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LEGISLATIVE ASSEMBLY FOR THE

AUSTRALIAN CAPITAL TERRITORY

2016–2017–2018–2019

MINUTES OF PROCEEDINGS

No 88

[**Thursday, 21 February 2019**](http://www.hansard.act.gov.au/hansard/2019/pdfs/20190221)

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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 DEATH OF THE HON Jeffrey MILES ao, Former Chief Justice of the A.C.T. supreme court

Mr Barr (Chief Minister) moved—That this Assembly expresses its deep regret at the passing of the Honourable Jeffrey Miles AO, who served as Chief Justice of the ACT Supreme Court from 1985 until 2002 and tenders its profound sympathy to his family, friends and colleagues in their bereavement.

Mr Coe (Leader of the Opposition), Mr Rattenbury and Mr Ramsay (Attorney-General) addressed the Assembly in support of the motion and all Members present having stood, in silence—

Question—passed.

3 Reflection on the chair—STATEMENT BY SPEAKER

The Speaker made a statement concerning comments made by Mrs Kikkert during the adjournment debate yesterday which reflected on the impartiality of the Chair, and asked Mrs Kikkert to withdraw the comments.

4 Administration and Procedure—Standing Committee—Inquiry—Proposed changes to the A.C.T. Register of Lobbyists—Amendment to reporting date

Mr Wall, by leave, moved—That the resolution of the Assembly of 1 November 2018, as amended 27 November 2018, which referred the possible expansion of the ACT Register of Lobbyists be amended by omitting the words “last sitting day in February 2019” and substituting “last sitting day in March 2019”.

Question—put and passed.

5 Royal Commission into Institutional Responses to Child Sexual Abuse—A.C.T. Government Progress Report responding to recommendations—MINISTERIAL STATEMENT and paper—paper NOTED

Mr Barr (Chief Minister) made a ministerial statement concerning the ACT Government’s progress report on the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse and presented the following papers:

Royal Commission into Institutional Responses to Child Sexual Abuse—ACT Government Progress Report responding to recommendations—

Ministerial statement, 21 February 2019.

First Annual Progress Report, dated December 2018.

Mr Barr moved—That the Assembly take note of the ministerial statement.

Question—put and passed.

6 Royal Commission Criminal Justice Legislation Amendment Bill 2019

Mr Ramsay (Attorney-General), pursuant to notice, presented a Bill for an Act to amend legislation about child sexual offences, 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 20 February 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.

7 Estimates 2019-2020—Select Committee—establishment

Mr Wall, pursuant to notice, moved—That:

1. a Select Committee on Estimates 2019-2020 be appointed to examine the expenditure proposals contained in the Appropriation Bill 2019-2020, the Appropriation (Office of the Legislative Assembly) Bill 2019-2020 and any revenue estimates proposed by the Government in the 2019-2020 Budget and prepare a report to the Assembly;
2. the Committee be composed of:
   1. two Members to be nominated by the Government;
   2. two Members to be nominated by the Opposition; and
   3. one Member to be nominated by the Greens; and

to be notified in writing to the Speaker within two hours of this motion passing;

1. an Opposition Member shall be elected chair of the Committee by the Committee;
2. funds be provided by the Assembly to permit the engagement of external expertise to work with the Committee to facilitate the analysis of the Budget and the preparation of the report of the Committee;
3. the Committee is to report by Tuesday, 30 July 2019;
4. if the Assembly is not sitting when the Committee has completed its inquiry, the Committee may send its report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker, who is authorised to give directions for its printing, publishing and circulation; and
5. the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

Question—put and passed.

8 Administration and Procedure—Standing Committee—REPORT 9—Citizen’s Right of Reply—Australian Education Union—Motion that report be adopted

Ms J. Burch (Chair) presented the following report:

Administration and Procedure—Standing Committee—Report 9—*Citizen’s Right of Reply—Australian Education Union,* dated 20 February 2019, together with a copy of the extracts of the relevant minutes of proceedings.

Mr Wall, by leave, moved—That the report be adopted.

Debate ensued.

Debate adjourned (Ms Cheyne) and the resumption of the debate made an order of the day for a later hour this day.

9 Planning and Urban Renewal—Standing Committee—REPORT 7—Draft Variation to the Territory Plan No 350: Changes to definition of ‘Single Dwelling Block’—report noted

Ms Le Couteur (Chair) presented the following report:

Planning and Urban Renewal—Standing Committee—Report 7—*Draft Variation to the Territory Plan No 350: Changes to definition of ‘single dwelling block’,* dated 12 February 2019, including a dissenting report *(Mr Parton),* together with a copy of the extracts of the relevant minutes of proceedings—

and moved—That the report be noted.

Debate ensued.

Question—put and passed.

10 Fuel Pricing—Select Committee—INQUIRY—call for Submissions—STATEMENT BY CHAIR

Ms Cheyne (Chair), pursuant to standing order 246A, informed the Assembly that the Select Committee on Fuel Pricing was seeking the views of participants in the Canberra fuel market at all levels and from business operators and individuals for its inquiry into fuel pricing.

11 Environment and Transport and City Services—Standing Committee—INQUIRY—Territory Coat of Arms—STATEMENT BY CHAIR

Ms Orr (Chair), pursuant to standing order 246A, informed the Assembly that the Standing Committee on Environment and Transport and City Services was seeking advice, and taking time to investigate, the rules and protocols when adopting coats of arms before inviting submissions from the community.

**12 Environment and Transport and City Services—Standing Committee—Consideration of Statutory Appointments—Statement by Chair—Paper**

Ms Orr (Chair), pursuant to standing order 246A and Continuing Resolution 5A, made a statement concerning consideration of statutory appointments by the Standing Committee on Environment and Transport and City Services.

*Paper:* Ms Orr, pursuant to Continuing Resolution 5A, presented the following paper:

Standing Committee on Environment and Transport and City Services—Standing Committee—Schedule of Statutory Appointments—9th Assembly—Period 1 July to 31 December 2018.

13 Executive business—precedence

Ordered—That Executive business be called on forthwith.

14 Residential Tenancies Amendment Bill 2018 (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.

*Detail Stage*

Clause 1—

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.

15 QUESTIONS

Questions without notice being asked—

*Paper:* Mr Steel (Minister for Roads) presented the following paper:

Improving Canberra’s road network as part of the $75 billion 10 year infrastructure plan—Advertisement, *The Canberra Times*, 21 February 2019.

Questions continued.

*Paper:* Mrs Dunne, by leave, presented the following paper:

Canberra Hospital—SPIRE—Version 2 Proposal—Copy of concept brief.

The Speaker, having drawn Mrs Kikkert’s attention to the statement made this morning when she asked Mrs Kikkert to withdraw a reflection on the impartiality of the Chair—

*Member named and suspended:* The Speaker named Mrs Kikkert for persistently and wilfully disregarding the authority of the Chair.

The Speaker, pursuant to standing order 203, proposed—That Mrs Kikkert be suspended from the service of the Assembly.

Question—put.

The Assembly voted—

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

And so it was resolved in the affirmative.

Mrs Kikkert was therefore suspended at 2.39 pm for 3 sitting hours in accordance with standing order 204, and she accordingly withdrew from the Chamber.

Questions continued.

16 PRESENTATION OF PAPERs

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

Financial Management Act, pursuant to subsection 30F(3)—2018-19 Capital Works Program—Progress report—Year-to-date 31 December 2018.

Justice and Community Safety—Standing Committee—Report 3—*Report on inquiry into the Crimes (Consent) Amendment Bill 2018*—Government response.

Australian Crime Commission (ACT) Act, pursuant to subsection 51(5)—Board of the Australian Criminal Intelligence Commission—Chair Annual Report—2016-17, dated 24 January 2019.

Age Friendly Canberra—A Vision for our City.

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 14 January 2019.

17 Financial Management Act—2018-19 Capital Works Program—Progress report—Year-to-date 31 December 2018—Paper noted

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

Financial Management Act, pursuant to subsection 30F(3)—2018-19 Capital Works Program—Progress report—Year-to-date 31 December 2018.

Debate ensued.

Question—put and passed.

18 Justice and Community Safety—Standing Committee—Report 3—Report on inquiry into the Crimes (Consent) Amendment Bill 2018—Government response—Paper noted

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

Justice and Community Safety—Standing Committee—Report 3—*Report on inquiry into the Crimes (Consent) Amendment Bill 2018*—Government response.

Debate ensued.

Question—put and passed.

19 Age Friendly Canberra—a Vision for our City—Paper noted

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

Age Friendly Canberra—a Vision for our City.

Debate ensued.

Question—put and passed.

20 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—School chaplains

The Assembly was informed that Miss C. Burch, Ms Cheyne, Ms Cody, Mr Coe (Leader of the Opposition), Mrs Dunne, 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 Coe be submitted to the Assembly, namely, “The importance of school chaplains”.

Discussion ensued.

Discussion concluded.

21 Administration and Procedure—Standing Committee—REPORT 9—Citizen’s Right of Reply—Australian Education Union—report adopted

The order of the day having been read for the resumption of the debate on the motion of Mr Wall—That the report be adopted, viz:

Administration and Procedure—Standing Committee—Report 9—*Citizen’s Right of Reply—Australian Education Union*.

Ms Orr, who had already spoken, by leave, again addressed the Assembly..

Question—put and passed.

22 Residential Tenancies Amendment Bill 2018 (No 2)

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

*Detail Stage*

Clause 1 agreed to.

Clauses 2 to 4, by leave, taken together—

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*Suspension of sitting:* The Speaker, at 3.30 pm, suspended the sitting and announced that the Chair would be resumed at the ringing of the bells.

*Resumption of sitting:* The bells having been rung, the Speaker resumed the Chair at 3.34 pm.

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Clauses 2 to 4 agreed to.

*New clause—*

Ms Le Couteur moved her amendment No 1 (*see* [Schedule 1](#Schedule1)) which would insert new clauses 4A to 4C in the Bill.

*Paper:* Ms Le Couteur presented a supplementary explanatory statement to the amendments.

Debate continued.

Ordered—That the question be divided.

Proposed new clause 4A agreed to.

Proposed new clause 4B negatived.

Proposed new clause 4C—

Debate continued.

Question—put.

The Assembly voted—

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| --- | --- | --- | --- | --- |
| AYES, 2 | |  | NOES, 18 | |
| Ms Le Couteur |  |  | Miss C. Burch | Ms Lawder |
| Mr Rattenbury |  |  | Ms J. Burch | Mr Milligan |
|  |  |  | Ms Cheyne | Ms Orr |
|  |  |  | Ms Cody | Mr Parton |
|  |  |  | Mr Coe | Mr Pettersson |
|  |  |  | Mrs Dunne | Mr Ramsay |
|  |  |  | Ms Fitzharris | Mr Steel |
|  |  |  | Mr Gentleman | Ms Stephen-Smith |
|  |  |  | Mr Hanson | Mr Wall |

And so it was negatived.

Clauses 5 to 12, by leave, taken together and agreed to.

Clause 13—

On the motion of Mr Ramsay (Attorney-General), pursuant to standing order 182A(b), by leave, his amendment No 1 (*see* [Schedule 2](#Schedule2)) was made, after debate.

*Paper:* Mr Ramsay presented a supplementary explanatory statement to the Government amendment.

Clause 13, as amended, agreed to.

Clauses 14 and 15, by leave, taken together and agreed to.

Clause 16—

Ms Le Couteur moved her amendment No 4 (*see* [Schedule 1](#Schedule1)).

Debate continued.

Amendment negatived.

Clause 16 agreed to.

Clause 17 agreed to.

Clause 18—

Ms Le Couteur moved her amendment No 5 (*see* [Schedule 1](#Schedule1)).

Debate continued.

Question—put.

The Assembly voted—

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| --- | --- | --- | --- | --- |
| AYES, 2 | |  | NOES, 18 | |
| Ms Le Couteur |  |  | Miss C. Burch | Ms Lawder |
| Mr Rattenbury |  |  | Ms J. Burch | Mr Milligan |
|  |  |  | Ms Cheyne | Ms Orr |
|  |  |  | Ms Cody | Mr Parton |
|  |  |  | Mr Coe | Mr Pettersson |
|  |  |  | Mrs Dunne | Mr Ramsay |
|  |  |  | Ms Fitzharris | Mr Steel |
|  |  |  | Mr Gentleman | Ms Stephen-Smith |
|  |  |  | Mr Hanson | Mr Wall |

And so it was negatived.

Clause 18 agreed to.

*New clause—*

Ms Le Couteur moved her amendment No 6 (*see* [Schedule 1](#Schedule1)) which would insert new clauses 18A to 18E in the Bill.

Debate continued.

Ordered—That the question be divided.

Proposed new clauses 18A to 18D negatived.

Proposed new clause 18E agreed to.

Clause 19 agreed to.

Clause 20 agreed to.

Clause 21 agreed to.

Title agreed to.

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

The Assembly voted—

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| --- | --- | --- | --- | --- |
| AYES, 12 | |  | NOES, 8 | |
| Ms J. Burch | Ms Orr |  | Miss C. Burch | Mr Parton |
| Ms Cheyne | Mr Pettersson |  | Mr Coe | Mr Wall |
| Ms Cody | Mr Ramsay |  | Mrs Dunne |  |
| Ms Fitzharris | Mr Rattenbury |  | Mr Hanson |  |
| Mr Gentleman | Mr Steel |  | Ms Lawder |  |
| Ms Le Couteur | Ms Stephen-Smith |  | Mr Milligan |  |

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

23 LEAVE OF ABSENCE TO MEMBERs

Mr Wall moved—That leave of absence be granted to Ms Lee and Mrs Jones for today’s sitting for health reasons and personal reasons, respectively.

Question—put and passed.

24 Estimates 2019-2020—Select Committee—MEMBERSHIP

The Speaker, pursuant to the resolution of the Assembly of today, informed the Assembly that she had been notified, in writing, of the nominations of Ms Cody, Miss C. Burch, Mrs Jones, Ms Le Couteur and Mr Pettersson to be members of the Select Committee on Estimates 2019-2020.

Mr Gentleman (Manager of Government Business) moved—That the Members so nominated be appointed as members of the Select Committee on Estimates 2019‑2020.

Question—put and passed.

25 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 4.27 pm, adjourned until Tuesday, 19 March 2019 at 10 am.

**MEMBERS’ ATTENDANCE:** All Members were present at some time during the sitting, except Mrs Jones\* and Ms Lee\*.

\*on leave

Tom Duncan

Clerk of the Legislative Assembly

**SCHEDULES OF AMENDMENTS**

**Schedule 1**

**RESIDENTIAL TENANCIES AMENDMENT BILL 2018 (NO 2)**

Amendments circulated by Ms Le Couteur

**1  
Proposed new clauses 4A, 4B and 4C  
Page 4, line 3—**

*insert*

**4A New section 11AA**

*insert*

**11AA Certain special conditions must be advertised**

A person commits an offence if—

(a) the person publishes an advertisement for the lease of residential premises; and

(b) the proposed residential tenancy agreement for the premises—

(i) contains a term endorsed by the ACAT under section 10 (Endorsement of inconsistent tenancy terms by ACAT); or

(ii) requires the lessor’s consent to keep an animal on the premises; and

(c) the advertisement does not—

(i) if paragraph (b) (i) applies—state that the term applies; and

(ii) if paragraph (b) (ii) applies—

(A) state that consent is required; and

(B) if the lessor has prior approval from the ACAT under section 71AF to impose a condition on consent—state that a condition applies.

Maximum penalty: 5 penalty units.

**4B Lessor’s obligations  
New section 12 (3) (ca)**

*insert*

(ca) a statement setting out—

(i) the minimum housing standards; and

(ii) the investigation and rectification provisions in sections 35F to 35K; and

(iii) if the premises are exempted from complying with a minimum housing standard under section 35M—a copy of the exemption and any information on which the exemption is based;

**4C New part 3A**

*insert*

**Part 3A Minimum housing standards**

**35A Definitions—pt 3A**

In this part:

***rectification notice*** means a notice under section 35F.

***rectification work*** means work necessary to make premises comply with the minimum housing standards.

**35B What are the *minimum housing standards*?**

In this Act:

***minimum housing standards*** means standards determined by the Minister under section 35C.

**35C Determination of minimum housing standards**

(1) The Minister—

(a) must determine minimum housing standards in relation to the following matters:

(i) provision and maintenance of locks or other security devices;

(ii) construction, condition and safety of premises;

(iii) sanitation and plumbing;

(iv) supply of hot and cold water;

(v) ventilation and protection from damp;

(vi) heating;

(vii) laundry and cooking facilities;

(viii) electrical safety;

(ix) lighting;

(x) hard-wired smoke detectors; and

(b) may determine minimum housing standards in relation to any other matter.

(2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

**35D Minimum housing standards—public consultation**

(1) Before determining a minimum housing standard under section 35C, the Minister must prepare a notice (a ***consultation notice***)—

(a) stating that copies of a draft of the minimum housing standards are available for inspection during a stated period of at least 15 business days at stated places; and

(b) inviting interested people to give written comments about the draft standards to the Minister at a stated address during a stated period ending at least 15 business days after the end of the period mentioned in paragraph (a).

(2) A consultation notice is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

(3) The Minister must give public notice of the consultation notice.

*Note* ***Public notice*** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see Legislation Act, dict, pt 1).

**35E Premises must comply with minimum housing standards**

A lessor must ensure that premises the subject of a residential tenancy agreement comply with the minimum housing standards.

**35F Minimum housing standards—tenant may give rectification notice**

A tenant may give a lessor a written notice (a ***rectification notice***) requiring the lessor to ensure that the premises comply with a stated minimum housing standard.

**35G Minimum housing standards—tenant may ask commissioner for fair trading to investigate**

(1) This section applies if—

(a) a tenant gives a lessor a rectification notice; and

(b) the lessor does not comply with the notice within—

(i) 90 days after the day the notice was given; or

(ii) any later period agreed by the parties in writing.

(2) The tenant may ask the commissioner for fair trading in writing to investigate whether the lessor has failed to ensure that the premises comply with the stated minimum housing standard.

(3) The tenant must give the commissioner—

(a) a copy of the rectification notice given to the lessor; and

(b) any material in the tenant’s possession relevant to the rectification notice.

**Examples—par (b)**

1 copy of correspondence with lessor

2 photographs of premises or incomplete rectification work

**35H Minimum housing standards—commissioner for fair trading must investigate if asked by tenant**

(1) The commissioner for fair trading must investigate if asked by a tenant under section 35G (2).

(2) The commissioner—

(a) must give a written report of the commissioner’s investigation to the tenant and the lessor; and

(b) if the commissioner considers that the premises do not comply with a minimum housing standard—

(i) may negotiate with the tenant and the lessor to reach an agreement about rectification work and the timing for completion of the work; or

(ii) if the tenant and the lessor cannot reach an agreement—must propose rectification work, and the timing for completion of the work, reasonably required to ensure the premises comply with the minimum housing standard.

(3) The report—

(a) must state whether the commissioner considers that the premises comply with the stated minimum housing standard; and

(b) may state any other minimum housing standard that the commissioner considers is not complied with; and

(c) if the commissioner considers that the premises do not comply with a minimum housing standard—must state any proposed rectification work and the proposed timing for completion of the work; and

(d) must state that the tenant may—

(i) apply to the ACAT for an order under section 35L if the tenant—

(A) disagrees with the report in relation to whether the premises comply with the stated minimum housing standard; or

(B) considers that any proposed rectification work or proposed timing for completion of the work is unsatisfactory; or

(ii) if rectification work is proposed—ask the commissioner to investigate under section 35J whether the lessor has completed proposed rectification work within the proposed time for completion of the work.

**35I Minimum housing standards—commissioner for fair trading may investigate on own initiative**

(1) The commissioner for fair trading may, without being asked by a tenant, investigate whether a lessor has failed to ensure that premises comply with the minimum housing standards.

(2) However, the commissioner may only enter the premises with the tenant’s written consent.

(3) The commissioner—

(a) must give a written report of the commissioner’s investigation to the tenant and the lessor; and

(b) if the commissioner considers that the premises do not comply with a minimum housing standard—

(i) may negotiate with the tenant and the lessor to reach an agreement about rectification work and the timing for completion of the work; or

(ii) if the tenant and the lessor cannot reach an agreement—must propose rectification work, and the timing for completion of the work, reasonably required to ensure the premises comply with the minimum housing standard.

(4) The report—

(a) must state any minimum housing standard that the commissioner considers is not complied with; and

(b) if the commissioner considers that the premises do not comply with a minimum housing standard—must state any proposed rectification work and the proposed timing for completion of the work; and

(c) must state that the tenant may—

(i) apply to the ACAT for an order under section 35L if the tenant—

(A) disagrees with the report in relation to whether the premises comply with the stated minimum housing standard; or

(B) considers that any proposed rectification work or proposed timing for completion of the work; or

(ii) if rectification work is proposed—ask the commissioner to investigate under section 35J whether the lessor has completed proposed rectification work within the proposed time for completion of the work.

**35J Minimum housing standards—tenant may ask commissioner for fair trading to investigate completion of work**

(1) This section applies if—

(a) a tenant is given a report under section 35H or section 35I; and

(b) if the report proposes rectification work—the tenant considers that the lessor has not completed the work within the proposed time for completion of the work.

(2) The tenant may ask the commissioner for fair trading in writing to investigate whether the lessor has completed proposed rectification work within the proposed time for completion of the work.

(3) The commissioner must investigate if asked by a tenant under subsection (2).

(4) If the commissioner investigates and is satisfied that the lessor has not completed proposed rectification work within the proposed time for completion of the work, the commissioner must—

(a) apply to the ACAT for an order under section 35L; and

(b) consult with the tenant about the ACAT order to be applied for by the commissioner.

**35K Minimum housing standards—tenant may apply to ACAT if dissatisfied with report**

(1) This section applies if—

(a) a tenant is given a report under section 35H or section 35I; and

(b) the tenant—

(i) disagrees with the report in relation to whether the premises comply with a stated minimum housing standard; or

(ii) considers that any proposed rectification work or proposed time for completion of the work is unsatisfactory.

(2) The tenant may apply to the ACAT for an order under section 35L within 60 days after the day the tenant is given the report.

**35L Minimum housing standards—orders by ACAT**

(1) This section applies if a tenant or the commissioner for fair trading has applied for an order under this part.

(2) The ACAT may make 1 or more of the following orders:

(a) an order requiring the lessor to ensure that the premises comply with a stated minimum housing standard within a stated period;

(b) an order requiring payment of all or part of the rent payable under the residential tenancy agreement into the ACAT until the premises comply with the stated minimum housing standard;

(c) an order directing payment out of any amount paid into the ACAT, as appropriate;

(d) an order for the reduction in the rent payable under a residential tenancy agreement until the premises comply with the stated minimum housing standard;

(e) an order terminating, with the tenant’s consent, the residential tenancy agreement.

**35M Minimum housing standards—Minister may exempt premises**

(1) The Minister may exempt premises from complying with a minimum housing standard if the Minister is satisfied on reasonable grounds that the cost to the lessor of compliance would be unreasonable.

*Note* Power to make a statutory instrument includes power to make different provision in relation to different matters or different classes of matters, and to make an instrument that applies differently by reference to stated exceptions or factors (see Legislation Act, s 48).

(2) An exemption may be conditional.

(3) An exemption is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(4) In deciding whether to exempt premises, the Minister must—

(a) take into account any criteria prescribed by regulation; and

(b) comply with any requirement prescribed by regulation.

**35N Review—pt 3A**

The Minister must review the operation of this part and present a report of the review to the Legislative Assembly as soon as practicable after the end of this part’s 2nd year of operation.

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

**2  
Clause 13  
Proposed new section 71AA   
Page 7, line 5—**

*omit proposed new section 71AA, substitute*

**71AA Meaning of *minor modification*—Act**

In this Act:

***minor modification***, to premises under a residential tenancy agreement, means—

(a) a renovation, alteration or addition that can be removed or undone so that the premises are restored to substantially the same condition as the premises were in at the commencement of the agreement, fair wear and tear excepted; or

(b) a modification prescribed by regulation.

**Examples—par (a)**

picture hooks, furniture anchors, child safety gates, child-resistant locks on gates

**71AAA Meaning of *special modification*—pt 5AA**

In this part:

***special modification***, to premises under a residential tenancy agreement—

(a) means a renovation, alteration or addition for 1 of the following reasons:

(i) the safety of the tenant or other people on the premises;

(ii) on written recommendation of a health practitioner—to assist a tenant in relation to the tenant’s disability;

(iii) to improve the energy efficiency of the premises;

(iv) to allow access to telecommunications services;

(v) the security of the premises, or the tenant or other people on the premises;

(vi) any other reason prescribed by regulation; but

(b) does not include a minor modification.

**Examples—par (a) (ii)**

access ramps, safety rails

**Examples—par (a) (v)**

deadlocks, security doors, security alarms

**3  
Proposed new clauses 15A and 15B  
Page 13, line 5—**

*insert*

**15A Standard residential tenancy terms  
Schedule 1, new clause 26 (2A)**

*insert*

(2A) The tenant may choose to pay the rent in either of the following ways:

(a) directly into a bank account nominated by the lessor;

(b) any other way nominated by the lessor.

**15B Schedule 1, clause 26 (4)**

*omit*

**4  
Clause 16  
Page 13, line 6—**

*omit clause 16, substitute*

**16 Schedule 1, clause 67**

*substitute*

**Modifications, alterations and fixtures**

67 (1) The tenant may make a minor modification to the premises without the lessor’s consent.

(2) However, the tenant must not, without the lessor’s written consent, make any other renovation, alteration or addition to the premises (time limits for the lessor to refuse consent to special modifications are set out in the Residential Tenancies Act).

(3) The lessor may give consent subject to a reasonable condition, including a requirement that the tenant use a suitably qualified tradesperson to undertake—

(a) the renovation, alteration, or addition; and

(b) any restoration at the end of the tenancy.

(4) Unless otherwise agreed, the tenant is liable for the cost of any renovation, alteration or addition to the premises.

(5) Unless otherwise agreed, at the end of the tenancy the tenant is responsible for restoring the premises to substantially the same condition as the premises were in at the commencement of the residential tenancy agreement, fair wear and tear excepted.

(6) The lessor and tenant may agree that any renovation, alteration or addition to the premises remains in place at the end of the residential tenancy agreement.

**5  
Clause 18  
Page 14, line 14—**

*omit clause 18, substitute*

**18 Schedule 1, clauses 94 and 95**

*omit*

**6  
Proposed new clauses 18A to 18E  
Page 14, line 26—**

*insert*

**18A Schedule 1, clause 96 (1) (d)**

*omit*

8 weeks

*substitute*

12 weeks

**18B Schedule 1, clause 96 (1) (e)**

*before*

reconstruct

*insert*

demolish,

**18C Schedule 1, clause 96 (1) (e)**

*before*

reconstruction

*insert*

demolition,

**18D Schedule 1, new clauses 96 (1) (f) and (g)**

*insert*

(f) 12 weeks notice if the lessor genuinely intends to use the premises for the purposes of a business or for any purpose other than granting a right to a person to occupy the premises for use as a home;

(g) 12 weeks notice if the lessor is a territory authority and the premises are required for another purpose.

**18E Schedule 1, new clause 96 (1A)**

*insert*

(1A) If the lessor serves a notice to vacate on the ground of an intention or belief mentioned in subclause (1) (a), (b) or (c), the lessor must also give the tenant a statutory declaration about the intention or belief.

**7  
Clause 19  
Dictionary, note 2, proposed new dot point  
Page 15, line 3—**

*insert*

territory authority

**8  
Clause 20  
Page 15, line 5—**

*omit clause 20, substitute*

**20 Dictionary, new definitions**

*insert*

***minimum housing standards***—see section 35B.

***minor modification***, to premises under a residential tenancy agreement—see section 71AA.

***rectification notice***, for part 3A (Minimum housing standards)—see section 35A.

***rectification work***, for part 3A (Minimum housing standards)—see section 35A.

***special modification***, to premises under a residential tenancy agreement, for part 5AA (Lessor’s consent in certain matters)—see section 71AAA.

**Schedule 2**

**RESIDENTIAL TENANCIES AMENDMENT BILL 2018 (NO 2)**

Amendment circulated by the Attorney-General

1. Clause 13  
   Proposed new section 71AA, definition of *special modification*, examples  
   Page 8, line 5—

omit

, swimming pool fencing