money and any interest, dividend or other profit derived from the money be paid to the spouse or civil union partner.

54**Schedule 1, part 1.24****Page 38, line 20—***omit part 1.24, substitute***Part 1.24 Parentage Act 2004****[1.82] Section 7 heading***substitute***7 Presumptions arising from marriage or civil union****[1.83] Section 7 (1)***after*

married

insert

or in a civil union

[1.84] Section 7 (1)*omit*

husband

substitute

spouse or civil union partner

[1.85] Section 7 (2)*omit*

husband

substitute

spouse or civil union partner

[1.86] Section 7 (3)*omit*

husband

substitute

spouse

[1.87] Section 7 (4)*omit*

dissolution of her marriage

substitute

end of her marriage or civil union

[1.88] Section 7 (4)*omit*

husband in that marriage

substitute

spouse or partner in that marriage or civil union

[1.89] Section 38 (2)*after*

married to

insert

or in a civil union with

[1.89A] Section 38 (5), definition of *affinity**after*

marriage

insert

, civil union

55

Schedule 1, amendment 1.92

Page 40, line 16—

*omit amendment 1.92, substitute***[1.92] Dictionary, new definition of *affinity****insert**affinity* means affinity derived through marriage, civil union or any other domestic partnership.

56**Schedule 1, amendment 1.95****Page 41, line 9—***omit amendment 1.95, substitute***[1.95] Section 45, definition of *partner****substitute**partner*—a person's *partner* is either of the following:

- (a) the person's spouse or civil union partner;
- (b) someone with whom the person has a personal relationship.

[1.95A] Section 45, definition of *pensioner*, note for par (d), (e) and (f)*after*

spouses

insert

or civil union partners

57**Schedule 1, part 1.29****Page 42, line 16—***omit*

58**Schedule 1, amendment 1.103****Page 43, line 3—***omit amendment 1.103, substitute***[1.103] Section 2 (1), definition of *child****after*

married

insert

or in a civil union

59

Schedule 1, amendment 1.106

Page 44, line 11—

omit amendment 1.106, substitute

[1.106] Section 8 (2)

after

married

insert

or in a civil union

[1.06A] Section 8 (3)

after

marry

insert

or enter into a civil union

[1.06B] Section 8 (3)

after

a marriage

insert

or civil union

[1.06C] Section 8 (3)

omit

solemnisation of the marriage contemplated

substitute

solemnisation of the marriage or entry into the civil union

[1.06D] Section 8 (6)

after

married

insert

or in a civil union

[1.06E] Section 8B (1)

after

married

insert

or in a civil union

[1.06F] Section 15

after

spouse

insert

or civil union partner

[1.06G] Section 18

after

spouse

insert

or civil union partner

60

Schedule 1, amendment 1.111

Page 45, line 9—

omit amendment 1.111, substitute

[1.111] Section 20 heading

substitute

20 Revocation of will by testator's marriage or civil union**[1.111A] Section 20 (1)**

after

marries

insert

or enters into a civil union

[1.111B] Section 20 (1)

after

marriage

insert

or civil union

[1.111C] Section 20 (2)

after

marries

insert

or enters into a civil union

[1.111D] Section 20 (2)

after
marriage
insert
or civil union

[1.111E] Section 20 (3)

after
marriage
insert
or civil union

61
Schedule 1, amendments 1.112 to 1.114
Page 45, line 12—

omit amendments 1.112 to 1.114, substitute

[1.112] Section 20A heading

substitute

20A Effect of termination of marriage or civil union

[1.113] Section 20A (1)

after
marriage
insert
or civil union

[1.114] Section 20A (1)

after
former spouse
insert
or civil union partner

[1.114A] Section 20A (2)

after
marriage
insert
or civil union

[1.114B] Section 20A (3)*after*

former spouse

insert

or civil union partner

[1.114C] New section 20A (4A)*insert*

- (4A) For this section, the termination of a civil union happens on the termination of the civil union under the *Civil Unions Act 2006*, division 2.4 (otherwise than on the death of a party to the civil union).

[1.114D] Section 20A (5), definition of *former spouse**substitute*

former spouse or civil union partner, in relation to a testator, means the person who, immediately before the termination of the testator's marriage or civil union, was the testator's spouse or civil union partner, or, for a purported marriage or civil union of the testator that is void, was the other party to the purported marriage or civil union.

62

Schedule 1, amendment 1.115**Page 46, line 2—***omit amendment 1.115, substitute***[1.115] Section 10 (c)***after*

marriage

insert

or civil union

63

Dictionary, definition of *authorised celebrant***Page 47, line 11—***omit the definition, substitute****civil union celebrant*** means—

- (a) the registrar-general; or
- (b) a person who is registered under this Act as a civil union celebrant.

Schedule 4**SENTENCING LEGISLATION AMENDMENT BILL 2006**

Amendments circulated by Dr Foskey

1**Schedule 1****Proposed new amendment 1.239A****Page 92, line 14—***insert***[1.239A] Section 146, new definitions of *community service fine enforcement order* and *community service work****insert**community service fine enforcement order*—see section 154A (1).*community service work*—see the *Crimes (Sentence Administration) Act 2005*, section 316.

2**Schedule 1, amendment 1.243****Proposed new section 153 (3) (ba)****Page 93, line 14—***insert*

(ba) a community service fine enforcement order is made for the person; or

3**Schedule 1****Proposed new amendment 1.243A****Page 93, line 17—***insert***[1.243A] New sections 154A to 154C***insert***154A Community service work—fine defaulters**

- (1) The registrar may make an order (a *community service fine enforcement order*) requiring a fine defaulter to perform stated hours of community service work within a stated period.
- (2) However, the registrar may make a community service fine enforcement order against a fine defaulter only if—

- (a) the registrar is satisfied that all reasonable action has been taken under this division to secure payment and there is no reasonable likelihood of the outstanding fine being paid; and
 - (b) the outstanding fine has not been remitted by the Executive; and
 - (c) the registrar believes, on reasonable grounds, that—
 - (i) community service work is suitable for the fine defaulter; and
 - (ii) it is appropriate that the defaulter be required to perform community service work instead of an order being made under section 154D (Fine defaulters—imprisonment) for the defaulter.
- (3) The registrar may, by written notice, require a fine defaulter to give the registrar any information that the registrar may reasonably require to form a belief for subsection (2) (c).

Note If a form is approved under the *Court Procedures Act 2004*, s 8 for this provision, the form must be used.

- (4) A notice under subsection (3) must state the period within which the information must be given to the registrar.
- (5) The *Crimes (Sentence Administration) Act 2005*, part 6.2 (Good behaviour—community service work) applies to a fine defaulter who is subject to a community service fine enforcement order as if the order is a good behaviour order that is subject to a community service condition.
- (6) If the registrar is satisfied that a fine defaulter has breached a community service fine enforcement order the registrar must cancel the order.
- (7) This section does not apply to a person if the person's liability to pay the fine is derived from a reparation order under the *Crimes (Sentencing) Act 2005*.

Note A reparation order under the *Crimes Act 1900*, s 350 (repealed) is taken to be a reparation order under the *Crimes (Sentencing) Act 2005* (see that Act, s 142).

- (8) In this section:

community service condition, of a good behaviour order for an offender—see the *Crimes (Sentencing) Act 2005*, section 85.

good behaviour order—see the *Crimes (Sentencing) Act 2005*, section 13.

154B Community service work—hours to be performed by fine defaulters

- (1) The number of hours of community service work that the fine defaulter may be ordered to perform under a community service fine enforcement order is the lesser of—

- (a) 7.5 hours of community service work for each \$100, or part of \$100, of the outstanding fine; or
 - (b) 500 hours.
- (2) The period during which the community service work is required to be completed under the community service fine enforcement order must be at least—
- (a) if fewer than 250 hours work is required—12 months; or
 - (b) if 250 or more hours work is required—24 months.

154C When community service fine enforcement orders end

A community service fine enforcement order for a fine defaulter ends when the earliest of the following happens:

- (a) the fine defaulter completes the number of hours of community service work required to be performed under the order;
- (b) the order is cancelled under section 154A (6).

4

Schedule 1, amendment 1.244

Proposed new section 154D (1) (b)

Page 93, line 25—

omit proposed new section 154D (1) (b), substitute

- (b) the outstanding fine has not been remitted by the Executive; and
- (c) a community service fine enforcement order is not in force in relation to the defaulter.

5

Schedule 1, amendment 1.244

Proposed new section 158

Page 95, line 1—

omit proposed new section 158, substitute

158 Outstanding fine satisfied by community service work or imprisonment

- (1) A person who is subject to a community service fine enforcement order discharges the person's liability to pay the outstanding fine—
- (a) at the rate of 7.5 hours of community service work for each \$100, or part of \$100, of the outstanding fine; or
 - (b) if the person is required to perform 500 hours community service work—at the end of the 500 hours of community service work.

- (2) A person imprisoned under section 154D (Fine defaulters—imprisonment) discharges the person's liability to pay the outstanding fine—
- (a) at the rate of \$100 for each day or part of a day for which the person is detained under the warrant; or
 - (b) if the person is committed for 6 months—at the end of the 6-month period.
-

6

Schedule 1

Proposed new part 1.30A

Page 103, line 5—

insert

**Part 1.30A Road Transport (General) Act
1999**

**[1.278A] Section 86 (1), definition of *revocation notice*, new
paragraph (b) (ia)**

insert

- (ia) a community service fine enforcement order has been made for a person; or
-