



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

2004–2005–2006

MINUTES OF PROCEEDINGS

No. 55

THURSDAY, 9 MARCH 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 DUTIES AMENDMENT BILL 2006

Mr Quinlan (Treasurer), pursuant to notice, presented a Bill for an Act to amend the *Duties Act 1999*.

Papers: Mr Quinlan presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 15 February 2006.

Title read by Clerk.

Mr Quinlan 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.

3 SUSPENSION OF STANDING ORDERS MOVED—CONSIDERATION OF PRIVATE MEMBERS' BUSINESS

Mrs Burke moved—That so much of the standing orders be suspended as would prevent order of the day No. 12, Private Members' business, relating to childcare in the ACT, being called on forthwith.

Debate ensued.

Question—put.

The Assembly voted—

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

And so it was negatived.

4 EXECUTIVE BUSINESS—PRECEDENCE

Ordered—That Executive business be called on forthwith.

5 POVERTY AND EMPLOYMENT CREATION STRATEGIES—AMENDMENT TO RESOLUTION OF THE ASSEMBLY

Mr Corbell (Manager of Government Business), pursuant to notice, moved—That the resolution of the Assembly of 19 October 2005, regarding poverty and employment creation strategies, be amended by omitting paragraph (3)(c) and substituting:

“(3) (c) report to the Assembly during the sitting week commencing 12 December 2006.”.

Debate ensued.

Question—put and passed.

6 CHILDREN AND YOUNG PEOPLE AMENDMENT BILL 2005 (NO. 2)

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

Detail Stage

Clauses 1 to 3 agreed to.

Clause 4—

Dr Foskey moved her amendment No. 1 (*see* [Schedule 1](#)).

Debate continued.

Amendment negatived.

Clause 4 agreed to.

Clauses 5 to 9, by leave, taken together and agreed to.

Clause 10—

Dr Foskey moved her amendment No. 2 (*see* [Schedule 1](#)).

Debate continued.

Amendment negatived.

Clause 10 agreed to.

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

On the motion of Ms Gallagher (Minister for Children, Youth and Family Support), by leave, her amendments Nos. 1 to 7 (*see* [Schedule 2](#)) were made together, after debate.

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

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

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

7 RACING (JOCKEYS ACCIDENT INSURANCE) 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

Bill, by leave, taken as a whole—

On the motion of Mr Quinlan (Treasurer), by leave, his amendments Nos. 1 to 4 ([see Schedule 3](#)) were made together, after debate.

Paper: Mr Quinlan 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.

8 WORKERS COMPENSATION AMENDMENT BILL 2006

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

Debate resumed.

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

Leave granted to dispense with the detail stage.

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

9 ROAD TRANSPORT (PUBLIC PASSENGER SERVICES) AMENDMENT BILL 2005

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.

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.

10 QUESTIONS

Questions without notice were asked.

11 PRESENTATION OF PAPER

Mr Quinlan (Treasurer) presented the following paper:

Financial Management Act, pursuant to subsection 47(3)—Financial Management (Guarantee by the Territory) Approval 2006 (No. 1)—Canberra Racing Club Inc, dated 6 March 2006.

12 PAPER—OUT OF ORDER PETITION

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

Petition which does not conform with the standing orders—Teddybears childcare centre, Curtin—Mrs Dunne (53 signatures).

13 ECONOMIC WHITE PAPER IMPLEMENTATION—MINISTERIAL STATEMENT—MOTION TO TAKE NOTE OF PAPER

Mr Quinlan (Minister for Economic Development and Business), by leave, made a ministerial statement concerning implementation of the Economic White Paper and presented the following paper:

Economic White Paper implementation—Ministerial statement, 9 March 2006.

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

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

14 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—CANBERRA'S URBAN INFRASTRUCTURE AND THE LOOK OF THE CITY

The Assembly was informed that Dr Foskey, Mr Gentleman, Ms MacDonald and Mr Pratt 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 Canberra's urban infrastructure and the look of the City."

Discussion ensued.

Discussion concluded.

15 ROAD TRANSPORT (PUBLIC PASSENGER SERVICES) AMENDMENT BILL 2005

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 17, by leave, taken together and agreed to.

Clause 18—

Dr Foskey moved her amendment No. 1 (*see* [Schedule 4](#)).

Debate continued.

Question—put.

The Assembly voted—

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

And so it was negatived.

Mr Pratt, by leave, moved his amendments Nos. 1 and 2 together (*see* [Schedule 5](#)).

Debate continued.

Amendments negatived.

Clause 18 agreed to.

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

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

16 PAPER

Mr Quinlan (Treasurer), during a personal explanation, presented the following paper:
Adopt-a-road program—Tax invoice from Koomarri, dated 28 February 2006.

17 MOTOR SPORT (PUBLIC SAFETY) 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

Bill, by leave, taken as a whole—

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

18 RETIREMENT OF MR QUINLAN—STATEMENT BY MEMBER

Mr Quinlan (Deputy Chief Minister), by leave, made a statement concerning his impending retirement from the ACT Legislative Assembly.

19 ADJOURNMENT

Mr Quinlan (Deputy Chief Minister) moved—That the Assembly do now adjourn.

Debate ensued.

Question—put and passed.

And then the Assembly, at 6.27 p.m., adjourned until Tuesday, 28 March 2006 at 10.30 a.m.

MEMBERS' ATTENDANCE: All Members were present at some time during the sitting, except Mr Seselja*.

*on leave

Tom Duncan
Clerk of the Legislative Assembly

SCHEDULES OF AMENDMENTS

Schedule 1

CHILDREN AND YOUNG PEOPLE AMENDMENT BILL 2005 (NO. 2)

Amendments circulated by Dr Foskey

1

Clause 4

Proposed new section 11 (2), note

Page 3, line 5—

omit

(see s 68 (aa))

substitute

(see s 68 (2) (a))

2

Clause 10

Page 4, line 20—

omit clause 10, substitute

10

Section 68

omit everything before paragraph (c), substitute

68

Principles

- (1) If a decision is to be made under this part in relation to a young person or young offender, the decision-maker must give paramount consideration to the principle that the young person or young offender should be dealt with in a way that—
 - (a) acknowledges the needs of the young person or young offender; and
 - (b) will provide the young person or young offender with an opportunity to develop in socially responsible ways.
 - (2) If a decision is to be made under this part in relation to a young person or young offender, the decision-maker must also make the decision in accordance with the following principles:
 - (a) regard must be had to the best interests of the young person or young offender;
 - (b) if a young person does anything that is contrary to law, the young person should be encouraged to accept responsibility for the behaviour and be held accountable;
-

Schedule 2**CHILDREN AND YOUNG PEOPLE AMENDMENT BILL
2005 (NO. 2)**

Amendments circulated by the Minister for Children, Youth and Family Support

1**Clause 16****Proposed new section 159 (3)****Page 10, line 10—***omit*

suspects

substitute

believes

2**Clause 17****Proposed new section 162A****Page 11, line 1—***omit*

3**Proposed new clause 18A****Page 12, line 10—***insert***18A New section 189A***insert***189A Public advocate to be told about some incidents**

- (1) This section applies if—
- (a) the chief executive receives a report about a child or young person under section 158 (Voluntary reporting) or section 159 (Mandatory reporting); and
 - (b) because of the report, the chief executive makes a child protection appraisal for the child or young person; and
 - (c) at the time of the incident that gave rise to the report—
 - (i) the chief executive had parental responsibility (sole or shared) for the child or young person; and

- (ii) someone else (the *authorised carer*) was exercising parental responsibility for the child or young person under section 31 (Authorisation to exercise parental responsibility for particular child or young person) on behalf of the chief executive; and
- (d) the incident either—
 - (i) involved the authorised carer; or
 - (ii) happened while the child or young person was in an approved care placement.

Note The chief executive may have parental responsibility for a child or young person under any of the following provisions:

- under a family group conference agreement (see div 7.2.1)
 - under a voluntary care agreement (see div 7.2.2)
 - under a care and protection order (see pt 7.3)
 - after emergency action is taken (see div 7.3.4).
- (2) The chief executive must give a report to the public advocate about—
 - (a) the incident; and
 - (b) what action (if any) the chief executive has taken because of the appraisal.
 - (3) For this section, a child or young person is in an *approved care placement* if the child or young person is—
 - (a) placed in out-of-home care in the form of—
 - (i) foster care; or
 - (ii) kinship care; or
 - (iii) care provided under a residence order (see s 207); or
 - (b) taking part in a contact visit with someone and the contact is—
 - (i) allowed under a contact order (see s 206); or
 - (ii) approved by the chief executive.

4

Clause 21
Proposed new section 405 (b), note
Page 13, line 17—

omit

- s 162A (Records about authorised carers to go to public advocate)

substitute

- s 189A (Public advocate to be told about some incidents)

5

Clause 21**Proposed new section 405B (2), definition of *child abuse appraisal information*****Page 14, line 23—***omit the definition, substitute****child abuse appraisal information*** means information—

- (a) in a record of a child protection appraisal (an ***appraisal record***) made under section 162 (b) (Chief executive must record reports); or
- (b) in a report (an ***incident report***) to the public advocate under section 189A (2) (Public advocate to be told about some incidents); or
- (c) that would allow information in an appraisal record or incident report to be worked out.

6

Clause 21**Proposed new section 405D (2), note****Page 17, line 17—***omit*

- s 162A (Records about authorised carers to go to public advocate)

substitute

- s 189A (Public advocate to be told about some incidents)

7

Clause 22**Page 19, line 20—***omit clause 22, substitute***22****New chapter 18***insert*

Chapter 18 Transitional—Children and Young People Amendment Act 2006

450 Transitional—references to public advocate

- (1) In this Act:

public advocate includes a person who is, or has at any time been, the community advocate under the *Community Advocate Act 1991*, as in force at any time.

- (2) Subsection (1) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

- (3) This section expires on the day it commences.

451 Transitional—work experience not employment

- (1) For section 368 (Employing a child or young person), a child or young person is taken not to be employed by a person if—
- (a) the engagement of the child or young person by the person is arranged by an educational institution where the child or young person is enrolled; and
 - (b) the engagement is part of a work experience program (however described) conducted by the educational institution.
- (2) In this section:
- educational institution* means—
- (a) a school, college or other educational institution established or maintained on behalf of the Territory; or
 - (b) an approved educational entity.
- (3) The Minister may approve an entity (an *approved educational entity*) for subsection (2) (b).
- (4) An approval is a notifiable instrument.
- Note* A notifiable instrument must be notified under the Legislation Act.
- (5) Subsections (1) to (4) are laws to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (6) This section expires on 30 December 2006.
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Schedule 3

RACING (JOCKEYS ACCIDENT INSURANCE) AMENDMENT BILL 2005

Amendments circulated by the Treasurer

1

Clause 4

Proposed new section 61A

Page 2, line 13—

omit proposed new section 61A, substitute

61A Definitions—pt 5A

In this part:

1987 NSW Act means the *Workers Compensation Act 1987* (NSW).

1998 NSW Act means the *Workplace Injury Management and Workers Compensation Act 1998* (NSW).

ACT jockey means a jockey, apprentice jockey or other person who is—

- (a) licensed by Racing NSW as an approved rider; and
- (b) engaged—
 - (i) to ride a horse for fee or reward at a meeting for horse racing conducted or held by the racing club; or
 - (ii) in riding work in connection with horse racing (but not harness racing) on the racecourse or other premises of the racing club.

applied NSW Acts means the NSW Acts applied under section 61B.

injury has the same meaning as in the applied NSW Acts.

NSW Acts means the 1987 NSW Act and the 1998 NSW Act, including the special insurance scheme for NSW jockeys under those Acts.

Note A reference to a law (including a law of another jurisdiction) includes a reference to—

- the law as originally made and as amended (see Legislation Act, s 102); and
- the statutory instruments made or in force under the law (see Legislation Act, s 104).

NSW jockey means a jockey, apprentice jockey or other person who is—

- (a) licensed by Racing NSW as an approved rider; and
- (b) taken to be a worker under the NSW Acts because of the 1998 NSW Act, schedule 1, clause 9 (1) (a) or (c).

Note The 1998 NSW Act, schedule 1, clause 9 (1) (a) and (c) applies respectively to a person who is—

- engaged to ride a horse for fee or reward at a meeting for horse racing conducted or held by a racing club or association; or
- engaged in riding work in connection with horse racing (but not harness racing) on the racecourse or other premises of a racing club or association.

Racing NSW—see the *Thoroughbred Racing Act 1996* (NSW), section 3 (Definitions).

special insurance scheme, for NSW jockeys, means the scheme under which Racing NSW provides accident insurance as a specialised insurer for NSW jockeys under the NSW Acts.

2

Clause 4

Proposed new section 61B

Page 3, line 3—

omit proposed new section 61B, substitute

61B Accident insurance arrangements—authorisation

- (1) This section applies if Racing NSW is a specialised insurer under the NSW Acts in relation to NSW jockeys.
- (2) Racing NSW is authorised to provide accident insurance in relation to ACT jockeys.
- (3) The authorisation under subsection (2) is for Racing NSW to act as a specialised insurer in the ACT—
 - (a) in the same way that it acts as a specialised insurer in NSW under the NSW Acts in relation to NSW jockeys; and
 - (b) as if the racing club were a racing club under those Acts.
- (4) Without limiting subsections (2) and (3), the NSW Acts apply in the ACT for those subsections, with any necessary change and any change prescribed by regulation.
- (5) In particular, a regulation made for subsection (4) may include changes for either or both of the following:
 - (a) excluding a provision of the applied NSW Acts;
 - (b) applying a territory law in relation to the operation of the applied NSW Acts, including by giving jurisdiction or functions to territory courts or entities.

61BA Accident insurance arrangements—operation

- (1) To remove any doubt—
- (a) under the applied NSW Acts—
- (i) an ACT jockey has the same rights and obligations (including rights and obligations in relation to common law damages) in relation to an injury suffered as an ACT jockey that a NSW jockey would have under the NSW Acts in relation to an injury suffered as a NSW jockey; and
- (ii) the racing club and Racing NSW have the same rights and obligations (including rights and obligations in relation to common law damages) in relation to an injury suffered as an ACT jockey that they would have under the NSW Acts in relation to an injury suffered as a NSW jockey; and
- (b) the applied NSW Acts do not create any right (whether substantive or procedural) in relation to an injury suffered as an ACT jockey that a NSW jockey would not have under the NSW Acts in relation to an injury suffered as a NSW jockey; and
- (c) except as provided in paragraph (1) (a) (i), an ACT jockey is not entitled to recover damages for an injury suffered as an ACT jockey; and
- (d) the *Limitation Act 1985* does not apply to any claim for compensation or damages by an ACT jockey that is governed by the applied NSW Acts.
- (2) Subsection (1) (a) and (b) has effect subject to any regulation made for this part, including a regulation made for—
- (a) excluding a provision of the applied NSW Acts; or
- (b) applying a territory law in relation to the operation of the applied NSW Acts, including by giving jurisdiction or functions to territory courts or entities.

3

Clause 4**Proposed new section 61C (1) (a)****Page 3, line 18—***omit*

jockeys in the ACT

substitute

ACT jockeys

4

Clause 4

Proposed new section 61D

Page 4, line 4—

insert

61D Application—pt 5A

- (1) This part applies only in relation to an injury happening on or after the day this part commences.
 - (2) This section expires 3 years after the day it commences.
 - (3) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
-

Schedule 4**ROAD TRANSPORT (PUBLIC PASSENGER SERVICES)
AMENDMENT BILL 2005**

Amendment circulated by Dr Foskey

1

Clause 18**Proposed new section 83 (3)****Page 8, line 18—**

omit proposed new section 83 (3), substitute

- (3) The guidelines must provide that the Minister must consider the impact (if any) of the operation of a proposed demand responsive service on the viability of existing regular route services when deciding whether to give a person an authorisation for the demand responsive service.
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Schedule 5**ROAD TRANSPORT (PUBLIC PASSENGER SERVICES)
AMENDMENT BILL 2005**

Amendments circulated by Mr Pratt

1**Clause 18****Proposed new section 93 (1A) and (1B)****Page 15, line 23—***insert*

- (1A) However, before making a determination under subsection (1) in relation to a demand responsive service, the Minister must make an industry reference to the independent competition and regulatory commission in relation to the minimum fares for the demand responsive service.
- (1B) The *Independent Competition and Regulatory Commission Act 1997* applies to an industry reference under subsection (1A) with any necessary changes and any changes prescribed by regulation.
-

2**Clause 18****Proposed new section 93 (3)****Page 15, line 26—***insert*

- (3) In this section:

industry reference—see the *Independent Competition and Regulatory Commission Act 1997*, section 14A.
