



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

2020–2021

MINUTES OF PROCEEDINGS

No 35

WEDNESDAY, 1 DECEMBER 2021

- 1 The Assembly met at 10 am, pursuant to adjournment. The Speaker (Ms Burch) took the Chair and made the following acknowledgement of country in the Ngunnawal language:

Dhawura nguna, dhawura Ngunnawal.

Yanggu ngalawiri, dhunimanyin Ngunnawalwari dhawurawari.

Nginggada Dindi dhawura Ngunnaawalbun yindjumaralidjinyin.

This is Ngunnawal Country.

Today we are gathering on Ngunnawal country.

We always pay respect to Elders, female and male, and Ngunnawal country.

The Speaker asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

2 PETITION AND MINISTERIAL RESPONSE—PETITION AND RESPONSE NOTED

Petition

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

Ms Davidson, from 694 residents, requesting that the Assembly call on the ACT Government to build and own a multipurpose indoor sports stadium in the Woden Town Centre that can be hired at a reasonable cost by local community sport groups (Pet 48-21).

Pursuant to standing order 99A, this petition stands referred to the Standing Committee on Planning, Transport and City Services.

Ministerial response

The Clerk announced that the following response to a petition had been lodged:

Ms Berry (Minister for Housing and Suburban Development), undated—Response to petition No 37-21, lodged by Mr Parton on 16 September 2021, concerning maintenance of public housing.

The Speaker proposed—That the petition and response so lodged be noted.

Debate ensued.

Question—put and passed.

3 CAPITAL OF EQUALITY LGBTIQ+ STRATEGY—STATEMENT ON PROGRESS—MINISTERIAL STATEMENT—PAPER NOTED

Mr Barr (Chief Minister) made a ministerial statement concerning progress on the Capital of Equality LGBTIQ+ Strategy and presented the following paper:

Capital of Equality LGBTIQ+ Strategy—Statement on progress—Ministerial statement, 1 December 2021.

Mr Barr moved—That the Assembly take note of the paper.

Debate ensued.

Question—put and passed.

4 FINANCIAL MANAGEMENT AMENDMENT BILL 2021 (NO 2)

Mr Gentleman (Minister for Industrial Relations and Workplace Safety), pursuant to notice, presented a Bill for an Act to amend the *Financial Management Act 1996*.

Paper: Mr Gentleman presented the following paper:

Explanatory statement to the Bill, incorporating a compatibility statement, pursuant to section 37 of the *Human Rights Act 2004*.

Title read by Clerk.

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

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

5 CRIMES (POLICING) LEGISLATION AMENDMENT BILL 2021

Mr Gentleman (Minister for Police and Emergency Services), pursuant to notice, presented a Bill for an Act to amend legislation about crime, and for other purposes.

Paper: Mr Gentleman presented the following paper:

Explanatory statement to the Bill, incorporating a compatibility statement, pursuant to section 37 of the *Human Rights Act 2004*.

Title read by Clerk.

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

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

6 ROAD TRANSPORT LEGISLATION AMENDMENT BILL 2021 (NO 2)

Mr Steel (Minister for Transport and City Services), pursuant to notice, presented a Bill for an Act to amend legislation about road transport, and for other purposes.

Paper: Mr Steel presented the following paper:

Explanatory statement to the Bill, incorporating a compatibility statement, pursuant to section 37 of the *Human Rights Act 2004*.

Title read by Clerk.

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

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

7 HEALTH AND COMMUNITY WELLBEING—STANDING COMMITTEE—PUBLIC HEALTH AMENDMENT BILL 2021—STATEMENT BY CHAIR

Mr Davis (Chair), pursuant to standing order 246A, informed the Assembly that the Standing Committee on Health and Community Wellbeing had considered the Public Health Amendment Bill 2021 and had resolved not to conduct an inquiry into the Bill.

8 PUBLIC ACCOUNTS—STANDING COMMITTEE—INQUIRY—AUDITOR-GENERAL'S REPORT NO 8/2021—CANBERRA LIGHT RAIL STAGE 2A: ECONOMIC ANALYSIS—STATEMENT BY CHAIR

Mrs Kikkert (Chair), pursuant to standing order 246A, informed the Assembly that the Standing Committee on Public Accounts had resolved to conduct an inquiry into and report on Auditor-General's Report No 8/2021—Canberra Light Rail Stage 2a: Economic Analysis.

9 SUSPENSION OF STANDING ORDERS—EXTENSION OF ADJOURNMENT DEBATE

Mr Gentleman (Manager of Government Business) moved—That so much of the standing orders be suspended as would prevent the adjournment debates on 1 and 2 December 2021 extending past 30 minutes and Members to be allocated 10 minutes speaking time each.

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

10 PUBLIC HEALTH AMENDMENT BILL 2021

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.

11 CIVIL LAW (SALE OF RESIDENTIAL PROPERTY) AMENDMENT BILL 2021

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 Rattenbury (Attorney-General) presented a revised explanatory statement to the Bill.

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.

12 JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2021

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—

Mr Rattenbury (Attorney-General) was granted leave to move amendments that had not been circulated in accordance with standing order 178A, together.

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

Paper: Mr Rattenbury 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.

13 QUESTIONS

Questions without notice were asked.

14 GUNGAHLIN—CINEMA DEVELOPMENT

Mr Pettersson, pursuant to notice, moved—That this Assembly:

(1) notes that:

- (a) the ACT Government recognised the need for expanded entertainment options in Gungahlin by selecting the site on the corner of Efkarpidis Street and Hinder Street for a cinema development in 2012;

- (b) a competitive tender process was undertaken in 2013 and the site was released to the purchaser;
 - (c) following a range of delays on the part of the successful tenderer, the project was given approval in 2017, however, construction was further delayed due to legal action between two competing cinema operators;
 - (d) new plans were lodged and approved in 2020, with construction due to start in mid-2020;
 - (e) on 12 November 2021, *The RiotACT* reported that the developers still had no timeline to start construction. If construction had commenced on schedule, the complex would have been completed in February 2022;
 - (f) the Gungahlin community has been waiting for the completion of this cinema project for almost 10 years; and
 - (g) there is ongoing uncertainty surrounding this project and when Gungahlin residents will finally have a cinema;
- (2) acknowledges the:
- (a) release of Draft Variation No 364—Gungahlin Town Centre by the ACT Government;
 - (b) recent inquiry from the Standing Committee on Planning, Transport and City Services into Draft Variation No 364—Gungahlin Town Centre; and
 - (c) forthcoming ACT Government response to the Standing Committee’s inquiry; and
- (3) calls on the ACT Government to:
- (a) confirm its ongoing commitment to delivering a cinema in Gungahlin;
 - (b) meet with the developer of Gungahlin cinema, Krnc Group, within the month to determine their capacity to secure finance, commence construction within the development approval deadlines and deliver a cinema complex for the residents of Gungahlin;
 - (c) consider setting an end date for the completion of works under the lease;
 - (d) revise the guidelines for granting extensions on development applications to ensure greater certainty for the community on development timeframes; and
 - (e) encourage retail, entertainment and hospitality providers to commence or expand operations in Gungahlin.

Debate ensued.

Question—put and passed.

15 EDUCATION SYSTEM—TEACHERS’ PAY AND CONDITIONS

Mr Hanson, pursuant to notice, moved—That this Assembly:

- (1) notes:
 - (a) that the ACT Division of Australian Education Union recently released their study called *Under-staffed, under-resourced, under-appreciated: The teacher shortage and its impact on our schools*—the biggest survey of ACT public school educators ever conducted in the ACT;
 - (b) that study found:
 - (i) nearly all respondents (97 percent) said they work more than their maximum weekly hours. This includes working on the weekends, evenings and during periods of leave or stand down;
 - (ii) 79 percent say they work excessive hours every week:
 - (A) 59 percent of classroom teachers say this happens every week; and
 - (B) 70 percent of primary level classroom teachers say this happens every week;
 - (iii) almost all teachers report working unpaid overtime every week with more than 40 percent of them working 10 or more hours, and even more hours when weekend work is included;
 - (iv) teachers regularly supply classroom materials and resources from their own pockets; and
 - (v) according to the report “The harsh reality is that ACT public school teachers subsidise the ACT Government’s spending on education to the tune of at least \$75 million every year on salaries alone”;
- (2) further notes:
 - (a) wage theft is a major issue in modern Australia, is criminalised in some states and is being reviewed in all others;
 - (b) the Australian Council of Trade Unions has claimed wage theft has reached “epidemic” proportions and the exploitation of workers is widespread, while Victorian Minister for Industrial Relations, Tim Pallas, has said “wage theft is an insidious crime”; and
 - (c) many cases have been brought to courts, tribunals and the Fair Work Ombudsman relating to wage theft and underpayment via individual or class actions or through self-reporting; and
- (3) calls on the ACT Government to:
 - (a) self-report the salaries, working conditions and underpayments of those working in the ACT education system to the Fair Work Ombudsman for review and assessment; and

- (b) if that review shows teachers have worked unpaid overtime or otherwise subsidise the ACT Government, undertake an assessment as to the amount of that underpayment and proper compensation be paid to teachers.

Ms Berry (Minister for Education and Youth Affairs) moved the following amendment:
Omit all text after “notes” (first occurring), substitute:

- “(a) that the ACT Division of the Australian Education Union (AEU) recently released their study called *Under-staffed, under-resourced, under-appreciated: The teacher shortage and its impact on our schools*—the biggest survey of ACT public school educators ever conducted in the ACT;
 - (b) that study found:
 - (i) nearly all respondents (97 percent) said they work more than their maximum weekly hours. This includes working on the weekends, evenings and during periods of leave or stand down;
 - (ii) 79 percent say they work excessive hours every week:
 - (A) 59 percent of classroom teachers say this happens every week; and
 - (B) 70 percent of primary level classroom teachers say this happens every week;
 - (iii) almost all teachers report working additional hours every week with more than 40 percent of them working 10 or more hours, and even more hours when weekend work is included;
 - (iv) teachers regularly supply classroom materials and resources from their own pockets; and
 - (v) according to the report ‘The harsh reality is that ACT public school teachers subsidise the ACT Government’s spending on education to the tune of at least \$75 million every year on salaries alone’;
 - (c) that the AEU study demonstrates that action is required to address unsustainable workloads and a shortage of staff in the teaching profession;
 - (d) that, in response to the survey, the ACT Government and the AEU jointly formed a teacher shortage taskforce; and
 - (e) the AEU’s strong representation of teachers, who care deeply about their students;
- (2) further notes:
- (a) wage theft is a major issue in modern Australia, is criminalised in some states and is being reviewed in all others;
 - (b) the Australian Council of Trade Unions has claimed wage theft has reached ‘epidemic’ proportions and the exploitation of workers is widespread, while Victorian Minister for Industrial Relations, Tim Pallas, has said ‘wage theft is an insidious crime’;

- (c) many cases have been brought to courts, tribunals and the Fair Work Ombudsman relating to wage theft and underpayment via individual or class actions or through self-reporting;
 - (d) that the ACT Government is doing the work to improve the lives of workers in Canberra through its Secure Local Jobs Code, anti-privatisation program, and union encouragement policy;
 - (e) that the extraordinary efforts of teachers during the ongoing global pandemic have been vital to our community; and
 - (f) that the national teacher shortage demonstrates the need to better recognise the value of the teaching profession; and
- (3) calls on the ACT Government to:
- (a) bargain in good faith when the teaching enterprise agreement expires to find enduring improvements to teacher workloads;
 - (b) continue to work closely with the AEU through the joint teacher shortage taskforce, focussing on recruitment, retention, and workload issues; and
 - (c) commit to working with public school teachers and their union to ensure that the ACT is the best place in the nation to be employed as a teacher.”.

Debate continued.

Question—That the amendment be agreed to—put.

The Assembly voted—

AYES, 15		NOES, 8
Ms Berry	Ms Orr	Mr Cain
Mr Braddock	Dr Paterson	Ms Castley
Ms Burch	Mr Pettersson	Mr Hanson
Ms Cheyne	Mr Rattenbury	Mrs Kikkert
Ms Clay	Mr Steel	Ms Lawder
Ms Davidson	Ms Stephen-Smith	Ms Lee
Mr Davis	Ms Vassarotti	Mr Milligan
Mr Gentleman		Mr Parton

And so it was resolved in the affirmative.

Question—That the motion, as amended, viz:

“That this Assembly:

- (1) notes:
 - (a) that the ACT Division of the Australian Education Union (AEU) recently released their study called *Under-staffed, under-resourced, under-appreciated: The teacher shortage and its impact on our schools*—the biggest survey of ACT public school educators ever conducted in the ACT;

- (b) that study found:
 - (i) nearly all respondents (97 percent) said they work more than their maximum weekly hours. This includes working on the weekends, evenings and during periods of leave or stand down;
 - (ii) 79 percent say they work excessive hours every week:
 - (A) 59 percent of classroom teachers say this happens every week; and
 - (B) 70 percent of primary level classroom teachers say this happens every week;
 - (iii) almost all teachers report working additional hours every week with more than 40 percent of them working 10 or more hours, and even more hours when weekend work is included;
 - (iv) teachers regularly supply classroom materials and resources from their own pockets; and
 - (v) according to the report 'The harsh reality is that ACT public school teachers subsidise the ACT Government's spending on education to the tune of at least \$75 million every year on salaries alone';
 - (c) that the AEU study demonstrates that action is required to address unsustainable workloads and a shortage of staff in the teaching profession;
 - (d) that, in response to the survey, the ACT Government and the AEU jointly formed a teacher shortage taskforce; and
 - (e) the AEU's strong representation of teachers, who care deeply about their students;
- (2) further notes:
- (a) wage theft is a major issue in modern Australia, is criminalised in some states and is being reviewed in all others;
 - (b) the Australian Council of Trade Unions has claimed wage theft has reached 'epidemic' proportions and the exploitation of workers is widespread, while Victorian Minister for Industrial Relations, Tim Pallas, has said 'wage theft is an insidious crime';
 - (c) many cases have been brought to courts, tribunals and the Fair Work Ombudsman relating to wage theft and underpayment via individual or class actions or through self-reporting;
 - (d) that the ACT Government is doing the work to improve the lives of workers in Canberra through its Secure Local Jobs Code, anti-privatisation program, and union encouragement policy;
 - (e) that the extraordinary efforts of teachers during the ongoing global pandemic have been vital to our community; and
 - (f) that the national teacher shortage demonstrates the need to better recognise the value of the teaching profession; and

- (3) calls on the ACT Government to:
- (a) bargain in good faith when the teaching enterprise agreement expires to find enduring improvements to teacher workloads;
 - (b) continue to work closely with the AEU through the joint teacher shortage taskforce, focussing on recruitment, retention, and workload issues; and
 - (c) commit to working with public school teachers and their union to ensure that the ACT is the best place in the nation to be employed as a teacher.”—
- be agreed to—put and passed.

16 ADJOURNMENT

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

Debate ensued.

Leave of absence to Member: Mr Hanson moved—That leave of absence be granted to Mrs Jones for this sitting for personal reasons.

Question—put and passed.

Debate continued.

Question—put and passed.

And then the Assembly, at 5.50 pm, adjourned until tomorrow at 10 am.

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

*on leave

Tom Duncan
Clerk of the Legislative Assembly

SCHEDULE OF AMENDMENTS

Schedule 1

JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2021

Amendments circulated by the Attorney-General

1

Clause 2 (1)

Page 2, line 8—

insert

- part 7A
-

2

Clause 2

Page 2, line 15—

insert

- (2A) Part 7A (Criminal Code 2002) commences on the day after this Act's notification day.
-

3

Clause 3

Page 3, line 8—

insert

- *Criminal Code 2002*
-

4

Proposed new part 7A

Page 15, line 7—

insert

Part 7A Criminal Code 2002

15A	Mental impairment and criminal responsibility Section 28 (4) and (5)
------------	---

substitute

- (4) A person is presumed not to have been suffering from a mental impairment that had an effect mentioned in subsection (1).
- (5) The presumption is displaced only if it is proved on the balance of probabilities (by the prosecution or defence) that the person was suffering from a mental impairment that had an effect mentioned in subsection (1).
-