

1998-1999-2000

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

MINUTES OF PROCEEDINGS

No. 108

TUESDAY, 5 DECEMBER 2000

- 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 GAMING MACHINE 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.

Mr Quinlan, 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.

3 QUESTIONS

Questions without notice being asked –

Paper: Mr Moore (Minister for Health, Housing and Community Care) presented the following paper:

Inquiries Amendment Bill 2000 – Advice – Letter from Clerk, Legislative Assembly for the Australian Capital Territory to Mr Michael Moore MLA, Minister for Health, Housing and Community Care, dated 4 December 2000.

Questions continued.

4 PUBLIC SECTOR MANAGEMENT ACT – EXECUTIVE CONTRACTS – PAPERS AND STATEMENT BY MINISTER

Mr Humphries (Chief Minister) presented the following papers:

Public Sector Management Act, pursuant to sections 31A and 79 – Copies of executive contracts or instruments –

Temporary contract:

Beverley Forner, dated 23 November 2000.

Schedule D variations:

Beverley Forner, dated 20 and 22 November 2000.

Allan Eggins, dated 20 November 2000.

Susan Killion, dated 20 November 2000.

Lyn Walsh, dated 23 November 2000.

Michael Vanderheide, dated 27 October and 1 November 2000.

Peter Wallace, dated 10 and 21 November 2000 –

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

5 PRESENTATION OF PAPERS

Mr Humphries (Treasurer) presented the following paper:

Financial Management Act, pursuant to section 26 – Consolidated Financial Management Report for the month and financial year to date ending 31 October 2000.

6 PUBLIC HOUSING – SELECT COMMITTEE – REPORT – PUBLIC HOUSING IN THE A.C.T. – GOVERNMENT RESPONSE – MOTION TO TAKE NOTE OF PAPER

Mr Moore (Minister for Health, Housing and Community Care) presented the following paper:

Public Housing – Select Committee – Report – The role of public housing in the Australian Capital Territory (*presented 11 May 2000*) – Government response, dated December 2000 –

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

Debate ensued.

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

7 PRESENTATION OF PAPERS

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

Subordinate legislation (including explanatory statements unless otherwise stated) and a commencement provision

Artificial Conception Amendment Act 2000 – Notice of commencement (17 November 2000) (S65, dated 16 November 2000).

Food Act – Determination of fees – Instrument No. 345 of 2000 (No. 48, dated 30 November 2000).

Machinery Act, Scaffolding and Lifts Acts – Occupational Health and Safety Legislation Regulations Amendment – Subordinate Law 2000 No 47 (No. 48, dated 30 November 2000).

Occupational Health and Safety Act –

Approval of the ACT Safe Demolition Work Code of Practice – Instrument No. 343 of 2000 (No. 47, dated 23 November 2000).

Occupational Health and Safety (Certification of Plant Users and Operators) Regulations 2000 – Subordinate Law 2000 No 48 (No. 48, dated 30 November 2000).

Public Health Act –

Declaration of a public health risk activity – Instrument No. 346 of 2000 (S66, dated 23 November 2000).

Determination of fees – Instrument No. 347 of 2000 (S66, dated 23 November 2000).

Public Place Names Act – Amendment to notice published in Commonwealth Gazette No. P25 of 31 August 1988 – Omission of eight street names in the Division of Conder – Instrument No. 344 of 2000 (No. 48, dated 30 November 2000).

Petition – Out of order

Territory Plan – Amaroo and Burdekin Avenue – Mr Hird (74 residents).

8 ANNUAL REPORTS (GOVERNMENT AGENCIES) ACT – A.C.T. BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND BOARD – REPORT FOR 1999-2000 – PAPER AND STATEMENT BY MINISTER

Mr Stefaniak (Minister for Education) presented the following paper:

Annual Reports (Government Agencies) Act – ACT Building and Construction Industry Training Fund Board – First Annual Report and financial statements, including the Auditor-General's Report, for 1999-2000 –

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

9 DISABILITY SERVICES – BOARD OF INQUIRY – MINISTERIAL STATEMENT – PAPER NOTED

Mr Humphries (Chief Minister), by leave, made a ministerial statement advising the Assembly of the appointment of the Hon. John Gallop as a Board of Inquiry to inquire into and report on the services for people with a disability in residential care, pursuant to section 5 of the *Inquiries Act 1991* and presented the following paper:

Disability services – Residential care – Board of Inquiry – Copy of appointment of Board of Inquiry, pursuant to the *Inquiries Act 1991*, dated 5 December 2000 –

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

Debate ensued.

Question – put and passed.

10 JUSTICE AND COMMUNITY SAFETY – STANDING COMMITTEE (INCORPORATING THE DUTIES OF A SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION COMMITTEE) – SCRUTINY REPORT NO. 15 OF 2000 – STATEMENT BY CHAIR

Mr Osborne (Chair) 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. 15 of 2000, dated 5 December 2000 –

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

11 JUSTICE AND COMMUNITY SAFETY – STANDING COMMITTEE (INCORPORATING THE DUTIES OF A SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION COMMITTEE) – SCRUTINY REPORT NO. 16 OF 2000 – FOURTH MEETING OF CHAIRS AND DEPUTY CHAIRS OF AUSTRALIAN SCRUTINY OF PRIMARY AND DELEGATED LEGISLATION COMMITTEES – MELBOURNE – 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. 16 of 2000 – Fourth Meeting of Chairs and Deputy Chairs of Australian Scrutiny of Primary and Delegated Legislation Committees – Parliament House, Melbourne – 10 November 2000, dated 5 December 2000 –

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

12 GAMING MACHINE 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.

Paper: Mr Humphries (Treasurer) presented the following paper:

Gaming – Copy of draft guidelines for approving community contributions, pursuant to section 60B of the Gaming Machine Act.

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

Detail stage

Clauses 1 to 3, by leave, taken together and agreed to.

Clause 4 –

Mr Moore (Minister for Health, Housing and Community Care) moved the following amendment: Page 2, line 9, paragraph (b), insert the following definitions:

No. 1 –

“associated entity—see the Electoral Act 1992, subsection 198 (1).

registered party—see the Electoral Act 1992, section 3.”.

Question – put.

The Assembly voted -

Ayes, 9

Noes, 6

Ms Carnell

Mr Rugendyke

Mr Berry

Mr Wood

Mr Cornwell

Mr Smyth

Mr Corbell

Mr Hird

Mr Stefaniak

Mr Hargreaves

Mr Humphries

Ms Tucker

Mr Quinlan

Mr Moore

Mr Stanhope

And so it was resolved in the affirmative – Amendment agreed to.

Mr Quinlan, by leave, moved the following amendment:

No. 1 –

Page 2, line 18, paragraph (b), definition of *net revenue*, omit “15%”, substitute “25%”.

Debate ensued.

Amendment negatived.

Clause 4, as amended, agreed to.

Clauses 5 and 6, by leave, taken together and agreed to.

Clause 7 debated and agreed to.

Clause 8 agreed to.

Clause 9 –

Debate ensued.

Mr Osborne addressing the Assembly –

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.

Debate continued.

Question – That clause 9 be agreed to – put.

The Assembly voted –

Ayes, 7

Ms Carnell	Mr Smyth
Mr Cornwell	Mr Stefaniak
Mr Hird	
Mr Humphries	
Mr Moore	

Noes, 9

Mr Berry	Mr Rugendyke
Mr Corbell	Mr Stanhope
Mr Hargreaves	Ms Tucker
Mr Osborne	Mr Wood
Mr Quinlan	

And so it was negatived.

Clauses 10 to 13, by leave, taken together and agreed to.

Clause 14 –

Mr Quinlan moved the following amendment:

No. 5 –

Page 5, line 27, proposed new paragraph 60A (a), omit the paragraph.

Debate ensued.

Question – That Mr Quinlan’s amendment No. 5 be agreed to – put.

The Assembly voted –

Ayes, 6

Mr Berry	Mr Wood
Mr Corbell	
Mr Hargreaves	
Mr Quinlan	
Mr Stanhope	

Noes, 10

Ms Carnell	Mr Osborne
Mr Cornwell	Mr Rugendyke
Mr Hird	Mr Smyth
Mr Humphries	Mr Stefaniak
Mr Moore	Ms Tucker

And so it was negatived.

Mr Quinlan moved the following amendment:

No. 6 –

Page 6, line 6, proposed new paragraph 60A (d), omit the paragraph.

Debate ensued.

Question – That Mr Quinlan’s amendment No. 6 be agreed to – put.

The Assembly voted –

Ayes, 6

Mr Berry	Mr Wood
Mr Corbell	
Mr Hargreaves	
Mr Quinlan	
Mr Stanhope	

Noes, 10

Ms Carnell	Mr Osborne
Mr Cornwell	Mr Rugendyke
Mr Hird	Mr Smyth
Mr Humphries	Mr Stefaniak
Mr Moore	Ms Tucker

And so it was negatived.

On the motion of Mr Moore the following amendment was made:

No. 2 –

Page 6, line 6, proposed new paragraph 60A (d), omit “political party”, substitute “registered party, associated entity”.

Mr Quinlan, by leave, moved the following amendment:

No. 7 –

Page 6, line 8, proposed new paragraph 60A (e), omit the paragraph.

Debate ensued.

Amendment negatived.

Mr Quinlan, by leave, moved the following amendment:

No. 8 –

Page 6, line 10, proposed new paragraph 60A (f), omit the paragraph:

Debate ensued.

Mr Speaker seeking to ascertain whether it was the wish of the Assembly to suspend for dinner –

Objection being raised –

Suspension of standing and temporary orders – Motion to suspend for dinner: Mr Moore (Manager of Government Business) moved – That so much of the standing and temporary orders be

suspended as would prevent the Manager of Government Business moving a motion ordering a suspension for dinner.

Debate ensued.

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

Motion to suspend: Mr Moore moved – That the Assembly suspend its proceedings until 8.00 p.m. this evening.

Question – put and passed.

Suspension of sitting: At 6.32 p.m. the Speaker left the Chair

Resumption of sitting: At 8.02 p.m. the Speaker resumed the Chair.

Debate resumed on the question – That Mr Quinlan’s amendment No. 8 be agreed to –

Question – put.

The Assembly voted –

Ayes, 6		Noes, 10	
Mr Berry	Mr Wood	Ms Carnell	Mr Osborne
Mr Corbell		Mr Cornwell	Mr Rugendyke
Mr Hargreaves		Mr Hird	Mr Smyth
Mr Quinlan		Mr Humphries	Mr Stefaniak
Mr Stanhope		Mr Moore	Ms Tucker

And so it was negatived.

On the motion of Mr Quinlan, by leave, the following amendment was made, after debate:

No. 9 –

Page 6, line 23, proposed new subsection 60B (3), omit “The Minister may”, substitute “The Minister must, after consultation with Clubs ACT”.

Mr Moore, by leave, moved the following amendments together:

No. 3 –

Page 6, line 27, proposed new section 60C, heading, omit “**community**”.

No. 4 –

Page 6, line 34, proposed new section 60C, add the following new subsection:

“(2) A licensee must record each contribution made by the licensee to a registered party or associated entity, specifying—

- (a) the party or entity to which the contribution was made; and
- (b) the amount of the contribution and the date when it was made.

Maximum penalty: 20 penalty units.”.

Debate ensued.

Mr Quinlan, by leave, was granted an extension of time.

Debate continued.

Amendments agreed to.

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

No. 5 –

Page 7, line 8, proposed new paragraph 60D (c), at the end of the paragraph, add “and”.

No. 6 –

Page 7, line 8, proposed new paragraph 60D (d), after proposed new paragraph 60D (c), insert the following new paragraph:

“(d) the total value of contributions to registered parties and associated entities.”.

Mr Moore, by leave, moved the following amendment:

No. 7 –

Page 7, line 23, proposed new subsection 60G (1), omit the subsection, substitute the following subsection:

“(1) In relation to a licensee that is a club, the *required community contribution* for a financial year is the total of—

- (a) the total of the contributions made by the licensee during the financial year to registered parties and associated entities; and
- (b) the proportion of the club’s net revenue in the financial year set out in the table below, or such other proportion as may be determined by the Minister.

Table: required community contributions

financial year	required contribution
2000-2001	5%
2001-2002	6%
after 2002	7%”

Debate ensued.

Mr Osborne moved the following amendment to Mr Moore’s proposed amendment:

No. 1 –

Proposed new paragraph 60G (1) (a), omit “registered parties and associated entities”, substitute “registered parties, associated entities, Members of the Legislative Assembly, or candidates”.

Debate ensued.

Mr Berry moved – That the debate be adjourned.

Question – put.

The Assembly voted –

Ayes, 7

Mr Berry	Ms Tucker
Mr Corbell	Mr Wood
Mr Hargreaves	
Mr Quinlan	
Mr Stanhope	

Noes, 9

Ms Carnell	Mr Osborne
Mr Cornwell	Mr Rugendyke
Mr Hird	Mr Smyth
Mr Humphries	Mr Stefaniak
Mr Moore	

And so it was negatived.

Question – That Mr Osborne’s amendment to Mr Moore’s proposed amendment No. 7 be agreed to – put.

The Assembly voted –

Ayes, 9		Noes, 7	
Ms Carnell	Mr Osborne	Mr Berry	Ms Tucker
Mr Cornwell	Mr Rugendyke	Mr Corbell	Mr Wood
Mr Hird	Mr Smyth	Mr Hargreaves	
Mr Humphries	Mr Stefaniak	Mr Quinlan	
Mr Moore		Mr Stanhope	

And so it was resolved in the affirmative.

Question – That Mr Moore’s amendment No. 7, as amended, be agreed to – proposed.

On the motion of Mr Moore, by leave, the following further amendment was made to Mr Moore’s amendment No. 7, as amended:

Proposed new paragraph 60G (1) (a), insert the words “an amount equal to” before “the total of”.

Mr Moore’s amendment, as amended, agreed to.

Question proposed – That Clause 14, as amended, be agreed to.

On the motion of Mr Quinlan, by leave, the following amendments were made together, after debate:

No. 10 –

Page 8, line 1, proposed new subsection 60G (2), omit “the commission”, substitute “the Minister”.

No. 11 –

Page 8, line 8, proposed new subsection 60G (2), omit “the commission”, substitute “the Minister”.

Clause 14, as amended, agreed to.

Clause 15 agreed to.

Title agreed to.

Clause 4 – Recommittal: Ordered – That Clause 4, as amended, be recommitted.

On the motion of Mr Osborne the following amendment was made:

No. 2 –

Clause 4, page 2, line 9, paragraph (b), insert the following new definition:

“***candidate***—see the *Electoral Act 1992*, section 3.”.

Clause 4, as recommitted, as amended, agreed to.

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

The Assembly voted –

Ayes, 9		Noes, 7	
Ms Carnell	Mr Osborne	Mr Berry	Ms Tucker
Mr Cornwell	Mr Rugendyke	Mr Corbell	Mr Wood
Mr Hird	Mr Smyth	Mr Hargreaves	
Mr Humphries	Mr Stefaniak	Mr Quinlan	
Mr Moore		Mr Stanhope	

And so it was resolved in the affirmative – Bill, as amended, agreed to.

13 CRIMES AMENDMENT BILL 2000 (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.

14 POSTPONEMENT OF ORDERS OF THE DAY

Ordered – That orders of the day Nos 3, 4 and 5, Executive business, relating to the Road Transport (Public Passenger Services) Bill 2000, the Road Transport Legislation Amendment Bill 2000 (No 2) and the Leases (Commercial and Retail) Bill 2000 [No 2] be postponed until the next day of sitting.

15 ELECTORAL AMENDMENT BILL 2000 (NO 2)

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

Detail stage

Remainder of Bill as a whole –

Consideration resumed on Ms Tucker's amendments Nos 1 to 4 –

No. 1 –

Clauses 4 to 20, page 3, line 4, omit the clauses, substitute the following clauses:

“ 4 Special reports

Section 10A is amended—

(a) by inserting after subsection (1) the following subsections:

‘(1A) The commissioner must present to the Minister, before 30 June 2002, a report on the conduct of electronic voting and the electronic scrutiny of voting in the election held on 20 October 2001.

‘(1B) Subsection (1A) and this subsection expire on 1 July 2002.’; and

(b) by inserting in subsection (2) ‘or (1A)’ after ‘(1)’.

‘5 Insertion

After section 33 insert the following Division:

‘Division 3.3—Electoral Reference Committee

‘33A Definitions for div 3.3

In this Division:

appointed member—see section 33E (Appointed members of the committee).

committee means the Electoral Reference Committee.

general interests member—see paragraph 33E (d) (Appointed members of the committee).

MLA’s member—see paragraph 33E (b) (Appointed members of the committee).

registered party member—see paragraph 33E (a) (Appointed members of the committee).

special needs voters member—see paragraph 33E (c) (Appointed members of the committee).

‘33B Establishment

The Electoral Reference Committee is established.

‘33C Functions

‘(1) The functions of the committee are—

- (a) to give advice to the commissioner on the conduct of electronic voting and the electronic scrutiny of voting in an election; and
- (b) if asked by the commissioner, to advise the commissioner on other issues about the conduct of elections; and
- (c) to exercise any other function given to the committee under this Act or any other Territory law.

‘(2) The report under subsection 10 (1A) must include a report on the operation of, and advice given by, the committee.

‘(3) Subsection (2) and this subsection expire on 1 July 2002.

‘33D Membership

‘(1) The committee consists of—

- (a) the commissioner; and
- (b) the appointed members.

‘(2) The appointed members are to be appointed by the commissioner.

‘33E Appointed members of the committee

The commissioner must appoint as members—

- (a) a person nominated by each registered party (a ***registered party member***); and
- (b) a person nominated by each independent MLA to represent the MLA (an ***MLA’s member***); and
- (c) at least 1 person who, in the commissioner’s opinion, represents people with special needs that impact adversely on their ability to vote (a ***special needs voters member***); and

- (d) at least 1 person who, in the commissioner's opinion, represents people with an interest in the conduct of elections (a ***general interests member***).

Note 1 A person may be reappointed to a position if the person is eligible for appointment to the position (see *Interpretation Act 1967*, par 28 (3) (c) and dict, def of ***appoint***).

Note 2 The power to appoint a person to a position includes power to appoint a person to act in the position (see *Interpretation Act 1967*, s 28 (4)-(6) and s 28A).

'33F Term of appointment of appointed members

- '(1) An appointed member is to be appointed for a term not longer than 3 years.
- '(2) The instrument appointing, or evidencing the appointment of, an appointed member must state the term for which the member is appointed.

'33G Ending of appointment to committee

The commissioner must end the appointment of an appointed member if—

- (a) for a registered party member or an MLA's member—the person who nominated the appointed member asks the commissioner to end the appointment; and
- (b) for a special needs voters member or a general interests member—the commissioner is satisfied that the person no longer represents the people concerned.

'33H Conditions of appointment generally

An appointed member holds the position on the conditions not provided by this Act or another Territory law that are decided by the commissioner.

'33I Chairperson and deputy chairperson

The members of the committee must, whenever necessary, elect—

- (a) an appointed member to be chairperson; and
- (b) another appointed member to be deputy chairperson.

'33J Time and place of meetings

'(1) Meetings of the committee are to be held at the times and places it decides in consultation with the commissioner.

'(2) The commissioner—

- (a) may at any time call a meeting of the committee; and
- (b) must call a meeting if asked by at least 3 members.

'33K Procedures governing proceedings of committee

'(1) The chairperson presides at all meetings at which the chairperson is present.

'(2) If the chairperson is absent, the deputy chairperson presides.

'(3) If the chairperson and deputy chairperson are both absent, the member chosen by the members present presides.

'(4) Business may be carried out at a meeting of the committee only if 4 members are present.

'(5) The committee may conduct its proceedings (including its meetings) as it considers appropriate.

'(6) The committee may hold meetings, or allow appointed members to take part in meetings, by telephone, close-circuit communication or another form of communication.

‘(7) A member who takes part in a meeting conducted under subsection (6) is taken to be present at the meeting.

‘(8) The committee must keep minutes of its meetings.’.”

No. 2 –

Proposed new clause –

Page 9, line 28, after clause 22 insert the following new clause in the Bill:

“22A Insertion

After section 340, insert the following section:

‘340A Temporary modifications of Act

‘(1) This section applies for the conduct of electronic voting and the electronic scrutiny of voting in the election to be held on 20 October 2001.

‘(2) This Act is modified as set out in Schedule 5.

‘(3) This section and Schedule 5 expire on 30 September 2004.’.”

No. 3 –

Proposed new clause –

Page 10, line 7, after clause 23 insert the following new clause in the Bill:

“23A Insertion

After Schedule 4, insert the following Schedule:

‘SCHEDULE 5 (See s 340A (2))

TEMPORARY MODIFICATIONS

[5.1] Section 3—

Insert the following definitions:

approved computer program means the computer program approved under section 118A.

ballot paper includes an electronic ballot paper.

electronic voting—see subsection 120 (2).

[5.2] New subsections 114 (4) and (5)—

After subsection (3), insert the following subsections:

‘(4) The ballot paper may be in electronic form.

‘(5) The commissioner may approve changes to the electronic form of the ballot paper that are necessary to facilitate the display of the electronic form.

Example

The electronic form of a ballot paper may display columns of candidates using 2 rows.’.

[5.3] Paragraph 114 (4) (a)—

Omit from paragraph (4) (a) “printed or endorsed”, substitute “contained”.

[5.4] Subsections 114 (4) and (5)—

Renumber subsections (4) and (5) as (6) and (7).

[5.5] New Division 9.2A—

After section 118, insert the following Division:

‘Division 9.2A—Electronic voting devices and vote counting programs**‘118A Approval of computer program for electronic voting and vote counting**

‘(1) The commissioner may approve a computer program to allow electronic voting and perform steps in the scrutiny of votes in an election.

‘(2) The commissioner may only approve a program if—

- (a) the proper use of the program would give the same result in the scrutiny of votes in an election as would be obtained if the scrutiny were conducted without computer assistance; and
- (b) the program will allow an elector to show consecutive preferences starting at “1”; and
- (c) the program gives an elector an opportunity to correct any mistakes before processing the elector’s vote; and
- (d) the program will allow an elector to make an informal vote showing no preferences for any candidate; and
- (e) the program will not allow a person to find out how a particular elector cast his or her vote; and
- (f) the program is designed to pause while the commissioner makes a determination by lot required by Schedule 4; and
- (g) the program can produce indicative distributions of preferences at any time after the close of the poll and before the declaration of the poll.

‘(3) The commissioner must determine processes that must be followed in relation to the use of an approved computer program in the scrutiny of votes in an election.

‘(4) Without limiting subsection (3), the commissioner may approve a process—

- (a) for entering preferences shown on paper ballots into the approved computer program; and
- (b) for counting preferences using the program to work out—
 - (i) the number of unrejected ballot papers on which a first preference is recorded for each candidate; and
 - (ii) the number of informal ballot papers for each electorate.

‘118B Security of electronic voting devices and related material

‘(1) The commissioner must take steps to ensure that electronic devices and computer programs used or intended to be used for or in connection with electronic voting are kept secure from interference at all times.

‘(2) The commissioner must keep backup copies of electronic data produced at a polling place or scrutiny centre until whichever of the following happens last:

- (a) the beginning of the pre-election period for the next election;

- (b) the documents are no longer required by the commissioner, another member of the electoral commission or a member of the staff of the commission for exercising a function under this Act.’.

[5.6] Section 120—

Omit ‘The commissioner’, substitute ‘(1) The commissioner’.

[5.7] New subsections 120 (2) and (3)—

After subsection (1), insert the following subsections:

‘(2) The commissioner may make arrangements at a polling place for electors to vote using an electronic ballot paper (*electronic voting*).

‘(3) For subsection (2), the commissioner may approve electronic devices for use by electors for electronic voting at a polling place.’.

[5.8] New subsection 131 (3)—

After subsection (2), insert the following subsection:

‘(3) If there is electronic voting at a polling place, an elector may vote using a paper ballot paper or electronic voting.’.

[5.9] Paragraph 134 (c)—

Insert ‘if the person has voted using a paper ballot paper—’ before ‘fold’.

[5.10] New subsection 157 (4)—

After subsection (3), insert the following subsection:

‘(4) This section does not apply in relation to an elector who votes electronically.’.

[5.11] Subsection 178 (3)—

Omit ‘and documents’, substitute ‘, documents and data’.

[5.12] Paragraph 178 (3) (e)—

Renumber paragraph (3) (e) as (3) (f).

[5.13] New paragraph 178 (3) (e)—

After paragraph (3) (d), insert the following paragraph:

‘(e) electronic ballot papers;’.

[5.14] Subsections 182 (1) to (6)—

Renumber subsections (1) to (6) as (2) to (7).

[5.15] New subsection 182 (1)—

Before subsection (1), insert the following subsection:

‘(1) This section applies only to paper ballot papers.’.

[5.16] Subsection 182 (5)—

Omit ‘(3)’, substitute ‘(4)’.

[5.17] Subsection 182 (6)—

Omit ‘(5)’, substitute ‘(6)’.

[5.18] New subsection 182 (8)—

After subsection (6), insert the following subsection:

‘(8) The OIC may arrange for preferences marked on paper ballot papers to be entered into the approved computer program.’.

[5.19] New section 183A—

After section 183, insert the following section:

‘183A First count—electronic ballot papers

As soon as practicable after the close of the poll for an election, the OIC for a scrutiny centre must arrange for preferences from electronic voting to be entered into the approved computer program and for the electronic counting of the votes using the program.’.

[5.20] Subsection 184 (1)—

Omit ‘The commissioner’, substitute ‘If preferences marked on paper ballot papers have not been entered on the approved computer program under subsection 182 (8), the commissioner’.

[5.21] Paragraph 184 (1) (a)—

Omit ‘(4) (d)’, substitute ‘(5) (d)’.

[5.22] Paragraph 184 (1) (a)—

Omit ‘(3) and (4)’, substitute ‘(4) and (5)’.

[5.23] Subsection 184 (2)—

Re-number subsection (2) as (3).

[5.24] New subsection 184 (2)—

After subsection (1), insert the following subsection:

‘(2) The commissioner must, using the approved computer program, ascertain from the result of the first scrutiny of electronic ballot papers and any paper ballot papers from which preferences have been entered on the computer program under subsection 182 (8)—

- (a) the number of unrejected ballot papers on which a first preference is recorded for each candidate; and
- (b) the number of informal ballot papers for each electorate.’.

[5.25] Paragraph 185 (1) (a)—

Insert ‘and paragraph 184 (2) (a)’ after ‘subparagraph 184 (1) (b) (i)’.

[5.26] New section 187A—

After section 187, insert the following section:

‘187A Recount of electronic scrutiny of ballot papers

‘(1) This section sets out the alternative ways in which a recount of the electronic scrutiny of ballot papers may be conducted.

‘(2) The recount may be conducted by recounting data from electronic ballot papers kept on a backup copy of electronic data produced at a polling place or scrutiny centre.

‘(3) If an approved computer program is used to find out the result of a scrutiny, the recount may be conducted—

- (a) by rerunning the program; or
- (b) by reloading the data into a different copy of the program and running the program.

‘(4) If practicable, the recount may be conducted—

- (a) by re-examining the accuracy of any preference data entered into the computer program from paper ballot papers; or
- (b) by conducting—
 - (i) a partial or full manual scrutiny of paper ballot papers from which preference data has been entered into the computer program; or
 - (ii) a combination of manual scrutiny of those paper ballot papers and a computerised scrutiny of electronic ballot papers.’.

[5.27] Paragraph 256 (2) (e)—

Renumber paragraph (2) (e) as (2) (f).

[5.28] New paragraph 256 (2) (e)—

After paragraph (2) (d), insert the following paragraph:

‘(e) any matter connected with electronic voting;’.

[5.29] Paragraph 269 (1) (b)—

Renumber paragraph (b) as (c).

[5.30] New paragraph 269 (1) (b)—

After paragraph (1) (a), insert the following paragraph:

‘(b) an inquiry into the accuracy of approved computer programs used in electronic voting and the electronic scrutiny of votes;’.

[5.31] New Division 17.3A—

After section 306 insert the following Division:

‘Division 17.3A—Electronic voting offences

‘306A Interfering with electronic voting devices etc

A person must not, without reasonable excuse, destroy or interfere with any device or computer program that is used, or intended to be used, for or in connection with electronic voting.

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

‘306B Interfering with electronic counting devices etc

A person must not, without reasonable excuse, destroy or interfere with any device or computer program that is used, or intended to be used, for counting votes electronically.

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

[5.32] Section 333—

Omit ‘The electoral’, substitute ‘(1) The electoral’.

[5.33] New subsection 333 (2)—

After subsection (1), insert the following subsection:

‘(2) A person may, on payment of the determined fee, obtain copies of the statistics in paper or electronic form.’”.

No. 4 –

Clauses 26 to 29, page 11, line 5, omit the clauses, substitute the following clauses.

“26 Insertion

After section 19, insert the following section:

‘19A Temporary modifications of Act

‘(1) This section applies if a referendum is held on 20 October 2001.

‘(2) This Act is modified as set out in Schedule 2.

‘(3) This section and Schedule 2 expire on 30 September 2004.’.

27 Further amendments

The following provisions are amended by omitting ‘the Schedule’ and substituting ‘Schedule 1’:

Paragraphs 12 (3) (f), 14 (3) (d), 15 (3) (c), 16 (3) (b) and 17 (3) (c) and subsection 19 (3).

28 Schedule

The heading to the Schedule is amended by omitting ‘**SCHEDULE**’ and substituting ‘**SCHEDULE 1**’.

29 Insertion

After the Schedule, insert the following Schedule:

‘SCHEDULE 2

(See s 19A (2))

TEMPORARY MODIFICATIONS**[2.1] Subsection 3 (1)—**

Insert the following definition:

printing, for a referendum ballot paper, includes displaying an electronic referendum ballot paper.”.

[2.2] Subsection 3 (1) (definition of *referendum ballot paper*)—

Add at the end of the definition of *referendum ballot paper* ‘, and includes an electronic referendum ballot paper’.

[2.3] New subsection 11 (5)—

After subsection (4), insert the following subsection:

‘(5) For this section, a referendum ballot paper may be in electronic form.’.

[2.4] Paragraph 12 (3) (b)—

Omit ‘printed’.

[2.5] Paragraph 12 (3) (c)—

Omit ‘printed or endorsed’, substitute ‘contained’.

[2.6] Paragraph 14 (3) (b)—

Omit the words from ‘paragraphs’ to ‘Electoral Act’, substitute ‘paragraphs 118A (4) (b), 180 (2) (b) and (c) and (3) (a), subparagraphs 182 (4) (c) (ii) and (5) (a) (i) and 184 (1) (b) (i) and subsection 184 (2) of the Electoral Act’.”.

Debate resumed.

Question – put.

The Assembly voted -

Ayes, 6

Noes, 8

Mr Berry
Mr Hargreaves
Mr Quinlan
Mr Stanhope
Ms Tucker

Mr Wood

Mr Cornwell
Mr Hird
Mr Humphries
Mr Moore
Mr Osborne

Mr Rugendyke
Mr Smyth
Mr Stefaniak

And so it was negatived.

Remainder of Bill, as a whole, agreed to.

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

16 PSYCHOLOGISTS AMENDMENT BILL 2000

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

Detail stage

Bill as a whole -

Consideration resumed on Mr Stanhope’s (Leader of the Opposition) amendment to insert the following new clause in the Bill: Page 2, line 14 –

Proposed new clause -

“6 Addition

At the end of the Act the following Part is added:

‘PART 7—TRANSITIONAL**‘57 Definitions for pt 7**

In this Part:

commencement day means the day this Part comes into operation.

government psychology employee means a person who was, immediately before the commencement day, employed by the Territory, the Commonwealth or a public authority of the Territory or the Commonwealth to provide psychology services.

‘58 Application of various provisions

‘(1) Sections 42, 44 and 45 do not apply to a government psychology employee until the earlier of—

- (a) the day the employee is registered; or
- (b) the end of 12 months after the commencement day.

‘(2) If a government psychology employee applies for registration as a psychologist within 12 months after the commencement day, sections 42, 44 and 45 do not apply to the employee until—

- (a) the board registers the employee; or
- (b) if the board refuses to register the employee—30 days after the day the employee is notified under section 49 of the decision of the board to refuse the employee registration.

‘59 Registration

‘(1) This section applies to a government psychology employee who has provided psychology services for a period of 4 years, or for periods totalling 4 years, during the 10 years immediately before the commencement day.

‘(2) If—

- (a) a government psychology employee mentioned in subsection (1) applies for registration as a psychologist; but
- (b) the employee would not be entitled to be registered under section 8;

the board may register the person as a psychologist under this Act if the board is satisfied the person is otherwise competent to practise psychology.

‘(3) The board may impose any conditions it considers appropriate on the registration of a person under subsection (2).

‘60 Temporary registration

‘(1) If—

- (a) a person who was a government psychology employee immediately before the commencement day—
 - (i) applies for temporary registration as a psychologist; and
 - (ii) gives the board a written undertaking that he or she will undertake education or training to obtain the qualifications mentioned in subparagraph 8 (1) (a) (i) or (b) (i); and

- (b) the board is satisfied the person is competent to practise psychology;

the board may temporarily register the person as a psychologist.

‘(2) Temporary registration of a person as a psychologist under this section remains in effect until—

- (a) the person is given written notice that the board has—
 - (i) registered the person under section 8; or
 - (ii) refused an application by the person for registration under section 8; or
 - (iii) cancelled the person’s registration; or
- (b) the end of 3 years beginning on the commencement day.

‘(3) The board may cancel a person’s registration under this section for any reason it considers appropriate.

‘(4) If the board cancels a person’s registration under subsection (3), it must immediately give the person notice of the cancellation.

‘(5) A person who holds temporary registration under this section is taken to be a registered psychologist only for the person’s employment as a government psychology employee.

‘61 Review of decisions under pt 7

Application may be made to the administrative appeals tribunal for review of a decision of the board—

- (a) under subsection 59 (2) to refuse to register a person; or
- (b) under subsection 59 (3) to impose conditions on the registration of a person; or
- (c) under subsection 60 (1) to refuse to temporarily register a person; or
- (d) under subsection 60 (3) to cancel the registration of a person.

‘62 Notification of decisions

‘(1) If the board makes a decision mentioned in section 61, it must give written notice of the decision to the person affected by the decision.

‘(2) A notice under subsection (1) must be in accordance with the code of practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

‘63 Expiry of pt 7

This Part expires 3 years after the commencement day.’.”

Debate resumed.

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

17 ADJOURNMENT

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

Question - put and passed.

And then the Assembly, at 10.21 p.m., adjourned until tomorrow 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