

1998-1999-2000-2001

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

MINUTES OF PROCEEDINGS

No. 135

TUESDAY, 21 AUGUST 2001

- 1** The Assembly met at 10.30 a.m., pursuant to adjournment. A quorum of Members not being present, the Speaker (Mr Cornwell) ordered the bells to be rung. A quorum having been formed the Speaker 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:

Mrs Burke, from 57 residents requesting the Assembly strengthen its commitment to stopping young people from becoming addicted to nicotine by immediately passing legislation prohibiting the sale of cigarettes and other tobacco products through vending machines.

- 3 LEAVE OF ABSENCE TO MEMBERS**

Mr Moore (Manager of Government Business) moved - That leave of absence be granted to Mr Quinlan and Mr Smyth for 21, 22 and 23 August 2001.

Question – put and passed.

- 4 HEALTH AND COMMUNITY CARE – STANDING COMMITTEE – REPORT NO. 11 – ELDER ABUSE IN THE A.C.T. – REPORT NOTED**

Mr Wood (Chairman) presented the following report:

Health and Community Care — Standing Committee — Report No. 11 — Elder Abuse in the ACT, dated 20 August 2001, together with a copy of the extracts of the minutes of proceedings -

and moved - That the report be noted.

Debate ensued.

Question - put and passed.

5 REFERENDUM BILL 2001

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 Humphries (Chief Minister), by leave, was granted an extension of time.

Debate continued.

Mr Moore (Minister for Health, Housing and Community Services), by leave, was granted an extension of time.

Debate continued.

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.

6 MINISTERIAL ARRANGEMENTS

Mr Humphries (Chief Minister) informed the Assembly that, during the absence of Mr Smyth (Minister for Urban Services), questions which would normally have been asked of the Minister for Urban Services could be directed to the Chief Minister.

7 QUESTIONS

Questions without notice being asked –

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

Williamsdale Quarry - Proposed joint venture - Copy of letter from Kate Carnell MLA, Chief Minister and Gary Humphries MLA, Treasurer to Chairman Totalcare Industries Ltd, dated 24 January 2000.

Paper: Mr Humphries (Chief Minister) presented the following paper:

Williamsdale Quarry - Proposed joint venture – Copy of legal opinion, from the Australian Capital Territory Government Solicitor dated 10 August 2001.

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

Williamsdale Quarry – Proposed Joint Venture - Copy of legal opinion from Gary Robb and Associates, dated 12 July 2001.

Questions continued.

Questions concluded.

8 PRESENTATION OF PAPERS

The Speaker presented the following papers:

Legislative Assembly (Broadcasting of Proceedings) Act, pursuant to section 8 – Authority to broadcast proceedings concerning the public hearings of the Standing Committee on Planning and Urban Services in relation to its inquiries into:

Division 174 to the Territory Plan – Hungarian Australian Club Site and Community Facility Land at Section 124 Blocks 2, 3 14 and 15 Narrabundah (on 14 and 17 August 2001) dated 14 August 2001.

Scarring of parts of Brindabella/Namadgi National Parks (on 17 August 2001) dated 14 August 2001.

Lower Molonglo River Corridor (on 24 August 2001) dated 14 August 2001.

9 PRESENTATION OF PAPERS

Mr Moore (Minister for Health, Housing and Community Services) presented the following papers:

Children and Young People Act, pursuant to section 245 – Review of Therapeutic Protection Order Provision by RPR Consulting, dated July 2001, together with the Government Response to the review.

Statement by Minister: Mr Moore, by leave, made a statement in relation to the Review.

Land (Planning and Environment) Act –

Pursuant to section 216A – Schedules of Leases Granted, Lease Variations and Change of Use Charges for the period April to June 2001.

Pursuant to Section 229A – Statement relating to the revocation of development application No. 20011012 – Tuggeranong Markets.

Statement by Minister: Mr Moore, on behalf of Mr Smyth (Minister for Urban Services), by leave, made a statement in relation the Schedule of Lease Variations and Change of Use Charges for the period April to June 2001.

10 SUBORDINATE LEGISLATION (INCLUDING EXPLANATORY STATEMENTS, UNLESS OTHERWISE STATED) – PAPERS

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

Subordinate Laws Act, pursuant to section 6 –

Domestic Animals Act – Determination of Fees – Instrument No. 212 of 2001 (No. 32, dated 9 August 2001).

Health Professions Boards (Procedures) Act and Dentists Act – Appointment of members of the Dental Board – Instruments No. 216-219 (No. 33, dated 16 August 2001).

Health Professions Boards (Procedures) Act and Chiropractors and Osteopaths Act – Appointment of a member to the Chiropractors and Osteopaths Board – Instrument No. 220 of 2001 (No. 33, dated 16 August 2001).

Health Professions Boards (Procedures) Act, Medical Practitioners Act and Medical Act – Appointment of a Member of the Medical Board - Instrument No. 221 of 2001 (No. 33, dated 16 August 2001).

Health Professions Boards (Procedures) Act and Optometrists Act – Appointment of Members to the Optometrists Board – Instruments No. 222 and 225 of 2001 (No. 33, dated 16 August 2001).

Health Professions Boards (Procedures) Act and Physiotherapists Act – Appointments to the Physiotherapists Board – Instruments 226 – 230 of 2001 (No. 33, dated 16 August 2001).

Health Professions Boards (Procedures) Act and Pharmacy Act – Appointments to the Pharmacy Board – Instruments No. 231 – 234 of 2001 (No. 33, dated 16 August 2001).

Health Professions Boards (Procedures) Act and Veterinary Surgeons Act – Appointment to the Veterinary Surgeons Board – Instruments No. 235-237 of 2001 (No. 33, dated 16 August 2001).

Legal Aid Act - Appointment of the President of the Legal Aid Commission (ACT) – Instrument No. 208 of 2001 (No. 32, dated 9 August 2001).

Liquor Act – Liquor Regulations Amendment – Subordinate law No. 27 of 2001 (No. 33, dated 16 August 2001).

Public Place Names Act – Determination of street nomenclature (Flemington Road) – Instrument No. 215 of 2001 (No. 33, dated 16 August 2001).

Road Transport (General) Act – Declaration that the road transport legislation does not apply to certain roads and road related areas – Instrument No. 238 of 2001 (S59, dated 17 August 2001).

Road Transport (Taxi Services) Regulations 2000 – Approval of Taxi Network Accreditation Standards – Instrument No. 244 of 2001 (S60, dated 20 August 2001).

Stadiums Authority Act – Declaration of asset of Territory under section 38 – Instrument No. 209 of 2001 (No. 32, dated 9 August 2001).

11 JUSTICE AND COMMUNITY SAFETY — STANDING COMMITTEE (INCORPORATING THE DUTIES OF A SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION COMMITTEE) – SCRUTINY REPORT NO. 12 – STATEMENT BY DEPUTY CHAIR

Mr Hargreaves (Deputy Chair), by leave, presented the following report:

Justice and Community Safety – Standing Committee (incorporating the duties of a Scrutiny of Bills and Subordinate Legislation Committee) – Scrutiny Report No. 12 of 2001, dated August 2001 –

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

12 REFERENDUM BILL 2001

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.

Ms Tucker, by leave, was granted an extension of time.

Debate continued.

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

The Assembly voted –

Ayes, 7

Noes, 8

Mrs Burke
Mr Cornwell
Mr Hird
Mr Humphries
Mr Osborne
Mr Rugendyke

Mr Stefaniak

Mr Berry
Mr Corbell
Mr Hargreaves
Mr Kaine
Mr Moore
Mr Stanhope

Ms Tucker
Mr Wood

And so it was negatived.

13 ADJOURNMENT NEGATIVED

It being 5 p.m. – The question was proposed – That the Assembly do now adjourn.

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

Question – put and negatived.

14 PROTECTION ORDERS BILL 2001

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

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

15 PROTECTION ORDERS (CONSEQUENTIAL AMENDMENTS) BILL 2001

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

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

16 FOOD BILL 2001

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 -

Ms Tucker moved her amendment (*see* Schedule 1).

Debate ensued.

Amendment negatived.

Bill, as a whole, agreed to.

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

17 POSTPONEMENT OF ORDERS OF THE DAY

Ordered - That the orders of the day Nos 5 to 12 Executive business, be postponed until a later hour this day.

18 AGENTS AMENDMENT BILL 2001

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.

19 REHABILITATION OF OFFENDERS (INTERIM) BILL 2001

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

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

20 TOBACCO AMENDMENT BILL 2001

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.

21 LEGISLATIVE ASSEMBLY (BROADCASTING) BILL 2001

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.

22 DEFAMATION BILL 1999

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

Mrs Burke moved – That the debate be adjourned.

Question - put and negatived.

Debate resumed.

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

23 JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2000

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 Stefaniak (Attorney-General), by leave, his amendments Nos 1 to 9 were made together (*see* Schedule 2).

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

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

24 JURISDICTION OF COURTS LEGISLATION AMENDMENT BILL 2001

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 Stefaniak (Attorney-General), by leave, his amendments Nos 1 and 2 were made together (*see* Schedule 3).

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

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

25 CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (ENFORCEMENT) AMENDMENT BILL 2001

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.

26 GUARDIANSHIP AND MANAGEMENT OF PROPERTY AMENDMENT BILL 2001

The order of the day having been read for the resumption of 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

Clause 1 –

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

27 ADJOURNMENT

Mr Moore (Manager of Government Business) moved – That the Assembly do now adjourn.

Question – put and passed.

And then the Assembly, at 8.42 p.m., adjourned until tomorrow at 10.30 a.m.

MEMBERS' ATTENDANCE: All Members were present at some time during the sitting except Mr Quinlan (on leave) and Mr Smyth (on leave).

M J McRAE

Clerk of the Legislative Assembly

SCHEDULES OF AMENDMENTS

Schedule 1

FOOD BILL 2001

Amendments circulated by Ms Tucker

1

Schedule 2

Proposed new parts 2.1A and 2.1B

Page 113, line 12—

After part 2.1, insert the following new parts:

Part 2.1A Animal Welfare Act 1992

[2.1A] New sections 9B and 9C

insert

9B Hens kept contrary to law—sale of eggs

- (1) A person must not sell eggs produced by a hen kept in a way that is an offence against a Territory law or that would be an offence against a Territory law if the hen were kept in the Territory.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) This section does not apply to the sale of a product in which hen eggs are an ingredient.

9C Labelling of egg packages

- (1) A person must not sell hen eggs unless the eggs are packaged in accordance with the egg labelling requirements.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) For this section, the **egg labelling requirements**, for hen eggs, are—
- (a) that the packaging for the eggs displays the relevant expression in schedule 1 indicating the conditions under which the hens that produced the eggs are kept; and
 - (b) that the relevant expression is followed by the word ‘eggs’; and
 - (c) that the relevant expression is conspicuously displayed on the packaging in standard type of at least 6mm high.

[2.1B] Dictionary, new definition of *hen*

insert

hen means a domestic fowl (*Gallus gallus*).

[2.1C] New schedule 1

insert

Schedule 1 Production of hen eggs

(see s 9C)

Part 1.1 General

1 Meaning of code

In this schedule:

code means the *Model Code of Practice for the Welfare of Animals: Domestic Poultry*, made by the Animal Welfare Committee of the Standing Committee on Agriculture and Resource Management, as in force from time to time.

Part 1.2 Conditions under which hens are kept

column 1 item	column 2 relevant expressions	column 3 conditions under which the hens that produced the eggs are kept
1	battery cage	Hens are kept in cages—

column 1 item	column 2 relevant expressions	column 3 conditions under which the hens that produced the eggs are kept
		<ul style="list-style-type: none"> (a) without access to litter, perch or nest; and (b) in accordance with the stocking level and other requirements for cage systems under the code.
2	barn	<p>Hens are kept—</p> <ul style="list-style-type: none"> (a) with the freedom and capacity to socialise, to move freely within the shed, to stretch, perch, nest, dust bathe, flap wings and fly; and (b) with adequate perching facilities and nests available to birds within the shed to accommodate the needs of all hens; and (c) with half the housing kept under litter; and (d) in accordance with the stocking level and other requirements for deep litter systems on a single level under the code.
3	aviary	<p>Hens are kept in a shed—</p> <ul style="list-style-type: none"> (a) with the freedom and capacity to socialise, to move freely within the shed, to stretch, perch, nest, dust bathe, flap wings and fly; and (b) with adequate perching facilities and nests available to birds on a number of levels within the shed to accommodate the needs of all hens; and (c) with half the housing kept under litter; and (d) in accordance with the stocking level and other requirements for deep litter systems under the code with the allowance of a number of additional levels of nesting and perching space.
4	free range	<p>Hens are kept—</p> <ul style="list-style-type: none"> (a) with continuous daytime access to outdoor runs; and (b) with access at all times to indoor litter, perches and nests; and (c) with adequate protection at all times from predators and the elements; and (d) in accordance with the stocking level and other requirements for range systems under the code.

Part 2.1B **Animal Welfare (Amendment) Act 1997**

[2.1D] Section 2

omit

Food Act 1992, section 24A (1)

substitute

Animal Welfare Act 1992, section 9B (1)

Schedule 2

JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2000

Amendments circulated by Attorney General

1

Clause 2

Proposed new subclauses (1A) to (1C)

Page 2, line 9—

After subclause (1), insert the following new subclauses:

- (1A) The amendments of the *Legislation (Consequential Amendments) Act 2001* commence immediately after the commencement of the *Legislation Act 2001*, section 18 (ACT Legislation register).
- (1B) The amendments of the *Referendum (Machinery Provisions) Act 1994* commence on the commencement of the *Legislation Act 2001*, section 18 (ACT Legislation register).
- (1C) The amendments of the *Consumer Credit (Administration) Act 1996* are taken to have commenced on 29 May 2001.

2

Schedule 1

Proposed amendments of the *Children and Young People Act 1999*

Amendments 1.2 and 1.3

Page 4, line 1—

Omit the proposed amendments.

3 Schedule 1

Proposed new amendments of the *Consumer Credit (Administration) Act 1996*

Proposed new amendments 1.3A to 1.3C

Page 4, line 18—

Before amendments of *Crimes Act 1900*, insert the following new heading and amendments:

Consumer Credit (Administration) Act 1996

[1.3A] Subsection 118 (4)—

Omit “officer”, substitute “investigator”.

[1.3B] Section 122—

Omit “officer”, substitute “investigator”.

[1.3C] Section 144—

Omit the section, substitute the following section:

144 Expiry of s 143 and this section

- (1) Section 143 and this section expire 1 year after they commence.
- (2) To prevent doubt, it is declared that the *Legislation Act 2001*, section 88 (Repeal does not end transitional or validating effect etc) applies to section 143.

4**Schedule 1****Proposed new amendments of the *Legislation Act 2001* and *Legislation (Consequential Amendments) Act 2001*****Proposed new amendments 1.6A to 1.6H****Page 4, line 28—**

After the amendment of the *Crimes (Forensic Procedures) Act 2000*, insert the following new headings and amendments:

Legislation Act 2001**[1.6A] Sections 60 (2) and 114—**

Omit “current drafting practice”, substitute “current legislative drafting practice”.

Legislation (Consequential Amendments) Act 2001**[1.6B] Schedule 1, part 44—**

Omit the part.

[1.6C] Schedule 1, amendments 1.1026 and 1.1027—

Omit the amendments, substitute the following amendments:

[1.1026] Section 49 (2) (a)

omit

, whether under this Act or the regulations,

[1.1027] Section 49 (2), new note

insert

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

[1.6D] Schedule 1, amendments 1.1035 to 1.1037—

Omit the amendments, substitute the following amendments:

[1.1035] Regulation 14 (8) (b) (ii) and (ix)*omit***[1.1036] Regulation 14 (8) (b) (iii) and (viii)***renumber as regulation 14 (8) (b) (ii) to (vii)***[1.1037] Regulation 14 (8), new note***insert*

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

[1.6E] Schedule 1, amendment 1.1618—

Omit the amendment, substitute the following amendment:

[1.1618] Section 12*substitute***12 Regulation-making power**

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

[1.6F] Schedule 1, amendment 1.2880—

Omit the amendment, substitute the following amendment:

[1.2880] Section 90 (5) (d)*omit*

in the prescribed form

[1.6G] Schedule 1, amendments 1.2913 and 1.2914—

Omit the amendments, substitute the following amendment:

[1.2913] Section 15X*omit everything before paragraph (a), substitute***15X Minister's powers in relation to draft nature conservation strategy**

- (1) If a draft nature conservation strategy is submitted or resubmitted to the Minister for approval, the Minister must—

[1.6H] Schedule 1, amendment 1.2933—

Omit the amendment, substitute the following amendment:

[1.2933] Part 3, division 5

omit

5

Schedule 1**Proposed new amendments of the *Referendum (Machinery Provisions) Act 1994*****Proposed new amendments 1.60A to 1.60D****Page 14, line 14—**

After the amendment of the *Powers of Attorney Act 1956*, insert the following new heading and amendments:

Referendum (Machinery Provisions) Act 1994**[1.60A] Section 17 (3) (b)—**

Omit the paragraph.

[1.60B] Section 17 (3) (c)—

Renumber as section 17 (3) (b).

[1.60C] Schedule 1, modification 1.17—

Omit the modification, substitute the following modification:

[1.16] Section 223, definition of *participant*

substitute

participant, in a referendum, means a person by whom, or with the authority of whom, referendum expenditure in relation to a referendum is incurred.

[1.60D] Schedule 1, modifications 1.23, 1.28 and 1.29—

Omit the modifications.

6

Schedule 1**Proposed amendments of the *Sale of Motor Vehicles Act 1977*****Amendment 1.63****Page 15, line 5—**

After “*determined fee*,” insert “*director*,”.

7

Schedule 1**Proposed amendments of the *Sale of Motor Vehicles Act 1977*****Amendment 1.130****Proposed new section 47****Page 24, line 16—**

Add at the end the following new subsection:

- (3) The registrar must tell the licensee in writing of the cancellation of the licence.

8

Schedule 1**Proposed amendments of the *Sale of Motor Vehicles Act 1977*****Amendment 1.135****Page 27, line 23—**

Omit the amendment, substitute the following amendments:

[1.135] Paragraphs 57 (1) (j) to (n)—

Omit the paragraphs, substitute the following paragraphs:

- (i) under section 47 to cancel a licence of a corporate licensee;
- (j) under section 48A (4) to take action in relation to a licensee or licence under the subsection;

[1.135A] Paragraphs 57 (1) (p) and (q)—

Renumber as paragraphs 57 (1) (k) and (l).

[1.135B] Subsection 57 (3)—

Omit “48 (1)”, substitute “47 (3), 48A (5)”.

9

Schedule 1**Proposed amendments of the *Sale of Motor Vehicles Act 1977*****Amendment 1.159, proposed new definition of *executive officer*****Page 32, line 28—**

Insert the following examples:

Examples

- 1 A director of the corporation
 - 2 An employee of, or a person associated with, the corporation who is involved in activities that involve policy and decision making, related to the business affairs of the corporation, to the extent that the consequences of the formation of the policies, or the making of the decisions, may have some significant bearing on the financial standing of the corporation or the conduct of its affairs.
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Schedule 3

JURISDICTION OF COURTS LEGISLATION AMENDMENT BILL 2001

Amendments circulated by Attorney General

1

Schedule 1

Part 2

Proposed new amendment 1.11A

Page 6, line 23—

After amendment 1.11, insert the following amendment:

[1.11A] Section 15

substitute

15 Jurisdiction of Federal Court

Jurisdiction is conferred on the Federal Court with respect to civil and criminal matters arising under the *Gas Pipelines Access (A.C.T.) Law*.

2

Schedule 1

Part 2

Amendment 1.12

Page 6, line 24—

Omit the amendment, substitute the following amendment:

[1.12] Part 3, division 3

omit
