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LEGISLATIVE ASSEMBLY FOR THE

AUSTRALIAN CAPITAL TERRITORY

2016–2017–2018–2019

MINUTES OF PROCEEDINGS

No 98

[**Thursday, 16 May 2019**](http://www.hansard.act.gov.au/hansard/2019/pdfs/20190516)

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 **1** The Assembly met at 10 am, pursuant to adjournment. The Speaker (Ms J. Burch) took the Chair and made a formal recognition that the Assembly was meeting on the lands of the traditional custodians. 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—Petition noted

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

Ms Lee, from 1 resident, requesting that the Assembly bring to the attention of the Minister for Education and Early Childhood Development and the Shadow Minister, the need to recognise that students with difficulties learning to read are still disadvantaged and that changes are required (Pet 13-19).

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

Debate ensued.

Question—put and passed.

 **3 Education, Employment and Youth Affairs—Standing Committee—reference—Literacy instruction in A.C.T. schools—petition**

Ms Lee, pursuant to standing order 99, moved—That the petition, relating to support for students with learning difficulties, be referred to the Standing Committee on Education, Employment and Youth Affairs.

Question—put and passed.

 **4 Literacy instruction in A.C.T. schools—Out-of-order Petition—Paper—Reference—Education, Employment and Youth Affairs—Standing Committee**

Ms Lee, by leave, presented the following paper:

Petition which does not conform with the standing orders—Literacy instruction in ACT schools—Ms Lee (588 signatures)—

and moved—That the out-of-order petition, relating to support for students with learning difficulties, be referred to the Standing Committee on Education, Employment and Youth Affairs.

Question—put and passed.

 **5 ASSISTANT SPEAKER**

The Speaker informed the Assembly that, pursuant to standing order 8, she had nominated Mr Parton to act as an Assistant Speaker, and presented the following warrant of nomination:

Pursuant to the provisions of standing order 8, I nominate Mr Parton to act as an Assistant Speaker.

Given under my hand on 16 May 2019.

Joy Burch MLA

Speaker

16 May 2019

 6 Administration and Procedure—Standing Committee—Reference—Visits by Members to government schools—Protocols—Amendment to reporting date

Ms Cheyne, by leave, moved—That the resolution of the Assembly of 14 February 2019, which referred whether the protocols in place around the permissions for MLAs to visit or attend school events constitute an impediment to Members performing their function as MLAs in complying with the Code of Conduct for All Members of the Legislative Assembly to the Standing Committee on Administration and Procedure,be amended by omitting the words “last sitting day in May 2019” and substituting “last sitting day in June 2019”.

Question—put and passed.

 7 Centenary Hospital for Women and Children—Update on maternity services—May 2019—MINISTERIAL STATEMENT—PAPER NOTED

Ms Fitzharris (Minister for Health and Wellbeing) made a ministerial statement concerning maternity services at the Centenary Hospital for Women and Children and presented the following paper:

Centenary Hospital for Women and Children—Update on maternity services—May 2019—Ministerial statement, 16 May 2019.

Ms Fitzharris moved—That the Assembly take note of the paper.

Debate ensued.

Question—put and passed.

 8 LEAVE OF ABSENCE TO MEMBER

Mrs Jones moved—That leave of absence be granted to Mr Wall for today due to illness.

Question—put and passed.

 9 Workplace Culture within A.C.T. Public Health Services—Independent Review—Final Report—Government response—MINISTERIAL STATEMENT and paper—PAPERs NOTED

Ms Fitzharris (Minister for Health and Wellbeing) made a ministerial statement concerning the Government response to the Final Report of the Independent Review into the Workplace Culture within ACT Public Health Services and presented the following papers:

Workplace Culture within ACT Public Health Services—Independent Review—Final Report—

Government response—Ministerial statement, 16 May 2019.

Government response, dated 16 May 2019.

Ms Fitzharris moved—That the Assembly take note of the papers.

Debate ensued.

Question—put and passed.

 10 Integrity Commission Amendment Bill 2019

Mr Barr (Chief Minister), pursuant to notice, presented a Bill for an Act to amend the *Integrity Commission Act 2018*.

*Papers:* Mr Barr presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 14 May 2019.

Title read by Clerk.

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

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

 11 Planning and Development (Design Review Panel) Amendment Bill 2019

Mr Gentleman (Minister for Planning and Land Management), pursuant to notice, presented a Bill for an Act to amend the *Planning and Development Act 2007* and the *Planning and Development Regulation 2008*.

*Papers:* Mr Gentleman presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 14 May 2019.

Title read by Clerk.

Mr Gentleman 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.

 12 Planning and Environment Legislation Amendment Bill 2019

Mr Gentleman (Minister for the Environment and Heritage), pursuant to notice, presented a Bill for an Act to amend legislation about planning and the environment, and for other purposes.

*Papers:* Mr Gentleman presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 15 May 2019.

Title read by Clerk.

Mr Gentleman 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.

 13 Fisheries Legislation Amendment Bill 2019

Mr Gentleman (Minister for the Environment and Heritage), pursuant to notice, presented a Bill for an Act to amend legislation about fisheries, and for other purposes.

*Papers:* Mr Gentleman presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 14 May 2019.

Regulatory impact statement.

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.

 14 Crimes Legislation Amendment Bill 2019

Mr Ramsay (Attorney-General), pursuant to notice, presented a Bill for an Act to amend legislation about crimes, and for other purposes.

*Papers:* Mr Ramsay presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 14 May 2019.

Title read by Clerk.

Mr Ramsay 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.

 15 Climate Change and Greenhouse Gas Reduction (Renewable Electricity Target) Amendment Bill 2019

Mr Rattenbury (Minister for Climate Change and Sustainability), pursuant to notice, presented a Bill for an Act to amend the *Climate Change and Greenhouse Gas Reduction Act 2010*.

*Papers:* Mr Rattenbury presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 14 May 2019.

Title read by Clerk.

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

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

 16 Animal Welfare Legislation Amendment Bill 2019

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

*Papers:* Mr Steel presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 15 May 2019.

Title read by Clerk.

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

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

 17 Environment and transport and City Services—Standing Committee—Reference—Territory Coat of Arms—Amendment to reporting date

Ms Orr (Chair), pursuant to notice, moved—That the resolution of the Assembly of 29 November 2018 relating to the referral of a new Territory Coat of Arms to the Standing Committee on Environment and Transport and City Services be amended by omitting the words “by 6 June 2019” and substituting “by 1 August 2019”.

Question—put and passed.

 18 Fuel Pricing—Select Committee—Establishment—Amendment to resolution

Ms Cheyne (Chair), pursuant to notice, moved—That the resolution of the Assembly of 14 February 2019 relating to the referral of issues related to fuel pricing in the ACT to a select committee be amended by omitting the words “last sitting week in June 2019” and substituting “17 September 2019”.

Question—put and passed.

 19 Administration and Procedure—Standing Committee—reference—Provisions and conventions around committee inquiries

Ms Orr, pursuant to notice, moved—That this Assembly calls on the Standing Committee on Administration and Procedure to:

1. clarify the scope of current provisions and conventions regarding Members’ comments on a matter under Committee consideration; and
2. report back to the Assembly on their findings by the end of July 2019.

Debate ensued.

Question—put and passed.

 20 Health, Ageing and Community Services—Standing Committee—Proposed reference—Child and youth protection services

Mrs Kikkert, by leave, having amended her notice, pursuant to notice, moved—That this Assembly:

1. notes that:
	1. the 2004 Vardon report raised concerns from community members that the ACT’s care and protection system lacked “effective external scrutiny” to remedy “unlawful or incorrect administrative actions or decisions”, and also mentioned the need for “transparency and accountability in decision making”;
	2. the 2016 Glanfield inquiry recommended, as one of four key outcomes, the “improved quality of, and transparency in … decision making and practices” in the ACT’s care and protection system;
	3. in its 2016 *Response to Family Violence*, the ACT Government stated that:
		1. “increased transparency and the building of trust is particularly necessary in child protection cases”;
		2. the Territory’s care and protection system “must adopt a culture of transparency”; and
		3. “the ACT Government accepts that proper accountability enhances community confidence in public administration, especially in complex areas such as statutory child protection services”; and
	4. the ACT Government recently released a discussion paper on options for the review of child protection decisions in the ACT for public consultation;
2. also notes that:
	1. a 2018 Court of Appeal decision, reported in *The* *Canberra Times* on 17 February 2019, set aside previous Children’s Court and Supreme Court decisions in relation to the children’s need for care and protection; and
	2. a number of prominent Canberrans, including legal practitioners, Aboriginal and Torres Strait Islander community leaders, and a former ACT Chief Minister, have publicly called for an inquiry into this matter;
3. refers the following matters to the Standing Committee on Health, Ageing and Community Services:
	1. analysis of the case referred to in (2)(a) to identify potential systemic issues that may need to be addressed, and report to the Assembly no later than March 2020; and
	2. inquiry into the ability to share information in the care and protection system in accordance with the *Children and Young People Act 2008*, with a view to providing the maximum transparency and accountability so as to maintain community confidence in the ACT’s care and protection system, and report to the Assembly on a date to be determined by the Committee, but no later than July 2020; and
4. requests the Committee to observe the following in relation to the inquiries established at (3):
	1. that the Committee take evidence and hold documents in ways that will not allow for individual people to be identified without their express consent; and
	2. to the extent that people providing or hearing evidence related to the inquiries are traumatised, that appropriate supports are referred or provided.

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.

 21 QUESTIONS

Questions without notice were asked.

 22 PRESENTATION OF PAPERs

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

Annual Reports (Government Agencies) Act, pursuant to subsection 8(5)—Annual Reports (Government Agencies) Directions 2019—Notifiable instrument NI2019-296, dated 14 May 2019.

Freedom of Information Act, pursuant to section 39—Copy of notice provided to the Ombudsman—Community Services Directorate—Freedom of Information request—Decision not made in time, dated 8 April 2019.

Blueprint for Youth Justice in the ACT 2012-22—

Final report, dated May 2019.

Final report—2012-2018 Progress Highlights.

Commissioner for Sustainability and the Environment Act, pursuant to subsection 21(2), Unfantastic Plastic—Review of the ACT Plastic Shopping Bag Ban—Government response.

ACT Multicultural Framework 2015-2020—Second Action Plan—2019-2020.

Coroners Act, pursuant to subsection 57(5)—Report of Coroner—Inquest into the death of Constance Harrison—

Report, dated 28 June 2018.

Government response, dated May 2019.

 23 Blueprint for Youth Justice in the A.C.T. 2012-22—Final Report and 2012‑2018 Progress Highlights—Papers noted

Mr Gentleman (Manager of Government Business), pursuant to standing order 211, moved—That the Assembly takes note of the following papers:

Blueprint for Youth Justice in the ACT 2012-22—

Final report, dated May 2019.

Final report—2012-2018 Progress Highlights.

Debate ensued.

Question—put and passed.

 24 Commissioner for Sustainability and the Environment Act—Unfantastic Plastic—Review of the A.c.t. Plastic Shopping Bag Ban—Government response—Motion that paper be noted

Mr Gentleman (Manager of Government Business), pursuant to standing order 211, moved—That the Assembly takes note of the following paper:

Commissioner for Sustainability and the Environment Act, pursuant to subsection 21(2), Unfantastic Plastic—Review of the ACT Plastic Shopping Bag Ban—Government response.

Debate ensued.

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

 25 A.C.T. Multicultural Framework 2015-2020—Second Action Plan—2019‑2020—Paper noted

Mr Gentleman (Manager of Government Business), pursuant to standing order 211, moved—That the Assembly takes note of the following paper:

ACT Multicultural Framework 2015-2020—Second Action Plan—2019-2020.

Debate ensued.

Question—put and passed.

 26 Proposed MATTER OF PUBLIC IMPORTANCE—DISCUSSION—Small business

The Assembly was informed that Miss C. Burch, Ms Cheyne, Ms Cody, Mrs Kikkert, Ms Le Couteur, Ms Lee, Mr Milligan, Ms Orr, Mr Parton, Mr Pettersson and Mr Wall had proposed that matters of public importance be submitted to the Assembly for discussion. In accordance with the provisions of standing order 79, the Speaker had determined that the matter proposed by Mr Wall be submitted to the Assembly, namely, “The important role small business plays in the ACT”.

The proposer not being present, the matter was not proceeded with.

 27 Health, Ageing and Community Services—Standing Committee—reference—Child and youth protection services

The order of the day having been read for the resumption of the debate on the motion of Mrs Kikkert (*see* [entry 20](#Entry20))—

Debate ensued.

Mr Milligan addressing the Assembly—

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It being 45 minutes after the commencement of Assembly business—

Ordered—That the time allotted to Assembly business be extended by 30 minutes.

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Mr Milligan continued.

Ms Stephen-Smith (Minister for Children, Youth and Families), who had already spoken, by leave, again addressed the Assembly.

Debate continued.

Question—put and passed.

 28 Environment and Transport and City Services—Standing Committee—Petitions 1-19 and 7-19—Tree decline must be reversed—STATEMENT BY CHAIR

Ms Orr (Chair), pursuant to standing order 246A, informed the Assembly that the topic of petitions Nos 1-19 and 7-19, referred to the Standing Committee on Environment and Transport and City Services on 19 March 2019 under standing order 99A, was directly relevant to, and likely to be addressed by, a current inquiry into nature in our city and that the Committee would consider the petitions during the course of the inquiry.

 29 Crossbench Executive Members’ business—precedence

Ordered—That Crossbench Executive Members’ business be called on forthwith.

 30 Climate change

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

1. notes:
	1. globally, nationally and locally, human induced climate change is contributing to record breaking temperatures, extreme weather events, and a range of negative social, environmental and economic outcomes;
	2. ACT residents have just experienced the hottest January on record, and local temperature extremes will worsen as climate change progresses;
	3. Tasmania, Victoria and Queensland have recently been devastated by bushfires and North Queensland has recently suffered extreme flooding;
	4. global temperature rise must be limited to 1.5 degrees to minimise the risk of the worst impacts of climate change, a task the UN Intergovernmental Panel on Climate Change says requires urgent and unprecedented action; and
	5. ACT and Australian residents want their elected representatives to take urgent and effective action to address climate change;
2. acknowledges that we are in a state of climate emergency that requires urgent actions across all levels of Government; and
3. condemns the Federal Government for its continued failure to enact effective climate change policy, and requests the Federal Government provide additional funding for States and Territories to deal with worsening climate change risks and impacts, such as bushfires and extreme weather.

Ms Orr moved the following amendment: Add:

“(4) notes the ACT Government’s efforts to make Canberra a more liveable and sustainable bush capital by, amongst other things:

 (a) its national and international leadership on climate change;

 (b) committing to zero net emissions by 2045; and

 (c) powering Canberra by 100 percent renewable electricity by 2020.”.

Debate continued.

Amendment agreed to.

Mr Coe (Leader of the Opposition) moved the following amendment to the motion, as amended: Add:

“(4) given the above assertions, calls on the Greens MLAs to:

 (a) abstain from all air travel (including recreation and work); and

 (b) undertake all interstate meetings by phone or videoconference.”.

Debate continued.

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It being 45 minutes after the commencement of Crossbench Executive Members’ business—

Ordered—That the time allotted to Crossbench Executive Members’ business be extended by 30 minutes.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Question—That the amendment be agreed to—put.

The Assembly voted—

|  |  |  |
| --- | --- | --- |
|  AYES, 9 |  |  NOES, 12 |
| Miss C. Burch | Ms Lawder |  | Mr Barr | Ms Orr |
| Mr Coe | Mr Milligan |  | Ms Berry | Mr Pettersson |
| Mrs Dunne | Mr Parton |  | Ms J. Burch | Mr Ramsay |
| Mr Hanson |  |  | Ms Fitzharris | Mr Rattenbury |
| Mrs Jones |  |  | Mr Gentleman | Mr Steel |
| Mrs Kikkert |  |  | Ms Le Couteur | Ms Stephen-Smith |

And so it was negatived.

Question—That the motion, as amended, viz:

“That this Assembly:

1. notes:
	1. globally, nationally and locally, human induced climate change is contributing to record breaking temperatures, extreme weather events, and a range of negative social, environmental and economic outcomes;
	2. ACT residents have just experienced the hottest January on record, and local temperature extremes will worsen as climate change progresses;
	3. Tasmania, Victoria and Queensland have recently been devastated by bushfires and North Queensland has recently suffered extreme flooding;
	4. global temperature rise must be limited to 1.5 degrees to minimise the risk of the worst impacts of climate change, a task the UN Intergovernmental Panel on Climate Change says requires urgent and unprecedented action; and
	5. ACT and Australian residents want their elected representatives to take urgent and effective action to address climate change;
2. acknowledges that we are in a state of climate emergency that requires urgent actions across all levels of Government;
3. condemns the Federal Government for its continued failure to enact effective climate change policy, and requests the Federal Government provide additional funding for States and Territories to deal with worsening climate change risks and impacts, such as bushfires and extreme weather; and
4. notes the ACT Government’s efforts to make Canberra a more liveable and sustainable bush capital by, amongst other things:
	1. its national and international leadership on climate change;
	2. committing to zero net emissions by 2045; and
	3. powering Canberra by 100 percent renewable electricity by 2020.”—

be agreed to—put and passed.

 31 Executive business—precedence

Ordered—That Executive business be called on forthwith.

 **32** **Motor Accident Injuries Bill 2019**

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

*Detail Stage*

Clause 279—

Mr Coe moved his amendment No 81 (*see* [Schedule 1](#Schedule1)).

Amendment negatived.

Clause 279 agreed to.

Clause 280—

Mr Coe moved his amendment No 82 (*see* [Schedule 1](#Schedule1)).

Amendment negatived.

Clause 280 agreed to.

Clause 281—Debated and agreed to.

Clauses 282 to 375, by leave, taken together and agreed to.

Clause 376—

On the motion of Mr Barr, his amendment No 48 (*see* [Schedule 2](#Schedule2)) was made, after debate.

Clause 376, as amended, agreed to.

Clause 377 agreed to.

Clause 378—

On the motion of Mr Barr, his amendment No 49 (*see* [Schedule 2](#Schedule2)) was made.

Clause 378, as amended, agreed to.

Clauses 379 to 428, by leave, taken together and agreed to.

Clause 429—

Mr Coe, by leave, moved his amendments Nos 84 and 85 together (*see* [Schedule 1](#Schedule1)).

Debate continued.

Amendments negatived.

Clause 429 agreed to.

Clauses 430 to 465, by leave, taken together and agreed to.

Clause 466—

On the motion of Mr Barr, his amendment No 50 (*see* [Schedule 2](#Schedule2)) was made, after debate.

Clause 466, as amended, agreed to.

Clauses 467 to 481, by leave, taken together and agreed to.

Clause 482—

Mr Coe moved his amendment No 87 (*see* [Schedule 1](#Schedule1)).

Debate continued.

Amendment negatived.

Clause 482 agreed to.

Clauses 483 to 615, by leave, taken together and agreed to.

*New Schedule 1A—*

On the motion of Mr Barr, new Schedule 1A (his amendment No 51—*see* [Schedule 2](#Schedule2)) was inserted in the Bill.

Schedule 1 agreed to.

Schedule 2—

Amendments 2.1 to 2.12, by leave, taken together and agreed to.

Amendment 2.13—

On the motion of Mr Barr, his amendment No 52 (*see* [Schedule 2](#Schedule2)) was made.

Amendment 2.13, as amended, agreed to.

Amendments 2.14 to 2.31, by leave, taken together and agreed to.

Amendment 2.32—

On the motion of Mr Barr, his amendment No 53 (see [Schedule 2](#Schedule2)) was made.

Amendment 2.32, as amended, agreed to.

Amendments 2.33 to 2.68, by leave, taken together and agreed to.

Amendment 2.69—

On the motion of Mr Barr, his amendment No 54 (see [Schedule 2](#Schedule2)) was made.

Amendment 2.69, as amended, agreed to.

Amendments 2.70 to 2.108, by leave, taken together and agreed to.

Dictionary agreed to.

Title—Debated and agreed to.

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

The Assembly voted—

|  |  |  |
| --- | --- | --- |
|  AYES, 12 |  |  NOES, 9 |
| Mr Barr | Ms Orr |  | Miss C. Burch | Ms Lawder |
| Ms J. Burch | Mr Pettersson |  | Mr Coe | Mr Milligan |
| Ms Cheyne | Mr Ramsay |  | Mrs Dunne | Mr Parton |
| Ms Fitzharris | Mr Rattenbury |  | Mr Hanson |  |
| Mr Gentleman | Mr Steel |  | Mrs Jones |  |
| Ms Le Couteur | Ms Stephen-Smith |  | Mrs Kikkert |  |

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

 **33** **Working with Vulnerable People (Background Checking) Amendment Bill 2019**

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 Steel (Minister for Community Services and Facilities), pursuant to standing order 182A(c), by leave, his amendments Nos 1 to 8 (*see* [Schedule 3](#Schedule3)) were made together.

*Paper:* Mr Steel 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.

 34 Ms Berry (mINISTER FOR eDUCATION AND eARLY cHILDHOOD dEVELOPMENT)—Proposed censure

Mr Coe (Leader of the Opposition), by leave, moved—That this Assembly censure Ms Berry (Minister for Education and Early Childhood Development) for the offence she caused by her use of the words “dumb students” in a media report about NAPLAN.

Debate ensued.

*Papers:* Ms Berry (Minister for Education and Early Childhood Development) presented the following papers:

Media releases—

School isn’t a competition but maybe we’re treating it like one—Latest news from Yvette Berry MLA, dated 27 March 2018.

Canberra students show overall high NAPLAN performance, dated 28 August 2018.

NAPLAN review a mixed outcome, dated 22 June 2018.

Audit report backs up government direction on the Future of Education, dated 1 June 2017.

Debate continued.

Mr Coe addressing the Assembly—

*Adjournment negatived:* It being 6.30 pm—The question was proposed—That the Assembly do now adjourn.

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

Question—put and negatived.

Mr Coe continued.

Question—put.

The Assembly voted—

|  |  |  |
| --- | --- | --- |
|  AYES, 8 |  |  NOES, 11 |
| Miss C. Burch | Mr Milligan |  | Mr Barr | Ms Orr |
| Mr Coe | Mr Parton |  | Ms Berry | Mr Ramsay |
| Mrs Dunne |  |  | Ms J. Burch | Mr Rattenbury |
| Mr Hanson |  |  | Ms Fitzharris | Mr Steel |
| Mrs Jones |  |  | Mr Gentleman | Ms Stephen-Smith |
| Ms Lawder |  |  | Ms Le Couteur |  |

And so it was negatived.

 35 Working with Vulnerable People (Background Checking) Amendment Bill 2019

Mr Steel (Minister for Community Services and Facilities) presented the following paper:

Working with Vulnerable People (Background Checking) Amendment Bill 2019—Revised explanatory statement.

 36 Gaming Legislation Amendment Bill 2019

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.

 37 ADJOURNMENT

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

Debate ensued.

Question—put and passed.

And then the Assembly, at 6.58 pm, adjourned until Tuesday, 4 June 2019 at 10 am.

**MEMBERS’ ATTENDANCE:** All Members were present at some time during the sitting, except Mr Wall\*

\*on leave

Tom Duncan

Clerk of the Legislative Assembly

**SCHEDULES OF AMENDMENTS**

**Schedule 1**

**MOTOR ACCIDENT INJURIES BILL 2019**

Amendments circulated by the Leader of the Opposition

**81
Clause 279 (3), note
Page 200, line 29—**

*omit*

**82
Clause 280 (2), note
Page 201, line 7—**

*omit*

**83
Clause 281
Page 202, line 2—**

*[oppose the clause]*

**84
Clause 429 (1)
Page 303, line 12—**

*omit*

(whether or not the person has legal representation)

**85
Proposed new clause 429 (1A)
Page 303, line 16—**

*insert*

 (1A) However, if a person mentioned in subsection (1) has given the relevant insurer written notice that they have legal representation, and included in the notice the name and contact details of their legal representative, the relevant insurer must contact the person through their legal representative.

**86
Proposed new clause 466 (6), (7) and (8)
Page 335, line 8—**

*insert*

 (6) However, the MAI commission must not publish confidential information relating to a lawyer or stated service provider if—

 (a) the lawyer or stated service provider tells the MAI commission that publication of the information would disclose a trade secret not known by other lawyers or stated service providers; and

 (b) the MAI commission is satisfied that, having regard to its knowledge of the business practices of lawyers and stated service providers, the publication of the information would disclose a trade secret.

 (7) The MAI commission must not publish information about a lawyer or stated service provider that would identify the lawyer or service provider or allow the identity of the lawyer or service provider to be worked out.

 (8) In this section:

***law practice***—see the *Legal Profession Act 2006*, dictionary.

***lawyer*** includes a law practice.

**87
Clause 482
Page 347, line 2—**

*omit clause 482, substitute*

**482 Referral fees**

 (1) If a lawyer representing an applicant for defined benefits or a claimant for a motor accident claim refers the applicant or claimant to another person for provision of a service in relation to the application or claim, the lawyer must not receive consideration for the referral.

 (2) A lawyer to whom a person injured in a motor accident is referred for the purposes of representing the person in relation to an application for defined benefits or a motor accident claim must not give consideration for the referral.

 (3) A lawyer is taken to have given or received consideration for a referral if a close associate of the lawyer gives or receives consideration for the referral.

 (4) In this section:

***close associate***, of a lawyer, means—

 (a) an employer of the lawyer (including, if the employer is a corporation, a director of the corporation); or

 (b) a partner in a partnership in which the lawyer is also a partner; or

 (c) an employee or agent of the lawyer or of a person mentioned in paragraph (a) or (b); or

 (d) a family member of the lawyer.

***consideration*** includes a fee or other financial benefit but does not include hospitality that is reasonable in the circumstances.

***family member***, of a lawyer, means—

 (a) a domestic partner of the lawyer; or

 (b) a parent, grandparent, child or step-child of the lawyer; or

 (c) a sibling, half-sibling or step-sibling of the lawyer; or

 (d) an aunt, uncle, cousin, niece or nephew of the lawyer.

**Schedule 2**

**MOTOR ACCIDENT INJURIES BILL 2019**

Amendments circulated by the Treasurer

**48
Clause 376 (1), penalty
Page 267, line 5—**

*omit the penalty, substitute*

Maximum penalty: 200 penalty units.

**49
Clause 378, penalty
Page 268, line 2—**

*omit the penalty, substitute*

Maximum penalty: 200 penalty units.

**50
Proposed new clause 466 (6) and (7)
Page 335, line 8—**

*insert*

 (6) However, the MAI commission must not publish information relating to a lawyer or stated service provider if publication of the information would disclose information that relates to the practices of the lawyer or service provider (***confidential information***).

 (7) Confidential information about the practices of a lawyer or stated service provider, including the practices of a partnership that includes a lawyer or stated service provider, is taken to be protected information for section 473 (Offences—use or divulge protected information).

**51
Proposed new schedule 1A
Page 358, line 11—**

*insert*

**Schedule 1A Defined benefits—dispute resolution**

(see s 183 and s 189)

**Part 1A.1 Internally reviewable decisions**

| **column 1****item** | **column 2****section** | **column 3****decision** |
| --- | --- | --- |
| 1 | 59 (2) | refuse late application because applicant does not have full and satisfactory explanation |
| 2 | 62 | refuse to pay applicant’s expenses because not allowable expenses under MAI guidelines |
| 3 | 65 (1) | reject liability for defined benefits |
| 4 | 65 (1) | reject liability for defined benefits because applicant not a person mentioned in s 55 (1) |
| 5 | 65 (1) | reject liability for defined benefits because application made on behalf of applicant by someone other than a person mentioned in s 55 (2) |
| 6 | 66 (1) | not pay income replacement benefits because applicant not entitled to those benefits under s 89 |
| 7 | 66 (1) | not pay treatment and care benefits for expenses incurred for stated treatment and care because of 1 or more of the following reasons: (a) treatment and care not reasonable and necessary;  (b) treatment and care did not relate to personal injury sustained in motor accident;  (c) injured person has not paid for the treatment and care and is not liable to pay for the treatment and care |
| 8 | 66 (1) | not pay treatment and care benefits for domestic services expenses incurred by injured person in employing someone to provide domestic services to injured person’s dependants because of 1 or more of the following reasons: (a) expenses not reasonable and necessary;  (b) injured person did not provide those services to dependants before the motor accident;  (c) dependants are able to undertake those services |
| 9 | 66 (1) | not pay treatment and care benefits for travel expenses incurred by injured person and a parent or other carer accompanying injured person because of 1 or both of the following reasons: (a) expenses for travel and accommodation not reasonable and necessary;  (b) travel not undertaken to undergo treatment and care  |
| 10 | 66 (1) | not pay funeral benefits because applicant not entitled to funeral expenses under s 175 |
| 11 | 96 | decision about amount of income replacement benefits injured person entitled to for first payment period |
| 12 | 97 | decision about amount of income replacement benefits injured person entitled to for second payment period |
| 13 | 100 (1) | decision about injured person’s post-injury earning capacity |
| 14 | 101 (3) (b) (ii), (4) (b) (ii) or (5) (b) (ii) | refuse to make earlier payment of income replacement benefits to injured person who makes late application for defined benefits because not satisfied there are exceptional circumstances justifying earlier payment |
| 15 | 103 (2) | refuse to pay injured person interim weekly payment |
| 16 | 103 (4) | refuse to pay injured person lower interim weekly payment |
| 17 | 105 (2) | suspend injured person’s benefit payments |
| 18 | 107 (1) (b) | reduce or stop paying income replacement benefit payments |
| 19 | 121 (1) | make reasonable request to injured person to attend health practitioner for assessment of treatment and care needs |
| 20 | 121 (3) | suspend payment of treatment and care benefits and income replacement benefits because injured person fails to comply with reasonable request to attend health practitioner |
| 21 | 126 (2) | refuse to approve treatment and care not mentioned in injured person’s recovery plan because treatment and care not reasonable and necessary in the circumstances and will not assist with injured person’s recovery or management of person’s injury |
| 22 | 128 (2) (a) (i) (B) | refuse to make earlier payment of treatment and care expenses, domestic services expenses and travel expenses in relation to late application for period starting on date that is 13 weeks before date of application because insurer not satisfied that there are exceptional circumstances justifying earlier payment |
| 23 | 129 (1) | not pay treatment and care expenses, domestic services expenses and travel expenses because of 1 or more of the following reasons: (a) the expenses cannot be verified;  (b) the expenses have not been incurred;  (c) the insurer has previously paid the expenses; (d) for treatment and care expenses—the expenses were— (i) not approved by the insurer; or (ii) not set out in the injured person’s recovery plan |
| 24 | 139 (2)  | tell applicant for quality of life benefits that insurer believes person’s injuries have stabilised but the person is not likely to have a permanent impairment as a result of the injuries  |
| 25 | 180 (2) | refuse to make periodic payments of treatment and care benefits and income replacement benefits because insurer not satisfied injured person intends to live outside Australia permanently or for an extended time |
| 26 | 180 (2) | refuse to make periodic payments of treatment and care benefits and income replacement benefits because injured person has not lived outside Australia for at least eligibility period |
| 27 | 181 (4) (a) | calculate amount of lump sum to be less than $10 000 |

**Part 1A.2 ACAT reviewable decisions**

| **column 1****item** | **column 2****section**  | **column 3****decision** |
| --- | --- | --- |
| 1 | 59 (2) | refuse late application because applicant does not have full and satisfactory explanation |
| 2 | 65 (1) | reject liability for defined benefits |
| 3 | 65 (1) | reject liability for defined benefits because applicant not a person mentioned in s 55 (1) |
| 4 | 65 (1) | reject liability for defined benefits because application made on behalf of applicant by someone other than a person mentioned in s 55 (2) |
| 5 | 65 (1) | reject liability for death benefits or funeral benefits because person’s death was not result of motor accident |
| 6 | 66 (1) | not pay income replacement benefits because— (a) applicant is person mentioned in s 43 (1); and  (b) none of the circumstances mentioned in s 43 (2) applies to the applicant |
| 7 | 66 (1) | not pay quality of life benefits because— (a) applicant is person mentioned in s 43 (1); and  (b) the circumstances mentioned in s 43 (3) do not apply to the applicant |
| 8 | 66 (1) | not pay income replacement benefits because applicant is person mentioned s 46 (1)  |
| 9 | 66 (1) | not pay quality of life benefits because applicant is person mentioned in s 46 (1) |
| 10 | 66 (1) | not pay quality of life benefits and death benefits because person who died as a result of motor accident is person mentioned in s 46 (2) |
| 11 | 66 (1) | not pay defined benefits because s 49 applies to the injured person or dead person but MAI commission has not notified insurer that motor accident caused by, or attributable to, act of terrorism |
| 12 | 66 (1) | not pay income replacement benefits because applicant not entitled to those benefits under s 89 |
| 13 | 66 (1) | not pay treatment and care benefits for expenses incurred for stated treatment and care because of 1 or more of the following reasons: (a) treatment and care not reasonable and necessary;  (b) treatment and care did not relate to personal injury sustained in motor accident;  (c) injured person has not paid for the treatment and care and is not liable to pay for the treatment and care |
| 14 | 66 (1) | not pay treatment and care benefits for domestic services expenses incurred by injured person in employing someone to provide domestic services to injured person’s dependants because of 1 or more of the following reasons: (a) expenses not reasonable and necessary;  (b) injured person did not provide those services to dependants before the motor accident;  (c) dependants are able to undertake those services |
| 15 | 66 (1) | not pay treatment and care benefits for travel expenses incurred by injured person and a parent or other carer accompanying injured person because of 1 or both of the following reasons: (a) expenses for travel and accommodation not reasonable and necessary; (b) travel not undertaken to undergo treatment and care  |
| 16 | 66 (1) | not pay death benefits because coroner finds dead person’s conduct in relation to motor accident made up physical elements of conduct of serious offence or 2 or more driving offences |
| 17 | 66 (1) | not pay funeral benefits because applicant not entitled to funeral expenses under s 175 |
| 18 | 96 | decision about the amount of income replacement benefits an injured person is entitled to for first payment period |
| 19 | 97 | decision about the amount of income replacement benefits an injured person is entitled to for second payment period |
| 20 | 100 (1) | decision about injured person’s post-injury earning capacity |
| 21 | 101 (3) (b) (ii), (4) (b) (ii) or (5) (b) (ii) | refuse to make earlier payment of income replacement benefits to injured person who makes late application for defined benefits because not satisfied there are exceptional circumstances justifying earlier payment |
| 22 | 105 (2) | suspend injured person’s benefit payments |
| 23 | 107 (1) (b) | reduce or stop paying income replacement benefit payments |
| 24 | 121 (1) | make reasonable request to injured person to attend health practitioner for assessment of treatment and care needs |
| 25 | 121 (3) | suspend payment of treatment and care benefits and income replacement benefits because injured person fails to comply with reasonable request to attend health practitioner |
| 26 | 126 (2) | refuse to approve treatment and care not mentioned in injured person’s recovery plan because treatment and care not reasonable and necessary in the circumstances and will not assist with injured person’s recovery or management of person’s injury |
| 27 | 128 (2) (a) (i) (B) | refuse to make earlier payment of treatment and care expenses, domestic services expenses and travel expenses in relation to late application for period starting on date that is 13 weeks before date of application because insurer not satisfied that there are exceptional circumstances justifying earlier payment |
| 28 | 158 (2) | amount of injured person’s final offer WPI  |
| 29 | 180 (2) | refuse to make periodic payments of treatment and care benefits and income replacement benefits because insurer not satisfied injured person intends to live outside Australia permanently or for an extended time |
| 30 | 180 (2) | refuse to make periodic payments of treatment and care benefits and income replacement benefits because injured person has not lived outside Australia for at least eligibility period |
| 31 | 181 (4) (a) | calculate amount of lump sum to be less than $10 000 |

**52
Schedule 2, part 2.2
Amendment 2.13
Proposed new section 51 (3A) (aa)
Page 364, line 20—**

*insert*

 (aa) if the claimant receives a notice under the *Motor Accident Injuries Act 2019*, section 141 (3B) (WPI assessment 4 years 6 months after motor accident)—the date that is 26 weeks after the date of the notice;

**53
Schedule 2, part 2.2
Amendment 2.32
Page 371, line 15—**

*omit the amendment, substitute*

**[2.32] Section 99 (4), note**

*substitute*

*Note* Under the *Motor Accident Injuries Act 2019*, the only damages that may be awarded for non-economic loss are damages for loss of quality of life (see that Act, s 239).

**54
Schedule 2, part 2.6
Amendment 2.69
Proposed new section 16AA, note
Page 380, line 20—**

*omit the note, substitute*

*Note 1* Under the *Motor Accident Injuries Act 2019*, s 163A, a person who has had a WPI assessment has 3 months from the latest of the following dates to make a motor accident claim:

 (a) if the person receives a notice under that Act, s 141 (3B)—the date that is 26 weeks after the date of the notice;

 (b) if the person receives a notice under that Act, s 155 (2) or s 166 (2)—the due date for the notice.

*Note 2* Under the *Motor Accident Injuries Act 2019*, s 217, a person who receives a notice under that Act, s 210 (4) has 3 months from the date of the notice to make a motor accident claim.

**Schedule 3**

**WORKING WITH VULNERABLE PEOPLE (BACKGROUND CHECKING) AMENDMENT BILL 2019**

Amendments circulated by the Minister for Community Services and Facilities

**1
Proposed new clauses 26A and 26B
Page 12, line 5—**

*insert*

**26A Section 21 heading**

*substitute*

**21 Offences—applicant fail to disclose charge, conviction or finding of guilt for disqualifying or relevant offence**

**26B Section 21 (1) (c) and (2) (c)**

*before*

a relevant offence

*insert*

a disqualifying offence or

**2
Clause 27
Proposed new section 21A (3), definition of *relevant information*
Page 12, line 23—**

*omit the definition, substitute*

***relevant information***, about a person, means information about—

 (a) an allegation or investigation mentioned in section 18 (2) (ba); or

 (b) for a person who has applied for registration to engage in an NDIS activity—a matter mentioned in section 18A (1) (b).

**3
Proposed new clause 30A
Page 13, line 23—**

*insert*

**30A Meaning of *non-conviction information*Section 25**

*omit*

a relevant offence (or an alleged relevant offence)

*substitute*

a disqualifying offence or relevant offence (or an alleged disqualifying offence or relevant offence)

**4
Clause 31
Proposed new section 26A
Page 14, line 3—**

*omit proposed new section 26A, substitute*

**26A Meaning of *disqualifying offence* etc**

In this Act:

***class A disqualifying offence*** means an offence against a provision of a law mentioned in schedule 3, part 3.2, column 2, if the condition mentioned in column 4 is met.

***class B disqualifying offence*** means an offence against a provision of a law mentioned in schedule 3, part 3.3, column 2, if the condition mentioned in column 4 is met.

***disqualifying offence*** means a class A disqualifying offence or class B disqualifying offence.

**5
Proposed new clauses 31A and 31B
Page 14, line 16—**

*insert*

**31A Risk assessment guidelines—content
Section 28 (2) (a), note**

*before*

* relevant offences

*insert*

* disqualifying or

**31B Section 28 (2) (b), note**

*before*

* relevant offences

*insert*

* disqualifying or

**6
Proposed new clauses 52A and 52B
Page 23, line 18—**

*insert*

**52A Section 55 heading**

*substitute*

**55 Offences—registered person fail to disclose charge, conviction or finding of guilt for disqualifying or relevant offence**

**52B Section 55 (1) (b) and (2) (b)**

*before*

a relevant offence

*insert*

a disqualifying offence or

**7
Clause 71
Proposed new dictionary definitions of *class A disqualifying offence* and *class B disqualifying offence*Page 39, line 14—**

*omit the definitions, substitute*

***class A disqualifying offence***—see section 26A.

***class B disqualifying offence***—see section 26A.

**8
Clause 71
Proposed new dictionary definition of *disqualifying offence*Page 40, line 1—**

*omit the definition, substitute*

***disqualifying offence***—see section 26A.