

1995-96

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

MINUTES OF PROCEEDINGS

No. 73

THURSDAY, 5 DECEMBER 1996

1 The Assembly met at 10.30 a.m., pursuant to adjournment. The Speaker (Mr Cornwell) 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

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

Mr Hird, from 30 residents, requesting that the lease and development application for the community sporting facilities in McKellar be approved.

Ms Horodny, from 60 residents, requesting that the Assembly abolish the battery cage system of egg production in the ACT.

3 CANBERRA TOURISM AND EVENTS CORPORATION BILL 1996

Mr De Domenico (Minister for Business, Employment and Tourism), pursuant to notice, presented a Bill for an Act to establish the Canberra Tourism and Events Corporation and for related purposes.

Paper: Mr De Domenico presented an explanatory memorandum to the Bill.

Title read by Clerk.

Mr De Domenico moved - That this Bill be agreed to in principle.

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

4 HEALTH AND COMMUNITY CARE SERVICES ACT - DETERMINATION NO. 227 OF 1996 - MOTION FOR DISALLOWANCE

Mr Berry, pursuant to notice, moved - That Determination No. 227 of 1996, made under the *Health and Community Care Services Act 1996*, be disallowed.

Debate ensued.

Mr Humphries (Attorney-General) addressing the Assembly -

It being 45 minutes after the commencement of Assembly business -

Mr Humphries, pursuant to standing order 77(e), moved - That the time allotted to Assembly business be extended by 30 minutes.

Question - put and passed.

Debate continued.

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

5 SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION - STANDING COMMITTEE - PROPOSED REFERENCE - CONSULTATION ON LEGISLATION

Ms McRae, pursuant to notice, moved - That the order of the day listed under private Members' business on the *Notice Paper* in my name relating to consultation on legislation be referred to the Standing Committee on the Scrutiny of Bills and Subordinate Legislation for inquiry and report by the last sitting day in June 1997 with particular reference to the viability and usefulness of the process outlined.

Debate ensued.

The extended time allotted to Assembly business having expired, 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.

6 FIREARMS BILL 1996

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.

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 QUESTIONS

Questions without notice were asked.

8 AUDITOR-GENERAL'S REPORT - NO. 10 OF 1996 - IMPLEMENTATION OF 1994 HOUSING REVIEW - PUBLICATION OF PAPER

The Speaker presented the following paper:

Auditor-General Act - Auditor-General's Report - No. 10 of 1996 - Implementation of 1994 housing review, dated 5 December 1996.

Mr Humphries (Manager of Government Business), by leave, moved - That the Assembly authorises the publication of the Auditor-General's Report No. 10 of 1996.

Question - put and passed.

9 ABORIGINAL DEATHS IN CUSTODY - IMPLEMENTATION OF RECOMMENDATIONS OF THE ROYAL COMMISSION - IMPLEMENTATION REPORT 1995-96 - PAPER - MOTION TO TAKE NOTE OF PAPER

Mrs Carnell (Chief Minister) presented the following paper:

Aboriginal deaths in custody - Implementation of the recommendations of the Royal Commission into Aboriginal deaths in custody - ACT Government Implementation Report 1995-96 -

and moved - That the Assembly takes note of the paper.

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

10 RATES AND LAND TAX (AMENDMENT) LEGISLATION - EXPOSURE DRAFT AND PAPER - MOTION TO TAKE NOTE OF PAPERS

Mrs Carnell (Treasurer) presented the following papers:

Rates and Land Tax (Amendment) Bill (No. 2) 1996 - Exposure draft.

ACT rating system - Key points -

and moved - That the Assembly takes note of the papers.

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

11 BELCONNEN SOCCER CLUB - MINISTERIAL STATEMENT AND PAPER - PAPER NOTED

Mr Humphries (Minister for the Environment, Land and Planning), by leave, made a ministerial statement concerning the Belconnen Soccer Club and presented the following paper:

Planning and Environment - Standing Committee - Response to issues raised relating to the Belconnen Soccer Club (section 71, McKellar), dated 5 December 1996 -

and moved - That the Assembly takes note of the paper.

Debate ensued.

Question - put and passed.

12 ABORIGINAL RECONCILIATION - VISION STATEMENT

Mrs Carnell (Chief Minister), by leave, moved - That this Assembly:

- (1) re-affirms its commitment to the goals and processes of Aboriginal reconciliation and the importance of reconciliation to the future of the nation;
- (2) endorses and shares the vision of the Council for Aboriginal Reconciliation which was originally adopted by the Second Legislative Assembly on 20 April 1994;
- (3) consistent with paragraph (e) of the Preamble to the *Council for Aboriginal Reconciliation Act 1991* calls on all Australian governments to accept an ongoing national commitment to address Aboriginal and Torres Strait Islander disadvantage and achieving their aspirations and to agree to set down benchmarks by which to measure the performance of all governments in honouring their commitment;
- (4) welcomes the Council for Aboriginal Reconciliation's intention to convene an Australian Reconciliation Convention in Melbourne in May 1997 on the 30th anniversary of the 1967 Referendum to consider the benefit to the Australian community as a whole of a document or documents of reconciliation between the Aboriginal and Torres Strait Islander peoples and the wider Australian community; and
- (5) undertakes to support the work of the Council for Aboriginal Reconciliation in the fulfilment of its obligations under the Act.

Debate ensued.

Ms Horodny addressing the Assembly -

Adjournment negatived: It being 5 p.m. - The question was proposed - That the Assembly do now adjourn.

Mr Humphries (Manager of Government Business) requiring the question to be put forthwith without debate -

Question - put and negatived.

Debate continued.

Question - put and passed.

13 FIREARMS BILL 1996

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

Detail stage

Clause 1 agreed to.

Clause 2 -

Paper: Mr Humphries (Attorney-General) presented a supplementary explanatory memorandum to the Bill.

On the motion of Mr Humphries the following amendment was made: Page 1, line 9, subclause (2), omit “, or respective days,”.

Clause, as amended, agreed to.

Clause 3 agreed to.

Clause 4 -

On the motion of Ms Tucker the following amendment was made: Page 2, line 34, subclause (1), after the definition of “acquire” insert the following definition:

“ ‘active’, in relation to a member of an approved club, means a member—

- (a) who, in the case of a club that includes amongst its regular activities the shooting of firearms, participates in an activity of the club that involves the shooting of firearms on at least 4 days in each calendar year; or
- (b) makes a personal contribution (not being a financial contribution) to the club in a manner and to an extent that satisfies the Registrar that he or she is an active member of the club;”.

On the motion of Ms Tucker the following amendment was made: Page 3, line 18, subclause (1), after the definition of “ammunition” insert the following definition:

“ ‘approved club’ means a club declared by the Registrar under section 14A to be an approved club;”.

On the motion of Mr Humphries the following amendment was made: Page 3, lines 19 and 20, subclause (1), definition of “authorised member”, omit “a prescribed”, substitute “an approved”.

On the motion of Mr Humphries the following amendment was made: Page 4, line 36, subclause (1), definition of “firearms dealer”, omit “a prescribed”, substitute “an approved”.

Clause, as amended, agreed to.

Clause 5 agreed to.

Clause 6 -

On the motion of Mr Humphries the following amendment was made: Page 9, line 13, paragraph (2) (e), omit “a prescribed”, substitute “an approved”.

Clause, as amended, agreed to.

Clauses 7 to 14, by leave, taken together and agreed to.

New clause -

On the motion of Ms Tucker the following new clause was inserted in the Bill: Page 11, line 22:

“Approved clubs

14A. (1) The Registrar may, on application in writing by a club, declare the club to be an approved club.

(2) A declaration under subsection (1) shall be by notice in the *Gazette*.

(3) A declaration under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

(4) The Registrar shall not make a declaration under subsection (1) unless satisfied that the club—

- (a) conducts regular shooting competitions or other like activities requiring the use of firearms; and

- (b) is a company, or an association, society, institution or body incorporated under the *Associations Incorporation Act 1953*, that is formed or carried on for the purpose of directly promoting or encouraging the sport of shooting, whether or not its activities are carried on in whole or in part in the Territory.

(5) In determining whether to make a declaration under subsection (1), the Registrar shall have regard to—

- (a) whether the club operates a shooting range or has club premises; and
 (b) the membership rules of the club.”.

Clauses 15 to 19, by leave, taken together and agreed to.

Clauses 20 and 21, by leave, taken together -

On the motion of Ms Tucker, by leave, the following amendments were made together, after debate:

Clause 20, page 15, lines 5 to 29, paragraph (5) (d), omit the paragraph, substitute the following paragraph:

“(d) the applicant—

- (i) was, within the period of 10 years preceding the date of his or her application, a person in respect of whom—
- (A) an interim restraining order was made under the *Magistrates Court Act 1930*;
 - (B) an interim protection order was made under the *Domestic Violence Act 1986*; or
 - (C) a corresponding order was in force; or
- (ii) has, within the period of 10 years preceding the date of his or her application—
- (A) been subject to a recognisance, entered into in the Territory or elsewhere, to keep the peace or to be of good behaviour; or
 - (B) had his or her licence suspended or cancelled.”.

Clause 21, page 16, lines 12 to 17, paragraph (1) (a), omit the paragraph, substitute the following paragraph:

“(a) if the applicant has, within the period of 10 years preceding the date of his or her application—

- (i) been a respondent to a restraining order within the meaning of Part X of the *Magistrates Court Act 1930* or a corresponding order (other than a restraining order or corresponding order an appeal against the making of which has been upheld); or
- (ii) been the subject of a protection order under the *Domestic Violence Act 1986* or a corresponding order (other than a protection order or corresponding order an appeal against the making of which has been upheld);”.

Clauses 20 and 21, as amended, agreed to.

Clause 22 -

On the motion of Ms Tucker the following amendment was made: Page 17, Table (item relating to Sport/target shooting, second column), omit “a current member of a prescribed shooting”, substitute “an active member of an approved”.

On the motion of Ms Tucker, the following amendment was made, after debate: Page 17, Table (item relating to Recreational hunting/vermin control), omit the item, substitute the following item:

“Recreational hunting/vermin control	<p>In the case of recreational hunting or vermin control on rural land, the applicant shall—</p> <ul style="list-style-type: none"> (a) produce evidence of permission by the owner or occupier of the land to shoot on the land; or (b) be an active member of an approved club, state that he or she intends to use the firearm solely for the purpose of taking part in recreational hunting activities conducted by the club and produce evidence that— <ul style="list-style-type: none"> (i) the principal objects of the club are to conduct recreational hunting activities requiring the use of the firearm for which the licence is sought; and (ii) the club has the permission of the owner or occupier of the land to conduct those activities on the land. <p>In the case of recreational hunting or vermin control on land within a reserved area under the <i>Nature Conservation Act 1980</i>—produce evidence of permission given by an officer of the ACT Parks and Conservation Service or ACT Forests or a prescribed authority, to shoot on the land.”.</p>
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Mr Humphries moved the following amendment: Page 17, Table (item relating to Sports/target shooting, second column), omit “current member of a prescribed shooting”, substitute “member of an approved”.

Mr Humphries, by leave, withdrew his amendment.

On the motion of Mr Humphries, by leave, the following amendments were made together:

Page 18, Table (item relating to Firearms collection, second column), omit “a current member of a prescribed collectors’ society or prescribed club”, substitute “a member of a collectors’ club or association approved by the Registrar under paragraph 27 (a)”.

Page 19, lines 5 to 7, paragraphs (5) (b) and (c), omit the paragraphs, substitute the following paragraphs:

- “(b) the extent to which that permission operates;
- (c) the manner in which that permission is to be produced as evidence by the applicant; and
- (d) the nature of any additional evidence to be provided in support of an application.”.

Clause, as amended, agreed to.

Clause 23 agreed to.

Clause 24 -

On the motion of Mr Humphries the following amendment was made: Page 20, line 5, paragraph (b), insert “prescribed” after “produces”.

Clause, as amended, agreed to.

Clauses 25 and 26, by leave, taken together and agreed to.

Clauses 27 to 58, by leave, taken together -

On the motion of Mr Humphries, by leave, the following amendments were made together:

Clause 27, page 20, lines 31 and 32, paragraph (a), omit “an approved collectors club or association”, substitute “a collectors club or association approved by the Registrar”.

Clause 34, page 23, line 15, subclause (2), omit “2”, substitute “7”.

Clause 45, page 28, line 27, paragraph (3) (a), omit the paragraph.

Clause 48 -

Page 30, line 24, paragraph (2) (c), omit "a prescribed", substitute "an approved".

Page 30, line 29, paragraph (4) (b), insert "training" after "pistol".

Page 31, line 4, paragraph (5) (b), add "or participating in a shooting competition approved by the Registrar".

Clause 55, page 34, line 17 -

Add "grip firearm".

Add the following subclause:

"(2) In subsection (1)—

'pistol grip firearm' means a firearm, other than a pistol, that is fitted with a pistol grip or a stock designed to fold, swivel, telescope or be readily detachable."

Clause 58, page 35 -

Line 20, paragraph (c), omit "a prescribed", substitute "an approved".

Line 24, paragraph (c), omit "prescribed", substitute "approved".

Clauses 27 to 58, as amended, agreed to.

Clause 59 -

On the motion of Ms Tucker the following amendment was made: Page 35, line 38, paragraph (3) (a), omit "a member of a prescribed club", substitute "an active member of an approved club".

Mr Humphries moved the following amendment: Page 35, line 38, paragraph (3) (a), omit "a prescribed", substitute "an approved".

Mr Humphries, by leave, withdrew his amendment.

Clause, as amended, agreed to.

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

On the motion of Mr Humphries, by leave, the following amendments were made together:

Clause 75, page 46, line 30, paragraph (2) (c), omit "on" (first occurring), substitute "specifying".

Clause 80, page 50, line 33, subclause (2), omit "a prescribed", substitute "an approved".

Clause 91, page 55, line 23, paragraph (3) (b), omit "6", substitute "24".

Clause 96, page 57, line 26, subclause (1), insert "possess," after "not".

Clause 97, page 59, lines 22 and 23, paragraph (5) (b), omit "is a member of the club, and, at the time of the sale, the person", substitute ", at the time of sale,".

Clause 103, page 64, line 3, paragraph (1) (b), omit "6", substitute "24".

Clause 104, page 64, line 15, insert ", without reasonable excuse," after "not".

Clause 112, page 67 -

Line 15, paragraph (a), omit the paragraph.

Line 16, paragraph (b), omit "(4) or (10)", substitute "(1)".

Line 19, paragraph (e), omit "paragraph 40 (2) (c) or subsection", substitute "subsection 40 (2) or".

Clause 113, page 68, line 5, paragraph (1) (a), omit "(a) and".

Clause 125, page 73, line 17, after subclause (3) insert the following subclause:

“(4) The regulations may make provision of a savings or transitional nature consequence on the enactment of this Act.”.

New Part -

Page 73, line 31, after clause 127, insert the following new Part in the Bill:

**“PART XII—SAVINGS, TRANSITIONAL AND
CONSEQUENTIAL PROVISIONS**

Interpretation

128. In this Part—

‘commencement day’ means the day referred to in subsection 2 (2);

‘former Act’ means the *Weapons Act 1991*.

Declaration of approved clubs

129. A declaration that immediately before the commencement day was in force under paragraph (b) of the definition of ‘approved club’ in subsection 4 (1) of the former Act shall be taken to be a declaration under paragraph (b) of the definition of ‘approved club’ in subsection 4 (1) of this Act.

Licences

130. (1) Subject to subsection (3), a licence granted under the former Act and in force immediately before the commencement day continues in force after that day—

(a) for the remainder of the period for which the licence would, but for this Act, have remained in force; or

(b) until the next anniversary of the date of birth of the licensee;

whichever is the lesser period.

(2) The former Act continues to apply in relation to a licence continued in force under subsection (1) as if the former Act had not been repealed.

(3) Where a person holds more than 1 licence of the kind to which subsection (1) applies, each of those licences shall be deemed to be renewable on the earliest of the dates for renewal of those licences.

Extended application of section 37

131. If a licence renewed under section 49 of the former Act and continued in force under subsection 5 (1) of this Act expires—

(a) before the next anniversary of the date of birth of the licensee after the commencement date—the Registrar may, despite section 37 of this Act, issue a licence under that section for a period exceeding 5 years.

(b) after the first anniversary of the date of birth of the licensee after the commencement date—the Registrar may, despite section 37 of this Act, issue a licence under that section for a period less than 5 years.

Pending applications for licences

132. An application for a licence made under a repealed provision of the former Act that was not finally determined before the repeal of the provision by this Act is cancelled and does not have any operation with respect to this Act.

Requirements of applicants for certain licences

133. An applicant for a licence under this Act who has completed to the satisfaction of the Registrar a course of instruction approved by the Registrar under the former Act is not required to complete a firearms training and safety course referred to in paragraph 20 (3) (b) of this Act before being issued with the licence.

Existing exemptions under the former Act

134. (1) The possession or use of a weapon pursuant to an exemption under regulations in force under the former Act—

- (a) shall be taken to continue as if a permit were issued under Division 3 of Part III of this Act or Part III of the *Prohibited Weapons Act 1996*, as the case requires, corresponding with that exemption (as determined by the Registrar); and
- (b) unless the permit is sooner surrendered or cancelled, continues in force until—
 - (i) the expiry of the term of the permit; or
 - (ii) the end of the period of 12 months commencing on the date of commencement of this section;

whichever first occurs.

(2) For the purposes of paragraph (1) (a), the Registrar shall issue a permit under Division 3 of Part III of this Act or Part III of the *Prohibited Weapons Act 1996*, as the case requires, to the person to whom the possession or use relates.

Consequential amendments of other Acts

135. The Acts specified in Schedule 3 are amended as set out in that Schedule.”.

Schedule 2 -

Page 76, column 2, paragraph (c) (item relating to Category C licence (prohibited except for occupational purposes)), omit “repeating action (eg pump action)”, substitute “pump action”.

Page 77, column 2, paragraph (4) (item relating to Category D licence (prohibited except for official purposes)), omit “repeating action (eg pump action)”, substitute “pump action”.

New Schedule -

Page 78, after Schedule 2 add the following Schedule:

“SCHEDULE 3

Section 135

AMENDMENTS OF OTHER ACTS***Crimes Act 1900*****Subsection 349D (1)—**

Omit ‘dangerous weapon or restricted weapon’, substitute ‘firearm’.

Subsection 349D (2)—

Omit ‘weapon’, substitute ‘firearm’.

Paragraphs 349D (2) (a) and (b)—

Omit ‘weapon’ substitute ‘firearm’.

Subsection 349D (2A)—

(a) Omit ‘dangerous weapon or a restricted weapon’, substitute ‘firearm’.

(b) Omit ‘weapons’, substitute ‘firearms’.

Subsection 349D (2B)—

Omit all the words after ‘has not been made;’, substitute the following:

‘the firearm shall be returned to the person on whose licence the firearm is registered’.

Subsections 349D (2C)—

- (a) Omit 'weapon' (wherever occurring), substitute 'firearm'.
- (b) Omit '*Weapons Act 1991*', substitute '*Firearms Act 1996*'.

Subsection 349D (3)—

- (a) Omit 'subsection (1) or (2)', substitute 'this section'.
- (b) Omit '*Weapons Act 1991*', substitute '*Firearms Act 1996*'.

Domestic Violence Act 1986

Subsection 14A (1)—

Omit ‘*Weapons Act 1991*’, substitute ‘*Firearms Act 1996*’.

Subsection 14A (3)—

Omit ‘dangerous weapon or restricted weapon’, substitute ‘firearm’.

Subsection 14A (5)—

Omit ‘*Weapons Act 1991*’, substitute ‘*Firearms Act 1996*’.

Paragraph 14A (5) (b)—

Omit ‘dangerous weapon or restricted weapon’, substitute ‘firearm’.

Subsection 14A (6)—

Omit the subsection, substitute the following subsection:

‘(6) In this section—

“firearm” has the same meaning as in the *Firearms Act 1996*.’

Subparagraph 19 (1) (c) (i)—

Omit ‘Weapons’, substitute ‘Firearms’.

Subsection 19 (3)—

Omit ‘Weapons’, substitute ‘Firearms’.

Magistrates Court Act 1930

Subsection 206D (1)—

Omit ‘*Weapons Act 1991*’, substitute ‘*Firearms Act 1996*’.

Subsection 206D (3)—

Omit ‘dangerous weapon or restricted weapon’, substitute ‘firearm’.

Subsection 206D (5)—

Omit ‘*Weapons Act 1991*’, substitute ‘*Firearms Act 1996*’.

Paragraph 206D (5) (b)—

Omit ‘dangerous weapon or restricted weapon’, substitute ‘firearm’.

Subsection 206D (6)—

Omit the subsection, substitute the following subsection:

‘(6) In this section—

“firearm” has the same meaning as in the *Firearms Act 1996*.’

Long title

Page 1, omit “**and for related purposes**”, substitute “**to make savings and transitional provisions, and to make consequential amendments of other Acts**”.

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

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

14 PROHIBITED WEAPONS BILL 1996

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.

Leave granted to dispense with the detail stage.

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

15 MOTOR TRAFFIC (AMENDMENT) BILL (NO. 3) 1996

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.

16 MOTOR TRAFFIC (AMENDMENT) BILL (NO. 2) 1996 - REFERENCE - LEGAL AFFAIRS - STANDING COMMITTEE

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.

Mr De Domenico (Minister for Urban Services), pursuant to standing order 174, moved - That the Motor Traffic (Amendment) Bill (No. 2) 1996 be referred to the Standing Committee on Legal Affairs for inquiry and report.

Question - put and passed.

17 ADJOURNMENT

Mr Humphries (Manager of Government Business) moved - That the Assembly do now adjourn.

Debate ensued.

Paper: Mrs Carnell (Chief Minister) presented the following paper:

Canberra - Views on Canberra of Prime Ministers Menzies and Fraser.

Debate continued.

Question - put and passed.

And then the Assembly, at 6.13 p.m., adjourned until Tuesday, 10 December 1996 at 10.30 a.m.

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

M.J. McRAE
Clerk of the Legislative Assembly