



**DEBATES**

OF THE  
LEGISLATIVE ASSEMBLY  
FOR THE  
AUSTRALIAN CAPITAL TERRITORY

**HANSARD**

15 February 2000

**Tuesday, 15 February 2000**

Finance and Public Administration - standing committee .....	1
Justice and Community Safety - standing committee .....	4
Health and Community Care - standing committee .....	7
Education, Community Services and Recreation - standing committee.....	9
Planning and Urban Services - standing committee.....	12
Education, Community Services and Recreation - standing committee.....	13
Planning and Urban Services - standing committee.....	21
Justice and Community Safety - standing committee .....	21
Justice and Community Safety Legislation Amendment Bill 1999 .....	21
Justice and Community Safety Legislation Amendment Bill (No 2) 1999.....	23
Justice and Community Safety Legislation Amendment Bill (No 3) 1999.....	26
Questions without notice:	
ACT Public Service and Canberra Hospital implosion .....	29
ACTEW/AGL - proposed joint venture .....	30
Rugby League - training facility .....	33
Draft budget.....	36
Schools and colleges - cash holdings.....	39
Mandatory sentencing laws.....	41
Information technology - ACT Government contracts.....	43
ACT Family Services .....	44
Milk industry .....	45
Commercial leases .....	47
Bruce Stadium.....	48
Temporary accommodation allowance .....	49
Leave of absence to member .....	124
Presentation of papers.....	124
Legislative program - Autumn sittings 2000 (Ministerial statement) .....	125
Commissioner for the Environment - Report - Progress Towards No Waste by 2010.....	128
ACT greenhouse strategy.....	128
Presentation of papers.....	131
Financial Management Act - approval of guarantee (Ministerial statement).....	135
1999-2000 capital works program - progress report (Ministerial statement).....	135
Crimes Amendment Bill (No 3) 1999 .....	136
Adjournment: Budget process.....	138

**Tuesday, 15 February 2000**

---

**MR SPEAKER** (Mr Cornwell) took the chair at 10.30 am and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

**FINANCE AND PUBLIC ADMINISTRATION - STANDING COMMITTEE**  
**Report on 1998-99 Annual and Financial Reports of the Chief Minister's Department and**  
**Legislative Assembly Secretariat**

**MR QUINLAN** (10.33): Happy New Year to everybody. Mr Speaker, pursuant to order, I present Finance Report No. 4 of the Standing Committee on Finance and Public Administration (incorporating the Public Accounts Committee), entitled "Report on Chief Minister's Department Annual and Financial Reports 1998-99 and Legislative Assembly Secretariat Annual and Financial Reports 1998-99", together with extracts of the minutes of proceedings. I move:

That the report be noted.

I guess this is a first. This is the first report by a standing committee on the annual reports of some parts of the administration as compared to the previous Estimates Committee review of the annual reports in total. I believe the system that now prevails is less than adequate and probably not as effective in terms of coordinated analysis of what the administration has done and what the Government has done and a coordinated response and a coordinated overall summary of the Government's performance as against budgets and as against promises and commitments.

It may be a good thing from the Government's perspective to divide annual reports into heaps and spread them amongst the standing committees - a divide and conquer process - but I think it is fairly evident that open government would be better served by having some order to the catalogue of the Government's performance and, I am afraid to say, a catalogue of the Government's cock-ups.

The Finance and Public Administration Committee spent some time attempting to decipher information in annual reports. Quite obviously, the annual report of any corporation is a picture of the work of that body cast in the best light possible within the confines of accounting standards and accounting practice.

In relation to the annual reports that the committee reviewed, I would like to make a few comments. The committee noted that, although the budget process is replete with key result areas that the Government has set itself, even our own Chief Minister conceded that the Government has failed in meeting many of the key result areas that are contained in the budget. That underscores the point that I made earlier that we need some better, coordinated approach to the review of annual reports such as, I suggest to this Assembly,

*15 February 2000*

a return to the Estimates Committee reviewing the suite of annual reports in total, allowing any member of the Assembly to join the Estimates Committee when they feel it appropriate or when the matter under discussion is relevant to their area of interest or contains some matter on which they wish to discover further information.

The committee would like to see the Chief Minister's Department annual report include some discussion about the number of consultancies that have been conducted and the amount of outsourcing that has occurred. We think the evidence is now starting to show, in the results we have seen in annual reports, that we are losing something in terms of public administration. We are losing a continuity of knowledge. We have a pretty glib presentation at the surface - and that pervades the annual reports - but underneath that there seems to be not a lot of improvement in public administration as it affects people.

The committee would like to see the Government report to the Assembly on strategic partnership services that we pay very substantial sums for. In fact, we have, amongst others, a strategic partnership with Fujitsu. We spend a lot of money with that company, and that is one of the companies we have also made considerable concessions to under our business incentive scheme. We think there needs to be more in annual reports about the benefits that have accrued from the considerable amount of money the Government has spent on consultancy and strategic partnerships.

As I said earlier, we would like to see the Government quantify the impact on human capital within the Assembly of the loss of in-house capacity. I do not think it is any coincidence that we have a fairly strong drive towards outsourcing and reliance on consultants and have seen many failures and, unfortunately as a result of all that, a number of senior public servants being pushed out of the government lifeboat as it meanders.

We recognise that annual reports are reports on activities cast in the best light. We would like to think that, if we are going to have this diverse process of annual reports being examined by different standing committees, some effort is made within the Government to embrace a philosophy which says an annual report is to inform, as opposed to casting the Government in the best light.

In many cases it was only through the committee asking questions, and maybe even some happy accidents, or a word or two said in the hearings, that we were given some indication that what is in the annual report is not the whole picture. Quite often we did not think an item looked too bad - let us say it was expenditure on legal fees for some individual - only to discover when asking a question about it that not only was there that level of expenditure but there was also a considerable level of commitment in that financial year which implied and made inevitable a far greater level of expense. But there was nothing in the annual report to indicate that. I think the Government needs to look at accounting standards in relation to a requirement to account for commitments made as well as expenditures already recognised.

Within the report there are a few recommendations that relate to further information. I will not labour those. I will just mention a couple that we are interested in. The ACT business incentive scheme obviously requires a greater degree of accountability. If one looks through the annual report at the promise of jobs that were going to be created by

each of these incentive packages given to business and then at the actual jobs created, one will see that there is a considerable gap. There is ever the promise, but very seldom do we see that the jobs created meet the original promise, and nowhere do we see any evidence that there is objective accountability in relation to the job creation claim anyway.

At two levels we believe that the Government has a lot of work to do to go beyond the fanfare of announcing a business incentive package and to get to the point where we know whether that scheme has been successful or not and whether there have been reasonable results. Maybe the Government will get a little bit better at it if they make some attempt to compile genuine ex post analysis of whether our money was well spent.

We have noted, and we believe, that leading on from the last lot of annual reports we have seen it is probably getting close to a matter of urgency that the Government provide the Assembly as a whole with a greater degree of information on the potential impact of the GST. I think there is an information gap that the Government ought to fill. It might allay a considerable amount of misinformation if we are all given a decent presentation by government on the potential impact of the GST on budgets, annual reports and the measurement of performance. We could then compare the annual reports of tomorrow with the annual reports of today.

Mr Speaker, there are a couple of recommendations the Government ought to take considerable note of. We recommended that the future of the International Hotel School be examined objectively. We want to know all of the facts and all of the potential there. Quite an amount of money has been spent, and is still being spent. There is ever the promise that things are going to be better tomorrow, but I believe it is time to re-evaluate those projections and for the Government to let the Assembly know exactly what its projections for the future of the school are and what projections they are prepared to stand by and, I was going to say, put their reputation on - but I do not think I will bother with that one.

There has been considerable overexpenditure by InTACT. It is now common knowledge that a consultant working with the InTACT group was paid the best part of \$1m for consulting, at a rate of \$4,000 or \$4,500 a day plus travel allowance. Quite obviously it is not humanly possible to get value for money and, for the number of days, to get continuity of work at \$4,500 per day. It looks as though InTACT was taken for a ride.

What is disturbing about that particular incident is what happened as we went through the very many consultancies that the Government had let. I asked about a couple of them because they seemed quite high. My questioning was not particularly probing, but I did ask what these large lumps were for. It turns out that this contractor had sent bills to government under two different names. This is quite obviously a ploy to mask the fact that so much money had been paid to one person or one entity. It is clear now that the officers and the Minister who were at the hearing knew about this case or should have known about it. The Minister certainly should have been informed, but that information was not brought forward. The committee was not told that these two separate bills that were asked about related not just to one organisation but to one man.

15 February 2000

That underscores the point I have made about the philosophy that should and must pervade annual reporting to the people of the ACT and the Assembly. There has to be a philosophy that says, "We want to inform you. We want to tell you not that these legal fees, even though they are high, are just legal fees for one or other Minister or some event but that they imply a commitment far beyond that amount". That is the real information.

When the committee asks reasonable questions about a \$1m problem in an organisation, we expect officers and Ministers to be forthcoming in providing the answers. (*Extension of time granted*) It is very important that if the Government wants to set up a process whereby we send annual reports to standing committees, a divide and conquer process, they at least involve themselves in ensuring that the committees that receive those annual reports are given full and complete information with reasonable goodwill.

I cannot stress too strongly the disappointment we feel at having asked about a couple of consultancies and officers and a Minister who should have known about it not providing the committee with full and complete information. That is symptomatic of the process the Government has set up by spreading annual reports amongst committees. There seems to be underneath that a desire not to have full and complete information come before this Assembly. I think the Assembly should reflect upon that and possibly seek in the future to reverse the situation and go back to an estimates committee, a select committee, that reviews annual reports in toto.

Debate (on motion by **Mr Smyth**) adjourned.

**JUSTICE AND COMMUNITY SAFETY – STANDING COMMITTEE**  
**Report on 1998-99 Annual and Financial Reports of the Department of Justice**  
**and Community Safety and Related Agencies**

**MR OSBORNE** (10.51): Pursuant to order, I present Report No. 8 of the Standing Committee on Justice and Community Safety, entitled "The 1998/99 Annual and Financial Reports of the Department of Justice and Community Safety and Related Agencies", together with extracts of the minutes of proceedings. I move:

That the report be noted.

As members are aware, this is the first time Assembly standing committees have individually examined their relevant annual reports. In the case of the Justice Committee, I think the process has gone very well and been a success. Committee members agreed that the new format has provided for a more in-depth examination and understanding of the justice portfolio than perhaps may have been possible in previous years. We also agreed that this should improve the committee's ability in future inquiries to scrutinise government decisions.

The committee held a series of public hearings with agencies and examined all 10 annual and financial reports covering the justice and community safety portfolio. We made 17 recommendations. While some of those recommendations relate to improving the reports format and general presentation of information to the public, there are several I would like to bring to the attention of members at this time.

The first is about the operation of the Children's Court. The committee held an inquiry and reported on the operation of the Children's Court in 1998. One of the recommendations from that inquiry, the establishment of a designated Children's Court Magistrate, has since been implemented amongst controversy and no little difficulty. Without revisiting the arguments and benefits of that appointment, I point out that the 1998 inquiry also recommended that the Chief Magistrate produce an annual report which consolidated data on the Children's Court.

The committee believed then, and still believes now, that information on the training undertaken by magistrates and the number of training hours and types of training; feedback from children, young people and relevant community and government agencies about their perceptions of the Children's Court; waiting times for Children's Court cases, including length of time from the initial listing to resolution; the number of magistrates hearing each case; and the number of hours spent on Children's Court matters by the Children's Court Magistrate would improve understanding on how the Children's Court was operating.

As the Government unfortunately chose not to respond to the committee's recommendations on the Children's Court inquiry, the committee is still unaware of any intention to put this recommendation into practice. In order to discover the Government's thinking on this matter, the committee has restated its support for the release of this information by the Chief Magistrate and again asked the Government for a response.

The second section of the report I would like to draw members' attention to today is on the topic of drink-driving. The committee noted that the number of roadside random breath tests conducted by police had gone down from the previous year by just under a third and the number of people dealt with for being over the drink-driving limits had correspondingly decreased by just over a third. The Acting Chief Police Officer, Denis McDermott, gave a number of reasons why the number of random breath tests had been reduced.

While the committee accepts that an effective drink-driving strategy is more complex than just counting the number of motorists breath tested, we did agree that this might be a good time for the Government to evaluate its current strategy and look for better ways to target resources. The committee noted that in recent years some States have extensively analysed their drink-driving trends and consolidated relevant data into a single report from which strategies can be drawn. We believe that this kind of report would be a useful tool here in the ACT and have encouraged the Government to consider this course of action.

Mr Speaker, while on police in general, I would also like to mention two other matters - the Commonwealth review of the ACT policing agreement, and the heroin shooting gallery. The new policing agreement with the Commonwealth has been an issue of concern for the committee since the beginning of the Fourth Assembly, and perhaps longer for some members. Progress on this agreement has been particularly slow, covering over three years. While I understand the agreement has now been signed and been operational for a few days, I recently foreshadowed my intention to seek approval

*15 February 2000*

from the Assembly later this week for the Justice Committee to inquire into the adequacy of certain aspects of our policing and police force. I will discuss the details of that inquiry in more detail on Thursday.

The other police-related matter, the shooting gallery, sparked a couple of interesting discussions - one with the Acting Chief Police Officer, Denis McDermott, and the other with the Director of Public Prosecutions, Richard Refshauge. Both indicated that the successful operation - and I use those words reservedly - of the shooting gallery is far from assured. The police made it very clear to the committee that if they considered a person was committing a drug offence, regardless of where they were in the city, then their officers would be acting to make an arrest.

The DPP informed the committee that, in his opinion, and in hindsight, the model which was passed by the Assembly last year was very much the second best option and that the day-to-day operation of this place had a lot of problems - something to do with the AFP being directly accountable to the Commonwealth rather than the ACT.

Now that the AFP Commissioner, Mick Palmer, has publicly changed his mind about shooting galleries and has attacked their establishment, describing them as unsafe, bad policy, not in Australia's best interests, and a trendy quick fix in response to emotional appeals, it might be a good time for members to rethink setting one up here in Canberra.

A further area of interest among the annual reports examined by the committee was the operation of the criminal injuries compensation scheme. The committee was impressed with the quality of the information provided in the report but disappointed with how much money had been recovered from perpetrators. While some States have far better and improving rates of recovery from perpetrators, the ACT last year recovered just \$540 out of a total payout of over \$6.6m, or collected \$8 per \$100,000 paid out. The committee believes that this is an area worth addressing by the Government, as even an improvement to the recovery rate of New South Wales, 3 per cent, would have recovered around \$200,000.

Finally, the committee was very interested in the operation of the Legal Aid Commission and indicated in the report its intention later this year to initiate an inquiry into the adequacy of funds for legal aid. The committee noted that almost \$500,000 of legal aid funds will be spent on representation relating to the failed hospital implosion and recommended that the Government make available additional information regarding the number of people who have received funding, the amounts for each person and, within the strict bounds of privacy, whether they were private citizens or public officials.

I thank all members on the committee for their assistance in this report, and also our secretary, Fiona, for her time.

Question resolved in the affirmative.

**HEALTH AND COMMUNITY CARE - STANDING COMMITTEE**  
**Report on 1998-99 Annual and Financial Reports of the Department of Health**  
**and Community Care and Related Agencies**

**MR WOOD** (10.57): Mr Speaker, pursuant to order, I present Report No. 4 of the Standing Committee on Health and Community Care, entitled "Report on Annual and Financial Reports 1998-99 for the Department of Health and Community Care and Related Agencies", together with extracts of minutes of proceedings. I move:

That the report be noted.

One of the more significant matters that emerged was the state of Aboriginal health in the Territory, in particular the extent to which drug use amongst Aborigines in the Territory is still uncertain. The committee made some recommendations in this respect - first of all, that there be a more accurate assessment of drug use amongst Aborigines and, secondly, that the departmental strategy on Aboriginal and Torres Strait Islander health be expedited. The strategy is currently being worked through by the department. Since the committee's recommendation there has been more consideration of the matter by Mr Stanhope and Ms Tucker, and it is likely that the Health and Community Care Committee will carry on that interest in Aboriginal and Torres Strait Islander health.

Another longstanding matter for the committee was men's health. In a report some time ago the committee recommended that the MAN model in effective use in some parts of Victoria be trialled in the ACT. That was agreed to by the Government in response to an earlier inquiry, but as yet nothing very much seems to have happened about it. So one of our recommendations urges the Minister, Mr Moore, to report back to us on just how that MAN proposal is going. It seemed to the committee at the time that it was a very sound way of dealing with the issues of men's health.

There is a further matter that was of particular interest to me. In relation to the general health of the population, it seems to be quite important. This is a society increasingly interested in its own health. Every popular magazine you read, or every second book in the book stores, talks about health and how to improve your health, whether by fitness or by diet. It seems to me we have a contradictory situation in the community at large. I think most households would be looking at the diet that they present to themselves and to their families. Yet it is a society today that eats out, and fast food chains are enormously popular. They mushroom, and outlets increase in number and variety. In the past I was quite amenable to a fast food meal, but I am less so these days. I have a different interest.

It seems that in the future one aspect could play a big part in improving the state of men's health, and that is what fats are used in cooking in fast food outlets. The Chief Medical Officer of the Territory reported to us that for the most part it is animal fats, and everything we know says they are a problem. I believe most fast food outlets use those fats because they give a nice brown colour and a crisp feel to fried chips, and maybe they are also cheaper. If we want to improve the health of people in Canberra and across Australia, I think we should be looking very seriously at what cooking oils are used in those outlets.

15 February 2000

I do not have any idea off the top of my head or any data on what proportion of meals people have in those places, but it is very considerable. I would think most families would have swapped the types of oils they use in their homes for cooking. Let us see that it goes out into the public domain as well. The Minister, Mr Moore, was quite amenable to that suggestion, as he indicated that he will take it up at the national level, where it needs to happen. I do not know whether the ACT could legislate in this area, and I am not suggesting they do, but I think action is needed.

Fast foods are particularly popular with young people. They are the people we ought to be most concerned about. I know for myself that if I could go back to my younger years of 20, 30, 40 years ago and change my diet, I would probably be a healthier person today. My fitness is pretty good, let me tell you. It is not bad.

Let us do something for the coming generations and people of all the ages who eat at fast food outlets, as they do frequently. This is a matter I would like to pay more attention to in the future. I will be very interested in the progress that Michael Moore can report in the future on what is a quite serious health issue.

**MR MOORE** (Minister for Health and Community Care) (11.04): Mr Speaker, I rise to respond to a number of issues raised by Mr Wood and by the committee. I will deal first with the issue that Mr Wood has just been talking about. It was interesting to me that the issue of animal fat versus vegetable fat came up in the committee hearing, and it is something that we will pursue. It is quite clear to anybody who looks at cholesterol that there is a significant advantage in using vegetable fat in cooking. That is something we will need to follow through on. I can see a whole series of barriers in the way to implementing a policy, but I think the potential health outcomes are quite great. Therefore, it is certainly worth pursuing.

The committee also raised the issue of accurate data on the level of indigenous drug use. It is not just on indigenous drug use but on indigenous health generally that our data has not been good enough. According to information provided to me by the department, the Australian Bureau of Statistics is relooking at how it collects its data and how it can improve it. The department is also assisting by making sure that we have our data right so that we can feed it into the Bureau of Statistics.

The Aboriginal and Torres Strait Islander Health Forum will be deliberating on the Aboriginal and Torres Strait Islander health strategy. The committee recommends that we do that as a matter of urgency. I consider that an urgent matter. I would hope that we can table the strategy by the middle of this financial year, but it does have to go through the appropriate processes. Ms Tucker raised with me the other day - and I have discussed it briefly with Mr Wood and with Mr Rugendyke - a possible inquiry by the standing committee into Aboriginal and Torres Strait Islander health just to make sure that we have it right and that we are doing everything we can.

Mr Speaker, just as an aside, recently when I was in Canada I had an interesting discussion with the health authority in Lethbridge, which has responsibility for a quite large Indian reserve in the south of Alberta. It was very interesting to listen to the issues

they raised and to hear about the difficulty they have in dealing with the same sorts of health, morbidity, mortality, drug and alcohol use, self-concept and education issues. We are looking wherever we can for ideas on how we can get better health outcomes.

Since there is some debate on this at the moment, it is worth making the point that if we compare, as best we can on the fairly weak data, Aboriginal and Torres Strait Islander health outcomes across Australia indicators show that we are better than most other parts of Australia. There is a whole series of factors, not the least of which is that people of Aboriginal and Torres Strait Islander background come here to work in relatively senior positions and therefore are much more educated than others.

We have to make sure that we also target our local indigenous people, the Ngunnawal, and see what is happening with them. It is also important that we recognise that, whether they are children or adults, they have a contribution to make where their skills are greater than average skills and where they are doing well. I think we have been quite poor at doing that. It is something we need to improve on.

The committee also raised the issue of disabilities. We will continue to work as hard as we can to keep pressure on the Commonwealth to provide more finances in the area of disabilities. At the moment we have a need of \$300m a year. The Commonwealth Government have put up \$150m over three years, when what they needed to do across Australia was to put up \$150m a year to meet the current unmet need. So I concur with the committee. It is quite right. It is something we need to push.

The committee asked for details on a couple of other matters that I will find answers for and get back to the Assembly on when we do a formal response to the report. I take this opportunity to thank the committee for their work. Whenever we have more minds and more members of the Assembly focusing on what needs to be done in health, we have a better chance of getting better health outcomes right across the community. That is clearly what we are all interested in.

Debate (on motion by **Mr Hird**) adjourned.

**EDUCATION, COMMUNITY SERVICES AND RECREATION –  
STANDING COMMITTEE  
Report on 1998-99 Annual and Financial Reports of the Department of Education and  
Community Services and Related Agencies**

**MS TUCKER** (11.10): Pursuant to order, I present Report No. 4 of the Standing Committee on Education, Community Services and Recreation, entitled “1998-99 Annual Financial Reports of the Department of Education and Community Services and Related Agencies”, together with extracts of the minutes of proceedings. This report was authorised for publication by the Speaker on 3 February 2000, pursuant to the resolution of the Assembly on 2 September 1999. I move:

That the report be noted.

*15 February 2000*

We made a number of recommendations covering various areas that came to our attention through the inquiry. We received submissions from a number of community organisations as well as briefings from the Government. The first recommendation we made related to the amount of information given in annual reports regarding membership of ministerial advisory councils and other consultative bodies. We asked that we have more detail of these in the annual reports, because it is of interest to the community to see who is advising and who is on particular bodies that have quite some influence on occasions.

We were also interested in analysis of quality effectiveness measures in the annual report. We made a comment about the Child Health and Development Service not having an assessment of the satisfaction with its services carried out by educational staff - teachers and so on. CHADS provides a service to teachers in that it has some responsibilities in enabling teachers to deal with children in their classes who have a disability.

We also made some comments about the financial information. We thought it would be useful to have a little bit more detailed financial information for each government school output class. It was the view of the committee that it would be interesting to know which areas of government school education are contributing more significantly than others to the operating deficit. We were also interested in seeing more detail on the breakdown of revenue collected within each output class.

We also discussed service purchasing arrangements and recommended that future annual reports include more detail on service purchasing arrangements. That is because the committee was of the view that the report would be enhanced and the community would gain a better understanding of the nature of services purchased if more detail was included on the funding arrangements, details such as the name of the area purchasing the service, the name of the service provider, the nature of the service provided, funds provided to provide the service and time period covered by the funding. Obviously this is of interest to members of the Assembly and the community, because we see so much service delivery now carried out by the community sector, or by the for-profit sector in some instances.

We also made a comment about community service obligations. We noted that DECS received \$7.3m cash from government for community service obligations and that that was a decrease from \$9.7m provided in 1998, but we could not see details in the annual report about the purpose of the CSO funding, the amount of funding provided, the name of the agency to which the funding was going and so on. It would be useful to see more detail on that, because the community service obligation is important to many of us.

We also took an interest in regulatory matters. We made a recommendation asking that the Government require all departments and agencies, where possible, report on regulatory matters. ACTCOSS provided a table that shows the legislation the department administers and whether the department has reported against the standards contained in the legislation, provision of licensing, reporting on licensing and reporting on complaints. We provided a copy of that table in the report. We considered that fuller reporting on regulatory matters would enhance the department's annual report.

There are a number of other general matters on which I will not go into detail. They include the reduction in central office staff, curriculum support, school maintenance and CHADS, the Child Health and Development Service. We were concerned to see the increase in demand for early intervention services. We made a recommendation about that matter, asking the Government to consider the need for additional resources in light of this increased requirement for services.

We recommended that the Government undertake a full analysis of the impact of the SACS award on non-government organisations. This has come up a lot in the Assembly. There have been various debates, and questions have been asked about it. The committee was of the view that it would be very helpful to everyone if we saw a clear analysis of what is happening with the SACS award for the non-government sector. I hope the Government will respond positively to that.

We were also concerned to see the increase in notifications of child abuse. Similar to the recommendation we made about CHADS, we recommended that government consider the need for additional resources for child protection in the coming budget. There was a 40.5 per cent increase on the original target in notifications of child abuse, and the result was a 20 per cent increase in notifications from the previous year. Notifications in 1998-99 were similar to the level before the introduction of mandatory reporting. In addition to notifications with the introduction of mandatory reporting, we have a new classification of consultations. The Minister advised that four additional positions were created when mandatory reporting was introduced. The committee would be concerned - and I am sure all members of this Assembly would be concerned - if the resourcing levels for child protection did not reflect the increased workload in the future. We agreed the issue needs very close monitoring.

We also commented on an issue of purchasing regarding the former Southside Youth Refuge, now called Belleden. That is something the committee has been following and taking an interest in for some time, and we finally have a clear understanding of what has occurred within the service purchasing process there. The committee was of the view that it was not a satisfactory process, because a contract was given to a particular organisation and, after the organisation was the successful bidder, the requirements under the contract changed significantly. Obviously the community sector will be concerned if they see this sort of thing happen. The community sector needs to have confidence in the service purchasing processes of government. They need to know that they are fair. If they express an interest in providing a service, they need to know that that is the service that is being bought, that the price is fair and that it will not be changed later, and that it will deal with the reality of the situation. After what happened with Belleden, which is looking after very troubled young people, we hope the Government improves its game in that area. It is quite clear that it was not working well. That will not be good for the community's confidence in the Government's processes.

We looked at secondary college outcomes, particularly in light of the reduction of staff. We were concerned to see how many students received secondary college records. The secondary college record shows the units and courses studied during Year 11 and Year 12 up to the time it is requested. It can be used if students leave the school and go interstate

15 February 2000

or whatever. It can also be just a record of a student's time at college. It is not a satisfactory outcome if a significant number of students have just a record of attendance and of what they have done but no Year 12 certificate.

We also looked at the number of students who drop out from the system. We were concerned that the Minister had acknowledged this mid-year decline or drop-out in enrolments in evidence to the Select Committee on Estimates and he had used this as a justification for cuts to secondary college staffing. In fact, there were 362 students in Year 12 college enrolments who disappeared from the system, which is a lot.

As members are probably aware, a further analysis of this was done in the media by Emma Macdonald. The department actually gave her more information than we got. We did not ask for it. I am not blaming the department for this. We did not follow it through at the time as much as we will in the next inquiry when we are looking at the way the education system supports students who are at risk of not completing their education. It was clear from Emma Macdonald's investigation that the department had done some analysis, and there were some quite disturbing reasons for students not completing their school and for dropping out. One of them was that they could not afford it because they did not have somewhere to live or because of the fees that are now imposed on students in public colleges. Another reason was that they could not keep up with the work.

All these things must be of great interest to the department, the Government and the Minister. The whole community realises that early school leaving is a continuing factor in social disadvantage in our society and that we certainly need to do everything we possibly can to keep students at school so that they end up with some reasonable qualification which will make a difference to their capacity to move on in society.

Generally it was useful for the committee to use the annual report process to look at what has happened, and I look forward to the Government's response.

Question resolved in the affirmative.

**PLANNING AND URBAN SERVICES - STANDING COMMITTEE**  
**Report on 1998-99 Annual and Financial Reports of the Department of**  
**Urban Services**

**MR HIRD** (11.22): Mr Speaker, pursuant to order, I present Report No. 38 of the Standing Committee on Planning and Urban Services, entitled "1998-99 Annual Report of the Department of Urban Services", together with a copy of extracts of the minutes of proceedings. I move:

That the report be noted.

Mr Speaker, this report was authorised for publication by you on 16 December last year, pursuant to the resolution of the parliament of 2 September of the same year referring annual reports to the respective standing committees. On that note, I ask the house to bear with me in respect of the due processes that brought about this arrangement.

Firstly, I am a member of a number of standing committees, as members would be aware, and have taken part previously with other members in the estimates processes. I must say that the committee system is indebted to Mr Kaine for moving the motion that brought about this arrangement. I found it very interesting and more rewarding than if the reports had been referred to an estimates committee at which members of each of the standing committees exercised their expertise in undertaking their investigations.

Even though this is the first occasion on which this arrangement has been followed, matters could be easily identified by the respective committees, in particular by my committee. You will note, Mr Speaker, that a number of recommendations have been made.

I do believe that this arrangement accords with the policy of open government that we, as a government, have undertaken from day one. It is an arrangement that has allowed the public and interested parties to come before my committee, in this case, and express their views.

On that note, I would like to thank my colleagues Mr Corbell and Mr Rugendyke for their assistance in making the introduction of this task as easy as possible. My colleagues and I thank the secretary of the committee, Mr Rod Power, for his assistance.

The committee handled this matter promptly and quickly. Twelve recommendations came out of our deliberations. I know that the relevant Minister, Mr Smyth, will seriously consider all the recommendations and come back to the parliament and the committee with an appropriate response. I do thank the Minister and the many officers who assisted us in our deliberations. Mr Speaker, the task is not as difficult as it may seem if you have professional people assisting you in exercising your duties under the committee system.

Whilst I am talking as chair of the Planning and Urban Services Committee, I am also, as I indicated earlier, a member of a number of other committees. I found this procedure most interesting and refreshing. I also found the committee system to be alive and well. One way that we can serve not only this parliament but also the people of the ACT is by bringing in reports and making comments in respect of the various ministerial portfolios through this process. I commend the committee's report.

Question resolved in the affirmative.

**EDUCATION, COMMUNITY SERVICES AND RECREATION –  
STANDING COMMITTEE  
Report on Educational Services for Students with a Disability**

**MS TUCKER** (11.27): I present Report No. 3 of the Standing Committee on Education, Community Services and Recreation, entitled "Inquiry into educational services for students with a disability", together with a copy of extracts of the minutes of proceedings. I move:

That the report be noted.

15 February 2000

Mr Speaker, this report was a unanimous one. The inquiry provided a very valuable opportunity for the committee to talk to the community, to professional organisations and to the Government about what is happening in our schools for children who have a disability. We are at a time when we are seeing a much greater inclusion of children with a disability into the mainstream system. There is still a lot of debate about what is the best way to educate children with a disability. Some people still believe that it is much better to have a special setting; other people believe equally as strongly that inclusion is absolutely beneficial and must be the way that the education occurs.

The debate is a really healthy one. I think that it needs to be supported, acknowledged and progressed because I would think that all in this Assembly and in the community want to see the best possible outcomes achieved for people in our community who have a disability. In working on the issues of education and how to support children with a disability, obviously it is of critical importance to be clear about what we are doing and that we are doing the best we can, because our actions will have a huge impact on the ability of those people to function in the community as they grow into adulthood.

The inquiry was a good one. It was very useful. I hope that the Government will see this report of the committee as a constructive report. Whilst we did find inadequacies in what is happening at the moment, I believe that most of the recommendations - I hope all of them - will be very useful to the Government as it moves forward. We have been able, through the committee process, to identify areas that certainly do need work. We have made suggestions and I look forward to a positive response from the Government on them.

Briefly, the big issue that came out of the inquiry was the need for a whole-of-government planning system. This proposal came from the Community and Health Services Complaints Commissioner in a formal way, but we actually received lots of submissions from parents who are trying to deal with the system and who feel that it is fragmented and is not coordinated. The Community and Health Services Complaints Commissioner saw as an urgent matter the need to put in place a whole-of-government planning process involving health and education at the least. He suggested that such a plan should include an accurate assessment of the number of severely disabled children coming through the system and the funding implications and of the provision of case managers covering the coordination of services other than education, such as speech pathology, physiotherapy, occupational therapy, social work and respite care. He also made other recommendations about what that system-wide planning would involve.

That is a key recommendation of this inquiry because the reality for many parents is one of great difficulty and services do not appear to be coordinated nearly well enough. That, of course, is something that often comes up in inquiries into social issues in the ACT. It came up in most of the inquiries I participated in during the last Assembly and it came up in this one. It is obviously an ongoing challenge for governments to try to coordinate their work across departments.

Another important issue that came out of this inquiry was the availability of therapy. The committee made a number of recommendations on that, including the need to review the staffing mix in special schools to enable a stronger and more secure therapeutic presence

to occur. Speech therapy, in particular, is extremely necessary for some high-need students and was found to be particularly inadequate. It was pointed out to the committee that if basic communication is not possible a great deal of frustration is experienced by the persons concerned. I am talking about things as basic as toileting, wanting a drink, wanting to eat and being uncomfortable for any reason.

It is not surprising to see behavioural issues arising when people are not able to communicate their feelings on those things. That becomes a major issue as students get older. We had our attention drawn over and over to the situation of parents trying to care for older students, particularly boys. An 18-year-old who is physically strong and is very frustrated is difficult for parents to manage and, of course, for teachers to manage if in the school system.

Yet another issue of importance that came out was the management of students with emotional behavioural problems. Often, they do not necessarily qualify as having a disability of any kind, but there are big implications for the people who are caring for them. The committee has made a number of recommendations about dealing with violent behaviour. The report highlighted some very disturbing evidence that came to the committee about the incidence of violence in certain situations. The committee has said clearly that the current situation is quite unacceptable and there has to be urgent action from the Government in response to this matter because it is putting at risk students who are with the child who is exhibiting violent behaviour and putting at risk teaching staff as well.

The situation is quite horrendous for everybody involved and we do have a responsibility to ensure that programs and responses are available to deal with these issues. Obviously, the issue of training is part of this discussion. Teachers and staff generally in education facilities need to be supported by appropriate training on how to deal with these sorts of problems. There is also a need for specific programs to be developed, as the committee has recommended.

The committee made comment about assessment of the satisfaction of parents. According to the assessment methodology that is used, most parents of children with a disability were very happy with the education that the children were receiving, but they were not able to comment within that methodology on the therapy services because they were seen to be a health issue, not an education issue. That is pretty insulting and has upset a lot of the parents. Clearly, you cannot separate therapy from education if you are talking about children who need speech therapy because they cannot speak. You would think that it would be a fairly basic part of their educational experience. We have made comment on how that is working. The assessment needs to be revised and refined.

We also made a general comment about the training of staff. The inclusion of children with a disability into mainstream schools means that more teachers are now dealing with those students, but they are not necessarily trained or qualified to do it. We want to see the department and the Government take a strong interest in this matter and offer incentives to teachers to upgrade their qualifications. If teachers are not assisted in this way, inclusion can be a very stressful experience for the students, the teachers, the parents and everyone else involved. The Government is supporting the concept of

15 February 2000

inclusion, which is great. It is an option that everybody supports. But we need to see that commitment to inclusion supported properly and appropriately with resources or the move will be quite a problem for a lot of the people involved.

In conclusion, I say again that I really appreciated the work that the community put into this inquiry. A number of the people who came to speak to us had spoken to many committees before and were feeling slightly cynical about the committee processes of the Federal and local parliaments because they have been putting in the work but have tended to see little change or inadequate change.

I understand the issue of Federal funding. Mr Moore has said clearly that he is concerned about the unmet need in the area generally. I acknowledge that the Federal Government does not seem to have a handle on the unmet need or does have a handle on it but does not want to act on it, but we still have responsibility for the people in the ACT. They are a vulnerable group of people in our society and we need to be very clear about what is happening. We cannot pass the buck on this matter. If the children with a disability and their parents are not being supported properly in our system and are being stressed by the experience of trying to get a basic education that is satisfactory, we have to respond to that as part of government.

**MR BERRY** (11.37): Mr Speaker, I say at the outset that one has only to look at the list of submissions to assess the public feeling about this issue in our community. It is true that the number of persons who receive services from the Government represent a small percentage of this community, but if you look at the list of submissions that we received - 72 submissions from a full range of parent organisations, individual parents, professionals and so on - you will get an idea of the temperature of the undercurrent in the community on this issue.

I heard my colleague Ms Tucker mention the cynicism which is felt about the Government's response to these issues. I must say that I think that it is about time the Government received a bit of a jolt about the services provided for students with a disability. My colleagues and I had the good fortune to visit the States and inspect the sorts of services provided there. We had the opportunity in the ACT to visit many places, some better than others. I suspect that we may not have visited the sorts of establishments in the States which were not the best. In any event, my impression of the visits we had to New South Wales and Victoria, at least, is that they were doing better than we were.

The problem in the ACT is that we tend to think that we are doing better than other places in many of these areas because that is the information we are fed all the time. It is generally said that we spend more, so we must be doing better. We get back to the benchmarking argument all the time, which basically leads to lowest common denominator politics and which those of us who are interested in social justice would clearly reject as a driver for the provision of services to our community.

For example, we received many complaints while visiting ACT establishments about the level of staffing and the qualifications of those staff who provided services to the community. There is no lack of dedication, none at all, but we did receive many complaints in relation to that. I recall one establishment that we visited in Victoria where there were almost as many staff members and support services as there were students in

the class. That is not to say that they are all like that, but it stood out as an example of something which was being done much better than we did it. My memory of it was that the class had a variety of students - from those with profound disabilities to those with lesser disabilities, though in need of specialist care.

Mr Speaker, the shame of this report is that we have to point to the condition of buildings from which we provide these services and the level of training available for teachers and other staff members within our system. In this day and age, we should not be making recommendations such as recommendation 18, which reads:

The committee recommends that the Department of Education and Community Services:

ensure that all staff are trained to be competent in diverse settings; and

advise the Assembly of the strategies it has put in place to ensure staff are properly trained.

How is it that in the year 2000 we are making recommendations along those lines? It is clear that somebody has taken their eye off the ball if we have to make those sorts of recommendations. It is appalling that a committee of this Assembly has had its attention drawn to the lack of training for teachers and other staff who provide services to students with disabilities. I suspect, Mr Speaker, that that is because most of those who made submissions to us did so with full commitment but were less vociferous publicly than other areas of education or other areas of services might be. They go about the business of looking after their families quietly; indeed, more quietly than they should, given the circumstances which exist within our education system for students with disabilities.

Another appalling example of the level of services provided in the ACT is the condition of some of the buildings. It is true that, if we were starting again, some of these buildings might not be used for the purposes for which they are used, so I am not going to be especially critical of a particular establishment. But you have only to visit a few to come to the conclusion that something is wrong with the buildings in terms of the services they provide. Buildings and surroundings where the topography is completely unsuitable were witnessed in our committee inspections at these places.

It is also important that we understand that it is unlikely that these schools will be relocated or rebuilt, but you have to keep in mind the necessity to choose appropriate buildings for students with disabilities. These buildings may well have been suitable for the services they provided some time ago and in keeping with the standards that existed in other places; but when you look at them now and consider the services that are provided you cannot help coming to the conclusion that something is wrong.

For example, we had our attention drawn to the condition of playground equipment at Cranleigh School. Playground equipment for students with disabilities is extremely important, absolutely fundamental to the provision of quality education services. Some of the Cranleigh playground equipment - in fact, most of it, on my recollection of it - was

15 February 2000

equipment that had been designed and constructed by parents some time ago, probably 10 or 15 years ago. It is out of date and unsafe and should be ripped out and replaced with better equipment. That needs to be treated as a priority. I cannot believe that in this day and age somebody within the Minister's department does not know about that. It is just incredible that we should have those sorts of circumstances.

We had at Koomarri the issue of access to a toilet by disabled students. That came up in evidence. How is it that in this day and age we have to deal with access to toilets for students with disabilities? Surely that is a fundamental matter.

I found those aspects quite appalling and in need of very urgent attention. I said earlier that I think that people have taken their eye off the ball, that they have been more interested in the financial aspects of the provision of services than in the quality of the services being provided. There is certainly a need for much more work in relation to the provision of services of a suitable quality for students with disabilities.

I look forward to the Government's response to this report, which is couched in moderate terms. It is couched in such a way as to encourage the Government to come up with some positive outcomes. But let there be no mistake about it: This report ought to be viewed as a jolt to the Government over the quality and level of services provided to students with disabilities. It is not up to committees of this place to provide all of the management and structural changes which need to be put in place to deliver on this issue. We merely provide the catalyst in the form of these recommendations for departmental and government action.

There is no question that it is going to cost more. Do not let me hear the Government bleating about the money spent on these services in the ACT being more than what happens, on average, in the States and, therefore, we cannot do anything about it. Our obligation in this place is to provide quality services for students with disabilities. Parents and students deserve a fairer go than they are getting in the ACT. I would recommend most strongly that the Government give this report and its recommendations a high priority in its consideration of the provision of services in the ACT. Let us forget this fascination with benchmark funding. If we continue down that path, we will be just going backwards. We will be dragged down to the lowest levels which exist in the States. I for one will not tolerate that.

**MR HIRD** (11.48): Mr Speaker, I join my colleagues on the Standing Committee on Education, Community Services and Recreation in speaking to this report. I, too, believe that governments - not just this Government - going back prior to self-government have taken their eye off this problem and have not given enough attention to it or directed enough resources to this area. The 72 submissions given to the committee in its deliberations identified that loud and clear.

I do not think that it does any good just to say that the current Government has caused the problem. In essence, I believe that a succession of governments have taken their eye off the ball, as I said earlier. That is what happened yesterday, Mr Speaker. Tomorrow, as I understand it, the Government will take this matter very seriously. My understanding is that there is a problem in this area throughout Australia. Anyone in this room who doubts that needs only to look at what the other jurisdictions are doing. To my mind, only one of

them has actually tackled the problem, that is, the Victorian Government, and they have not gone far enough. We have an opportunity with the 20 recommendations of this report to do something.

My colleagues have identified a number of areas of concern. In particular, I was concerned that the needs of children at Cranleigh School for suitable playground equipment had not been met. Another area of concern was the CALM unit at Koomarri. Access to toilet facilities is something that is taken as the norm at ordinary schools, but there was no direct access to toilet facilities from what is known as the CALM unit.

The other area of concern to me, Mr Speaker, involved the Woden School. There is a recommendation in this report that the Government be provided with regular reports on the implementation of strategies to prevent incidents of violent behaviour at Woden School. I think that is something on which the Government has taken appropriate action following the committee's attention being drawn to it.

In closing, I was horrified to learn that the ACT branch of the National Federation of Blind Citizens of Australia had expressed concern about a tendency to encourage children who could benefit from braille to rely on either audio cassette or computer speech as the primary means for accessing information and reading and writing. The federation claimed to the committee that such reliance can have disastrous outcomes for the development of the literacy skills of blind students, and I would agree. The Government's attention was drawn to this matter and the concerns of the federation were conveyed to the Department of Education and Community Services, which gave an assurance that the teaching of braille is current policy in the education system of the ACT.

A lot of effort and a lot of work have gone into this report. I am confident that the Government will take it on board. As I said, the problem is not confined to the ACT. It has arisen throughout the whole of Australia and various governments and people are coming to grips with it and trying to steer resources towards getting the best benefits not only for their community but also for the students who are disadvantaged compared with other students. Let us make the task for not only the students but also the teachers a little easier by bringing about some positive outcomes.

**MR STEFANIAK** (Minister for Education) (11.53): Mr Speaker, I wish to make a few comments before I adjourn the debate on this report. Naturally, the Government will look very carefully at the recommendations. I note the relatively moderate tone of them and I note Ms Tucker's speech, which was generally positive in terms of pointing to some problems that the committee saw. We will look at them. I thank Mr Hird for his positive comments.

I will say a couple of things about Mr Berry's speech, to start with. I just saw it as a rather blatant attempt at petty political point-scoring. Might I say that the Government takes very seriously its responsibility for all students, especially its disabled students. In looking at the body of the report, I noted quite a number of comments in terms of what we do spend, and I do not think that you can get away from that.

15 February 2000

**Mr Berry:** Oh, no.

**MR STEFANIAK:** No, you cannot, Mr Berry. In making some of the comments that you made, I think you were just blatantly politicising the issue and trying to score very cheap points, not recognising the significance - - -

**Mr Berry:** Go out and visit them, Bill.

**MR STEFANIAK:** I have, Mr Berry. We will look at this report and consider what your two colleagues said in a spirit of cooperation, not the blatant, stupid political point-scoring which you seem to go in for.

One thing I did mention to the committee when I appeared before it was that we have had quite a lot of anecdotal evidence that people actually come to the ACT, certainly people on postings, because they feel that our services are better than the services interstate. I am not saying that they are perfect, Mr Speaker. I am saying that a report like this one is going to be a useful tool for the Government. We may not agree with everything that is in there, especially if Mr Berry has had too much to do with it, but we do take the subject seriously.

Mr Moore and I have a number of concerns in this area. From a whole-of-government perspective, there are certainly things that the Government can do better. I find from getting out and talking to people, Mr Berry, that there are still coordination difficulties.

I have one further point to make before I adjourn the debate. I was interested in the comments on the Cranleigh School playground. You might find that they have been rectified.

**Mr Kaine:** I take a point of order, Mr Speaker. If the Minister is speaking to this matter, how can he then adjourn the debate on it? I seek a ruling from you on that matter.

**MR SPEAKER:** No, he will not be adjourning the debate, Mr Kaine.

**MR STEFANIAK:** I would now seek to adjourn the debate.

**Mr Kaine:** You cannot.

**MR STEFANIAK:** I can. The Government has to make a formal response.

**Mr Kaine:** You have already spoken.

**MR STEFANIAK:** All right, I will just make those points in relation to Mr Berry's comments and thank Ms Tucker and Mr Hird for their much more positive comments. On that basis, Mr Speaker, I will sit down if you want someone else to adjourn the debate.

**MR SPEAKER:** I will leave that to somebody else, Mr Minister.

Debate (on motion by **Mr Humphries**) adjourned.

**PLANNING AND URBAN SERVICES - STANDING COMMITTEE**  
**Report on Draft Variation to Territory Plan – Telecommunications**  
**Facilities Policies**

**MR HIRD** (11.56): Mr Speaker, I present Report No. 40 of the Standing Committee on Planning and Urban Services, entitled “Draft Variation No. 100 to the Territory Plan: Telecommunications Facilities Policies”, together with a copy of extracts of the minutes of proceedings. I move:

That the report be noted.

I thank the Minister for Urban Services and his officers for assisting us in this matter. As indicated, policies concerning telecommunications facilities throughout the ACT are the subject of this draft variation. I recommend that members endorse the committee’s proposals in respect of this matter. I thank also my colleagues and the secretary of the committee, Rod Power, for their assistance. I commend the report to the house.

Question resolved in the affirmative.

**JUSTICE AND COMMUNITY SAFETY - STANDING COMMITTEE**  
**Scrutiny Report No. 1 of 2000**

**MR OSBORNE**: I present Scrutiny Report No. 1 of 2000 of the Standing Committee on Justice and Community Safety, performing the duties of a scrutiny of Bills and subordinate legislation committee, and ask for leave to make a brief statement on the report.

Leave granted.

**MR OSBORNE**: Scrutiny Report No. 1 of 2000 was circulated when the Assembly was not sitting, on 8 February 2000, pursuant to the resolution of appointment of 28 April 1998. I commend the report to the Assembly.

**JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT**  
**BILL 1999**

Debate resumed from 2 September 1999, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

**MR STANHOPE** (Leader of the Opposition) (11.58): Mr Speaker, I have a few brief comments to make in relation to this Bill. The Opposition is happy to support this Bill. The Bill is an omnibus Bill. It amends a number of Acts and has several components. The first component introduces a standard fee scheme for courts and tribunals.

15 February 2000

The scheme allows the Minister to set fees by way of disallowable instrument. It allows, for example, remissions and deferrals of payment and the recovery of fees paid by a party for whom judgment is made and it provides for review of decisions on fees.

The Bill places the standard fee structure in the Magistrates Court Act and deletes the sections on fees from other Acts. The legislation affected by the restructuring relates to the Magistrates Court, the Supreme Court, the Administrative Appeals Tribunal, residential tenancies, the Tenancy Tribunal and consumer credit. The scheme also introduces fees in relation to the Discrimination Act. A second component of the Bill will allow a juror to disclose jury deliberations to his or her lawyer in inquiries about contempt of court or disclosure of jury deliberations or a juror's identity. The Bill also removes the requirement that a Full Bench of the Supreme Court hear appeals against AAT decisions made by a tribunal including a presidential member or a member who is a judge.

Other components of the Bill amend the Government Solicitor Act and the Coroners Act. In fact, section 5(3) of the Government Solicitor Act, which remains unchanged, allows the Minister to request the Government Solicitor to act for any other person or body. This Bill extends the range of persons for whom the ACT Government Solicitor may act with or without the request of the Minister. The Bill permits, for example, the ACT Government Solicitor to act on behalf of Totalcare or an employee or ex-employee or a director or ex-director without the Minister having to make a request. However, new section 5(3A) requires the chief solicitor to decide whether the Territory has an interest in the outcome of the matter. As I have said, section 5(3) has no limitation provided the Minister requests that an entity be represented. These amendments do not extend the range of entities that can be represented by the Government. Rather, they have the effect of removing responsibility from the Minister. The amendments to the Coroners Act remove responsibility from the Minister in a like sense.

I really do not know whether there is anything more that I need to say in relation to this omnibus Bill, Mr Speaker. As I indicated, the Opposition is prepared to accept the amendments. The legislation, as mentioned in a brief flurry of comment on this matter last year, was introduced shortly before the coroner's report on the implosion and the coincidence did raise some comment at the time. I said then that the principle of the amendments to the Coroners Act seemed reasonable but that it seemed inappropriate to be debating them at the time. The Labor Party is now quite happy to support this package of Bills, Mr Speaker.

**MR HUMPHRIES** (Treasurer, Attorney-General and Minister for Justice and Community Safety) (12.02), in reply: I thank the Opposition for their support for the Bill. As Mr Stanhope has indicated, it is largely a Bill comprised of a series of technical and procedural amendments to legislation in the justice portfolio to ensure that the legislation meets the needs of the community. I do not propose to go over the comments that Mr Stanhope has made on amendments to the Juries Act and other legislation. I agree with what he had to say about that.

I do want to make one brief reference to the amendments to the Coroners Act. I maintain the view, based on a number of representations to me as Attorney-General seeking my intervention to reopen coronial inquiries, that it is inappropriate for the power to reopen

such inquiries to be locked up in the office of Attorney-General. Citizens of this community have the right to challenge decisions of government in a whole range of respects and it seems to me, concerning the death of a person, that it is particularly appropriate that that power to challenge a finding of a coroner or a decision of a coroner in respect of coronial proceedings ought to be a power which is similarly in the hands of the community, not in the hands of an officer of the Government.

In terms of the timing of this proposal, the Bill was generated originally by a number of requests to my office from relatives of deceased people who had sought access to a review which they could not achieve except through me. That was the genesis of this proposal. There was comment about the timing of the matter prior to the bringing down of the findings of the inquest into the death of Katie Bender. I have to say about that that it would be quite appropriate for the powers of individual citizens to be able to take up such matters to be widened, including in the case of the findings in respect of the death of Katie Bender. It was the Government's belief that that legislation should be on the table prior to those findings coming down in order to facilitate people such as, hypothetically speaking, the family of Katie Bender to take the step of challenging the findings of the inquest. Rather than seeing that as some kind of sinister development, I think it was quite appropriately seen as a means of ensuring that the family of that young girl had access to justice.

Mr Speaker, I am glad that at this stage at least the Bill will be passed and there will be opportunity for the enlargement of the rights of citizens of the ACT. I hope that the process of reviewing the law in this way through what are more or less omnibus Bills dealing with a particular portfolio area will continue as a way of dealing with a succession of relatively small matters for the most part which arise in the administration of justice, but which certainly are important to some people in the community if those matters cannot be dealt with in a timely way. I thank the house for its support.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with detail stage.

Bill agreed to.

## **JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL (NO 2) 1999**

Debate resumed from 25 November 1999, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

**MR STANHOPE** (Leader of the Opposition) (12.06): This Bill was introduced by the Attorney-General on 25 November 1999. The scrutiny of Bills committee had no adverse

15 February 2000

comment on the Bill. As with the previous proposal, the Opposition is happy to support these amendments. The Bill's principal purpose is to amend various Acts relating to the Credit Tribunal, the Discrimination Tribunal, the Guardianship and Management of Property Tribunal, the Mental Health Tribunal and the Tenancy Tribunal by providing for standardised provisions relating to their creation, constitution, membership and procedures. The functions and powers of the tribunals remain unchanged. As I indicated previously, to the Opposition this approach seems reasonable, given that it confirms what happens in practice; that is, the Chief Magistrate is president of the various tribunals, other magistrates are made deputy presidents, and persons with qualifications varying according to the needs of the particular tribunal are made members.

These provisions have been extended in relation to some of the tribunals to provide that a lawyer of five years' standing may be appointed as a deputy president. The clerk of the Magistrates Court is made the registrar of each tribunal. The provisions of the Bill setting out the matters to be included in an instrument of appointment do not include the class of membership of non-presidential members. Most of the tribunals have a number of categories of member - presidential, non-presidential, owner representative, tenant representative or as the case may be.

I propose to move small amendments to the Bill, which I will mention now, to make sure that the instrument of appointment has to show to which category of membership a person is appointed; for example, as a consumer representative, an industry representative or a psychiatrist representative. The amendments, I suggest, will enable the Assembly and the community to be assured that any tribunal is, in fact, constituted as required by the legislation. The amendments would, by this simple expedient, remove any doubt as to a member's status. There are circumstances where it could be argued that it is important to justify an appointment of a particular person to a tribunal. As I said, Mr Speaker, I propose to move those amendments, which the Opposition believes to be quite reasonable.

**MR HUMPHRIES** (Treasurer, Attorney-General and Minister for Justice and Community Safety) (12.09), in reply: I thank Mr Stanhope for the Opposition's support for the Bill. It is a fairly long Bill, but it does contain some very important tidying up of the provisions dealing with tribunals. Tribunals have become much more fashionable in recent years. They are seen as a flexible, more appropriate means of dispensing justice involving not just sworn officers of the bench but also other people who can appropriately be brought into situations where specialist advice is required, in some cases at least. The balance between the requirements for a formal court structure and the opportunities of flexibility presented by a tribunal is very important for any flexible court system to be able to attain. Updating and modernising the provisions dealing with tribunals has been very important. The process has resulted in some very extensive housekeeping, which is evident in the Bill before the Assembly.

I think that, as a result of this Bill, many of the differences in approach and unnecessary anomalies between the operation of different tribunals will be relieved. One of the obvious ramifications of having different approaches in different tribunals is that those who practise in these courts and who move from one tribunal to another, naturally enough, will find difficulty in understanding the differences if they do not practise regularly in a particular tribunal, and those sorts of differences are quite unnecessary and

do not contribute at all to the effective delivery of justice. It is very good to see that we have been able to reach this stage. I thank the Opposition for its support and I trust that the courts will operate more effectively as a result of the passage of this Bill.

Question resolved in the affirmative.

Bill agreed to in principle.

### Detail Stage

Bill, by leave, taken as a whole

**MR STANHOPE** (Leader of the Opposition) (12.11): I ask for leave to move together the amendments circulated in my name.

Leave granted.

**MR STANHOPE:** I move:

Schedule –

Page 3, line 24, proposed amendment of *Consumer Credit (Administration) Act 1996*, proposed new section 66: Before paragraph (a), insert the following paragraph:

“(aa) whether the member is the president, a deputy president, consumer member or industry members; and”.

Page 10, line 20, proposed amendment of *Discrimination Act 1991*, proposed new section 110F: Before paragraph (a), insert the following paragraph:

“(aa) whether the member is the president or a deputy president; and”.

Page 16, line 8, proposed amendment of *Guardianship and Management of Property Act 1991*, proposed new section 63: Before paragraph (a), insert the following paragraph:

“(aa) whether the member is the president, a deputy president or a non-presidential member; and”.

Page 32, line 3, proposed amendment of *Mental Health (Treatment and Care) Act 1994*, proposed new section 80: Before paragraph (a), insert the following paragraph:

“(aa) whether the member is the president, a deputy president, a psychiatrist member, a psychologist member, a mental health services member or a community member and”.

15 February 2000

Page 41, line 12, proposed amendment of *Tenancy Tribunal Act 1994*, proposed new section 66: Before paragraph (a), insert the following paragraph:

“(aa) whether the member is the president, a deputy president, owner member or tenant member; and”.

I do not need to speak at length on the amendments, Mr Speaker. I am proposing an amendment to each of the Acts proposed to be amended by the Bill which simply inserts for the purposes of greater certitude that an instrument of appointment in relation to persons appointed to tribunals be named by, in effect, the title by which they are appointed; in other words, whether they be the president or the deputy president, for instance, or whether they be a consumer representative, an industry member or whatever it might be in relation to each of the respective tribunals. They are minor but useful housekeeping amendments and I commend them to members.

**MR HUMPHRIES** (Treasurer, Attorney-General and Minister for Justice and Community Safety) (12.12): Mr Speaker, I have no objection to Mr Stanhope’s amendments. I am advised that whenever appointments are made they are always made giving the title of the person who is being appointed to indicate which position they are being appointed to, but a belts and braces approach does not hurt. I support the amendments before the house.

Amendments agreed to.

Bill as a whole, as amended, agreed to.

Bill, as amended, agreed to.

## **JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL (NO 3) 1999**

Debate resumed from 25 November 1999, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

**MR STANHOPE** (Leader of the Opposition) (12.13): This Bill is a further housekeeping or omnibus Bill dealing with a significant number of Acts. It deals with the Consumer Credit Act, the Credit Act, the Director of Public Prosecutions Act, the Evidence Act, the Fair Trading Act, the Interpretation Act, the Residential Tenancies Act, the Tenancy Tribunal Act, the Trade Measurement Act, the Credit Regulations and the Door-to-Door Trading Regulations.

I say at the outset that the Opposition was quite prepared to proceed with and support the Bill as presented by the Attorney-General. As members would be aware, the Attorney did have prepared and distributed last night 16 pages of amendments to the Bill. I regret, Mr Speaker, that neither I nor the Opposition have had time to look in detail at the amendments. I have to say that a very quick flick through them indicates to me that we

probably would have no difficulty with them, but I am uncomfortable about proceeding with the Bill in the face of such an extensive number of amendments. I indicate to the Attorney that we are quite prepared to support this Bill in principle, but we would be grateful if it were not to proceed beyond that stage today.

Just on the Bill, the Attorney indicated at the time he tabled the Bill that the principal feature of it is the replacement of the office of Director of Consumer Affairs by a statutory office of Commissioner for Fair Trading. The Attorney has indicated that this reflects the restructuring that has taken place within his department. It should be noted, however, that the Attorney has also taken the opportunity to change the emphasis of the Fair Trading (Consumer Affairs) Act 1973. I think this is a significant change in this suite of amendments. The long title of that Act has been changed to an Act to make provision for the protection of consumers and for the protection of traders against unfair commercial practices. The legislation is being extended somewhat to embrace the protection of traders.

The functions of advisory committees under the Act have been extended to advising on unfair commercial practices affecting traders, meaning that the Commissioner for Fair Trading may receive complaints about conduct, including fraudulent or unfair practices. That means that the Act will cover more than consumer interests and could be used by local retailers to lodge formal protests about, say, out-of-town traders hiring the Albert Hall to sell goods at a cheaper price. I could probably suggest - perhaps it would be being unnecessarily cynical of me to do so - that it is an example of the Government being less than entirely open about the true effects of these amendments. I am always interested in and a touch bemused by legislation propounded by the great proponents of open competition that, in fact, might have an adverse impact on competition. But I just make that as an aside. It is unnecessarily cynical of me, I am sure.

The scrutiny of Bills committee did report in relation to this Bill that it contains a Henry VIII provision in clause 24 but, given the purpose of the clause in this instance, the committee raised no concerns about it. I think that was a reasonable conclusion by the committee. The clause simply permits regulations to be made to cover any transitional situation that was not foreseen by the transitional clause included in the Bill and the Opposition has no difficulty with the legislation containing a clause of that nature in this instance.

As I said, the Labor Party is quite happy to support the amendments contained within this omnibus Bill to the in-principle stage and would just like a little bit of additional time to look at the impact of the large number of amendments lately delivered.

**MR HUMPHRIES** (Treasurer, Attorney-General and Minister for Justice and Community Safety) (12.18), in reply: I thank the Opposition for its support in principle for the Bill. Mr Stanhope made reference to the transition towards having a Commissioner for Fair Trading and the restructuring within the Department of Justice and Community Safety to effect that kind of position. It is true that this is, in a sense, the end point of a transition that has been going on for some time to reorient the work of what was the Consumer Affairs Bureau to reflect the fact that, in a commercial

*15 February 2000*

relationship between a trader or business person and a consumer, there are issues on both sides of that equation or relationship which, from time to time, governments and parliaments may need to address.

It is probably wrong to assume, as perhaps was assumed in the past, that a consumer was always the most disadvantaged party in those proceedings and that the trader would always be in a very strong economic or other position relative to the consumer, because we know that in this city in particular the vast majority of businesses are small businesses and sometimes they themselves are the victims of unfair practices, not necessarily from consumers but from other businesses, and in a range of respects.

It is important that, to be effective, a government or parliamentary function which operates in the marketplace operate mutually; that is, so as to protect the position of both purchasers and vendors, of traders and consumers, in a way which recognises that they both have rights and both have responsibilities to each other. Getting away from the idea of having a government department or Minister responsible for the affairs of consumers - instead, to look at the affairs of all who trade in that marketplace - is a fair transition. I note that these days most governments round Australia have dispensed with Ministers for consumer affairs and, instead, have Ministers for fair trading.

Mr Stanhope has drawn attention to the amendments. It certainly is unreasonable to expect the Assembly to deal with the amendments with very little notice given of them, and I apologise for that lack of notice. The issues which the amendments give rise to are issues which have come to light in only the last few months, or even weeks, and were included late in the Bill because it was felt that they needed to be dealt with with some urgency, but were not included in the original Bill because the information was not available at the time. For example, our very efficient and diligent Master of the Supreme Court has recently found some provisions in the Commonwealth's Evidence Act which are inoperative in respect of the ACT, and those amendments need to be made in order to make sure that the Act continues to provide a framework for the provision of evidence in our courts.

Similarly, in the last few weeks, an appeal has been mounted, or at least is coming to the stage where it will be heard in the High Court, by Alan Bond against a sentence in Western Australia. A number of arguments there about the capacity of the Commonwealth to bring appeals against decisions of state prosecuting authorities, or vice versa, have been given rise to by that appeal and it is felt appropriate that we anticipate that problem by making it clear, particularly in a jurisdiction such as the ACT, that such appeals can be mounted.

That is one of the amendments which have been put forward in those 16 pages to which Mr Stanhope referred. I am happy for members to have more time to look at those matters and to return to those issues a little later. Once again, I thank the Assembly for its support for this Bill.

Question resolved in the affirmative.

Bill agreed to in principle.

**Detail Stage**

Clause 1

Debate (on motion by **Mr Berry**) adjourned.

**Sitting suspended from 12.23 to 2.30 pm**

**QUESTIONS WITHOUT NOTICE**

**ACT Public Service and Canberra Hospital Implosion**

**MR STANHOPE:** Mr Speaker, my question is to the Chief Minister. On 11 November last year the Chief Minister announced the appointment of former Chairman of the National Crime Authority, Mr Tom Sherman, to make an independent assessment of the ACT Public Service in relation to comments made in the coroner's report into the failed Canberra Hospital implosion. The *Canberra Times* reported the Chief Minister as saying:

“...it's appropriate to have somebody at arms length, who would be regarded as very knowledgeable in this area, to have an independent look at it and make sure we have taken the recommendations on board.”

However, on 15 December, the head of the Chief Minister's Department, Mr Rod Gilmour, told the Select Committee on Government Contracting and Procurement Processes that Mr Sherman would not, in fact, be undertaking a review of government administration in light of the coroner's report. Mr Gilmour said, rather, that Mr Sherman would be reviewing the Government's response to the coroner to assess its adequacy. Can the Chief Minister tell the Assembly just what Mr Sherman's task is?

**MS CARNELL:** Mr Sherman's task is to review the Public Service response to the coroner's inquiry, and it will be tabled on Thursday, Mr Speaker.

**MR STANHOPE:** Oh, thank you.

**Ms Carnell:** Is that the supplementary question?

**MR STANHOPE:** No, but it goes to that, Chief Minister, quite obviously. I wonder whether the Chief Minister would agree that there is a significant difference between Mr Sherman ensuring the coroner's report recommendations and other matters raised by the coroner relevant to the ACT Public Service are addressed in current practices and procedures, as she said in her media release, and his being asked to look at our response to those issues and to give us some advice as to the adequacy of the response to those issues, as Mr Gilmour told the committee. I wonder whether the Chief Minister could tell us what prompted the change in the Government's attitude to Mr Sherman's appointment.

15 February 2000

**MS CARNELL:** No, we perceive them to be in line, Mr Speaker.

### **ACTEW/AGL - Proposed Joint Venture**

**MR QUINLAN:** Mr Speaker, my question is to the Treasurer and it relates to the proposed ACTEW/AGL joint venture, and this is likely to be near the top of his PAQs, I expect. I appreciate that the Chief Minister was out of town last Friday and the job of ringing up to interrupt ALP interviews on the ABC fell to you, Treasurer. You called ABC radio on Friday in relation to the ownership or potential ownership of the assets and said:

But the ownership of the assets which are brought to the table by ACTEW stay with ACTEW. There is no transfer of any assets.

However, separate documentation from AGL and from ACTEW implies fairly clearly that there would be significant asset transfer from ACTEW to the new company. Can we get a clarification on that point?

**MR HUMPHRIES:** Yes, Mr Speaker, I am very happy to help Mr Quinlan understand what has been proposed. Mr Speaker, the Government will be tabling legislation on Thursday this week which will outline, in a form which the Assembly can scrutinise at its leisure, the proposal which the Government will put forward for the joint venture between ACTEW and AGL. I am happy to outline for Mr Quinlan's benefit the nature of the relationship as proposed at this stage.

**Mr Stanhope:** And correct the mistake you made.

**MR HUMPHRIES:** No, Mr Speaker, I do not think I will be doing that.

**Mr Stanhope:** No, heaven forbid.

**MR HUMPHRIES:** If members would like to hear what I have to say I am very happy to tell them, otherwise I will leave it until another time, Mr Speaker. ACTEW will continue to own the water and sewerage assets which ACTEW presently owns and, as now, will not be able to dispose of them without Assembly resolution, pursuant to the amendment to the TOC Act which Mr Corbell was responsible for. ACTEW will contract with the partnership - that is, the joint venture partnership which is being proposed and of which we have already spoken - to operate and maintain the water and sewerage assets, and this contract will specify service delivery and health and environmental standards to be met by the partnership. If it is ever necessary to terminate the water and sewerage operations and the maintenance contract, ACTEW's continued ownership of those assets and its role as ultimate employer of staff will allow it to resume direct service delivery.

As far as the supply of electricity is concerned, ACTEW's electricity assets will be transferred to the partnership, but if the partnership is ever dissolved the electricity business will revert to ACTEW in accordance with preagreed conditions. As far as gas is concerned, ACTEW will gain a 50 per cent interest in AGL's ACT gas assets, and thus the community will gain a direct interest in the degree of control over gas utility services which it presently does not have.

I also note, Mr Speaker, that one of the conditions of the enabling legislation which will be tabled on Thursday will be that the partnership will not be able to dispose of a main undertaking without Assembly approval. The partnership will operate under ACT law, which can be amended by the Assembly at any time, of course. ACTEW and its wholly owned subsidiaries will continue to be subject to the full range of controls applicable under the TOC Act and all other existing legislation - for example, FOI, AD(JR), Ombudsman, et cetera. Those controls, of course, will not apply to the same degree to AGL, it not being a government body, but the ACTEW involvement still will be subject to all those controls. The partnership will continue to have its prices regulated by IPARC for water, sewerage, gas and electricity. The proposed Utilities Bill, which is to be tabled on Thursday as well, will apply to the partnership in precisely the same way as it applies to ACTEW - that is, gas will be included as one of the utilities which are to be covered by that legislation - and the special enabling legislation will contain very substantial limitations and controls to protect the public interest.

**MR QUINLAN:** I have a supplementary question. I gather from that that what you said on Friday was not correct. As a supplementary question, we appear to have embraced the deal with AGL to a great extent, even during the negotiating process, which, to me, is - - -

**Ms Carnell:** That is because you told us to go and find a strategic partner, Mr Quinlan, so we did.

**MR QUINLAN:** I did not tell you to grab them around the legs and bloody hug them to death and then ruin your bargaining position, did I? Given that you have heralded the deal as being a good deal while you are supposed to be negotiating, have you left the door open at all for a deal that might involve a strategic partnership on the retail part of ACTEW which was open to risk and which I did recommend that you do something about? Have you left the door sufficiently open for a deal where we can, in fact, enter a strategic relationship in relation to electricity retail without sacrificing 50 per cent or any per cent ownership of public assets?

**Ms Carnell:** You told us to sell the electricity retailing.

**Mr QUINLAN:** Electricity retail. That is fine.

**MR HUMPHRIES:** Mr Speaker, I think the answer I gave earlier today in question time made it quite clear that we are not sacrificing ownership of the assets. I will repeat the words I have used to the Assembly already. ACTEW will contract with the partnership to operate and maintain the water and sewerage assets, and this contract will specify service delivery and health and environmental standards. ACTEW will continue to own the water and sewerage assets and, as now, will not be able to dispose of them without Assembly resolution. The electricity assets will be transferred to the partnership, but if the partnership is ever dissolved the electricity business will revert to ACTEW in accordance with preagreed conditions.

**Mr Quinlan:** Is any money going to change hands?

15 February 2000

**MR HUMPHRIES:** Mr Speaker, let me give an example for the benefit of Mr Quinlan and members opposite. If I give Mr Quinlan my pen unconditionally as a gift, Mr Quinlan clearly owns the pen. If I give Mr Quinlan the pen but say at any stage, "You have to give the pen back to me", then who owns the pen?

**Ms Carnell:** You do.

**MR HUMPHRIES:** Mr Speaker, I think the answer is that I do. That is the arrangement which ACTEW and AGL are proposing to enter into.

**Mr Quinlan:** See you in court. What if I give you a dollar for the pen, Gary?

**MR HUMPHRIES:** "Have we left the door open?", Mr Quinlan asks. Have we left the door open for some other arrangement? Well, yes, until any deal is stitched up. Yes, the door is still open; but we are pursuing this particular arrangement because it presents, on the recommendation of the board of ACTEW, of the many which were put forward in the expression of interest process, the best opportunity to do what Mr Quinlan himself said last year we ought to be doing, and that is addressing the risk associated with at least some of ACTEW's activities. Mr Quinlan said only last Friday, "I think it is inevitable that ACTEW must get into a 50/50 deal on its retail operation".

**Mr Quinlan:** Retail operation.

**MR HUMPHRIES:** Retail operation. Mr Speaker, the deal we have put on the table does exactly that.

**Mr Berry:** And everything else.

**MR HUMPHRIES:** It provides for a sharing of risk, a sharing of exposure on the retail business  
- - -

**Mr Hird:** I want to hear this.

**Mr Stanhope:** You do not, Harold. You would be embarrassed.

**MR SPEAKER:** Just a moment, please. This is an important issue, and I think Mr Quinlan would like to hear what the Treasurer is saying.

**MR HUMPHRIES:** Mr Quinlan has asked why we were pushing this as a good deal before we finalised it. Well, the fact of the matter is that it was being attacked as something to be suspicious of by the Opposition before we finalised it, which rather forced us to defend what we were doing so far. If we were all prepared to step back and do nothing about judging this matter until such point as we had a deal worked out to present and to discuss, well, then we might have been in that; but you are not playing by those rules, so why should we?

**Mr Quinlan:** Because it would be good business.

**MR HUMPHRIES:** Mr Speaker, let me say this to the Opposition: I hear the criticisms that they are making about this arrangement and I understand their concerns about what is happening with respect to ACTEW. This is the third significant proposal that the Government has put on the table with respect to the future of ACTEW in the last 12 months, or a bit over that. We are trying to address what everybody knows is a significant problem facing ACTEW in the rapidly changing and highly competitive energy market in Australia. We appear to have got wrong the first two answers we put forward, according to the Opposition. We are now making a third attempt at getting the answer right.

Instead of constantly saying to the Government, “No, this is the wrong answer; no, this is the wrong answer; oh, no, this is the wrong answer”, it would help us if you gave us a hint about what is the right answer. You say we have to address the exposure of ACTEW, the risk of ACTEW. How do we do that? Give us a clue as to how we can do this. We have put a proposal on the table, Mr Quinlan. If you want to oppose it and say you do not like it, that is fine; but I think now, after three attempts, the time has come for you to say not just what you do not like, but also what you do like.

### **Rugby League - Training Facility**

**MR KAINE:** My question is to the Minister for Education. This will be a bit of a surprise as I do not ask him a question very often, but I am asking him this question in his capacity as Minister for sport and recreation. I am not certain that he will be allowed to answer it. The Chief Minister or the Treasurer, or even Mr Moore, might find that they can answer it better, but we will wait and see. Mr Stefaniak, in the *Canberra Times* of last Thursday, 10 February, one of the Chief Minister’s spin doctors was quoted as saying that \$1.7m worth of taxpayers’ funds originally approved for Rugby League Park in Braddon was now being diverted to a Canberra Institute of Technology site at Bruce for the construction of a new facility for the Canberra Raiders football team. I found that a little inexplicable because if you go to your own budget last year, Minister, and I mean to page 224 of Budget Paper No. 3, it quite specifically states there that this \$1.7m was for the sport and recreation element of the budget and it was for headquarters for the Canberra and District Rugby League Football Club. Minister, how is it that capital works funds approved by this Assembly only a year ago for the CDRL, which among other things fosters junior rugby league in the ACT, now appears to be going to a wealthy private company, 50 per cent of which is owned by Rupert Murdoch’s News Ltd?

**MR STEFANIAK:** I thank the member for the question. Mr Kaine mentioned the CDRL who, in fact, are the holders of the lease over Northbourne Oval where initially the Government had hoped the money would be spent. Not having put the particular budget paper together myself, Mr Kaine, I cannot comment more than that except to say that it was certainly intended for Northbourne Oval.

**Mr Kaine:** Would you like a copy of the page out of the budget so that you can refresh your memory?

15 February 2000

**MR STEFANIAK:** No, I have seen that. You might well be aware, Mr Kaine, because you have been around this place for a long time, that there has been a bit of a saga over Northbourne Oval in regard to a number of aspects and the various players there which goes back well and truly to before this Government. I think Mr Wood had some dealings there on behalf of the previous Government. I recall trying to sort out a three-way tussle between the Raiders, the CDRL and the minor league and, I think, your league club, Harold, back in about 1995 or 1996. I was singularly unsuccessful, as a lot of my colleagues had been too, I think. Mr Humphries has tried, Mrs Carnell has tried, and Mr Hird has tried to use his good offices. Everyone has had a go, including, no doubt, some people opposite. I think Mr Wood did too.

The \$1.7m, we assume, was to be used for training facilities for the Raiders at Northbourne Oval, and I think it was always quite clear that that was what the Government wanted. Those facilities would, of course, be available to local and junior rugby. Alas, Mr Kaine, such was not to be the case. I understand that the Raiders have been unable to agree on how they would gain appropriate access to the facilities. The Raiders have made it clear that resolving security of access has been a sticking point. We have tried and I think the impasse has gone on long enough.

The Raiders and the CIT have come up with an exciting proposal which will benefit not only those bodies but also the sport of rugby league generally. The facilities are needed. The funds have just been sitting there for some time, for far too long, and I think we do need to do something. I understand that at present the Raiders are in the process of completing negotiations with the Canberra Institute of Technology to use the oval at its Bruce campus.

As well as providing the much needed administration and training facilities, which was what we gave the money for, there are a number of benefits through a close relationship between the Canberra Institute of Technology and the Raiders. I understand that a development application for the work at the CIT Bruce campus has been lodged. I also acknowledge the support for the CIT-Raiders initiative from the Deputy Leader of the Opposition, Mr Quinlan, through a recent press release of his, and I am sure he shares my wish to see the work proceed as soon as possible.

I have sought to ensure that the transfer arrangements can be done appropriately by the Treasurer. Ultimately, Mr Kaine, I think the public benefits through having the facility constructed on the CIT land will be very significant. It will do things like enhance the linkage between graduates of the CIT sport and rec programs and what is a high profile sporting body. They will work together in the development of appropriate training programs. It will make the upgraded facilities available for people other than just the Raiders too. It will help other CIT sporting programs and no doubt will also assist in furthering sports other than just rugby league. It also will make formal vocational training more accessible to Raiders players because of the proximity of the campus, and it will enable CIT staff to undertake professional development with the Raiders. It also will give CIT students the opportunity to undertake work experience with the Raiders - for example, masseurs.

I think there are some very positive benefits there. I think it is essential that that money is spent in the best possible way, and I think this is an exciting proposal. It is a real shame that there are still problems in terms of what happens at Rugby League Park. I think that is a bit of a tragedy. There still seem to be ongoing problems there. Quite clearly, Mr Kaine, this money was for a specific purpose for the Raiders, and at the time it was hoped that it would be used at Rugby League Park, which the CDRL, I understand, had the lease of.

**MR KAINE:** I have a supplementary question, Mr Speaker, and I think Mr Moore might have answered that question better. I remind the Minister that his own budget specified that this money was for headquarters for Canberra and District Rugby League football. Does he not know the difference between that and the Raiders? Since it was specifically appropriated for that, and noting that the comment by the Chief Minister's spin doctor was that since there is no agreement between the CDRL and the Raiders, which seems to be the basis of the change in the decision, the money will be moved to the CIT, we are told, is this yet another example of the cavalier fashion in which this Government approaches financial management, or should I say mismanagement, since it is now clearly going to be used for a purpose other than that for which it was appropriated? Is this going to be just another project that ends up in the hands of the Auditor-General for a probity check?

**MR STEFANIAK:** I do not think so, Mr Kaine, no.

**MR HUMPHRIES:** Mr Speaker, as Treasurer I am happy to take the supplementary question because it relates to the operation of the budget.

**Mr Berry:** This is a curious one. We can split the questions up now. Mr Speaker - - -

**MR SPEAKER:** Order, please! There is no point of order, Mr Berry. Resume your seat.

**Mr Berry:** With respect, you have not heard it yet.

**MR SPEAKER:** No, but there is no point of order. You were going to raise the question - - -

**Mr Berry:** Mr Speaker, I would like to hear whether or not Mr Stefaniak can answer the question.

**MR SPEAKER:** Well, you are going to be disappointed on this occasion because the Treasurer has elected to answer it.

**MR HUMPHRIES:** Mr Stefaniak has accurately told the Assembly what the nature of the arrangements have been with Rugby League Park and the very long negotiations that have taken place over a number of years and a number of governments to try to finalise the appropriate use of that park and the appropriate upgrade to accommodate the needs of rugby league in the ACT. Mr Kaine's supplementary question related specifically to the money having been appropriated to the CDRL and now being moved, to use his words, to the CIT.

15 February 2000

**Mr Kaine:** That is what your own budget says.

**MR HUMPHRIES:** No, it does not, Mr Speaker. The appropriation occurs through the Appropriation Act. The Appropriation Act appropriates money to the Department of Education and Community Services, not to the CDRL. We cannot appropriate money - - -

**Mr Kaine:** Well, that is what your budget says - for the CDRL, Minister. Is that not what you meant when you put it up?

**MR HUMPHRIES:** No, that is an explanatory note to the budget. The budget itself is the - - -

**Mr Kaine:** Another bodgie budget.

**Mr Quinlan:** It is a non-core budget, is it?

**MR SPEAKER:** Settle down, please.

**MR HUMPHRIES:** The appropriation is the Appropriation Act. The Appropriation Act appropriates money for the purposes of the Department of Education, as described more particularly in the documents as money appropriated for the CDRL for upgrading of the facilities at Rugby League Park. However, Mr Speaker, those facilities are now not possible to be upgraded because of the breakdown in the relationship between the Raiders and the CDRL. Appropriately, Mr Speaker, the Government will move to ensure that money is spent on the purpose for which it was intended and, if you like, appropriated - the improvement of facilities to service the Canberra Raiders.

Members have a quibble with the idea of sponsoring a very important economic engine in town, the Canberra Raiders. That is fine; they can put that on the record. I know that the Raiders have appreciated the cooperation between the ACT Government, between Mr Stefaniak's department, and themselves. In fact, Mr Ayers, the chairman of the Raiders, said in a press statement last week that the Raiders were indebted to the Carnell Government and the CIT administration for making the project at Bruce a possibility.

### **Draft Budget**

**MR HIRD:** My question is to the Treasurer, and I refer to a statement made by our learned colleague Mr Bill Wood after the Government's release of the draft budget estimates in January. I understand that Mr Wood told the ABC radio morning show on, I think, 18 January, if my memory serves me right, a Tuesday, that the former Follett Labor Government gave out more details than are in this draft budget. Is that your recollection, Mr Treasurer?

**MR SPEAKER:** Just a moment.

**Mr Corbell:** I take a point of order, Mr Speaker. The Minister does not have responsibility for answering questions about the former Labor Government and the question is out of order, Mr Speaker.

**MR SPEAKER:** He does not. However, Mr Hird, you must also not ask the Minister for an expression of opinion. That is out of order.

**MR HUMPHRIES:** Indeed, Mr Speaker, and I thank Mr - - -

**Mr Berry:** The question is out of order.

**Mr Hird:** I want to know from the Treasurer.

**MR SPEAKER:** Did Mr Wood make a statement that you are aware of?

**Mr HUMPHRIES:** Yes, indeed, Mr Speaker.

**MR SPEAKER:** I would suggest you rephrase your question, Mr Hird, because I am going to rule it out of order if it is an expression of opinion. You are asking the Minister for an expression of opinion at the moment.

**MR HUMPHRIES:** Mr Speaker, with respect to the point of order, the question was about a comparison.

**Mr Berry:** Mr Speaker, on a point of order: Let Mr Hird re-read the question and we will know exactly what it was. You will get it better the next time round.

**MR SPEAKER:** Order! Settle down. Mr Hird, rephrase that question, please.

**MR HIRD:** Yes, I would be delighted to, but would you do me a favour, Mr Speaker, and keep those people quiet? Could the Treasurer then give the details to the substance as stated by Mr Wood on an ABC radio program that the former Labor Government gave out more information than is in this so-called government draft budget? Is this your recollection, Mr Treasurer?

**MR SPEAKER:** Not a recollection at all.

**MR HUMPHRIES:** Mr Speaker, the questioner asked me to make a comparison between the information supplied by the Carnell Government in this draft budget and that supplied by the former Government in its process of consulting with the community about its budget. Mr Speaker, I heard the comments made by Mr Wood on 18 January at the time they were delivered and I was interested in them. I quote him from the transcript that I have obtained.

**Mr Wood:** I am pleased you were so interested.

**MR HUMPHRIES:** I am interested, Mr Wood. I am very interested in everything you say. I am quoting Mr Wood:

15 February 2000

I contest the view that this is the first, this is a unique budget, the first open public consultation. Rosemary Follett ran a budget for the Labor Government many years ago when we gave out many, many more details than this. Rosemary went out up-front and I recall Gary Humphries on the sidelines defending certain groups that were to suffer some changes, so I am sure it is not the first.

Mr Speaker, I was pretty perplexed by this comment that there were many, many more details provided by the former Government for its budget consultation process than those supplied by the present ACT Government. Members know full well what the Carnell Government has put on the table. It is a very thick set of documents. In fact, we have 182 pages in volume 1 and 505 pages in volume 2, making a total of 687 pages of fairly detailed information about what would be a budget if it were presented in this form to the Assembly later in the year.

So I hunted around for what the many, many more details were that were given out by the Follett Government before it brought down its budget. Mr Speaker, I found the many, many more details, and it is in this document. When I saw the two documents I thought there must be very, very fine typing in this one to match what is available in this one, but of course - - -

**Mr Quinlan:** I do not know about that.

**MR HUMPHRIES:** You are right, Mr Quinlan; no, there is not. Mr Speaker, there are 16 pages of a very, very broad-brush budget overview in the budget strategy statement issued by the then Treasurer in June of 1992. It was quite worthy of the then Government to have set out its statement of budget strategy in the way that it did. I do not quibble with that. There are some interesting statements in here which in fact are rather more interesting with the passage of time. I will quote a couple of bits from it. It says:

We must reduce the cost of delivering government services in order to sustain the services themselves. No area of expenditure can be quarantined in the search for increased efficiency.

**Mr Moore:** With the exception of education.

**MR HUMPHRIES:** Well, I will not go into that. It also says:

There is also no getting away from the inevitability that we must ... make the public sector more efficient.

I think that was the year that they put aside \$17m for redundancies from the Public Service, which they have felt, obviously with hindsight, was a mistake. Mr Speaker, this was put out in the form of this statement. Well, it is a good statement but it certainly does not contain many, many more details.

Let us not beat around the bush. What we put on the table with this draft budget, Mr Speaker, is unprecedented in the amount of interest, the amount of detail, and the amount of raw information supplied to the community about our proposed budget for this coming financial year than has ever been the case anywhere in Australia certainly and, to our knowledge, anywhere else in the world. Mr Speaker, I was prepared for lots of criticism about this budget, but the criticism that we had not put enough detail in the document certainly took me by surprise.

Mr Speaker, if I have found the wrong document and Mr Wood has a different document that he is referring to which contained the many, many more details, I welcome correction under standing order 46 at the end of question time. Mr Speaker, it seems to me that the detail is here in this document in a way which has not been present before.

### **Schools and Colleges - Cash Holdings**

**MR BERRY:** My question is to the Minister for Education, or anybody else who likes to interrupt him along the way who thinks they can do a better job.

**Mr Kaine:** Give Mr Moore a go. He is okay.

**MR BERRY:** Well, he has not had a go yet. He might as well grab somebody else's question.

**MR SPEAKER:** Can we have a question, please?

**MR BERRY:** The question is asked, Mr Speaker, against the background of the Government's oft stated commitment to accrual accounting - stated ad nauseam, in fact. Could the Minister confirm that cash held by schools and colleges, details of which he so gratuitously released publicly, have to be used, amongst other things, for essential items such as heating and maintenance? Given this fact, is it unreasonable for schools and colleges to have substantial sums set aside at the beginning of the school year?

**MR STEFANIAK:** Mr Speaker, in relation to that, no, it is not. Yes, of course schools have them. For many years they have used moneys which are set aside for those purposes. There are a number of interesting points here. Firstly, as I have said in the media before on this issue, I congratulate schools for doing such a good job over a three-year period with enhanced school-based management. The money there, Mr Berry, is meant to be used. Schools have to be prudent. They have to plan for reasonable expenses during the year, including expenditure on items such as you mention.

The department gives money to the schools during the school year. In fact, the first payment has been made for this year and an additional \$18.5m will be paid progressively to schools during the year. Mr Berry, when you see school bank accounts go from round about \$5.5m in December 1996 to well over \$20m, to \$23m and a bit, at the start of the school year, that takes into account their first payment and also some payments out. Whichever way you look at it, whatever you do with the figures, Mr Berry, it is about a three-fold increase.

15 February 2000

In terms of the figures, obviously some schools are doing very well. Some schools have some wonderful programs up and running as a result of better financial management through the efforts of the school community and as a result of the benefits that flow from school-based management. Examples of those are myriad and range from additional work outside through to computer laboratories, extra training and specific areas for teachers which the school feels it would benefit from. Those are the sorts of things and the sorts of benefits that can flow through to schools by sensibly using this money.

Unlike your comrade John Aquilina in New South Wales, the Labor Minister for Education, Mr Berry, this Government is not saying, "Use it or lose it". Far from it. We are saying, "Well done". But, as a result of a very significant increase over three-year periods during which many schools seem to have been overly prudent perhaps, there are a lot of opportunities, Mr Berry, for some school communities to look at ways in which they can utilise that money, or some of it at least, for the benefit of students now.

I think it is very important that school communities, all the parents, board members and teachers, get involved in looking at, firstly, how they can prudently use that money. I think it is important to make sure you have money to cover contingencies, but, quite clearly, in many instances there are a lot more opportunities now for some of those schools to use some of that money now. It is as simple as that, Mr Berry. I am sorry that you cannot quite understand that.

**MR BERRY:** I have a supplementary question. I thank the Minister for his answer to the question. Would he now tell the Assembly how much each school and college has available in uncommitted funds for the purpose of essential services? While he is about that, will he apologise to those schools which he misrepresented in his statement to the media?

**MR STEFANIAK:** I do not think I have misrepresented anything. In terms of exactly what every school would have available for essential services, that is something each individual school would be aware of. The accounts do - - -

**Mr Berry:** Are you going to give me the answer or not, because it will make you look like a goose when you give me the information?

**MR STEFANIAK:** The accounts, Mr Berry, do fluctuate. There is one thing you cannot get away from, Mr Berry. Go back to my press release of 2 December, Mr Berry, and the early December figures. I think it was \$5.48m in December 1996. I think it was about \$12m or \$14m a couple of years after that, and then it got to around \$20m. Since then we have had money go out and we have had some money come in. You cannot get away from the fact, Mr Berry, that they have done very well. There is a significant sum of money there and that raises significant possibilities for a number of schools to spend some of it for the benefit of their students now, which is what school-based management is all about.

**Mr Kaine:** Is your advice to these people to blow the lot? Is that right?

**MR STEFANIAK:** No.

## Mandatory Sentencing Laws

**MS TUCKER:** This question is to the Chief Minister, and I did give prior notice of it. I note that the ACT Government's submission to the Senate Legal and Constitutional References Committee inquiry into mandatory sentencing opposed the Commonwealth Government overriding the Northern Territory's mandatory sentencing law. The position of the ACT Government was that such a use of treaties power should only be considered in the most extreme, urgent and compelling cases. In light of the recent well-publicised and tragic death of a young man from Groote Eylandt in the Northern Territory detained for 28 days after stealing textas and paint, does the Chief Minister and this Government now agree that we face such an urgent, extreme and compelling case, and will the Government reconsider their position?

**MS CARNELL:** Mr Speaker, I am very pleased that Ms Tucker gave me notice but I have to say that on this matter I really would not have needed notice. Mr Speaker, I find Ms Tucker's position on this absolutely amazing, taking into account that in this Assembly we argued, I think as a whole, absolutely stringently and stridently to suggest that the Federal Government's approach on euthanasia legislation was totally unacceptable. I will quote Ms Tucker in that debate where she said:

We were also very disappointed that the Federal Government passed the Andrews Bill, which restricted the ACT's power to legislate on euthanasia.

She did go on from there, Mr Speaker. I would have to say that it is hard to think of an issue more compelling than the issue of life and death and euthanasia, and we argued as an Assembly to suggest that the Federal Government should not interpose itself between appropriately elected governments of the territories and their voters basically. The people in the Northern Territory elected their Government, as did the people in Western Australia, but at the moment we are talking about territories. Those people have a capacity to get rid of those governments if they do not like the approach they took. I believe, as I am sure most people here do, that the recent tragic death of the young man from Groote Eylandt was shocking. I think a large number of people in this Assembly would not support the sort of legislation that went through either the Northern Territory or the Western Australian parliaments; but the fact is that it did go through an appropriately elected parliament.

If I were to say now that we should reverse our position on this particular circumstance, how long, Ms Tucker, would it be before the Federal Government said, "Now that the Chief Minister and the Assembly have changed their position, we will pass a little bit of legislation on supervised injecting places."? Some people would be happy about that, Mr Speaker. I can see you nodding. Mr Speaker, I think even people like you who do not support SIPs would not support the Federal Government's right to put itself above the rights of this Assembly to make laws for ourselves, and that is what this is about. The heroin trial and SIPs were good examples. Another is euthanasia laws. There have been a number of others, Mr Speaker, where there has been some level of muscle-flexing in the Federal Parliament suggesting that they might like to legislate on our behalf.

15 February 2000

Mr Speaker, we will not be changing our position in this instance, as much as I do not believe the laws in the Northern Territory are ones that would have passed this Assembly. Democracy is such that the people of the Northern Territory must be allowed to elect their Government, and I believe their Government should be able to legislate on their behalf, with all of the up and down sides of appropriate democracy. In other words, if you do things that your community does not like, you get thrown out on your ear.

**MS TUCKER:** I have a supplementary question. I can see that the Chief Minister used the time that she had to look up quotes from speeches that I have made, but I take the answer to be no. I guess my supplementary question will have to be this: Does not the Chief Minister consider that this instance is one that is compelling and urgent, which in the submission from the ACT Government was stated to be a reason or a basis for development of criteria to guide the Federal Government on where such powers may indeed have to be instigated? My understanding of the ACT Government's position was that they were arguing for a process to develop some kind of criterion to look at this. I would like to know from the Chief Minister what sort of incident would she think was extreme, urgent and compelling if the death of a child who was incarcerated for a period of time for stealing textas is not?

**Mr Stanhope:** A good question.

**MS CARNELL:** Mr Speaker, I am interested that Mr Stanhope thinks that is a good question. I wonder what his position would be on this.

**Mr Humphries:** We will not find out, I suspect.

**MS CARNELL:** I suspect we might not find out, due to a lack of guts, I suspect.

**Mr Stanhope:** Well, tell me whether the death of a child is not a compelling reason to legislate.

**MS CARNELL:** Mr Speaker, there is no doubt that the death of a child is a compelling issue. So is the issue of euthanasia. So is the issue of people injecting out on the streets and the issue of supervised injecting places. They are all life and death issues. They are all compelling, but I have to say I do not see the difference between this particular circumstance in the Northern Territory and the issue of euthanasia, or the issue of drug dependent people dying out on the streets. These are not the sorts of issues that - - -

**Mr Stanhope:** They are not compelling?

**MS CARNELL:** Mr Speaker, of course they are compelling, and I am interested that Mr Stanhope believes they are not compelling. I would be interested - - -

**Mr Stanhope:** Well, you do not. It is your submission. What does your submission mean?

**MR SPEAKER:** Order! Mr Stanhope, you have asked your question.

**MS CARNELL:** Mr Speaker, after question time I am sure we would allow Mr Stanhope to get up and state the Labor Party's position on this and whether they believe the Federal Government should override the Northern Territory's legislation in this area. I am confident we would give him leave to do so if he chose to. Mr Speaker, members on this side of the house do not believe that these sorts of powers should be used. I do not believe that this particular circumstance is one that would be of such national moment as to support the Federal Government taking away the democratic rights of the Northern Territory or, for that matter, the ACT.

### **Information Technology - ACT Government Contracts**

**MR CORBELL:** Mr Speaker, my question is to the Chief Minister. Can the Chief Minister confirm that IT recruitment companies supplying contractors to InTACT have been forced to hand over the management of their contractors, and thus their ability to earn their income, to a new sole supplier, Interim Technology Associates? Can she confirm that, as a result, these companies have lost hundreds of thousands of dollars in recruitment fees?

**MS CARNELL:** Mr Speaker, what happened is that InTACT went out to tender, as is appropriate. There was a public tender approach. A number of contracts were up for tender. That tender process was followed appropriately and Interim Technology won those tenders. I am wondering whether Mr Corbell believes that the Government should interfere in a tender process. I would have to say that this side of the house does not.

**Mr Berry:** You have before.

**Mr Stanhope:** You have done it plenty of times.

**MR SPEAKER:** Order! Mr Corbell, do you have a supplementary question?

**MR CORBELL:** Mr Speaker, does the Chief Minister agree that the arrangement between InTACT and Interim Technology Associates is most unusual in that most other large IT providers have a range of contractors to supply them with consultants? Is she aware of complaints raised in the *Australian* newspaper of 8 February by some IT recruitment companies that were bullied or coerced into surrendering contractors on their books? What does this say about the ACT Government's approach in supporting small local business?

**MS CARNELL:** Mr Speaker, what this side of the house supports is an appropriate and open tender process in line with agreements between States and the Constitution as well.

**Mr Hird:** Hear, hear!

**MS CARNELL:** What that means is that no State - - -

**Mr Berry:** Remember the hospital implosion?

15 February 2000

**MR SPEAKER:** Order! There are too many interjections. I think Mr Corbell deserves an answer to his supplementary question, and he deserves to be able to listen to it in silence.

**MS CARNELL:** Mr Speaker, we support an appropriate open tender approach that does give, I suppose, some preference to local companies, but only when all else is equal. Guess why, Mr Speaker? Because the Constitution requires free trade across borders.

Mr Speaker, I have been advised of the background of this whole situation, as Mr Corbell seems to be interested. In December 1999 InTACT issued a request for tender for the provision of a range of human resource services and the provision of all IT management and administrative contractors. The purpose of the RFT was to select, through a competitive process, the services of a single professional staff contracting and human resource company to assist in restructuring the InTACT group and to improve service delivery standards.

Mr Speaker, members of this Assembly have regularly said that they wanted InTACT to improve its level of service to this place. Mr Speaker, you have made those comments, I think, in the past, as have others. So InTACT is following up, Mr Speaker, on requests from members of this place and others.

The process was conducted by the Chief Minister's Department independently of the InTACT group. The major industry players were advised directly of the process prior to the release of the RFT and were also invited to attend a public presentation on the process in December 1999. Throughout the process it was made clear that, if possible, the intention was to select a single supplier under a master vendor agreement, an MVA.

Eight companies submitted tenders, with Interim HR Solutions being selected from a short list of three companies in January this year. Interim HR Solutions has a longstanding and highly respected reputation here in Canberra, including through the operations of its predecessor, the Computer Power Group. The contract with Interim HR Solutions, Mr Speaker, is an exciting opportunity for InTACT and the ACT Government to be at the forefront of major human resource change and to achieve major benefits from this streamlining of the provision of contractors. One of the important things to remember here is that potentially the same contractors will continue to be employed. It just means that the contracting agency may change in many circumstances.

**Mr Corbell:** Were they bullied or coerced?

**MS CARNELL:** Mr Speaker, it is patently ridiculous to answer a question about coercion or anything else. Of course not, Mr Speaker.

### **ACT Family Services**

**MR WOOD:** Mr Speaker, my question is to the Minister for Education. I refer to a case last week in the Family Court where a man whom ACT Family Services claimed to be a sex offender had his latest attempt to clear the records rejected. I expect that the Minister is familiar with the case and I will not mention any name. The judge said that he had no power over Family Services and could not order records to be changed. No case against the man has been proved and there is evidence that claims against him were

malicious in intent. Minister, is the only recourse for this man, subject to the adverse decision of ACT Family Services, to take the matter at considerable expense to the Supreme Court? Minister, should not ACT Family Services accept the Family Court judge's view that it was wrong not to amend their records? Can you act to see that this happens?

**MR STEFANIAK:** I thank the member for the question and also for the courtesy of giving me the paper report just before question time. I have read that. It was interesting to see the comments made by the journalist in terms of his honour Mr Justice Faulks' comments. I am not too sure how accurately they were reported or otherwise. I would like to see a transcript of what was said in the court. Mr Wood, I am happy to look into that matter for you. I was concerned to see some of the comments which are attributed to the judge. Obviously, I think that is a matter which bears greater investigation. I think the judge was quite accurate in saying that the Family Court might have been the inappropriate tribunal to go to and that the only other avenues would be the Supreme Court or the Administrative Appeals Tribunal. In light of what is reported there and in light of your concerns, I am happy to have a look at the matter and to see whether anything can be done.

**MR WOOD:** I thank the Minister for that and I will keep in touch with him about that. The report in the *Canberra Times* quotes the Minister as saying that the file had not been changed despite the judge's comments. That is current. I have the clearest memory of a verbal briefing quite some time ago advising me that those files which could be identified had been amended to bear that notation. Would the Minister check that out, or was I misinformed?

**MR STEFANIAK:** Mr Wood, if you tell me that you were informed of that some time ago, I certainly will have that checked out. If you were advised that some files that could be identified were altered and that did not occur, I would like to know why you were told that and it did not happen. I will check that out as well.

### **Milk Industry**

**MR OSBORNE:** My question is to Mr Humphries and it is about the deregulation of the milk industry. I think he is the Minister to answer this question. As you are aware, Minister, the ACT milk industry will be totally deregulated from 1 July this year. In order to prepare for this, in recent months your Government has been attempting to restructure the home vending sector to supposedly make home vending businesses larger and more profitable. Would you please inform the Assembly of the progress which has been made in this restructuring, particularly details of the \$7.50 per litre price guarantee for home delivery licences, the number of milkos who have agreed to have their licences auctioned, and what options are available for those milkos who do not wish to have their licences auctioned, given that the price guarantee is only valued at between 50 and 75 per cent of the price that most vendors originally paid for their milk delivery businesses?

**MR HUMPHRIES:** Mr Speaker, I thank Mr Osborne for that question and I am happy to provide some information to the Assembly about the process. Members will recall that the Government announced that it would institute a plan to provide essentially for the

15 February 2000

number of milk retailers, home vendors, in the ACT to be reduced on the assumption that the problems in the industry would be somewhat alleviated if there were fewer operators with greater economies of scale able to deliver milk to Canberra citizens. To achieve that, given that previously there had been in place a plan to divide the Territory basically into suburban-based milk runs and to allocate these to particular purchasers, it was felt that there needed to be some scheme to reduce the number of operators without limiting the choice of those who wished to stay in the industry and to provide a reasonable return for those who wished to get out.

Mr Speaker, the plan the Government has put in place involves the sale of the Belconnen milk depot and using the proceeds of that sale, or the savings achieved from the sale and not having to distribute milk via the Belconnen depot, for a fund which in turn is available to pay those vendors who wish to exit the industry an amount, as Mr Osborne has indicated, of \$7.50 per litre sold over a designated period.

Some features of this are important to bear in mind. First of all, the scheme is not compulsory. A person who wishes to remain in the ACT industry is perfectly at liberty to do so, and a number have indicated to us they intend to stay as they are. They are perfectly happy to sell milk as they do now. For example, some have this as a part-time job as well as perhaps a job in the Public Service. They are quite happy to make some money on the side. They do not wish to have a larger milk run. They would not have the capacity to handle it. Others, however, do wish to get out, and for them the availability of this option is quite important.

There has been some criticism from the Milk Vendors Association. The expression from the association was that vendors would find this an unacceptable offer and would not take part in the process. I can advise members that as of today there are 35 vendors who have indicated a desire to have their run put into the auction which will take place either late this month or early next month. Those vendors will have the chance then to sell their run, receive the \$7.50 per litre and exit the industry. Clearly, the Government would hope that as a result of the process a number of existing players would come in and purchase runs being relinquished, or possibly other new players would enter and buy a number of runs so as to be able to have a large enough operation to provide for an efficient and effective milk delivery system notwithstanding the new competition in the industry.

Mr Osborne asked me what people would do if they do not wish to exit the industry. Well, there is no compulsion to stay there. It is true that the value of those runs has declined, but that is not merely because there has been deregulation of the industry, a process which has now been on-running for a number of years and which originally was signed up to by the former Government, not necessarily specifically for milk. The competition policy generally was signed up to by the previous Government. Those who wish to stay can still do so.

The decline in value is not wholly due to deregulation. It is also due in large part to the changing patterns of purchase by Canberra residents. These days fewer people purchase their milk at home, for a variety of reasons, convenience or whatever. That is also a reason why there has been a decline in the value of those runs. The argument is whether the Government should step in and compensate people for the decline in the value of those runs. You could argue that we have no more obligation to do that than we would in

respect of, for example, the decline in the value of ACT newsagencies which has been caused by the advent of *Canberra Times* direct which has undercut many of those newsagencies' home deliveries of newspapers.

Mr Speaker, that is the Government's plan, and I am happy to keep the Assembly briefed on progress with that process of auctioning those runs as it proceeds.

**MR OSBORNE:** I have a supplementary question. Minister, you said that milkos have the option of staying in the business as independents. To your knowledge has Capital Chilled Foods, the only supplier, guaranteed that independent milk vendors will be able to purchase wholesale milk from them after 1 July this year? It is one thing to say they can stay in the market, but where can they buy their milk from?

**MR HUMPHRIES:** Mr Speaker, I am not aware of any guarantee of that kind by Capital Chilled Foods. I am aware that there is no obligation on the vendors to buy their product from Capital Chilled Foods. That is the arrangement at the moment, of course, but with deregulation they will have no such obligation.

I am quite prepared to concede the possibility that some players in the marketplace – I will not name Capital Chilled Foods, but some players in the marketplace - will have a market position which could threaten the capacity of smaller operators such as the home vendors to continue to do their runs on a profitable basis. I can indicate in response to that possibility that I believe there are a number of available recourses in legislation, including the Trade Practices Act, most particularly, and the Government would certainly stand ready to take appropriate steps to assist vendors who found themselves in the middle of some kind of squeeze to ensure that milk deliveries continue to the homes of Canberrans in any part of the ACT where currently home delivery is affected. I cannot give a guarantee, and there is no guarantee from Capital Chilled Foods, but the Government certainly is anxious to ensure that small operators do not suffer as a result of this process.

### **Commercial Leases**

**MR RUGENDYKE:** My question is to the Minister for Urban Services, Mr Smyth. Minister, what is the Government's policy which applies to commercial leases in the ACT where the conditions attaching to the Crown lease have not been met and have been allowed to lapse?

**MR SMYTH:** Mr Speaker, across all our leases we have conditions that the Government expects to be met. Where people are in breach, we have a compliance section inside PALM whose job is to chase them up and work with people to make sure that they are compliant. If they refuse to become compliant we will take the appropriate action.

**MR RUGENDYKE:** I have a supplementary question. What policy applies where a commercial lessee wishes to vary the conditions of the lease when previous conditions have not been met?

15 February 2000

**MR SMYTH:** Without knowing the substance of the case, where somebody seeks to vary their lease there is a process that they can follow. If they are in breach of the current lease, I would expect that the compliance section of PALM would deal with that first and then deal with the variation. Sometimes that process can be done concurrently. Without knowing the specifics of the case, it is hard to comment. There are processes to ensure compliance and to vary the lease.

**Ms Carnell:** Mr Speaker, I ask that any further questions be placed on the notice paper.

### **Bruce Stadium**

**MS CARNELL:** Mr Speaker, on 25 November 1999 Mr Stanhope, during question time in the Assembly, asked a question relating to leasing arrangements between the Territory and the Australian Sports Commission. I have an answer to the member's question, Mr Speaker. I now ask for leave to have the answer incorporated in *Hansard*.

Leave granted.

*The answer read as follows:*

Mr Stanhope - Asked the Chief Minister upon notice on 25 November 1999:

- 1) Can the Minister tell the Assembly if the current sub-lease between the Territory and the Australian Sports Commission has been legally executed or does the Government rely for its tenure on sub-lease 820353, the only document that is currently held by the Titles Office.
- 2) What is the reason for the delay in executing the new lease arrangement?

MS CARNELL - The answer to the Member's question is as follows:

1 ) The Department of Treasury & Infrastructure is currently finalising with the Australian Sports Commission an extension to the existing lease.

The Prime Minister agreed to an extension of the current lease to the year 2024 with a commercially determined rental being applied during the period 2009 to 2024. This extension was provided on 15 April 1999. The Minister for Finance & Administration has subsequently ratified this lease arrangement by way of letter on 10 October 1999.

The peppercorn rental currently being paid will continue to apply until 31 December 2009.

The sub-lease that is currently in place, registered No. 820353, will be amended upon execution of the revised lease documentation. It will then reflect the lease period agreed to by the Prime Minister as a peppercorn lease through to the 31 December 2009 and a further lease period based on a commercially determined rental from January 2010 through to 31 December 2024.

Accordingly, at present with the existing lease and the agreement reached with the Prime Minister, the Territory has effective control through to the year 2024.

2) The Department of Treasury & Infrastructure commenced pursuing the extension to the lease with the Australian Sports Commission, amending the existing lease in line with the Prime Minister's offer of lease over a 30 year period.

The final lease documentation has been prepared and is awaiting review by the Australian Sports Commission. Pending any proposed changes to the lease it should be executed shortly.

### **Temporary Accommodation Allowance**

**MS CARNELL:** In question time on 7, 8 and 9 December, Mr Corbell and Mr Hargreaves asked questions regarding executive entitlements. I have answers to each of the members, Mr Speaker. I now ask for leave to have the answers incorporated in *Hansard*.

Leave granted.

*The answers read as follows:*

Over recent weeks a number of questions without notice, as well as questions on notice, have been asked regarding Executive entitlements, particularly in relation to temporary accommodation allowance and related matters.

To assist members I will, in answering these questions without notice taken on notice, endeavour to provide a full and comprehensive overview of the various entitlements, their historical and legislative basis and their appropriateness.

To understand the history and background of these entitlements it is necessary to go back to the links the ACT Public Service (ACTPS) had with the Australian Public Service (APS). Before 1 July 1994, when the ACTPS was established, all of our public servants were APS employees.

The conditions applying to SES Officers, in the old APS terminology, were set by APS Determination No 46 of 1984 (46/84). Relevant allowances were provided where an SES officer was on temporary transfer for a fixed term, ie in all circumstances similar to our contract Executives, who are engaged as a temporary employee for a fixed term (of up to 5 years). A copy of that Determination is **Attachment A**.

This Determination set a range of allowances and entitlements for term transfers, or taking up a permanent position in a different locality. A different determination and entitlements applied to non-SES staff.

These Determinations were simplified and applied to the new ACTPS as part of the Public Sector Management Standards from 1 July 1994.

15 February 2000

The Standard that applied to SES officers was applied to contract Executives (Standard 14, Chapter 6 - Temporary Accommodation). I have also attached a copy of that Standard, **Attachment B**, for the information of Members.

The special section of Standard 14 for SES officers covers barely two full pages, compared with the Determination which runs to some 42 pages. This reflects the attempt to shorten and simplify the rules.

Under Determination 46/84, there was discretion for the Secretaries of departments to:

- **extend** the period during which the allowance was payable beyond 3 years (clause 3.3 (4));
- **increase** the amount of temporary accommodation allowance (clause 3.6); and
- **reduce** the rate of officer contribution (clause 3.9).

I have attached the 1994 version of the TAA Standard and I draw members' attention to Rule B: 10, which deals with TAA for SES officers (as our Executives were still SES officers in 1994) and point out that the same discretion that the Secretary had under Determination 46/84 is a discretion of the Chief Executive in the ACTPS. Rule 10.2, extending the term of payment, refers.

Members will note that the discretion in Determination 46/84 to reduce the officer contribution or increase the allowance is not specifically stated in the SES section, but is contained in the body of Standard 14, Chapter 6 as Rules 2.4, 4.5 and 7.

The convention in administering entitlements is to return to the source document for guidance and in this situation the provisions of the body of the Standard, and ultimately Determination 46/84 apply.

I also draw Members' attention to Rule 11 which simply calls up Determination 46/84 in toto to provide for the application of conditions in relation to reimbursement of relocation expenses.

These existing rules, and in particular those relating to term employees, were applied to Executives recruited from other public services from 1996. The revitalising of the ACTPS relied on drawing in new skills through contract employment. This constituted special circumstances for the ACTPS as a whole.

The Commissioner for Public Administration's determination of 13 August 1996, which I have already tabled, did two things. It increased the rate of assistance and it extended the period of assistance up to a maximum of five years.

I remind Members that these were both matters that the Standard (and the Determination) made specific provision to be varied by the Chief Executive. Therefore that decision exercised the discretion confirmed by ACT Public Service decision-maker.

This is a common discretion throughout the Standards to facilitate administration of departmental matters.

The Commissioner's Determination of 13 August 1996 was based on:

- Clause 3 of the Executive contract applies terms and conditions contained in amongst other things, the PSM Standards, to Executives.
- PSM Standard 14, Chapter 6 deals with relocation expenses generally and calls up certain entitlements applicable to SES officers as contained in (Commonwealth) PSB Determination 1984/46. The rates set in the Standard are also currently adopted form rates set by the Commonwealth.
- Both a Chief Executive and the Commissioner have authority under the Standard to make certain decisions in relation to relocation costs. Specifically, the Commissioner may set rent ceiling, vary officer contributions, and extend the period of application of any benefits.

A range of factors were considered, including the current rental market, the appropriate level of officer contribution, the anomaly seen to exist between Executives accompanied by dependants and Executives with no dependants.

In addition, in continuing the approach of simplifying employment conditions, it is clear that the intended outcome was a net entitlement which took into account the three components, ie:

- rent ceiling;
- officer contribution; and,
- rental assistance

I would like to take this opportunity to clarify the meaning of "officer contribution".

On 7 December 1999 Mr Corbell asked how much the Government received in contributions from Executives. The contributions are not made to the Government, but born by the Executive. That is, the Executive pays the cost of rent over and above the rental assistance allowance and this is the "officer contribution".

Finally, in relation to the Commissioner's determination, Mr Corbell asked on 9 December 1999 what power the Commissioner exercised in this case.

Section 20.(2) of the Public Sector Management Act states:

*"The Commissioner may exercise the powers of any person on whom Chief Executive powers have been conferred other than the chief executive officer of an autonomous instrumentality."*

15 February 2000

I understand the Commissioner at the time considered this was a service wide issue and, while the individual Chief Executive in each agency could have made similar decisions in each case, the Commissioner's determination ensured consistency across the service and replaced the individual negotiations with a single outcome and a standard set of rates.

I turn now to Mr Corbell's question of 8 December 1999 regarding the way in which the allowance is taxed. Let me say at the outset that the manner in which the allowance is taxed has absolutely no bearing on the entitlement to the allowance.

The Department sought advice from Ernst and Young in 1997 in relation to preparing fringe benefits tax returns. The Government is conscious of the need to meet taxation obligations. Should the Taxation Department wish to question those returns then they would no doubt do so.

I trust that all Members will now have a more informed view about this issue and will see that, despite the Members of the opposition, the whole matter has been dealt with in accordance with the rules and regulations applying to employment entitlements generally and specifically those in relation to Executive entitlements.

Finally, I would remind Members that it is this Government that has acted, by way of its submission to the Remuneration Tribunal in 1998, to put a cap of \$30,000 on the amount payable to future Executives who are recruited from outside the ACT.

---

**Attachment A**

**Australian Public Service (Commonwealth)**

**Determination No. 46 of 1984**

---

DETERMINATION No 46 of 1984

Reprinted as at 1 February 1994

**DETERMINATION UNDER THE PUBLIC SERVICE ACT 1922**

**The Public Service Board, acting in pursuance and exercise of the authority conferred upon it by the Public Service Act 1922, hereby makes the following Determination under section 82D of that Act.**

**Dated: 23 October 1984**

**R J Young  
Acting Chairman**

**G.G. Glenn  
Commissioner**

**P J Flood  
Acting Commissioner**

## **DIVISION 1 - Formal**

### **1.1 Citation**

1.1 This determination may be cited as Public Service Board Determination 1984/46'.

### **1.2 Commencement**

1.2 This determination shall be deemed to come into operation on 1 October 1984.

### **1.3 Interpretation**

1.3(1) In this determination, unless the contrary intention appears -

**“child”** includes an adopted child, an ex-nuptial child, a foster child, a step-child or a ward;

**“dependant”**, in relation to an officer, means -

- (a) the spouse of the officer; and
- (b) a child or parent of the officer, or of the spouse of the officer, being a child or parent who ordinarily resides with the officer and who is wholly or substantially dependent upon the officer;

**“dwelling-house”** includes a flat or other dwelling forming part of a building so divided into flats or other units that the only parts of the building used in common by the owners of the respective flats or units are all or any of the following, namely, the stairways, passages, vestibules, laundries and garages;

**“eligible transferred officer”** means –

- (a) an officer who is transferred from one locality to another locality as a consequence of a promotion under section 49B of the Act;
- (b) an officer who is transferred from one locality to another locality as a consequence of a transfer under section 49 of the Act;
- (c) an officer or an employee who is transferred from one locality to another locality as a consequence of a transfer under Division 6 of Part III of the Act where such an officer or employee is, in accordance with subclause (4), taken to be transferred in the interest of the Service;
- (d) an officer who has been appointed to the Service and is obliged as a consequence of the appointment to transfer from the locality at which the officer was residing immediately before appointment to another locality;
- (e) an employee who is transferred for a period of not less than 13 weeks from one locality to another locality; and

(f) an employee who has been engaged as an employee and is obliged as a consequence of the engagement to transfer from the locality at which the employee was residing immediately before engagement to another locality;

**“employee”** means an employee referred to in paragraph 1.4(1)(c);

**“headquarters”**, in relation to an officer, means the place at which the officer ordinarily performs his duties or, in the case of an officer who does not ordinarily perform his duties at any one place, the place at which the officer is ordinarily required to report for duty;

**“officer”** means an officer or employee to whom this determination applies by virtue of clause 1.4;

**“prescribed salary”** means salary and, where a higher duties allowance is payable in accordance with Division 1 of Part 3 of Public Service Board Determination 1984/19 as in force from time to time, that allowance;

**“regulation”** means a regulation of the Regulations;

**“spouse”**, in relation to an officer, includes a person who is living with the officer as a spouse on a bona fide domestic basis although not legally married to the officer;

**“term transfer”**, in relation to an officer, means the transfer of the officer from one locality to another locality where the officer receives notification in writing before the date of effect of the transfer that the transfer is to be for a term and of the anticipated duration of the term;

**“the Act”** means the Public Service Act 1922 as in force from time to time; and

**“the Regulations”** means the Public Service Regulations as in force from time to time.

(2) A reference in this determination to the Conditions of Service Determination shall be read as a reference to Public Service Board Determination 1983/10 as in force from time to time.

(3) In this determination, unless the contrary intention appears, a reference to a relevant Secretary shall be read as including a reference to an officer authorized by the relevant Secretary for the purpose of the provision in which the reference occurs.

(4) An officer or employee referred to in paragraph (c) of the definition of “eligible transferred officer” shall not be taken to be transferred in the interest of the Service unless the relevant Secretary is satisfied, having regard to -

(a) the nature and seriousness of the charge which has been found proven in relation to the officer;

- (b) the locality at which the officer performed duty immediately before action was taken to transfer the officer;
- (c) the locality at which the officer will be required to perform duty as a consequence of the transfer;
- (d) the cost of the conveyance, and of the removal of furniture and household effects, of the officer and dependants of the officer to the locality to which the officer is transferred;
- (e) any other action which has been taken in relation to the officer; and
- (f) any other relevant matter,

that the officer should be taken to be so transferred.

#### **1.4 Application**

1.4(1) Subject to subclause (2), this determination applies to -

- (a) a Senior Executive Service officer; and
- (c) an employee who is entitled to be paid salary within the range of salaries of Senior Executive Service officers.

(2) This determination shall not apply to an officer in respect of the performance by the officer of duties overseas.

(3) Nothing in this clause shall be taken to prevent a person who resided overseas immediately before that person's appointment or engagement to the Service being an eligible transferred officer.

### **DIVISION 3 - Temporary Accommodation Allowances**

#### **3.1 Interpretation**

3.1(1) In this Division, unless the contrary intention appears -

**“bond money”** means an amount of money required to be paid under the terms of a lease or tenancy agreement as a security against any of the following -

- (a) the cost of necessary repair of damage occasioned by the lessee or tenant;
- (b) default in rent payments; or
- (c) failure by the lessee or tenant to give notice of termination of the lease or agreement as required by the lease or agreement;

**“officer with, but unaccompanied by, dependants”** means an officer who -

- (a) has one or more dependants;

- (b) is temporarily residing without the dependants of the officer; and
- (c) intends that the dependant, or one or more of the dependants, will subsequently reside with him;

**“officer with dependants”** means an officer who has one or more dependants, one or more of whom is, or are, residing with the officer;

**“officer without dependants”** means an officer who is neither an officer with dependants nor an officer with, but unaccompanied by, dependants;

**“relevant leasing period”** means in relation to a lease or tenancy agreement - the period commencing on the day on which the lease or tenancy agreement commenced and ending on the day on which the lease or tenancy agreement expires or is terminated.

**“utility connection deposit”** means a deposit levied by the water, gas or electricity supply authority in connection with the commencement of the supply of existing water, gas or electricity service to the accommodation in which the officer is residing, as the case may be.

(2) For the purposes of this Division accommodation and temporary accommodation shall not be taken to be unsuitable to the needs of the officer by reason only that the accommodation -

- (a) is provided by the Commonwealth or an authority of the Commonwealth; or
- (b) is available only for rent by the officer by way of a lease or tenancy agreement.

### **3.2 Application**

3.2 In this Division, a reference to an officer to whom this Division applies shall be read as a reference to an eligible transferred officer.

### **3.3 Periods within which allowances are payable**

3.3(1) In this Division, a reference to the settling out period, in relation to an officer to whom this Division applies, shall be read as a reference to the period of 7 days commencing on the day on which the furniture and other household effects of the officer and the dependants of the officer (if any) are removed from the residence of the officer at the locality from which the officer has been transferred.

(2) In this Division, a reference to the settling in period, in relation to an officer to whom this Division applies, shall be read as a reference to the period commencing on the day 7 days before the day on which the officer commences duty at the locality to which the officer has been transferred and ending on whichever is the earlier of -

(a) the day on which suitable accommodation or suitable temporary accommodation becomes available at that locality; or

(b) the day -

(i) in the case of an officer with, but unaccompanied by, dependants –13 weeks after the day on which the officer commences duty at that locality; or

(ii) in the case of any other officer - 3 weeks after the day on which the officer commences duty at that locality.

(3) In this Division, a reference to the temporary accommodation period, in relation to an officer to whom this Division applies (other than an officer to whom subclause (4) applies), shall be read as a reference to the period commencing on the day 7 days before the day on which the officer commences duty at the locality to which the officer has been transferred and ending on whichever is the earlier of -

(a) the day on which suitable accommodation becomes available at that locality; or

(b) the day -

(i) in the case of an officer with, but unaccompanied by dependants –13 weeks after the day on which the officer commences duty at that locality;

(ii) in the case of an officer who resided in boarding or rental accommodation at the locality from which the officer is transferred –13 weeks after the day on which the officer commences duty at that locality; or

(iii) in the case of any other officer - 12 months after the day on which the officer commences duty at that locality.

(4) In this Division, a reference to the temporary accommodation period, in relation to an officer to whom this Division applies and who is on a term transfer, shall be read as a reference to the period commencing on the day 7 days before the day on which the officer commences duty at the locality to which the officer has been transferred and ending on whichever is the earlier of -

(a) the day on which the term transfer expires; or

(b) the day 3 years after the day on which the officer commences duty at that locality, provided that -

(c) the period may be extended if the relevant Secretary, having regard to –

(i) the efficient operations of the Department;

(ii) the costs associated with the extension of such period;

(iii) the special circumstances of the officer; and

(iv) any other relevant factor,

is satisfied that such extension is reasonable; and

(d) in the case of an officer with, but unaccompanied by dependants, a temporary accommodation period determined in accordance with this subclause which is beyond 13 weeks (but not including the first 13 weeks), shall for the purposes of this Division, be deemed to be a temporary accommodation period in respect of an officer with dependants.

(5) Where a day is referred to in subclauses (1), (2) and (3) as a day commencing or ending a settling out period, a settling in period, or a temporary accommodation period applicable in relation to an officer (in this subclause referred to as the "relevant period"), if the relevant Secretary is satisfied, having regard to -

(a) the arrangements approved by the Department for the removal of furniture and household effects of an officer to whom this Division applies;

(b) the availability of suitable accommodation or suitable temporary accommodation;

(c) the accommodation arrangements proposed by the officer; and

(d) any other relevant factor,

that it is reasonable to extend the relevant period, that period shall commence or end on a day determined by the relevant Secretary.

(6) Where the settling in period or temporary accommodation period in respect of an officer with, but unaccompanied by dependants, has been extended in accordance with subclause (5), the period of the extension shall, for the purposes of this Division, be deemed to be a settling in period, or temporary accommodation period, as the case may be, in respect of an officer with dependants.

### **3.4 Entitlement to allowances - at locality from which transferred**

3.4(1) Where on account of removal or other arrangements relating to the transfer -

(a) the accommodation in which an officer to whom this Division applies ordinarily resides at the locality from which the officer is transferred becomes unavailable or unsuitable for residence; and

(b) the officer resides in temporary accommodation at that locality during the whole or a part of the settling out period,

upon application in writing to the relevant Secretary, the officer is entitled to be paid an allowance, calculated in accordance with clause 3.6, in respect of the whole or the part of the settling out period, as the case requires.

(2) Where on account of removal or other arrangements relating to the transfer -

(a) the accommodation in which an officer to whom this Division applies ordinarily resides at the locality from which the officer is transferred becomes unavailable or unsuitable for residence;

(b) suitable temporary accommodation at that locality is unavailable; and

(c) the officer resides, during the whole or a part of the settling out period, at that locality -

(i) in board and lodging accommodation; or

(ii) in other accommodation which is suitable only as a transitional arrangement,

not being quarters provided by the Commonwealth,

upon application in writing to the relevant Secretary, the officer is entitled to be paid an allowance, calculated in accordance with clause 3.7, in respect of the whole or the part of the settling out period, as the case requires.

(3) Where in respect of any period an officer is entitled to be paid an allowance under subclause (2), the officer shall not be entitled in respect of that period to be paid an allowance under subclause (1).

### **3.5 Entitlement to allowances - at locality to which transferred**

3.5(1) Where -

(a) in the case of an officer referred to in subclause 3.3(3) -

(i) suitable accommodation is unavailable at the locality to which an officer to whom this Division applies is transferred; and

(ii) the officer resides in temporary accommodation at that locality during the whole or a part of the temporary accommodation period; and

(b) in the case of an officer referred to in subclause 3.3(4) - the officer resides in rented accommodation during the whole or a part of the temporary accommodation period,

upon application in writing to the relevant Secretary, the officer is entitled to be paid an allowance, calculated in accordance with clause 3.6, in respect of the whole or the part of the temporary accommodation period, as the case requires.

(2) Where -

(a) suitable temporary accommodation, or in the case of an officer to whom paragraph (1)(b) applies, suitable rental accommodation, is unavailable at the locality to which an officer to whom this Division applies is transferred; and

(b) the officer resides, during the whole or a part of the settling in period, at that locality -

(i) in board and lodging accommodation; or

(ii) in other accommodation which is suitable only as a transitional arrangement,

not being quarters provided by the Commonwealth,

upon application in writing to the relevant Secretary, the officer is entitled to be paid an allowance, calculated in accordance with clause 3.7, in respect of the whole or the part of the settling in period, as the case requires.

(3) Where in respect of any period an officer is entitled to be paid an allowance under subclause (2), the officer shall not be entitled in respect of that period to be paid an allowance under subclause (1).

### **3.6 Calculation of temporary accommodation allowance**

3.6(1) Subject to this clause, the allowance payable under subclause 14(1) or 3.5(1) to an officer to whom this Division applies is -

(a) in the case of an officer with dependants - an amount equal to the amount by which the expenses incurred by the officer in connection with the provision of temporary accommodation for the officer and the dependants of the officer exceed the contribution, calculated in accordance with clause 3.8, which the officer is required to make towards the cost of temporary accommodation;

(b) in the case of an officer without dependants to whom subclause 3.3(4) applies who has a dependant who ordinarily resides with the officer residing at another locality - an amount equal to the amount of the expenses incurred by the officer in connection with the provision of temporary accommodation;

(c) in the case of any other officer without dependants - an amount equal to the amount by which the expenses incurred by the officer in connection with the provision of temporary accommodation for the officer exceed the contribution, calculated in accordance with clause 3.8, which the officer is required to make towards the cost of temporary accommodation; and

(d) in the case of an officer with, but unaccompanied by dependants - an amount equal to the sum of the following amounts -

(i) the amount of the expenses incurred by the officer in connection with the provision of temporary accommodation for the officer;

(ii) the amount of the expenses reasonably incurred by the officer in connection with the supply of existing gas and electricity services to the temporary accommodation in which the officer is residing;

(iii) an amount in respect of the provision of meals and foodstuffs payable at the rate per week specified in column 2 of Schedule 3 opposite to item 1; and

(iv) an amount in respect of incidental expenses payable at the rate per week specified in column 2 of the Schedule opposite to item 2.

(2) Subject to subclause (3), for the purposes of calculating the amount of the allowance payable under subclause 3.4(1) or 3.5(1) to an officer who resides in temporary accommodation at a locality described in column 1 of Schedule 1, where in any week the amount of the expenses incurred by the officer in connection with the provision of temporary accommodation exceeds -

(a) in the case of an officer without dependants to whom paragraph (1)(b) applies - the amount specified in column 2 of the Schedule opposite to the locality; and

(b) in any other case - the amount specified in column 3 of the Schedule opposite to the locality,

the amount of the allowance which, but for this subclause, would have been payable to the officer shall be reduced by the amount of the excess.

(3) If the relevant Secretary is satisfied, having regard to -

(a) the locality at which the officer is residing;

(b) the cost at which suitable temporary accommodation or suitable rental accommodation might reasonably be obtained by the officer at that locality;

(c) any special accommodation needs reasonably required by the officer or any dependants of the officer; and

(d) any other relevant matter,

that -

(e) the amount of the expenses incurred by the officer in connection with the provision of accommodation is not reasonable; or

(f) the amount of the allowance otherwise payable in accordance with this clause to an officer, is insufficient to meet the expenses which might reasonably have been incurred by the officer,

the amount of the allowance payable to the officer shall be reduced or increased, as the case may be, by such amount as the relevant Secretary considers reasonable in the circumstances.

### 3.7 Calculation of board and lodging allowance

3.7(1) Subject to subclauses (4) and (5), the allowance payable under subclause 3.4(2) or 3.5(2) to an officer with dependants is an amount equal to the amount by which the contribution, calculated in accordance with clause 3.8, which the officer is required to make towards the cost of accommodation is less than the sum of whichever of the following amounts are applicable -

(a) the amount of the expenses incurred by the officer in connection with the provision of meals and lodging for the officer and the dependants of the officer at the establishment where board and lodging accommodation is obtained;

(b) the amount of the expenses incurred by the officer in connection with provision of accommodation other than board and lodging accommodation;

(c) where the accommodation does not include kitchen facilities and the officer or the dependants of the officer purchase meals of a kind specified in column 1 of Schedule 2 elsewhere than at the establishment where board and lodging accommodation is obtained -

(i) in respect of each meal so purchased for the officer or a dependant of the officer who is at least 10 years of age - an amount equal to whichever of the amounts specified in column 2 or 3 of the Schedule is applicable; and

(ii) in respect of each meal purchased for a dependant of the officer who is less than 10 years of age - an amount equal to half of whichever of the amounts specified in column 2 or 3 of the Schedule is applicable; and

(d) where the accommodation includes kitchen facilities - an amount in respect of the provision of meals and foodstuffs payable -

(i) in respect of the officer and in respect of each dependant of the officer who is at least 10 years of age - at the rate per week specified in column 2 of Schedule 3 opposite to item 1 less any amount payable to the officer under paragraph (a) in respect of meals purchased for the officer or the dependant of the officer, as the case requires; and

(ii) in respect of each dependant of the officer who is less than 10 years of age - at the rate per week specified in column 2 of the Schedule opposite to item 3 less any amount payable to the officer under paragraph (a) in respect of meals purchased for the dependant.

(2) Subject to subclauses (4) and (5), the allowance payable under subclause 3.4(2) or 3.5(2) to an officer without dependants other than such an officer to whom subclause (3) applies is an amount equal to the amount by which the contribution, calculated in accordance with clause 3.8, which the officer is required to make towards the cost of accommodation is less than the sum of whichever of the following amounts are applicable -

(a) the amount of the expenses incurred by the officer in connection with the provision of meals and lodging for the officer at the establishment where the board and lodging accommodation is obtained;

(b) the amount of the expenses incurred by the officer in connection with provision of accommodation other than board and lodging accommodation;

where the accommodation does not include kitchen facilities and the officer purchases meals of a kind specified in column 1 of Schedule 2 elsewhere than at the establishment where the board and lodging accommodation is obtained - in respect of each meal so purchased an amount equal to whichever of the amounts specified in column 2 or 3 of the Schedule is applicable; and

(d) where the accommodation includes kitchen facilities - an amount in respect of the provision of meals and foodstuffs payable at the rate per week specified in column 2 of Schedule 3 opposite to item 1 less any amount payable to the officer under paragraph (a) in respect of meals purchased by the officer.

(3) Subject to subclauses (4) and (5), the allowance payable under subclause 3.4(2) or 3.5(2) to -

(a) an officer with, but unaccompanied by, dependants;

(b) an officer without dependants to whom subclause 3.3(4) applies who has a dependant who ordinarily resides with the officer residing at another locality,

is an amount equal to the sum of whichever of the following amounts are applicable -

(a) the amount of the expenses incurred by the officer in connection with the provision of meals and lodging for the officer at the establishment where board and lodging accommodation is obtained;

(b) the amount of the expenses incurred by the officer in connection with provision of accommodation other than board and lodging accommodation;

(c) where the accommodation does not include kitchen facilities and the officer purchases meals of a kind specified in column 1 of Schedule 2 elsewhere than at the establishment where the board and lodging accommodation is obtained - in respect of each meal so purchased an amount equal to whichever of the amounts specified in column 2 or 3 of the Schedule is applicable;

(d) where the accommodation obtained by the officer includes kitchen facilities - an amount in respect of the provision of meals and foodstuffs payable at the rate per week specified in column 2 of Schedule 3 opposite to item 1 less any amount payable to the officer under paragraph (a) in respect of meals purchased by the officer; and

(e) an amount in respect of incidental expenses payable at the rate per week specified in column 2 of Schedule 3 opposite to item 2.

(4) Where the expenses incurred by an officer in connection with the provision of board and lodging include an amount attributable to the provision of meals, in calculating the amount payable to the officer under this clause, no amount additional to the amount payable under paragraph (a) of subclause (1), (2) or (3), as the case may be, shall be payable to the officer in respect of the purchase of those meals.

(5) If the relevant Secretary is satisfied having regard to -

- (a) the locality at which the officer is residing;
- (b) the cost at which meals and board and lodging accommodation of a suitable standard might reasonably be obtained by the officer at that locality;
- (c) any special accommodation needs reasonably required by the officer or any dependant of the officer; and
- (d) any other relevant matter,

that the amount of the expenses incurred by the officer in connection with the provision of meals and lodging at the establishment where board and lodging accommodation is obtained is not reasonable, the amount of the allowance payable to the officer shall be reduced by such amount as the relevant Secretary considers reasonable in the circumstances.

### **3.8 Contributions payable by officers entitled to allowances**

3.8(1) Subject to clause 3.9, the amount of the contribution which an officer accompanied by dependants is required to make towards the cost of temporary accommodation is the amount calculated at the rate per week specified in column 2 of Part B of Schedule 4.

(2) Subject to clause 3.9, the amount of the contribution which an officer without dependants is required to make towards the cost of temporary accommodation is the amount calculated at the rate per week specified in column 1 of Part B of Schedule 4.

(3) Subject to clause 3.9, the amount of the contribution which an officer accompanied by dependants is required to make towards the cost of board and lodging accommodation is whichever, or the sum of whichever, of the following amounts are applicable -

(a) in relation to an officer with one or more adult dependants -

- (i) in respect of the officer and the first adult dependant - an amount calculated at the rate per week specified in column 2 of Part A of Schedule 4; and
- (ii) in respect of each additional adult dependant - an amount calculated at the rate per week specified in column 3 of Part A of the Schedule;

(b) in relation to an officer without an adult dependant - in respect of the officer, an amount calculated at the rate per week specified in column 1 of Part A of the Schedule; and

(c) in relation to an officer with one or more dependent children -

(i) in respect of the first dependent child - an amount calculated at the rate per week specified in column 4 of Part A of the Schedule; and

(ii) in respect of each additional dependent child - an amount calculated at the rate per week specified in column 5 of Part A of the Schedule.

(4) Subject to clause 3.9, the amount of the contribution which an officer without dependants is required to make towards the cost of board and lodging accommodation is the amount calculated at the rate per week specified in column 1 of Part A of Schedule 4.

(5) Notwithstanding subclauses (1), (2), (3) and (4), where an officer -

(a) resided with his or her dependants at the home locality immediately before a term transfer appointment or engagement of the officer to another locality takes place;

(b) is advised that he or she will return to the home locality following the completion of the term transfer appointment or engagement; and

(c) has one or more dependants who continue to reside in the home locality while one or more dependants reside with the officer at the locality to which the officer is transferred;

the officer shall -

(d) not be required to make any contribution towards the costs of temporary accommodation under this clause; and

(e) in relation to board and lodging accommodation, be required to make a contribution of the amount determined under subclause (3) less the amount specified in column 2 of Part B of Schedule 4.

(6) For the purposes of subclause (5),

**“home locality”** means the locality where the officer ordinarily resides with his or her dependants in a home owned by the officer and/or a member of the family of the officer immediately before a term transfer appointment or engagement of the officer to another locality takes place; and

**“member of the family”** has the same meaning as defined in subclause 4.1(1).

### **3.9 Reduction in officer contributions**

3.9 Where the relevant Secretary certifies in writing that the transfer of a particular officer is critical to the operating efficiency of the Department, the relevant Secretary may, having regard to -

- (a) the length of time for which the officer is transferred;
- (b) the personal circumstances of the officer;
- (c) the level of the costs arising from the officer's transfer;
- (d) the circumstances in which the transfer has taken place; and
- (e) any other relevant factor,

reduce the amount of that officer's contribution towards the cost of temporary accommodation or board and lodging accommodation which would otherwise be payable by that officer under clause 3.8.

### **3.10 Reimbursement of bond money and utility connection deposit**

3.10(1) Where an officer who is entitled to be paid an allowance in accordance with subclause 3.5(1) rents or leases accommodation in which the officer intends to reside and -

- (a) is required to pay, and pays, bond money; or
- (b) pays a utility connection deposit,

the officer shall be entitled to be paid an allowance equal to the amount of the bond money and the utility connection deposit so paid.

(2) Where an officer has been paid an allowance in accordance with subclause (1), the officer shall -

- (a) on expiry of the relevant leasing period, or
- (b) at the termination of -
  - (i) Travelling Allowance (subclause 4.1.2(6) of Public Service Board Determination 1983/10) payments; or
  - (ii) Temporary Accommodation Allowance (subclause 3.5(1)) payments,

whichever occurs first,

repay to the Commonwealth the amount of the allowance.

(3) Where an officer has -

- (a) been paid an allowance in accordance with subclause (1); and
- (b) received during, or upon the expiry of, the relevant leasing period, an amount of money as interest which accrued on the bond money,

the officer shall repay to the Commonwealth an amount equal to the amount of such interest received immediately after the amount is received by the officer.

**3.11 Temporary accommodation allowance at former localities to continue in certain circumstances**

3.11 Where an officer with dependants -

- (a) is transferred from the locality at which the officer is performing duties (in this clause referred to as the original locality);
- (b) is entitled to be paid temporary accommodation allowance in relation to the original locality;
- (c) ceases to reside at the original locality;
- (d) has a dependant, or one or more dependants of the officer (not being a dependant or dependants in respect of whom the officer is entitled to be paid education costs allowance in accordance with Division 5 of Part 4 of the Conditions of Service Determination) who continue to reside in the original locality; and
- (e) intends that the dependant or all the dependants so residing, as the case may be, will subsequently reside with the officer at the locality to which the officer has been transferred,

the officer shall be entitled to be paid temporary accommodation allowance in relation to the original locality in accordance with this Division as if the officer and the dependants of the officer had continued to reside at the original locality in respect of the period commencing on the day on which the officer ceases to so reside and ending on whichever is the earlier of -

- (f) the day on which the dependant ceases or all of the dependants referred to in paragraph (d) cease to reside at the original locality; and
- (g) the day 3 months after the day on which the officer commences duty at the locality to which the officer was transferred.

**3.12 Entitlement to allowance on return to former locality in certain circumstances**

3.12 Where a person -

- (a) is a person referred to in paragraph 5.6(1)(b) or 5.6(1)(c);

(b) is paid in accordance with clause 5.6 the cost of conveyance of, and the cost of removal of the furniture and household effects of the officer and dependants of the officer; and

(c) ceased to be an officer or employee upon cessation of a term transfer, appointment or engagement,

the person shall be entitled to be paid an allowance in respect of the settling-out period in accordance with this Division as if the person were an eligible transferred officer who is transferred to the locality in respect of which cost of conveyance is so paid.

#### **DIVISION 4 - Allowances for sale or purchase of home**

##### **4.1 Interpretation**

4.1(1) In this Division, unless the contrary intention appears -

“**agent**” means a solicitor, estate agent, land settlement agent, auctioneer, bank, finance company, credit union or building society;

“**member of the family**”, in relation to an officer, means -

- (a) a spouse;
- (b) a child of the officer or of the spouse of the officer; or
- (c) a parent of the officer or of the spouse of the officer,

being a spouse, child or parent who ordinarily resides with the officer;

“**the appropriate scale**” means -

(a) in relation to commission paid to an agent in respect of the sale of a dwelling-house - the scale ordinarily applicable in the State or Territory in which the dwelling-house is situated in determining the amount of commission payable to an agent who acts for the owner of a dwelling-house on the sale of the dwelling-house; and

(b) in relation to the professional costs and disbursements paid to a solicitor - the scale of professional costs ordinarily applicable in the State or Territory in which the dwelling-house is situated in relation to professional work performed by a solicitor in connection with the sale and purchase of land and the mortgaging of land; and

“**transfer**” includes -

- (a) movement from one locality to another locality upon appointment or engagement;
- (b) movement from one locality to another locality at the expiration of a term transfer appointment, or engagement; and
- (c) in the case of an officer referred to in paragraph 5.6(1)(b) or an employee referred to in paragraph 5.6(1)(c) - the movement from the locality at which the officer performs duty to the locality in respect of which an allowance for sale or purchase of home is paid in accordance with clause 4.8, by the Commonwealth.

(2) A reference in this Division to an officer to whom this Division applies shall be read as a reference to an eligible transferred officer who has been transferred from one locality to another locality for a period of not less than 3 years.

(3) In this Division, unless the contrary intention appears -

(a) a reference to an officer -

- (i) selling, building or commencing to build, a dwelling-house;
- (ii) becoming the owner of a dwelling-house or land;
- (iii) entering, or having entered, into an agreement to purchase, or for the building of, a dwelling-house;
- (iv) engaging or not engaging an agent, landbroker or solicitor;
- (v) mortgaging land;
- (vi) incurring expenses; or
- (vii) paying, or being required to pay, monies of whatsoever kind,

shall be read as including a reference to a member of the family of the officer -

- (viii) selling, building or commencing to build, a dwelling-house;
- (ix) becoming the owner of a dwelling-house or land;
- (x) entering, or having entered, into an agreement to purchase, or for the building of, a dwelling-house;
- (xi) engaging or not engaging an agent, landbroker or solicitor;
- (xii) mortgaging land;
- (xiii) incurring expenses; or
- (xiv) paying, or being required to pay, monies of whatsoever kind,

as the case requires; and

(b) a reference to monies of whatsoever kind being payable by an officer shall be read as including a reference to such monies being payable by a member of the family of the officer.

(4) Where an officer engages a landbroker, that is to say, a person duly licensed or authorized under the law of a State for transacting business under the provisions of a law relating to the registration of titles to land, to act for the officer in connection with the sale or purchase of a dwelling-house, the mortgaging of land or the discharge of a mortgage -

(a) the provisions of this Division apply as if the officer had engaged a solicitor to act accordingly; and

(b) in the application of those provisions, references to professional costs and disbursements shall be read as references to charges and disbursements.

#### **4.2 Allowance for sale of home**

4.2(1) Subject to this clause, an officer to whom this Division applies is entitled to be paid an allowance calculated in accordance with subclause (2) if, within the relevant period for sale, the officer sells the dwelling-house in which the officer ordinarily resided immediately before being notified of transfer to another locality, being a dwelling-house owned by the officer, or sells, after the expiration of the relevant period for sale, such a dwelling-house in pursuance of an agreement entered into before the expiration of that period.

(2) Subject to subclause 4.6(2), the allowance an officer is entitled to be paid under subclause (1) in relation to the sale of a dwelling-house is an amount equal to the sum of such of the following expenses as are incurred by the officer -

(a) if the officer engaged an agent to sell the dwelling-house on behalf of the officer and the officer duly paid to the agent an amount for the commission and other monies in respect of the sale of the dwelling-house - an amount not exceeding the amount of the commission and other monies that were reasonably incurred and would have been payable, if the amount were calculated in accordance with the appropriate scale, to the agent in respect of the sale of the dwelling-house, other than commission or other monies paid in connection with a second or subsequent unsuccessful auction;

(b) if the officer engaged a solicitor to act for the officer in connection with the sale of the dwelling-house and the officer duly paid to the solicitor an amount for professional costs and disbursements - an amount not exceeding the amount of the professional costs and disbursements that were reasonably incurred and would have been payable, if the amount were calculated in accordance with the appropriate scale, to the solicitor in respect of the sale of the dwelling-house;

(c) if the land on which the dwelling-house is erected was subject to a mortgage and the mortgage was discharged on the sale -

(i) in a case where the officer is required to pay the amount of the expenses incurred by the mortgagee in respect of the discharge of the mortgage - the amount duly paid by the officer; or

(ii) in a case where the officer engaged a solicitor to act for the officer in connection with the discharge of the mortgage and the officer duly paid to the solicitor an amount for professional costs and disbursements - an amount not exceeding the amount of the professional costs and disbursements that were reasonably incurred and would have been payable, if the amount were calculated in accordance with the appropriate scale, in respect of the discharge of the mortgage;

(d) if the officer was required to pay, and paid, a sum to a mortgagee in addition to the principal sum and interest due under the mortgage in order to be entitled to discharge the mortgage before the earliest date on which the officer was entitled to discharge the mortgage without payment of that additional sum - the amount of that sum or an amount equal to interest for six months at the rate payable on the date of the discharge of the mortgage whichever is the less;

(e) if the officer did not engage an agent to sell the dwelling-house on behalf of the officer and the officer incurred expenses in advertising the dwelling-house for sale - an amount not exceeding the reasonable amount of expenses incurred by the officer in advertising the dwelling-house for sale; and

(f) if the officer did not engage a solicitor to act in connection with the sale of the dwelling-house and the officer duly paid expenses in connection with the sale of the dwelling-house, other than any sum in the nature of the sum referred to in paragraph (d) - an amount not exceeding the amount of the expenses reasonably incurred by the officer in connection with the sale of the dwelling-house, including expenses in connection with the discharge of a mortgage over the land on which the dwelling-house is erected, other than any sum in the nature of the sum referred to in paragraph (d).

(3) An allowance referred to in subclause (1) is payable to an officer who is transferred from one locality to another locality on the sale by the officer of only one dwelling-house in the first-mentioned locality.

(4) For the purposes of subclause (1) the relevant period for sale in respect of a transfer is -

(a) in relation to a term transfer - the period commencing on the day on which the officer received notification in writing of term transfer to another locality and ending on the day 2 years after the day on which the officer ceased to be on a term transfer; and

(b) in relation to any other transfer - the period commencing on the day on which the officer received notification in writing of transfer to another locality and ending on the day 2 years after the day on which the officer commenced duty in that locality.

(5) Subject to subclause (6), an officer who is transferred from one locality to another locality on a term transfer and who is entitled to be, and is, paid temporary accommodation allowance by virtue of paragraph 3.5(1)(b) shall not be entitled to be paid an allowance in accordance with this clause in respect of the sale of the dwelling-house pursuant to an agreement entered

into by the officer during the period commencing on the day 1 year after the day on which the officer commenced duty at the other locality, and ending on whichever is the earlier of -

- (a) the day on which the officer ceases to perform duty at the other locality;
- (b) the day on which the officer is notified in writing of transfer to a further locality; or
- (c) the day on which the officer is notified in writing that the term transfer is to become a transfer of indefinite duration.

(6) Where, but for this subclause, an officer is not entitled by virtue of subclause (5) to be paid an allowance and the officer is notified in writing that the term transfer is extended such that on the day of notification the unexpired portion of the extended term transfer is greater than 3 years, subclause (5) shall not apply in relation to the sale of the dwelling house pursuant to an agreement entered into by the officer during the period commencing on the day on which the officer is notified of the extension of the term transfer and ending on the day 1 year after the day on which the officer was so notified.

### **4.3 Allowance for purchase of home**

4.3(1) Subject to this clause, an officer to whom this Division applies is entitled to be paid an allowance calculated in accordance with subclause (2) if, within the relevant period for purchase, the officer has -

- (a) become the owner of a dwelling-house in the locality to which the officer has been transferred and that dwelling-house has become the dwelling-house in which the officer ordinarily resides; or
- (b) entered into an agreement to purchase a dwelling-house in that locality having intended, at the time of entering into the agreement, to reside ordinarily in the dwelling-house and, after the expiration of the relevant period for purchase, the officer becomes the owner of the dwelling-house.

(2) Subject to subclause 4.6(2), the allowance an officer is entitled to be paid under subclause (1) in relation to the purchase of a dwelling-house is an amount equal to the sum of such of the following expenses as are incurred by the officer -

- (a) if the officer engaged a solicitor to act for the officer in connection with the purchase of the dwelling-house and the officer duly paid to the solicitor an amount for professional costs and disbursements - an amount not exceeding the amount of the professional costs and disbursements that were reasonably incurred and would have been payable, if the amount were calculated in accordance with the appropriate scale, to the solicitor in respect of the purchase of the dwelling-house and the amount of stamp duty duly paid, if that amount was not included in the professional costs and disbursements paid to the solicitor by the officer in respect of the purchase of the dwelling-house;

(b) if the officer mortgaged the land on which the dwelling-house was erected in conjunction with the purchase of the dwelling-house -

(i) in a case where the officer is required to pay and has paid the amount of the expenses (including valuation fees and stamp duty payable in connection with the mortgage) duly incurred by the mortgagee in respect of the mortgage - an amount not exceeding the amount that was reasonably incurred by the mortgagee (but not a procuracy fee) and, in the case of the stamp duty, is in accordance with the appropriate scale; or

(ii) in a case where the officer engaged a solicitor to act for the officer in connection with the mortgage and the officer duly paid to the solicitor an amount for the professional costs and disbursements (including valuation fees, and stamp duty payable by the officer in connection with the mortgage) incurred in respect of the mortgage - an amount not exceeding the amount of the professional costs and disbursements (including valuation fees and stamp duty but not a procuracy fee payable in connection with the mortgage) that were reasonably incurred and would have been payable, if the amount were calculated in accordance with the appropriate scale, in respect of the mortgage;

(c) if the officer did not engage a solicitor to act for the officer in connection with the purchase or such a mortgage and the officer paid expenses incurred by the officer in connection with the purchase or the mortgage, as the case may be - an amount not exceeding the amount of the expenses (including stamp duty but not a procuracy fee) reasonably incurred by the officer in connection with the purchase or the mortgage, as the case may be; and

(d) if the officer was required to pay a sum equivalent to the sum of housing loans insurance cover payable under the arrangements administered by the Housing Loans Insurance Corporation, a statutory authority established under the Housing Loans Insurance Act 1965 - the amount duly paid by the officer.

(3) An allowance referred to in subclause (1) is payable to an officer on the purchase by the officer of only one dwelling-house at the locality to which the officer is transferred, and, where, but for this subclause, an allowance would be payable to an officer in respect of the purchase of more than one dwelling-house, an allowance is payable to the officer only on the first purchase by the officer.

(4) For the purposes of this clause the relevant period for purchase in relation to a transfer, subject to subclause (5), is -

(a) in relation to a term transfer - the period commencing on the day on which the officer received notification in writing of term transfer to another locality and ending on the day 4 years after the day on which the officer ceased to be on a term transfer; and

(b) in relation to any other transfer - the period commencing on the day on which the officer received notification in writing of transfer to another locality and ending on the day 4 years after the day on which the officer commenced duty in that locality.

(5) Subject to subclause (6), an officer who has been transferred from one locality to another locality on a term transfer and who is entitled to be, and is, paid temporary accommodation allowance by virtue of paragraph 3.5(1)(b) shall not be entitled to be paid an allowance in accordance with this clause in respect of the purchase, at the other locality to which the officer was transferred, of a dwelling house pursuant to an agreement entered into by the officer commencing on the day 1 year after the day on which the officer commenced duty at the other locality, and ending on whichever is the earlier of -

- (a) the day on which the officer ceases to perform duty at the other locality;
- (b) the day on which the officer is notified in writing that the term transfer is to become a transfer of indefinite duration.

(6) Where, but for this subclause, an officer is not entitled to be paid an allowance by virtue of subclause (5) and the officer is notified in writing that the term transfer is extended such that on the day of notification the unexpired portion of the extended term transfer is greater than 3 years, subclause (5) shall not apply in relation to the purchase, at the locality at which the officer is performing duty, of a dwelling house pursuant to an agreement entered into by the officer during the period commencing on the day on which the officer was notified of the extension of the term transfer and ending on the day 1 year after the day on which the officer was so notified.

(7) Notwithstanding anything in this clause, where an officer -

- (a) has been transferred from a locality to another locality;
- (b) has been paid an allowance in accordance with clause 4.2 in respect of the sale of a dwelling-house at the first-mentioned locality;
- (c) has not become the owner of a dwelling-house in which the officer ordinarily resides at that other locality or at any other locality to which the officer has subsequently been transferred; and
- (d) is transferred to the first-mentioned locality,

the officer shall not be entitled to be paid an allowance in respect of the purchase of the dwelling-house at the first-mentioned locality.

#### **4.5 Allowance where agreement to purchase or build home**

4.5(1) Where an officer to whom this Division applies, being an officer who did not, immediately before being notified of transfer to the new locality, ordinarily reside in a dwelling-house owned by the officer, had before that date -

- (a) entered into an agreement to purchase a dwelling-house being a dwelling-house in which the officer intended to reside; or

(b) entered into an agreement for the building of a dwelling-house, or commenced to build a dwelling-house, being a dwelling-house in which the officer intended to reside,

subclause 4.2(1) applies in relation to the officer as if the officer had owned that dwelling-house and had been ordinarily residing in it immediately before being notified of transfer to the new locality.

(2) Where an officer to whom this Division applies -

(a) has, before the expiration of the relevant period for purchase, entered into an agreement for the building of a dwelling-house on land in the locality to which the officer has been transferred being a dwelling-house in which the officer intends to reside and of which the officer has become the owner;

(b) commences, before the expiration of the relevant period for purchase, to build a dwelling-house on land in that locality being a dwelling-house in which the officer intends to reside and of which the officer has become the owner; or

(c) becomes, or is to become, under the terms of an agreement entered into by the officer before the expiration of the relevant period for purchase, the owner of the land in that locality on which a dwelling-house in which the officer intends to reside is or is to be erected,

the officer shall, on the erection of the dwelling-house or, in the case referred to in paragraph (c), on the officer becoming the owner of the dwelling-house, be deemed, for the purposes of this Division, to have purchased the dwelling-house pursuant to an agreement entered into by the officer on the day of the agreement referred to in paragraph (a) or (c), or the day on which the officer became the owner of the land, as the case may be, and clause 4.3 applies to the officer accordingly.

(3) For the purposes of subclause (2) the relevant period for purchase has the same meaning as in subclause 4.3(4).

#### **4.6 Circumstances in which officer to be taken to own a dwelling-house**

4.6(1) For the purposes of this Division -

(a) an officer shall be taken to own a dwelling-house if and only if the officer's family is the owner of the land on which the dwelling-house is erected; and

(b) an officer's family shall be taken to be the owner of land if and only if -

(i) the officer's family is the beneficial owner or one of the beneficial owners in fee simple of the land or, if the land comprises a lot or unit into which land has been sub-divided in accordance with the law of a State that makes provision for strata or unit titles, the officer's family is the owner or one of the owners in fee simple of the lot or unit;

(ii) the officer's family is the lessee or one of the lessees of the land under a lease for a term of years or in perpetuity, or is the proprietor or one of the proprietors of an estate in leasehold of a unit under the Unit Titles Ordinance 1970 of the Australian Capital Territory as in force from time to time;

(iii) the officer's family is alone or with another person or other persons a member of a company that is the beneficial owner in fee simple of, or the lessee under a lease of, land on which is erected a block of residential flats or home units and the officer's family is, by reason of the shares in the capital of the company held by the officer's family alone or with that other person or those other persons, entitled alone or with that other person or with those other persons to the sole use of a flat or unit as a residential dwelling; or

(iv) the officer's family is the person or one of the persons in whom is vested the equity of redemption in land subject to a mortgage that took the form of a conveyance of the fee simple of the land.

(2) Where an officer's family is, for the purposes of this Division, to be taken to be the owner of land, and the officer's family is not the sole owner of the land, an allowance under subclauses 4.2(1) and 4.3(1) to which the officer is entitled shall be an amount that bears the same proportion to the allowance that would be payable to the officer if the officer were the sole owner of the land as the value of the interest of the officer's family in the land bears to the value of the land on the date of the sale or purchase of the land, as the case requires.

(3) For the purposes of this clause, "officer's family" means -

- (a) an officer;
- (b) one or more members of the family of an officer; or
- (c) an officer and one or more of the members of the family of the officer.

#### **4.8 Entitlement to allowance on return to former locality in certain circumstances**

4.8 Where a person -

- (a) is a person referred to in paragraph 5.6(1)(b) or 5.6(1)(c);
- (b) is paid in accordance with clause 5.6 the cost of conveyance of, and the cost of removal of the furniture and household effects, of the person and the dependants of the person; and
- (c) ceased to be an officer or employee upon cessation of a term transfer, appointment or engagement as a result of the expiration of the term,

the person shall be entitled to payment in accordance with this Division in respect of -

(d) a dwelling-house owned by the person at the locality at which the person performed duty; and

(e) a dwelling-house purchased by the person at the locality in respect of which the cost of conveyance and removal is so paid,

as if the person were an eligible transferred officer notified, on the day in which the transfer or appointment so ceased, of a transfer to the latter locality for a period of not less than 3 years.

## **DIVISION 5 - Removal Expenses**

### **5.1 Application**

5.1(1) In this Division, a reference to an officer to whom this Division applies shall be read as a reference to -

(a) an eligible transferred officer; and

(b) an officer who is transferred for a period of not less than 13 weeks from one locality to another locality as a consequence of a direction under section 49A of the Act or regulation 108.

(3) Except as provided in this Division, an officer who is transferred from one locality to another locality shall bear the cost of the conveyance, and of the removal of furniture and household effects, of the officer and the dependants of the officer to the locality to which the officer is transferred.

### **5.2 Entitlement to cost of conveyance and removal upon transfer**

5.2(1) An officer to whom this Division applies shall be entitled to have paid by the Department -

(a) the cost of conveyance of the officer and the dependants of the officer; and

(b) the cost reasonably incurred by the officer of removal of the furniture and household effects of the officer and the dependants of the officer,

from the locality at which the officer resided immediately before the transfer to the locality to which the officer is transferred.

(2) Where, in respect of any travel proposed to be undertaken by an officer, or the officer and the dependants of the officer -

(a) the officer is entitled to be paid the cost of conveyance in accordance with subclause (1); and

(b) the relevant Secretary has authorized that the travel may be undertaken by a motor vehicle owned or hired by the officer or a dependant of the officer,

the officer shall be entitled to be paid motor vehicle allowance in accordance with Division 1 of Part 6 of the Conditions of Service Determination in respect of that travel.

**5.3 Officers electing to dispose of furniture etc are entitled to be reimbursed loss thereby occasioned**

5.3(1) Where an officer to whom this Division applies or a dependant of the officer elects to dispose of furniture and household effects instead of removing them to the locality to which the officer is transferred, the officer shall, subject to subclause (2), be entitled, upon furnishing proof to the relevant Secretary of the loss (if any) sustained as a result of the disposal, to be reimbursed an amount equal to the loss so sustained.

(2) Where -

(a) an officer and the dependants of the officer elect to dispose of all of their furniture and household effects -the amount payable to the officer under subclause (1); or

(b) an officer or the dependants of the officer elect to dispose of some furniture and household effects - the sum of -

(i) the amount payable to the officer under subclause (1); and

(ii) the amount payable by the Department under paragraph 5.2(1)(b) in respect of the removal of furniture and household effects to the locality to which the officer has been transferred,

shall not exceed the amount which would have been payable by the Department under paragraph 5.2(1)(b) in respect of the removal of furniture and household effects to the locality to which the officer is transferred if the officer and the dependants of the officer had not elected to dispose of all or some of the furniture or household effects, as the case requires.

**5.4 Compensation payable for loss or damage arising from removal**

5.4 Where the removal of furniture and household effects is carried out in accordance with arrangements approved by the Department, compensation payable to an officer for any loss or damage arising from the removal shall not exceed \$79,500.

**5.4A Reimbursement of removal expenses relating to pets**

5AA(1) In this clause, a reference to an officer to whom this clause applies shall be read as a reference to an officer who, having been transferred from one locality to another locality has had, or is entitled to have, the cost of conveyance of the officer from the first-mentioned locality to the other locality paid, in accordance with Division 5, by the Department.

(2) Where an officer to whom this clause applies incurs reasonable expenses in kennelling and transporting from the locality at which the officer resided immediately before the transfer to the locality to which the officer is

transferred, any pet or pets, the officer shall be entitled to be reimbursed in respect of those expenses an amount not exceeding \$124.00.

(3) For the purpose of subclause (2), “pet” means an animal owned and ordinarily kept by the officer or the officer’s dependants for the purpose of household enjoyment but does not include an animal kept solely for consumption or commercial purposes.

### **5.5 Disturbance Allowance**

5.5(1) In this clause, a reference to an officer to whom this clause applies shall be read as a reference to -

(a) an eligible transferred officer; and

(b) a person referred to in paragraph 5.6(1)(b) or 5.6(1)(c) who -

(i) is paid in accordance with clause 5.6 the cost of removal of the furniture and household effects, of the officer and the dependants of the officer; and

(ii) ceased to be an officer or employee upon cessation of a term transfer, appointment or engagement as a result of the expiration of the term.

(2) Where an officer to whom this clause applies is transferred from one locality to another locality, the officer shall be entitled, in respect of the costs associated with the removal of the officer from one locality to another locality, not otherwise reimbursed by the Commonwealth, to be paid an allowance of \$1,628.00.

(3) Where an officer to whom this clause applies -

(a) subscribes for a telephone service in the residence of the officer at the locality in which the officer resided immediately before the officer is transferred from one locality to another locality; and

(b) moves into a dwelling-house at the other locality,

the officer shall be entitled to be reimbursed the cost reasonably incurred in relation to the connection or reconnection of a telephone service to the dwelling house at the other locality.

(4) Where an officer to whom this clause applies -

(a) is transferred from one State or Territory to another State or Territory;

(b) transfers a motor vehicle owned by the officer from the locality at which the officer resided immediately before the transfer to the locality to which the officer is transferred; and

(c) incurs expenses in respect of the transferred motor vehicle in relation to -

- (i) stamp duty on registering the vehicle;
- (ii) an establishment fee for the transfer of a driving licence in respect of the officer;
- (iii) an establishment fee for the transfer of the registration of the motor vehicle, including the charges in respect of standard licence plates, not exceeding the fees and charges applicable where the registered ownership of the motor vehicle remains unchanged,

the officer shall be entitled to be reimbursed an amount equal to the expenses incurred.

(5) An officer shall not be entitled to reimbursement of expenses under subclause (4) in respect of more than one motor vehicle.

### **5.6 Payment of removal expenses on cessation**

5.6(1) Where -

- (a) an officer retires or is retired from the Service;
- (b) an officer to whom section 44 applies ceases to be an officer otherwise than by virtue of Division 6 of Part III of the Act; or
- (c) an employee to whom sub-section 82(AE) of the Act applies ceases to be an employee otherwise than by virtue of Division 6 of Part III of the Act after completing 1 year of service, the relevant Secretary shall, if he or she thinks fit after having regard to -
- (d) the circumstances in which the officer was appointed, engaged, transferred or promoted to, the locality at which immediately before retirement the officer was performing duties;
- (e) the nature of the locality;
- (f) the time spent by the officer and the dependants of the officer (if any) at the locality; and
- (g) any other relevant matter,

authorize the payment to the officer of the expenses reasonably incurred by the officer in respect of the conveyance, and the removal of the furniture and household effects, of the officer and of the dependants of the officer who reside with the officer, from the locality to the nearest capital city, the locality at which the officer resided immediately before becoming an officer or to such other place as the relevant Secretary, in any particular case, directs.

(2) Where the family of a deceased person who was an officer resided with the person at the locality at which, immediately before the death or retirement, the person was performing duty, the relevant Secretary shall, if he or she thinks fit after having regard to -

- (a) the circumstances in which the person was appointed, transferred or promoted to, or was otherwise performing duty at, the locality;
- (b) the nature of the locality;
- (c) the time spent by the person and the family at the locality; and
- (d) any other relevant matter,

authorize the payment to a member of the person's family of the expenses reasonably incurred by the member of the family in respect of the conveyance, and the removal of the furniture and household effects, of the family from the locality to another place.

(3) For the purposes of subclause (2), an officer who died while on term or other temporary transfer from one locality to another locality shall, if the family of the officer continues to reside at the first-mentioned locality, be deemed to have been performing duty at the first-mentioned locality.

(4) For the purposes of this clause "family", in relation to a deceased person, means the persons who, immediately before the person died, were dependants of the person.

## **DIVISION 6 - Fares and Other Travelling Expenses**

### **6.1 Travel undertaken by an officer on official business**

6.1 Where an officer is required to undertake travel by air in Australia for the purpose of conducting official business, the officer shall, if First Class air travel and other classes of air travel are available, be provided with First Class air travel.

### **6.2 Travel undertaken by an officer for family reunion**

6.2 Where an officer to whom paragraph 7.2(4)(a) of this determination applies -

- (a) travels by air for the purpose of reunion with the dependants of the officer; and
- (b) the travel is not for the purpose of conducting official business,

the officer shall, if Economy Class air travel and other classes of air travel are available, be provided with Economy Class air travel.

### **6.3 Spouse accompanied travel on official business**

6.3(1) Subject to subclause (2), where an officer to whom this clause applies is required to undertake travel in Australia for the purpose of conducting official business, the relevant Secretary may, for the purpose of enabling the spouse of the officer to accompany the officer during that travel, and having regard to -

- (a) the extent, duration and location of that travel;
- (b) the operational efficiency of the Department;
- (c) the availability of funds for travel;
- (d) the extent to which the officer has been absent from home;
- (e) the officer's personal circumstances; and
- (f) any other relevant factor,

authorise payment to the officer, in respect of travelling by the spouse, of the amount of return fares in the same class of travel as that of the officer, and the reasonable additional cost of accommodation expenses associated with that travel.

(2) Payment under subclause (1) shall not be made to an officer more than once during any 12 months period.

(3) For the purpose of this clause, "**an officer to whom this clause applies**" means -

- (a) a Senior Executive Service officer; and
- (b) an officer referred to in paragraph 4.1.2(4)(c) of Public Service Board Determination 1983/10 as in force from time to time.

## **DIVISION 7 - Reimbursement of expenses**

### **7.2 Reunion Fares**

7.2(1) In this clause, unless the contrary intention appears -

**"an officer to whom this clause applies"** means -

- (a) an eligible transferred officer; or
- (b) an officer who is engaged in a temporary transfer for a period not less than one month;

**"entitlement period"**, in relation to an officer, means the period of one year commencing on the day on which the officer commenced duty at the locality at which the officer ordinarily performs duty or on the anniversary of that day, as the case requires;

**"relevant amount"** means \$6,600.00 per annum

(2) Subject to this clause, where an officer -

- (a) is an officer to whom this clause applies; and

(b) has a dependant residing at the locality at which the officer resided immediately before being transferred;

the officer is entitled to travel for the purpose of reunion with the dependant, at the expense of the Commonwealth, to that locality during the period commencing on the day on which the officer commences duty at the locality to which the officer has been transferred and ending on the day 3 years thereafter.

(3) Travel for the purpose of reunion shall be undertaken in conjunction with travel on official business unless the relevant Secretary is satisfied that, having regard to -

(a) the number of occasions on which and the frequency with which the officer travels to the locality at which the dependant of the officer resides;

(b) the duration of the period (if any) for which the officer performs duty in that locality; and

(c) any other relevant matter,

it is not reasonably practicable for the travel for the purpose of reunion to be so undertaken.

(4) Travel for the purpose of reunion in accordance with this clause -

(a) in the case of an officer who has elected in respect of the period of a year commencing on the day on which the officer commenced duty at the locality at which the officer ordinarily performs duty, or on the anniversary of that day, as the case requires, that this paragraph shall apply in relation to the officer travelling in accordance with this clause - shall not exceed 12 reunion visits in any year; and

(b) in any other case - shall be such that the cost of travel of the officer and the dependant of the officer does not exceed the relevant amount in an entitlement period.

(5) Where an officer undertakes travel for the purpose of reunion and the travel is undertaken in conjunction with official business utilising First Class air travel, the cost of travel shall, for the purposes of paragraph (4)(b), be taken to be the cost of Economy Class travel by air.

(6) Where a dependant of an officer, in respect of whom the officer is entitled to travel for the purpose of reunion is not at the locality at which the officer resided immediately before being transferred to the locality at which the officer performs duties, the relevant Secretary may authorize travel for the purpose of reunion to another locality and, in the case of an officer to whom paragraph (4)(a) applies, the officer shall pay to the Commonwealth the amount (if any) by which cost of fares to the other locality exceeds the cost of the economy class air travel to the first-mentioned locality.

(7) Nothing in this clause shall be taken to authorize travel outside Australia and the external Territories for the purposes of reunion.

### **7.3 Reimbursement for costs of travel otherwise than by air**

7.3(1) Where an officer -

- (a) is entitled to travel for the purpose of reunion with the dependant of the officer; and
- (b) the relevant Secretary has permitted that the travel may be undertaken other than by air;

the officer shall be entitled -

- (c) where the travel is undertaken by the use of a motor vehicle owned or hired by the officer - to be paid motor vehicle allowance in accordance with Division 1 of Part 6 of Public Service Board Determination 1983/10 in respect of that travel; and
- (d) where the travel is undertaken other than by use of such a motor vehicle - to be reimbursed whichever is the lesser of -
  - (i) the cost reasonably incurred by the officer in respect of that travel; or
  - (ii) the cost of Economy Class travel by air if the travel had been undertaken by air.

### **7.4 Travel by dependant for the purpose of reunion**

7.4(1) Subject to subclause (3), where an officer who -

- (a) is entitled to travel for the purpose of reunion with a dependant of the officer; and
- (b) elects, on an occasion, that the fare of the dependant to travel to the locality at which the officer performs duty is to be paid by the Commonwealth;

the officer shall be entitled to have the fare so paid by the Commonwealth in lieu of the entitlement of the officer to travel for the purpose of reunion on that occasion.

(2) Where an officer to whom paragraph 7.2(3)(a) applies elects in accordance with subclause (1), the officer shall be deemed to have travelled -

- (a) in respect of each dependant who is a child and for whom the Commonwealth has paid less than the adult fare - for the proportion of a reunion visit that the amount of fares paid by the Commonwealth bears to the amount of fares that would be payable if the officer had not so elected and had travelled for the purpose of reunion;
- (b) in respect of each other dependant - one reunion visit.

(3) The amount of the fares to be paid by the Commonwealth in respect of the travel by a dependant for the purpose of reunion shall not exceed the amount of fares that would have been payable if the officer had not so elected and the officer had travelled for the purpose of reunion.

#### NOTES

1 Public Service Board Determination 1984/46 as shown in this reprint includes all amendments made to Public Service Board Determination 1984/46 up to and including Public Service Determination 1993/235.

2. Public Service Determination 1989/78 provides -

“9.1 Where, before the day this determination is signed an officer or employee has been paid an allowance in accordance with clause 4.2.10 of Public Service Board Determination 1983/10 or clause 3.10 of Public Service Board Determination 1984/46, that officer or employee shall repay that allowance in accordance with the provisions of those determinations that were in force prior to the date this determination is signed.”.

Public Service Determination 1989/78 was signed on 14 July 1989.

---

### SCHEDULE 1

#### EXPENSES IN CONNECTION WITH PROVISION OF TEMPORARY

##### ACCOMMODATION - RENT CEILINGS

Column 1 Locality	Column 2 Rent Ceiling - Officer without dependants at locality	Column 3 Rent ceiling
Adelaide	95.00	200.00
Brisbane	95.00	250.00
Canberra	115.00	270.00
Darwin	125.00	340.00
Hobart	90.00	200.00
Melbourne	100.00	250.00
Perth	80.00	200.00
Sydney	160.00	410.00

**SCHEDULE 2**

**AMOUNTS PAYABLE IN RESPECT OF MEALS NOT PURCHASED AT BOARD AND LODGING ESTABLISHMENT**

Column 1	Column 2	Column 3
Meal	Amount for capital cities and High Cost* Country Centres	Amount for centres other than capital cities and High Cost* Country Centres**
	\$	\$
Breakfast	12.65	11.10
Lunch	15.30	13.70
Dinner	24.30	20.60

\* High Cost Country Centres as specified on page 3 of Schedule 1 of Public Service Board Determination 1983/10 as in force from time to time.

\*\* Includes all unspecified Country Centres and Tier 2 Country Centres as specified on page 3 of Schedule 1 of Public Service Board Determination 1983/10 as in force from time to time.

**SCHEDULE 3**

**TEMPORARY ACCOMMODATION ALLOWANCE**

**RATE OF ALLOWANCE FOR MEALS, FOODSTUFFS AND INCIDENTALS**

Column 1 Item No	Column 2 Rate per week
	\$
1	196.00
2	37.60
3	98.00

**SCHEDULE 4**

**RATES OF CONTRIBUTION**

Column 1	Column 2	Column 3	Column 4	Column 5
Contribution payable by officer - rate per week				
Officer without dependants	Officer with one adult dependant	Additional amount payable in respect of each additional adult dependant	Additional amount payable in respect of first dependent child	Additional amount payable in respect of each additional dependent child
\$	\$	\$	\$	\$

**PART A - Contribution in respect of board and lodging accommodation**

205.00	308.00	154.00	31.00	23.00
--------	--------	--------	-------	-------

**PART B - Contribution in respect of rented accommodation**

156.00	156.00
--------	--------

**Attachment B**

**ACT Public Service**

**Public Sector Management Act 1994**

**Standard 14, Chapter 6**

**Temporary Accommodation**

**References**

This Chapter should be read in conjunction with the following Chapters in this Standard:

Chapter 1	General Framework
Chapter 5	Domestic Travel

## **PART A: PRELIMINARY**

### **1. Application**

This Chapter may apply, at the discretion of the relevant Chief Executive, to officers who are required to change the locality of their residence upon appointment to the ACT Government Service or in certain other special circumstances. These provisions should be applied by the Chief Executive in consultation with the Central Management Agency.

B: 10 refers to SES staff who may be relocated as a result of a fixed-term appointment or engagement, or relocated on term transfer to a new locality and moved again at the end of that term, either to the former locality or to another transfer locality.

Subject to eligibility, all the following special TAA provisions apply to substantive SES officers on fixed-term appointment or engagement or term transfer from one locality to another.

### **2. Interpretation**

‘officer with, but unaccompanied by, dependants’

an officer who:

- has one or more dependants;
  - is temporarily residing apart from dependants;
- and
- intends that one or more dependants will subsequently reside with them

‘officer with dependants’

an officer who has one or more dependants, one or more of whom is, or are, residing with the officer

Note: Officers with dependants who permanently separate from their dependants and do not bring them to the transfer locality are regarded as officers without dependants.

‘officer without dependants’

an officer who is neither an officer with dependants nor an officer with, but unaccompanied by, dependants.

‘SES officer’

a Senior Executive Service officer and an officer who is entitled to be paid salary at the same rate as a Senior Executive Service officer

‘relevant leasing period’ the

period starting on the day on which a lease or tenancy agreement started and ending on the day on which the lease or tenancy agreement expires or is terminated

'utility connection deposit'	a deposit levied by a water, gas or electricity supply authority, for the commencement of the supply of existing utilities to the temporary accommodation in which the officer is residing
'bond money'	money paid under the terms of a lease or tenancy agreement as a security against any of the following: <ul style="list-style-type: none"><li>• the cost of necessary repair of damage occasioned by the lessee or tenant;</li><li>• default in rent payments; or</li><li>• failure by the lessee or tenant to give notice of termination of the lease or agreement</li></ul>
'settling-out period'	the period of seven days starting when the furniture and other household effects of the officer and dependants (if any) are removed from the residence of the officer from where they are re-locating
'settling-in period'	period beginning seven days before the day the officer commences duty at the new location and ending on the earlier of: <ul style="list-style-type: none"><li>• the day on which suitable accommodation or suitable temporary accommodation becomes available at the new location; or</li><li>• the day:<ul style="list-style-type: none"><li>- in the case of an officer with, but unaccompanied by dependants - thirteen weeks after the day on which the officer commences duty at the new location; or</li><li>- in the case of any other officer – three weeks after the day on which the officer commences duty at the location</li></ul></li></ul>
'temporary'	the period commencing seven days before accommodation which the officer commences duty where they period' have relocated to and ending on whichever is the earlier of: <ul style="list-style-type: none"><li>• the day on which suitable accommodation becomes available at that locality; or</li></ul> the day: <ul style="list-style-type: none"><li>- in the case of an officer with, but unaccompanied by dependants – thirteen weeks after the day on which the officer starts duty at that locality; or</li><li>- in the case of an officer who resided in boarding or rental accommodation where they relocated from - thirteen weeks after the day on which the officer starts duty at that locality; or</li></ul>

	- in the case of any other officer – twelve months after the day on which the officer starts duty at that locality
‘annual salary’	for temporary accommodation allowance (TAA) purposes, the salary received by officers following permanent transfer, including any HDA
‘officer contribution’	that part of the costs for accommodation and, where appropriate, meals and incidental expenses, which staff must pay for themselves
‘pre-relocation locality’	the locality at which staff lived immediately before relocation. However, where residence at that locality was temporary, for example on an overseas posting, or a term transfer to a remote locality, the locality at which staff last lived permanently (that is, had established a home) may be regarded as the pre-relocation locality

---

## PART B: RULES

### 1. Eligibility

#### 1.1 Payment

Payment of Temporary Accommodation Allowance (TAA) is subject to the relevant Chief Executive being satisfied that staff are making genuine efforts to obtain suitable accommodation, as defined.

#### 1.2 Details to be

Each case should be examined to confirm that **provided** those efforts are genuine and circumstances. If there is any doubt, officers should be asked to show what steps they have taken to obtain suitable accommodation and provide details of the accommodation they have rejected as unsuitable.

#### 1.3 Quarterly

TAA is only payable while an officer continues to **review** show that they are unable to accommodate. Payment of TAA, including during settling-out or settling-in periods and for rented housing, should be reviewed quarterly.

### 2. Time-limits

#### 2.1 Settling-in

The following time-limits on settling-in allowances are:

- . up to thirteen weeks for staff with, but unaccompanied by, dependants; or

- . up to three weeks for staff accompanied by dependants, and staff without dependants.

### **2.1.1**

A settling-in allowance should be paid for the minimum period necessary to allow staff to find longer-term housing. Chief Executives should ensure cost effectiveness, consistent with the requirements of staff.

### **2.2 Settling-out**

For the payment of settling-out allowance, it is not expected that this period would normally extend beyond seven days after the date on which the staff member's household furniture and effects are uplifted, although payment may be extended for a further period under the criteria outlined in this Chapter. The power to pay settling-out allowance is in B: 3.

### **2.3 Time limits**

The normal TAA time limits are as follows:

- . up to thirteen weeks for staff 'with, but unaccompanied by, dependants'. If payment is extended beyond thirteen weeks for an officer with, but unaccompanied by dependants, the rate payable after thirteen weeks should be the rate applicable if the officer had been accompanied by dependants;
- . up to thirteen weeks for officers who boarded or occupied rented housing at the locality from which they were transferred;
- . up to twelve months for officers accompanied by dependants and staff without dependants who lived in homes they owned at the locality from which they have relocated;
- . up to three years for eligible officers who undertake a substantive term transfer to another locality.

### **2.4 Extending the relevant period**

The Chief Executive may extend the relevant period applying to a settling-out period, a settling-in period, or a temporary accommodation period as defined above, if they are satisfied that to do so is reasonable in the circumstances, having regard to:

- . the arrangements approved by the Agency for the removal of the furniture and household effects of an officer;
- . the availability of suitable accommodation or suitable temporary accommodation;
- . the accommodation arrangements proposed by the officer; and
- . any other relevant factor.

### **2.5 Extending beyond 3 years**

The relevant period may only be extended beyond three years if the Chief Executive is satisfied that such extension is reasonable, having regard to:

- . the efficient operation of the Agency;

- . the costs associated with the extension of such period;
- . the special circumstances of the officer; and
- . any other relevant factor.

**2.6 Allowances following an extension of the relevant period**

If the settling-in period or temporary accommodation period of an officer with, but unaccompanied by dependants, has been extended in accordance with B: 2.4 the extension must be considered to be a settling-in period, or temporary accommodation period, in respect of an officer with dependants.

**3. Entitlement to allowances**

**3.1 At locality from which re-locating (settling-out)**

**3.1.1 Temporary accommodation**

An officer may be entitled to an allowance under B: 4 of this Chapter if on account of removal or other arrangements relating to the re-location:

- . the accommodation in which an officer ordinarily resides becomes unavailable or unsuitable for residence; and
- . the officer resides in temporary accommodation at that locality during the whole or a part of the settling-out period.

**3.1.2 Board and lodging**

An officer is entitled to be paid an allowance in accordance with B: 5 in respect of the whole or part of the settling-out period, if:

- suitable temporary accommodation is unavailable; and
- they reside, during the whole or a part of the settling-out period at that locality:
  - in board and lodging accommodation; or
  - in other accommodation which is suitable only as a transitional arrangement.

**3.1.3 Entitlement**

Officers may be entitled to allowances at the locality to which they have relocated in accordance with either B: 3.1.1, or B: 3.1.2, but not both.

**3.2 At locality to which relocated (settling-in)**

**3.2.1 Temporary accommodation**

An officer is entitled to be paid an allowance, in accordance with B: 4, for the whole or the part of the temporary accommodation period, if:

- . suitable accommodation is unavailable at the locality to which an officer is relocated; and

- . they reside in temporary accommodation during the whole or a part of the temporary accommodation period.

**3.2.2 Board and lodging**

An officer is entitled to be paid an allowance, in accordance with B: 5, for the whole or a part of the settling-in period if:

- . suitable temporary accommodation is unavailable at the locality to which an officer is relocated; and
- . the officer resides, during the whole or a part of the settling in period:
  - in board and lodging accommodation; or
  - in other accommodation which is suitable only as a transitional arrangement.

**3.2.3 Entitlement**

Where an officer is entitled to be paid an allowance under B: 3.2.1, they are not entitled to be paid an allowance under B: 3.2.2.

**4. Rate**

**4.1 Maximum amount payable**

Subject to B: 4.5, the maximum amount of allowances and officer contributions payable under B: 3.1 and B: 3.2 are listed in the relevant Schedules

**4.2 Officer with dependants**

The allowance payable under B: 3.1 or B: 3.2 to an officer to whom this Chapter applies is, for an officer with dependants, the amount by which the expenses incurred by the officer in connection with the provision of temporary accommodation for the officer and dependants exceed the contribution which the officer is required to make, calculated in accordance with B: 6.

**4.3 Officer without dependants**

The allowance payable under B: 3.1 or B: 3.2 to an officer to whom this Chapter applies is, for an officer without dependants, the amount by which the expenses incurred by the officer in connection with the provision of temporary accommodation for the officer exceeds the contribution which the officer is required to make, calculated in accordance with B: 6.

**4.4 Officer with, but not accompanied by dependants**

For an officer with but not accompanied by dependants the sum of the following amounts is

- . the expenses incurred by the officer in connection with the provision of temporary accommodation for the officer;

- . the expenses reasonably incurred by the officer in connection with the supply of existing gas and electricity services to the temporary accommodation in which the officer is residing;
- .an amount in respect of the provision of meals and foodstuffs payable at the rate per week specified in Column 2 of Schedule 3 opposite Item 1; and
- . an amount in respect of incidental expenses payable at the rate per week specified in Column 2 of Schedule 3 opposite Item 2.

**4.5 Variation to amount of allowance**

The allowance payable to an officer may be reduced or increased, by such amount as the relevant Chief Executive considers reasonable in the circumstances, having regard to:

- the locality at which the officer is residing;
- the cost at which suitable temporary accommodation might reasonably be obtained by the officer at that locality;
- any special accommodation needs reasonably required by the officer or dependants (if any); and
- any other relevant factor.

**4.6 Fixed-term leases**

Officers should avoid fixed-term leases for temporary accommodation. Where such leases are unavoidable, a termination of tenancy clause should be inserted. Officers should be notified of this requirement.

**4.7 Rent ceilings**

The Commissioner is responsible for setting rent ceilings.

**4.7.1 For non-SES officers**

Rent ceilings for non-SES officers are included in Schedule 2 to this Chapter and are normally set following annual rent market surveys.

**4.7.2**

Chief Executives may approve rent ceilings higher than those prescribed in Schedule 2 in special cases.

**4.7.3 For SES officers**

Rent ceilings for SES staff are in Schedule 1 to this Chapter and are also normally subject to annual review.

**4.7.4**

Chief Executives may approve rent ceilings higher than those in Schedule if considered justified.

**5. Rates for board and lodging allowance**

**5.1 Officer with dependants**

Subject to B: 5.4 and B: 5.5, the amount of allowance payable under B: 3.1 or B: 3.2 to an officer with dependants, is the amount

B: 6, is less

than the sum of whichever of the following amounts are applicable:

- the expenses incurred by the officer in connection with the provision of meals and lodging for themselves and dependants at the establishment where board and lodging accommodation is obtained;
- the expenses incurred by the officer in connection with provision of accommodation other than board and lodgings;
- if the accommodation does not include kitchen facilities and the officer and dependants purchase meals of a kind specified in Column 1 of Schedule 3 elsewhere than at the establishment where board and lodging is obtained:
  - for each meal purchased for the officer or a dependant who is ten years of age or over - whichever of the amounts specified in Column 2 or 3 of the Schedule 3 is applicable;
  - for each meal purchased for a dependant of the officer who is less than ten years of age - half of whichever of the amounts specified in Column 2 or 3 of the Schedule 3 is applicable; and
  - if the accommodation includes kitchen facilities – an amount in respect of the provision of meals and foodstuffs, the rate payable in respect of an officer and each dependant who is ten years of age or over shall be paid at the weekly rate specified in Column 2 of Schedule 4 opposite Item 1.

For any other children the rate shall be paid at the weekly rate specified in Column 2 of Schedule 4 opposite Item 2.

**5.2 Officer with, but not accompanied by, dependants**

Subject to B: 5.4 and B: 5.5, the allowance payable under B: 3.1 or B: 3.2 to an officer with, but not accompanied by, dependants is the sum of whichever of the following amounts are applicable:

- the expenses incurred by the officer for meals and lodging for the officer at the establishment where board and lodging is obtained;
- the expenses incurred by the officer in connection with provision of accommodation other than board and lodging;
- if the accommodation does not include kitchen facilities and the officer purchases meals specified in Column 1 of Schedule 3 elsewhere, for each meal so purchased, whichever of the amounts specified in Column 2 or 3 of the Schedule is applicable;
- if the accommodation obtained by the officer includes kitchen facilities - an amount for the provision of meals and foodstuffs payable at the rate per week specified in Column 2 of Schedule 4

opposite Item 1, less any amount payable to the officer under this Rule for meals purchased; and

- incidental expenses payable at the rate per week specified in Column 2 of Schedule 4 opposite Item 2.

**5.3 Officer without dependants**

Subject to B: 5.4 and B: 5.5, the allowance payable under B: 3.1 or B: 3.2 to an officer without dependants is the amount by which the contribution, calculated in accordance with B: 6, which the officer is required to make towards the cost of accommodation is less than the sum of whichever of the following amounts are applicable:

- the expenses incurred by the officer for the provision of meals and lodging for the officer at the establishment where the board and lodging is obtained;
- the expenses incurred by the officer for the provision of accommodation other than board and lodging;
- if the accommodation does not include kitchen facilities and the officer purchases meals as specified in Column 1 of Schedule 3 elsewhere than at the establishment where the board and lodging is obtained - for each meal purchased, whichever of the amounts specified in Column 2 or 3 of the Schedule is applicable; and
- if the accommodation includes kitchen facilities - an amount for meals and foodstuffs payable at the rate per week specified in Column 2 of Schedule 4 opposite Item 1, less any amount payable to the officer under this Rule for meals purchased by the officer.

**5.4 Board and lodgings includes an amount for meals**

If the expenses incurred by an officer for board and lodging includes an amount attributable to meals, then in calculating the amount payable, no amount additional to that payable under B: 5.1, B: 5.2 or B: 5.3, is payable for the purchase of those meals.

**5.5 Reduction of allowance in certain circumstances**

If the relevant Chief Executive is satisfied that the amount of the expenses incurred by the officer for meals and lodging at the establishment where board and lodging is obtained is not reasonable, the amount of the allowance may be reduced by such amount as the relevant Chief Executive considers reasonable in the circumstances, having regard to:

- the locality at which the officer is residing;
- the cost at which meals and board and lodging of a suitable standard might reasonably be obtained at that locality;
- any special accommodation needs reasonably required by the officer or dependants (if any); and
- any other relevant factor.

## **6. Contributions payable by officers**

**6.1 Based on salary** Calculation of contribution levels for eligible part-time officers is based on the actual annual salary for the number of hours being worked at the time of determination or Agency review, not on the annual salary of an equivalent full-time officer.

**6.2 Officer with dependants - temporary accommodation** Subject to B: 6 and B: 7, the amount of the contribution which an officer accompanied by dependants is required to make towards the cost of temporary accommodation is calculated at the rate per week specified in Column 3 of Schedule 5 opposite to the range specified in Column 1 within which annual salary is payable to the officer.

**6.3 Officer without dependants - temporary accommodation** Subject to B: 6 and B: 7 the amount of the contribution which an officer without dependants is required to make towards the cost of temporary accommodation the amount calculated at the rate per week specified in Column 2 of Schedule 5 opposite to the range specified in Column 1 within which annual salary is payable to the officer.

**6.4 Officer with dependants-board and lodgings** Subject to B: 6 and B: 7, the amount of the contribution which an officer accompanied by dependants is required to make towards the cost of board and lodging accommodation is whichever, or the sum of whichever, of the following amounts are applicable:

- . in relation to an officer with one or more adult dependants:
  - for the officer and the first adult dependant - an amount calculated at the rate per week specified in Column 3 of Schedule 6 opposite to the range specified in Column 1 within which annual salary is payable to the officer; and
  - for each additional adult dependant – an amount calculated at the rate per week specified in Column 4 of Schedule 6 opposite to the range specified in Column 1 within which annual salary is payable to the officer;
  - for an officer without an adult dependant -in respect of the officer, an amount calculated at the rate per week specified in Column 2 of Schedule 6 opposite to the range specified in Column 1 within which annual salary is payable to the officer; and
- . for an officer with one or more dependent children:
  - for the first dependent child - an amount calculated at the rate per week specified in Column 5 of Schedule 6 opposite to the range specified in Column 1 within which annual salary is payable to the officer; and

- for each additional dependent child – an amount calculated at the rate per week specified in Column 6 of Schedule 6 opposite to the range specified in Column 1 within which annual salary is payable to the officer.

**6.5 Officer without dependants-board and lodgings**

Subject to B: 6 and B: 7, the amount of the contribution which an officer without dependants is required to make towards the cost of board and lodging accommodation is the amount calculated at the rate per week specified in Column 2 of Schedule 6 opposite to the range specified in Column 1 within which annual salary is payable to the officer.

**7 Reduction in officer contributions**

If the relevant Chief Executive certifies that the transfer of a particular officer is critical to the operating efficiency of the Agency, they may reduce the amount of that officer's contribution towards the cost of temporary accommodation or board and lodging which would otherwise be payable by that officer under B: 6, having regard to:

- . the length of time for which the officer is transferred;
  - . the personal circumstances of the officer;
- . the level of the costs arising from the officer's transfer;
- . the circumstances in which the transfer has taken place;
- . and any other relevant factor.

**8. Reimbursement of bond money and utility connection deposit**

**8.1 Payment of allowance**

If an officer is entitled to be paid an allowance in accordance with the provisions relating to Travel Allowance, or B: 3.2 of this Chapter, and rents or leases temporary accommodation in which they intend to reside and:

- . is required to pay, and pays, bond money; or
- . pays a utility connection deposit,

the officer shall be entitled to be paid an allowance equal to the amount of the bond money and the utility connection deposit so paid.

**8.2 Repayment of allowance**

If an officer has been paid an allowance in accordance with B: 8.1, they shall repay that allowance, and any interest that may have accrued at the termination of:

- . the relevant leasing period; or
- . Travelling Allowance payments; or

. Temporary Accommodation Allowance payments,  
whichever occurs first.

## **9. Accommodation standards**

**9.1 Government or rental accommodation** Accommodation or temporary accommodation must not be taken to be unsuitable to the needs of the officer by reason only that the accommodation is:

- provided by the ACT Government; or
- is available only for rent by the officer by way of a lease or tenancy agreement.

**9.2 Unfurnished housing** Unfurnished housing at the relocation locality may not necessarily be defined as being suitable if staff owned a home at the pre-relocation locality. If unfurnished housing is clearly temporary, and staff provide evidence of sustained and genuine efforts to buy a home at the transfer locality, TAA is payable.

**9.3 Furniture removal - unfurnished house** If unfurnished housing is not regarded as suitable long-term accommodation and TAA is payable as a result, household furniture and effects should be removed to the unfurnished housing wherever economical and practicable. The relevant Chief Executive may authorise payment for later removal of household furniture and effects to permanent housing. Where unfurnished housing is rented and staff hire furniture (provided that this is economical), Chief Executives may allow reasonable hire costs within the TAA rent ceiling.

**9.4 Furniture removal - furnished house** If furnished housing is rented, staff may supplement the furniture provided with household furniture and effects of their own, but the relevant Chief Executive must be satisfied under section B: 4.5 that removal of the items is reasonable. Items may be removed at agency expense from previous housing or from storage to the temporary housing and subsequently to permanent housing.

## **10. Special conditions - SES**

**10.1 Application** Rule B: 10 refers to SES staff who may be relocated as a result of a fixed-term appointment or engagement, or relocated on term transfer to a new locality and moved again at the end of that term, either to the former locality or to another transfer locality.

**10.1.1** Subject to eligibility, all the following special TAA provisions apply to substantive SES officers on

fixed-term appointment or engagement or term transfer from one locality to another.

- 10.2 Payment** TAA is payable for the term of the transfer up to a maximum of three years (unless extended in special circumstances by the relevant Chief Executive), calculated in accordance with this Chapter as applicable. However, TAA payments would immediately cease if a home were bought at the new locality.
- 10.3 Like-to-like** SES officers are exempt from the 'like-to-like' test and the requirement to demonstrate efforts to obtain suitable accommodation.
- 10.4 Living alone** SES officers are entitled to reimbursement of the reasonable cost of 1 -bedroom accommodation (subject to the rent ceilings) when they are appointed, engaged or transferred for a fixed term, and elect to maintain all their dependants at the former locality and live alone at the transfer locality. No officer contribution is required.
- 10.4 1** Normally, and given that eligible staff would be entitled to SES reunion fares, this level of TAA payment is seen as appropriate even if 1 -bedroom accommodation at what officers might consider an acceptable standard is not available. Where staff choose to live in more expensive 1 -bedroom accommodation, the additional cost should be regarded as the staff member's liability (in effect such payments would become the staff members 'contribution').
- 10.5 Returning to former locality** If the eligibility conditions prescribed in this Chapter are satisfied, SES staff returning to their former locality from term transfer are eligible for the normal TAA entitlements set out in B: 3.1 of this Chapter.
- 10.6 Contribution** Standard SES rates of officer contribution apply where necessary to SES officers on term transfer.
- 10.6.1** Special TAA officer contributions apply for SES staff on fixed-term appointment/engagement or term transfer who leave one or more dependants behind as well as having one or more dependants accompany them. where an officer:  
. is relocated for a term and leaves one or more dependants behind in the home owned by the officer or a family member (the dependants having lived with the officer immediately before the appointment or engagement or transfer);

- . is accompanied by one or more dependants to the new locality; and
- . is notified that at the end of the term or terms the officer will return to the home locality,

an officer contribution is not required if they occupy rented housing at the new locality. Similarly. if they occupy board and lodging for a period at the new locality, the officer contribution is the usual contribution for such accommodation, less the amount specified in Schedule 7.

**10.7 TAA ceases when a home is purchased**

TAA ceases when a fixed-term SES appointee or term transferee buys a home at the new locality, or moves into staff housing.

**10.8 Resignation or retirement**

At the completion of a fixed-term appointment or engagement or term transfer, SES officers who were relocated to take up duty and who resign or retire are entitled at the completion of their service to receive a settling-out allowance as if they were transferring in the interests of the ACT Government to another locality. TAA is not provided for any accommodation or living costs incurred by former officers following departure from the locality at which they resigned or retired.

**11. Relocation expenses (including sale and purchase of homes)**

An officer is entitled to be paid relocation expenses in the circumstances and according to the conditions and rates, set out in Determination 1983/10 made under the Public Service Act 1922 (Commonwealth) as if the relevant parts of that Determination were part of this Standard and as if references to officers, Secretaries and other persons, bodies and things were references to the persons, bodies and things under the Act and Standards that most nearly correspond to their Commonwealth counterpart.

**12. District allowance**

An officer is entitled to be paid district allowance in the circumstances and according to the conditions and rates, set out in Determination 1983/10 made under the Public Service Act 1922 (Commonwealth) as if the relevant parts of that Determination were part of this Standard and as if references to officers, Secretaries and other persons, bodies and things were references to the persons, bodies and things under the Act and Standards that most nearly correspond to their Commonwealth counterpart.

## **PART C: GUIDELINES**

### **1. General**

These Guidelines provide general information on the assistance available to eligible staff for reasonable additional costs which they incur when relocated permanently to another locality at ACT Government expense, or in circumstances otherwise defined.

### **2. Eligible officers**

Officers eligible to receive assistance with reasonable temporary accommodation costs following relocation would generally be those staff appointed to the service while living inter-state. Other circumstances might include where an officer, for the benefit of the Agency, is temporarily based outside of the ACT.

### **3. Temporary transfer**

If officers are temporarily working at a locality away from their headquarters, assistance with temporary accommodation and other living costs at the temporary transfer locality is provided by TAA.

### **4. Reasonable costs**

The assistance available to staff under the TAA scheme is limited to reasonable costs for accommodation and, where appropriate, meals and incidental expenses.

### **5. Period that allowances are payable**

The period during which TAA can be paid at the new locality depends on the basis of appointment or engagement, the circumstances of staff, and the availability of suitable long-term accommodation. Essentially, staff who move permanently to a new locality on an indefinite basis are eligible under this Rule for TAA for a reasonable period (normally up to twelve months) until they obtain long-term suitable accommodation similar to that occupied prior to relocation.

### **6. Settling-in/out allowances**

Settling-in or settling-out allowance is paid for very short periods while staff live in board and lodging (normally at hotels or motels) when moving from the

old locality and immediately on moving to the new locality until suitable longer-term housing is available. Settling-in/settling-out allowances recognise reasonable costs for accommodation and meals (a set incidentals component is also paid).

**7. Rented accommodation allowance**

Rented accommodation allowance is paid while staff occupy temporary rented housing at the new locality (normally after a short settling-in period at a hotel or motel). Reasonable rent (but usually not meal and incidental expenses) is recognised.

**8. Officer contributions**

Staff receiving TAA normally pay an officer contribution as prescribed in the relevant Schedules to this Chapter. These contributions, based on ABS Household Expenditure Survey data, notionally recognise the normal living costs that might be incurred had an officer or dependants, or both, remained at the previous locality. Officer contributions are not normally required of officers who have dependants but who are at the new locality alone, but certain time limits apply.

**9. Developmental programs**

Participants in certain developmental programs (such as the Executive Development Scheme, the Personnel and Resource Management Scheme and the Interchange Program) are on temporary transfer and receive a reviewed rate of TA from day one of any work placement away from their headquarters.

**10. Agency authority**

Chief Executives have the authority to determine all TAA casework to finality.

**11. Advance of TAA**

Other Guidelines deal with advances of TAA for advance rents, bond monies and deposits relating to connection of public utilities for temporary rented accommodation.

**12. Part-time officers**

Eligible part-time officers are entitled to the same level of TAA as an equivalent full-time officer.

### **13. Definitions**

Definitions of terms used in these Guidelines follow.

#### **13.1 Officer contribution**

The Schedules to this Chapter set out that part of the costs for accommodation and, where appropriate, meals and incidental expenses, which staff must pay themselves. This is called the officer contribution.

#### **13.2 Pre-relocation locality**

'Pre-relocation locality' means the locality at which staff lived immediately before relocation. However, where residence at that locality was temporary, for example on an overseas posting, or a term transfer to a remote locality, the locality at which staff last lived permanently (that is, had established a home) may be regarded as the pre-relocation locality.

### **14. Rent ceilings**

Capital city rent markets are periodically surveyed to assess reasonable costs for particular categories of rented housing. These figures underlie the rent ceilings specified in the Schedule to this Chapter. However, there is a discretion to allow rents above these ceilings if necessary (see B: 4.6).

### **15. Eligible officers**

These Guidelines set out which officers are eligible for TAA. Essentially, payment of TAA depends on whether the ACT Government pays the cost of transport and removal on relocation. The Rules contained in this Chapter set out the conditions under which the ACT Government pays these costs. TAA is not payable to staff transferred within a locality.

### **16. Advice to officers**

Chief Executives should ensure that officers who are determined to be eligible for TAA payments are made aware before they move out of their homes at the pre-relocation locality, of the TAA provisions and other relocation conditions, including for settling-in and settling-out.

### **17. Settling-out/settling-in allowances**

#### **17.1 Settling-out allowance**

If it is necessary for staff who are permanently relocated to new localities to sell or otherwise vacate their homes, or have their furniture uplifted before departure to the new locality, a settling-out allowance may be granted for any short-term accommodation. It is not expected that this period

would normally extend beyond seven days after the date on which the staff member's household furniture and effects are uplifted, although payment may be extended for a further period under the criteria outlined in this Chapter. However, settling-out allowance is intended to provide only very short-term assistance, given the high costs of commercial board and lodging (normally at hotels or motels).

**17.2 Settling-in allowance**

Settling in allowance is payable under B: 3.2 only until accommodation suitable for longer-term temporary or permanent needs can be obtained and is usually paid for short-term board and lodging (normally at hotels or motels).

**17.3 Reasonable steps**

Chief Executives should ensure that all reasonable steps are taken to minimise the length of time staff are eligible for a settling-in allowance. Where it is practicable and could result in TAA savings, staff might move to the transfer locality ahead of their dependants to arrange suitable longer-term housing.

**17.4 Reasonable accommodation**

Chief Executives should ensure that cheapest suitable accommodation is used. Serviced accommodation such as holiday flats may be appropriate and cheaper than hotels or motels. For this reason, this Chapter provides a weekly allowance for meal costs while living in accommodation with a kitchen but where meal costs are not included in the tariff.

This allowance recognises that eligible staff will cook some of their meals at the serviced accommodation as well as eat other meals at commercial establishments. The weekly meal allowance is payable, whether meals are taken at or outside the establishment.

Chief Executives should advise officers on what is meant by 'reasonable accommodation', and provide them with information on the availability and cost of accommodation before relocation takes place. Where Chief Executives consider that board and lodging costs are excessive, the Schedules to this Chapter provide for an allowance based on more reasonable costs.

**17.5 Period for which allowance is paid**

Allowances are usually paid from the date of commencing at a new locality or on arrival at the new locality, within a two day period (for example, a weekend) before commencing. However, where it is clear that TAA savings will result, settling-in allowance may be approved by Chief Executives up to 7 days before staff commence at the new locality.

It is not expected that settling-in allowance would be paid for more than seven days before the date on which staff commence at a new locality. However, where a Chief Executive considers that it is reasonable for staff to move into commercial accommodation for more than seven days before commencing at the transfer locality, payment may be extended using the criteria outlined in this Chapter. However, any such extended allowance should only be given in special circumstances and for as limited a period as possible.

The normal time-limit on settling-in allowance for staff accompanied by dependants and for staff without dependants is three weeks from the date of commencing at a new locality.

## **18. Suitable accommodation**

Eligible staff may receive TAA while they occupy temporary accommodation until suitable long-term accommodation becomes available. The meaning of 'suitable accommodation' varies for different staff. However, for TAA purposes it may be regarded as unfurnished housing, either rented or bought, that is appropriate for a staff member's long-term needs and into which household furniture and personal effects can be moved.

### **18.1 'Like to like'**

The general principle underlying TAA is that assistance will be provided for a reasonable period towards reasonable costs for temporary accommodation until staff can resume their pre-relocation accommodation situation. In other words, until accommodation has gone from 'like to like' (for example, from home ownership at the pre-transfer locality to home ownership at the transfer locality), assistance with accommodation costs may be provided. However, the ACT Government will not necessarily pay TAA until staff find long-term or permanent accommodation which they consider to be of a suitable standard or equivalent to their housing at the pre-relocation locality.

### **18.2 Reasonable period of payment**

In determining a reasonable period for payment of TAA to eligible staff following their relocation, Chief Executives should consider the availability of suitable housing in the housing market. If officers choose to extend their stay in temporary housing for largely personal reasons at a time when suitable long-term housing is in fact available, this does not confer a continued entitlement to TAA. TAA should only be continued where agencies are satisfied that

suitable long-term housing is clearly not available and that staff are making genuine efforts to obtain such housing as soon as possible. Officers are not eligible for continued TAA unless they can show that the temporary housing they occupy is unsuitable for their longer-term needs, and that suitable accommodation genuinely cannot be found.

Unfurnished housing at the relocation locality may not necessarily be defined as being suitable if staff owned a home at the pre-relocation locality. If unfurnished housing is clearly temporary, and staff provide evidence of sustained and genuine efforts to buy a home at the transfer locality, TAA is payable.

## **19. Unsuitable accommodation**

Furnished housing should not always be regarded as unsuitable accommodation. If officers have lived in rented furnished housing at the pre-relocation locality and obtain furnished housing at the transfer locality, such housing may be regarded as suitable, even though staff may want to buy a home and may regard the rented furnished housing as temporary. In this case no TAA is payable.

Generally, where officers take furnished housing in preference to available unfurnished housing, they may be presumed to have accepted the furnished housing as suitable.

### **19.1 Settling-in**

Officers who rented unfurnished housing at the pre-relocation locality are not entitled to TAA except during a settling-in period if suitable unfurnished rented housing can be obtained at the new locality.

## **20. Classifying accommodation**

In determining whether accommodation is furnished or unfurnished for TAA purposes, agencies should not classify accommodation as furnished when only window/floor treatments, built-in furniture and basic furniture (for example, beds, chairs, tables) are provided.

## **21. Officer responsibility**

### **21.1 Officer to make efforts to find suitable accommodation**

The onus is on officers receiving TAA to continue to **genuine** demonstrate that they are unable to secure housing which is suitable for their longer term needs, having regard to their reasonable domestic requirements.

Payment of TAA is subject to the relevant Chief Executive being satisfied that staff are making genuine efforts to obtain suitable accommodation, as defined. Each case should be examined to confirm that those efforts are genuine and reasonable in the circumstances. If there is any doubt, officers should be asked to show what steps they have taken to obtain suitable accommodation and provide details of the accommodation they have rejected as unsuitable.

## **22. Sale and purchase of homes**

**22.1 Sale of home at old locality** Officers who own a home at the pre-relocation locality may have to sell it before they can buy at the new locality, but the ACT Government cannot be expected to meet indefinite temporary accommodation costs at the new locality. A reasonable amount of time should be allowed to sell the home at the old locality, but TAA should be continued only where Chief Executives are satisfied that genuine and sustained efforts are being made to sell the home.

**22.2 Purchase of home at new locality** Inability to buy at a new locality because of difficulties in selling at the old locality should not automatically be accepted as a reason for extending TAA beyond twelve months from the date of relocation.

**22.3 Sale and purchase of homes** The authority for payment of expenses and allowances related to the sale and purchase of homes is at B: 11 of this Chapter.

## **23. Time limits**

**23.1 Time limits** The time limits for settling-in allowances are set out in B: 2 of this Chapter.

**23.2 Chief Executive discretion** Chief Executives may in exceptional cases extend TAA beyond these time limits. Extensions for non-term transfers should not be granted unless it is apparent that staff have made reasonable efforts to find suitable accommodation in the minimum time.

In considering applications for TAA extension, primary consideration should be given to whether any delays encountered in arranging suitable accommodation at the transfer locality are ones for which the ACT Government should reasonably accept responsibility. For example, where an officer chooses to build a home at the new locality instead of buying an established house, delays in the completion through industrial action or the builder going into liquidation

would not normally impose an obligation on the ACT Government as employer for continued TAA, particularly beyond the time-limits in this Chapter.

## 24. Leases

**24.1 Fixed-term leases** Officers should avoid fixed-term leases for temporary accommodation. Where such leases are unavoidable, a termination of tenancy clause should be inserted. Officers should be notified of this requirement.

**24.2 Vacating before lease expires** If officers occupying temporary leased housing are forced to vacate it before the lease expires, and have to pay compensation for the unexpired portion of the lease, Chief Executives should authorise an amount up to the equivalent of continuation of TAA for a reasonable period, for example one month.

**24.3 Rent** Rent is a contractual matter between the officer and the landlord. Officers should be made aware when looking for temporary accommodation that relief from hardship due to acceptance of accommodation with an excessively high rent will not necessarily be provided by the ACT Government.

**24.4 Professional charges and Stamp Duty on the ACT Government** Chief Executives may approve reimbursement of reasonable professional charges and stamp duty on leases. Chief Executives should obtain advice from **leases Solicitor** if they are unsure whether charges are reasonable. Eligible officers may also receive an advance of TAA for payment of bonds and deposits for the connection of public utilities.

**24.5 ACTGS not responsible for other costs** Other costs arising from renting (for example, procurement fees, loss of bonds, etc) are not the responsibility of the ACT Government.

## 25. Payment to officers with dependants

**25.1 With dependants** TAA is payable to 'officers with dependants', subject to normal eligibility conditions, but only one allowance is paid for any one family.

The assessment of an eligible officer's TAA entitlement is based on the size of the family. For this purpose, all dependent members of the family living with the officer are to be included in the assessment of rent paid and officer contributions for TAA purposes. A spouse normally residing with the staff member should be regarded as a dependant, whether or not the spouse has a separate income.

‘Officers with dependants’ who permanently separate from their dependants and do not bring them to the transfer locality will be regarded as ‘officers without dependants’. However, where it is clear that a separation is temporary (for example, resulting from reasonable schooling commitments for children at the old locality, or a shortage of suitable family accommodation at the new locality) staff may continue to be regarded as ‘officers with dependants’ for up to thirteen weeks.

In exceptional cases, Chief Executives may consider extending TAA beyond thirteen weeks for an officer ‘with, but unaccompanied by, dependants’. Where extensions are granted, TAA must be reassessed so that any payment after the thirteen week period is reduced from the ‘officer alone at new locality’ rate to a rate that would be reasonable for the officer as if accompanied by dependants in temporary rented accommodation. TAA would then normally consist of the appropriate rent ceiling for the officer’s family size, less the relevant officer contribution. No allowance would then be payable for meals and incidental expenses.

**26. Payment to officers who boarded at pre-transfer localities**

Officers who boarded at the old locality would normally only be entitled to receive settling-in allowance for short periods at hotels and motels.

**27. Calculation of Temporary Accommodation Allowance entitlements**

Chief Executives should refer to Tables 1, 2, and 3 at the end of this Chapter in assessing the TAA entitlements of eligible staff.

**28. Officer contributions and rent ceilings**

**28.1 Officer contributions**

Officer contributions for TAA are set out in the Schedules to this Chapter. They represent normal living costs (housing, food, fuel and power) that might be incurred by officers had they not been permanently relocated. The contribution rates are derived from the ABS Housing Expenditure Survey and are normally reviewed each year.

**28.2 Rent ceilings - non-SES staff**

Rent ceilings for non-SES officers are included in Schedule 2 to this Standard and are normally set following annual rent market surveys. Chief Executives may approve rent ceilings higher than

those prescribed in the Schedule in special cases, for example, where the market is subject to rapid rent increases, or shortages of suitable rental housing force staff to pay high rent. In considering applications for increases in rent ceilings, Chief Executives should be aware that officers cannot expect the ACT Government as employer to meet all costs for temporary accommodation because, for example, they want rented housing of the same size, standard, and distance from work as that occupied before transfer. The ACT Government's responsibility is normally seen as limited to temporary accommodation of a reasonable standard and location and with enough bedrooms for the officer and, where appropriate, their dependants. For that reason, rent ceiling figures for non-SES staff are set for reasonable housing with one, two, three, and four or more bedrooms.

**28.3 Rent ceilings -  
SES staff**

Rent ceilings for SES staff are in Schedule 1 to this Chapter and are also normally subject to annual review. Chief Executives may approve rent ceilings higher than those in the Schedules if considered justified. The rent ceilings set out in Column 3 of the Schedule 1 are not differentiated by number of bedrooms and are set at a higher level than for non-SES staff. The rent ceilings in Column 2 apply where SES staff are appointed or transferred for a fixed term, and elect to maintain all their dependants at the former locality and live alone at the transfer locality.

**29. Food and meal purchases**

If board and lodging (for example, in a hotel or motel) does not include all meals, the full cost of board and lodging of each person for whom TAA is payable should be derived by adding to the tariff amounts for meals which are not included in the tariff. For meals bought away from the hotel or motel, the amounts to be added are those prescribed in Schedule 3 (except that rates for children under ten are half the set rates).

If meals are taken at the hotel or motel, but costs for those meals are not included in the tariff, the cost of standard meals at the establishment should be added to the board and lodging tariff to obtain the full cost of board and lodging. While it is not possible to define a 'standard' meal, agencies should satisfy themselves that meals for which claims are made are reasonable and that costs are also justifiable. The cost of alcohol or tips is not admitted to the calculation.

If TAA for rented furnished housing is paid to officers living alone before the arrival of their dependants, a weekly amount may be paid as prescribed. This amount is for food purchases and for bought meals. The meal rates referred to at Item 1 Schedule 4 are not payable in this situation.

If it is more economical for officers to temporarily occupy transitional accommodation such as holiday flats (with cooking facilities) instead of board and lodging, the weekly amount referred to (above) for meals and foodstuffs applies to each adult and child aged ten or over, and half that amount for each child under ten. The meal rates referred to at Item 1 Schedule 4 are not payable in this situation.

Chief Executives should ensure that double reimbursement for any meal is not made - for example, when a staff member works overtime and claims Overtime Meal Allowance.

### **30. Incidental expenses**

Officers alone at a new locality before their dependants arrive may be paid a weekly allowance under B: 4.4 for incidental expenses for up to thirteen weeks after taking up duty at the new locality.

Expenditure on Items such as fruit, extra food and drink, newspapers, postage, medicine, telephone calls and laundry are not admissible in determining the amount of any additional allowance payable under this Standard. These Items are recognised in the amount allowed for incidental expenses under B: 4.4.

Additional fares at the transfer locality are not admissible. Particularly while officers are boarding, it should be possible for them to live close to their work.

If officers or their dependants occupy boarding accommodation which does not have a laundry, reasonable costs for laundry may be admitted. Dry cleaning costs are not payable.

If officers are renting and do not have household Items such as cooking and eating utensils or linen because their own effects have been delayed, reasonable charges should be reimbursed for hiring such Items until their own effects arrive.

**31. Submission of claims and review of Temporary Accommodation Allowance**

TAA assists officers with initial high costs for temporary accommodation at a new locality. Advances may be made for certain expenses. Chief Executives should reimburse staff as soon as possible for expenditure incurred.

Applications for TAA should include a certification by officers that the information provided is correct and that they have been advised as set out in these guidelines.

TAA should be reviewed by Chief Executives at intervals of not more than three months. At each review, officers must provide a statement showing the action they have taken to obtain suitable accommodation. Officers should immediately notify any change in their situation.

Officers should provide Itemised receipts for accommodation costs for which reimbursement is claimed. Chief Executives should examine such receipts and ensure that only relevant expenditure is admitted.

**32. Payment during absence from headquarters**

Payment of TAA should be reviewed where officers are absent from headquarters on recreation leave, sick leave or LSL or on official business. Reasonable continuing expenses (for example, rent) may be reimbursed during an absence where they are of a kind which would not have been incurred had the officer been permanently established at headquarters. Any officer contribution required under normal conditions should continue to be taken into account in determining TAA payable. In practice, where there is no alteration to headquarters costs during absence, no variation to normal TAA is necessary. Officers are required to notify the Chief Executive of any change in costs during absence from headquarters.

**33. Salary for Temporary Accommodation Allowance**

The rate of annual salary for TAA purposes is the salary received by officers following permanent transfer, excluding any short term HDA. Calculation of contribution levels for eligible part-time officers is based on the actual annual salary for the number of hours being worked at the time of determination or

agency review, not on the annual salary of an equivalent full-time officer.

TAA should be reassessed by Chief Executives following any change in salary through promotion or incremental advancement. Any variation of TAA following promotion should be made with effect from the date of effect of the promotion. Following incremental advancement, variation of TAA should be made with effect from the date of effect of the increment.

For officers whose salary is varied except by promotion or incremental advancement, existing TAA: .

- . should remain unchanged except as a result of normal review; and
- . which comes up for normal three-monthly review, after the date of variation, should be reassessed on the salary as at the date of review.

TAA approved when officers take up duty at a new locality should be assessed on the salary being paid when TAA starts.

#### **34. Special conditions - SES**

There are occasions at the senior non-SES levels when for operational or developmental purposes, Chief Executives need to transfer staff substantively to a new locality for a fixed term. B: 2.3 provides that agencies may pay TAA on term transfers of up to three years. See B: 2.4 on conditions for extension of term transfers.

**TABLE 1: 'Officer with dependants' boarding at transfer locality**

<b>Normal pre-transfer locality accommodation</b>	<b>At transfer locality alone</b>	<b>At transfer locality with dependants</b>
Owned or buying own	Full cost of board	Board less officer home, or rented contribution
Boarded together with	Board less any reduction in boarding costs at pre-transfer locality	Board less officer dependants contribution, <u>during settling-in period</u>
		Nil beyond settling-in period
<u>Additions</u>		
Food and meal purchases	In accordance with Order 9/0/14	In accordance with Order 9/0/14
	<u>during settling—in period</u>	<u>period</u>
Incidental expenses	In accordance with Order 9/0/15	NIL

**Table 2: 'Officer with dependants' renting at transfer locality**

<b>Normal pre-transfer accommodation</b>	<b>At transfer locality alone</b>	<b>At transfer locality with dependants</b>	
		<b><u>Renting furnished</u></b>	
	<b><u>Renting unfurnished</u></b>		
Owned or buying own home	Full rent Rent less officer contribution	Rent less officer contribution	
Rented <u>unfurnished</u> accommodation	Full rent	Rent less officer contribution*	Nil
Rented <u>furnished</u> accommodation	Full rent	Nil	Nil
Boarded together with dependants	Full rent	Nil	Nil
<b><u>Additions</u></b>			
Food and meal purchases	In accordance with Order 9/0/15	Nil	Nil
Incidental expenses	In accordance with Order 9/0/15	Nil	Nil
Gas/electricity**	Full reasonable cost	Nil	Nil

\* This form of TAA is payable only when suitable unfurnished accommodation is unavailable.

\*\* See sub-paragraphs 4.2.6(1)(c)(ii) of PSB Det 1983/10 and 3.6.(1)(d)(ii) of PSB Det 1984/46

**Table 3: “Officer without dependants”**

<b>Normal pre-transfer locality accommodation</b>	<b>Boarding</b>	<b>Renting furnished</b>	<b>Renting unfurnished</b>
Owned or buying own home	Board less officer contribution	Rent less officer contribution	Rent less officer contribution
Rented <u>unfurnished</u> accommodation	Board less officer contribution	Nil	Nil
Rented <u>furnished</u> accommodation	Board less	Nil	Nil
Boarded	Board less officer contribution during <u>settling-in period</u>	Nil	Nil
<u>Additions</u>			
Food and meal purchases	In accordance with 9/0/14	Nil	
Incidental expenses	Nil	Nil	Nil
Gas/electricity	Nil	Nil	Nil

\* This form of TAA is payable only when suitable unfurnished accommodation is unavailable.

**PART D: SCHEDULES**

**Schedule 1: Expenses in connection with provision of temporary accommodation - Rent Ceilings - SES**

Column 1 Locality	Column 2 Rent Ceiling Officer without dependants at locality	Column 3 Rent Ceiling
	\$/week	\$/week
Adelaide	90.00	190.00
Brisbane	95.00	240.00
Canberra	120.00	260.00
Darwin	120.00	330.00
Hobart	90.00	200.00
Melbourne	100.00	260.00
Perth	80.00	190.00
Sydney	160.00	410.00

**Schedule 2: Expenses in connection with provision of temporary accommodation - Rent Ceilings - Non-SES**

Column 1	Column 2	Column 3	Column 4	Column 5
Type of temporary accommodation in which officer is residing				
Locality	4 or more bedrooms	3 bedrooms	2 bedrooms	1 bedroom
	\$/week	\$/week	\$/week	\$/week
Adelaide	175.00	150.00	120.00	90.00
Brisbane	220.00	170.00	150.00	95.00
Canberra	240.00	180.00	165.00	120.00
Darwin	300.00	240.00	180.00	120.00
Hobart	180.00	155.00	125.00	90.00
Melbourne	240.00	185.00	145.00	100.00
Perth	175.00	145.00	120.00	80.00
Sydney	370.00	270.00	205.00	160.00

**Schedule 3: Amounts payable in respect of meals not purchased at board and lodging establishment**

Column 1 Meal	Column 2 Amount for capital cities and High Cost Country Centres*	Column 3 Amount for centres other than capital cities and High Cost Country Centres**
Breakfast	12.40	9.40
Lunch	13.25	11.65
Dinner	24.05	21.65

\* High Cost Country Centres as specified in Part C of Schedule 1 to Chapter 5 -Domestic Travel.

\*\* Includes all unspecified Country Centres and Tier 2 Country Centres as specified in Part C of Schedule 1 to Chapter 5 - Domestic Travel.

—

**Schedule 4: Temporary Accommodation Allowance - Rate of allowance for meals, foodstuffs and incidentals**

Column 1 Item No	Column 2 Rate per week
1	188.00
2	38.30
3	94.00

**Schedule 5: Temporary Accommodation Allowance - Rates of contribution payable by officers (excluding officers with, but unaccompanied by, dependants)**

Column 1	Column 2	Column 3
Range within which annual salary payable to officer	Officer without dependants	Officer unaccompanied by dependants
\$/week	\$/week	\$/week
Below 20,000	51.00	76.00
20,000 - 21,999	52.00	78.00
22,000 - 23,999	55.00	82.00
24,000 - 25,999	57.00	86.00
26,000 - 27,999	60.00	90.00
28,000 - 29,999	63.00	4.00
30,000 - 31,999	65.00	98.00
32,000 - 33,999	68.00	102.00
34,000 - 35,999	71.00	106.00
36,000 - 37,999	73.00	110.00
38,000 - 39,999	76.00	114.00
40,000 - 41,999	79.00	118.00
42,000 - 43,999	81.00	122.00
44,000 - 45,999	84.00	126.00
46,000 - 47,999	87.00	130.00
48,000 - 49,999	89.00	134.00
50,000 - 51,999	92.00	138.00
52,000 - 53,999	95.00	142.00
54,000 - 55,999	97.00	146.00
56,000 - 57,999	100.00	150.00
58,000 - 59,999	103.00	154.00
60,000 - 61,999	105.00	158.00
62,000 - 63,999	108.00	162.00
64,000 - 65,999	111.00	166.00
66,000 - 67,999	113.00	170.00
68,000 - 69,999	115.00	173.00
70,000 and over	119.00	178.00

**Schedule 6: Board and lodging allowance - Rates of contribution payable by officers  
(excluding officers with, but unaccompanied by dependants)**

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Range within which annual salary payable to officer	Officer without dependants or officer without adult dependants	Officer with one adult dependant	Additional amount payable in respect of each additional adult dependant	Additional amount payable in respect of first dependant child	Additional amount payable in respect of each additional dependant child
\$/week	\$/week	\$/week	\$/week	\$/week	\$/week
Below 20,000	119.00	179.00	90.00	18.00	13.00
20,000 - 21,999	121.00	182.00	91.00	18.00	14.00
22,000 - 23,999	126.00	189.00	95.00	19.00	14.00
24,000 - 25,999	130.00	195.00	98.00	20.00	15.00
26,000 - 27,999	135.00	202.00	101.00	20.00	15.00
28,000 - 29,999	139.00	209.00	105.00	21.00	16.00
30,000 - 31,999	143.00	215.00	108.00	22.00	16.00
32,000 - 33,999	148.00	222.00	111.00	22.00	17.00
34,000 - 35,999	152.00	228.00	114.00	23.00	17.00
36,000 - 37,999	157.00	235.00	118.00	24.00	18.00
38,000 - 39,999	161.00	242.00	121.00	24.00	18.00
40,000 - 41,999	166.00	248.00	124.00	25.00	19.00
42,000 - 43,999	170.00	255.00	128.00	26.00	19.00
44,000 - 45,999	174.00	262.00	131.00	26.00	20.00
46,000 - 47,999	179.00	268.00	134.00	27.00	20.00
48,000 - 49,999	183.00	275.00	138.00	28.00	21.00
50,000 - 51,999	188.00	281.00	141.00	28.00	21.00
52,000 - 53,999	192.00	288.00	144.00	29.00	22.00
54,000 - 55,999	196.00	295.00	148.00	30.00	22.00
56,000 - 57,999	201.00	301.00	151.00	30.00	23.00
58,000 - 59,999	205.00	308.00	154.00	31.00	23.00
60,000 - 61,999	210.00	315.00	158.00	32.00	24.00
62,000 - 63,999	214.00	321.00	161.00	32.00	24.00
64,000 - 65,999	219.00	328.00	164.00	33.00	25.00
66,000 - 67,999	223.00	335.00	168.00	34.00	25.00
68,000 - 69,999	227.00	340.00	170.00	34.00	26.00
70,000 and over	232.00	348.00	174.00	35.00	26.00

**Schedule 7: Rates of contribution - Part A and B - SES**

Column 1	Column 2	Column 3	Column 4	Column 5
Officer without dependants	Officer with one adult dependant	Additional amount payable in respect of each additional adult dependant	Additional amount payable in respect of first dependant child	Additional amount payable in respect of each additional dependant child
\$/week	\$/week	\$/week	\$/week	\$/week

**PART A - Contribution in respect of board and lodging accommodation**

210.00	315.00	158.00	32.00	24.00
--------	--------	--------	-------	-------

**PART B - Contribution in respect of rented accommodation**

158.00	158.00
--------	--------

**Schedule 8: Rental contributions for accommodation in a Commonwealth dwelling - Rates of contribution payable by officers (excluding officers with, but unaccompanied by, dependants)**

Column 1	Column 2	Column 3
Range within which annual salary payable to officer	Officer without dependants	Officer accompanied by dependants
\$/week	\$/week	\$/week
Below 20,000	51.00	76.00
20,000 - 21,999	52.00	78.00
22,000 - 23,999	55.00	82.00
24,000 - 25,999	57.00	86.00
26,000 - 27,999	60.00	90.00
28,000 - 29,999	63.00	94.00
30,000 - 31,999	65.00	98.00
32,000 - 33,999	68.00	102.00
34,000 - 35,999	71.00	106.00
36,000 - 37,999	73.00	110.00
38,000 - 39,999	76.00	114.00
40,000 - 41,999	79.00	118.00
42,000 - 43,999	81.00	122.00
44,000 - 45,999	84.00	126.00
46,000 - 47,999	87.00	130.00
48,000 - 49,999	89.00	134.00
50,000 - 51,999	92.00	138.00
52,000 - 53,999	95.00	142.00
54,000 - 55,999	97.00	146.00
56,000 - 57,999	100.00	150.00
58,000 - 59,999	103.00	154.00
60,000 - 61,999	105.00	158.00
62,000 - 63,999	108.00	162.00
64,000 - 65,999	111.00	166.00
66,000 - 67,999	113.00	170.00
68,000 - 69,999	115.00	173.00
70,000 and over	119.00	178.00

15 February 2000

### LEAVE OF ABSENCE TO MEMBER

**MR CORBELL** (3.32): Mr Speaker, I seek leave to move a motion that leave of absence be granted to Mr Hargreaves for today, 15 February 2000. Mr Hargreaves is absent from the Assembly on Assembly committee business.

Leave granted.

**Mr CORBELL:** Mr Speaker, I move:

That leave of absence for today, 15 February 2000, be given to Mr Hargreaves.

Question resolved in the affirmative.

### PRESENTATION OF PAPERS

The following papers were presented by **Mr Speaker:**

Legislative Assembly (Broadcasting of Proceedings) Act –

Authority to broadcast proceedings pursuant to section 4 – Authorisations (2) dated 7 December 1999, given to specified government offices to receive sound broadcasts of Legislative Assembly and committee proceedings, subject to certain conditions.

Authority to broadcast proceedings, pursuant to subsection 8 (4), concerning the public hearings of the:

Select Committee on Workers Compensation System.

Standing Committee on Justice and Community Safety.

Standing Committee on Education, Community Services and Recreation.

Standing Committee on Health and Community Care.

Select Committee on Government Contracting and Procurement Processes.

#### **Performance report**

Financial Management Act, pursuant to section 25A – Legislative Assembly for the Australian Capital Territory Secretariat – Performance report for the December quarter 1999-2000.

**LEGISLATIVE PROGRAM - AUTUMN SITTINGS 2000**  
**Paper and Ministerial Statement**

**MS CARNELL** (Chief Minister): Mr Speaker, for the information of members, I present the Government's autumn 2000 legislative program, and ask for leave to make a short statement.

Leave granted.

**MS CARNELL:** Mr Speaker, I am pleased to present the Government's legislative program for the autumn 2000 sitting period. Mr Speaker, the core of this legislative program lies in financial and business legislation. This Government, as demonstrated by its legislative program, proudly continues to build on its commitment to responsible management of the Territory and administrative reform. I would like to touch briefly on some of the key Bills.

The new budget process, currently being trialled, attests to our commitment to making our parliamentary system as efficient and as responsive as possible. The level of scrutiny of government processes in this trial is a great improvement over preceding years. In this context, the schedules to the Appropriation Bill will be the subject of extensive consultation with all members of the Legislative Assembly before the Bill is tabled for debate.

Two Bills will be introduced during the sittings to amend the Rates and Land Tax Act 1926. The first Bill will provide the new rating factors for 2000-2001. The second Bill will remove the commissioner's discretionary power and prescribe the apportionment of unimproved value for the calculation of land tax on residential properties with multiple dwellings that are rented. The formula will be included in the legislation to provide certainty to taxpayers.

Our commitment to national tax reform will continue, particularly with the introduction of legislation relating to the implementation of the goods and services tax. As part of the intergovernmental agreement on the reform of Commonwealth-State financial arrangements, adjustments will be made to take account of the imposition of the GST on gambling operators through the amendment of various gambling legislation. This will result in an overall reduction in gambling taxes. In addition to this legislation, a Bill will be introduced to cease financial institutions duty and duties on quoted marketable securities from 1 July 2001, and adjust current subsidies on diesel fuel and liquor products, introduced in 1998 under the safety net arrangements with the Commonwealth. A number of Acts will be affected by these adjustments.

The Government will also introduce the First Home Buyers Scheme Bill, which will legislate and regulate administration of the first home buyers scheme. This scheme is a national tax reform initiative for eligible first home buyers, to offset costs associated with the introduction of the GST on 1 July 2000. Some issues to be canvassed in the GST-related legislation are yet to be finalised as the Territory awaits determination on these issues by the Federal Treasurer.

*15 February 2000*

A number of amendments are proposed to the Duties Act 1999. These include an exemption for duty for changes of motor vehicle registrations as a result of the National Motor Vehicle Registration Scheme Bill, and changes to address some anomalies and deficiencies in this Act.

Mr Speaker, in the event that this Assembly agrees to proceed with the proposed partnership of ACTEW and AGL, a legislative framework will be introduced for the formation, operation and Legislative Assembly oversight of the proposed partnership for the provision of energy, water and sewerage services in the ACT. Mr Speaker, the Government also intends to introduce utilities legislation. The proposed legislation replaces and enhances the existing framework of regulation of utilities operating in the ACT, including a licensing regime for the various sectors of the industry.

The Milk Authority (Amendment) Bill will present the final stage in the reforming of this industry. It will provide for the repeal of the Act, which will abolish the Milk Authority of the ACT, remove home vendor or zone licence regulation, and the Treasurer's milk prices control powers contained in the Act.

The Bookmakers Act 1985 will be amended to reflect the Government's response to recommendations flowing from the national competition policy review of the Act. In particular, the Government has signified its intention to grant further sports betting licences.

Mr Speaker, following the repeal of legislation affecting the ACT public sector appeal rights by the Commonwealth, it is proposed to introduce amendments to replace the interim agreements agreed by the Assembly late last year in the Public Sector Legislation Amendment Act 1999. The proposed amendments will put in place new review and appeal systems that do not rely on Commonwealth links.

Mr Speaker, two significant criminal law initiatives will be introduced during the autumn sittings. The Crimes (Investigation Procedures) Amendment Bill 2000 will incorporate into one piece of legislation all provisions dealing with criminal investigation procedures, including those in the Children's Services Act 1986 and the Crimes Act 1900. The Bill will also incorporate, with some modifications, the provisions of the Model Forensic Procedures Bill developed by the Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General. These provisions will establish a national DNA database that will enhance the capacity of the Australian Federal Police to detect and investigate serious criminal offenders, as well as to absolve innocent suspects. The Bill will include provisions relating to the taking, use and storage of DNA samples and the utilisation of the DNA database.

Mr Speaker, I intend for the ACT to be at the forefront of development of this important legislation. Of course, Mr Speaker, the challenge is now on the Opposition to do as their New South Wales colleagues are doing and support this significant package of laws reforming the law on investigation procedures.

The second significant criminal law initiative will be a Bill to re-establish a spent convictions scheme in the ACT. This is a particularly important initiative in relation to juvenile offenders. Under this Bill, persons convicted of certain ACT criminal offences will be able to deny their past convictions after a subsequent period of non-offending. Spent conviction schemes operate in a number of other jurisdictions, including the Commonwealth.

The Government will also introduce a Bill to reform the law relating to commercial and retail tenancies. This is a complex and difficult area where the balance between the rights and obligations of tenants and landlords requires readjustment and clarification. There has been an extensive consultation period during the development of this Bill, including the release, over a year ago, of an exposure draft.

Mr Speaker, to address our Olympic obligations in hosting Olympic football, and to support teams training in the ACT in the lead-up to the Olympics, the Government will also introduce the Health Professionals (Special Events Exemption) Bill. This will allow visiting health professionals to provide health care services in the Territory in connection with declared special events, without becoming registered under territory law. Development of the Act will enable the Territory to comply with obligations associated with hosting the Olympic football tournament.

Mr Speaker, following representations from the commissioner, amendments are also proposed to the Commissioner for the Environment Act 1994 to allow more flexibility in the timing of the production of the ACT State of the Environment reports.

A Fisheries Bill is proposed to reduce the impact of recreational fishing on fish and aquatic resources, provide greater protection to native fish species, address cross-border compliance issues, and align ACT legislation with inland fisheries legislation in New South Wales.

Mr Speaker, an initiative of this Government is to make use of Statute Law (Miscellaneous Provisions) Bills to address minor and technical matters that will tidy up and update legislation. These Bills will include amendments to the Territory Owned Corporations Act 1990 following the disposal of Candeliver's main undertakings, the Legal Aid Act 1977, and amendments to the Occupational Health and Safety Act 1989. This means that a range of minor matters will be addressed in a single Bill rather than have a plethora of smaller Bills addressing each issue independently. I believe that this is a desirable practice, as it will reduce the number of Bills before the Assembly and allow time for debate on those issues that are critical.

Mr Speaker, in tabling the autumn 2000 legislative program, the Government is again indicating to members the legislative items it considers important. I seek the cooperation of members in the timely consideration of these Bills.

Mr Speaker, I would also like to restate the comments I made at the commencement of the term of this Government for the need for open communication in legislative planning and preparation for debate in this place. Mr Speaker, I am sure that members will find the Government's legislative program extremely helpful in planning their own programs and

15 February 2000

preparing for debate on relevant issues. Mr Speaker, I would like to say again that it would be extraordinarily useful for other members in this Assembly to follow the lead of the Government and also indicate what their legislative programs actually are, so that resources can be used more efficiently and planning can be more efficient, both from a drafting perspective and for the management of this place. Mr Speaker, I commend the paper to the Assembly.

**COMMISSIONER FOR THE ENVIRONMENT – REPORT –  
PROGRESS TOWARDS NO WASTE BY 2010  
Paper**

**MR SMYTH** (Minister for Urban Services) (3.45): Mr Speaker, for the information of members and pursuant to section 22 of the Commissioner for the Environment Act 1993, I present the report of the Commissioner for the Environment entitled “Progress Towards No Waste by 2010”, dated November 1999. Mr Speaker, the Government’s response to the report will be provided to the Assembly in due course. I move:

That the Assembly takes note of the paper.

Question resolved in the affirmative.

**ACT GREENHOUSE STRATEGY  
Paper**

**MR SMYTH** (Minister for Urban Services) (3.46): Mr Speaker, for the information of members, I present the ACT Greenhouse Strategy prepared by Environment ACT and I move:

That the Assembly takes note of the paper.

Mr Speaker, I am pleased to table the ACT Greenhouse Strategy today. We have already set an ambitious target of stabilising ACT greenhouse emissions at 1990 levels by the year 2008 and reducing them by a further 20 per cent by 2018, and we have started working towards meeting this target. It is appropriate that the former Minister for the Environment, Mr Humphries, is here because it was he that engineered these targets, and he is to be congratulated for the lead that he then took on behalf of the Government.

To achieve this target, Mr Speaker, the ACT as a whole needs to reduce annual greenhouse gas emissions by 700,000 tonnes of CO<sub>2</sub> equivalent by the year 2008. Climate change resulting from enhanced greenhouse effect is a major environment threat that the world will have to deal with for decades to come. Although the ACT is only a small contributor to Australia’s greenhouse gas emissions, we have a responsibility, as the nation’s capital, to show leadership in playing our part to reduce the country’s emissions. The ACT Greenhouse Strategy is evidence that this is a responsibility that the ACT Government takes seriously.

The strategy provides a range of initiatives that will require concerted government, business and community partnership to ensure that the 2008 greenhouse target is met. It incorporates measures that have already been implemented or committed within the ACT, or national measures that will produce reductions in the ACT, and many ACT initiatives that together will enable us to reach this target. Existing ACT and national measures are projected to meet 73 per cent of the emissions reduction target. The 27 per cent shortfall will be met by the initiatives in this strategy.

A number of significant measures have already been introduced by the ACT Government. The Government has funded the establishment of a free and independent energy advisory service that provides advice to residents on improving the energy efficiency of their homes. The ACT Energy Advisory Service also administers the new ACT water tune-up incentive scheme. The mandatory four-star energy rating scheme for all new houses has been in operation for four years.

A more recent initiative, and a first in Australia, was the introduction of a requirement for the mandatory disclosure of the energy ratings of all dwellings at the point of sale. Other exciting initiatives include the installation of methane capture and electricity generation systems at each of the ACT's landfill sites, and a pilot program to upgrade the energy efficiency of the ACT's public housing.

Mr Speaker, the new ACTION bus network and timetable have been designed to significantly improve bus patronage. We are also progressively extending the Territory's cycle path network into new areas and continuing to upgrade the existing cycle paths.

ACTEW has contributed to the greenhouse emission reductions through the establishment of the GreenChoice scheme. The scheme enables consumers to provide direct support for renewable energy generation projects. My family has signed up to this scheme, and I ask all members to consider doing so. ACTEW has also constructed a mini hydro plant at Mount Stromlo that produces green power in the ACT.

The new measures in the strategy have been selected from a broad range of potential measures identified in the draft ACT Greenhouse Strategy. It is intended that the measures will be introduced across all sectors of the community so that the effort of reducing emissions is shared equitably. The ACT Government has a responsibility to lead by example in reducing greenhouse gas emissions, by ensuring that its own procurement and operations are as efficient as possible.

Mandatory energy intensity targets will be set for each government agency. The targets will require agencies to reduce the energy used in the operation of their buildings by 15 per cent by the year 2004, and a further 10 per cent by 2008. Energy efficiency programs will be established to assist agencies in meeting these targets. The ACT Government also aims to reduce the greenhouse gas emissions from the operation of its vehicle fleet by 15 per cent by the year 2008.

*15 February 2000*

Accredited green power will be purchased by government agencies. From 2001, 10 per cent of government electricity needs will be met by energy from renewable sources. The proportion of green power purchased by the Government will be progressively increased to 100 per cent by the year 2008, subject to the ability of renewable energy suppliers to provide sufficient green power to meet its needs.

Mr Speaker, in the residential sector, the public housing energy efficiency retrofit program and the water tune-up incentive scheme, funded in the 1999-2000 budget, will be expanded. The draft budget for 2000-2001 includes \$1m for improvements to the energy efficiency of ACT public housing.

Two new residential measures will also be introduced. The installation of water-efficient shower heads will be made mandatory for all new houses. The requirement to install water-efficient shower heads will impose minimal installation costs on households and will produce significant reductions in hot water energy costs for all householders. Increased energy efficiency ratings for new houses will be required. This measure will be introduced following extensive consultation with the construction industry. The ACT Energy Advisory Service will be made available to builders who wish to improve the energy performance of their standard house designs.

Mr Speaker, the commercial sector will play its part through the introduction of minimum energy performance standards. These standards will be introduced through amendments to the Building Code of Australia, and will be complemented by the introduction of the Australian Building Energy Council's voluntary code of practice.

The ACT Government will also establish, with the support of the Australian Greenhouse Office, an ACT regional managing energy for profits program, which will provide businesses with assistance to reduce their energy consumption. Major commercial energy users will be invited to join the program.

In the transport sector, Mr Speaker, funding will be provided for an innovative pilot awareness campaign. The program will help householders better understand their travel needs and reduce their dependence on the motor vehicle. Similar programs in Perth and Adelaide have been highly successful in producing long-term behavioural change that reduces vehicle emissions. These measures will be backed with funding that will ensure that they can be effectively implemented.

The draft budget for 2000-2001 includes \$1.5m to fund existing measures and implement the new measures in the ACT Greenhouse Strategy. The mix of measures included in the strategy has been selected on the basis of practicality in meeting the emissions reduction target. The measures are also designed to have minimal impact on the ACT economy, and many of the measures will provide multiple benefits to the Canberra community by making the city more livable and sustainable. Initiatives included in the strategy are considered to be the most cost-effective at the moment. However, changes in technology and other advances may provide more cost-effective methods of reducing emissions in the long term. The projected emission reductions attributable to current ACT measures, national measures and initiatives in the ACT Greenhouse Strategy will allow the ACT to meet its 2008 target. Additional measures will be needed if the target for 2018 is to be achieved.

The strategy identifies a number of potential measures for further investigation. Regular formal review of the strategy will be undertaken together with an assessment of the international and national situation. The first reviews will be held in 2001-2002 and the second will be in 2003-2004, and the results of the reviews will be publicly available.

The release of this strategy is a first for any State or Territory. The ACT remains the only jurisdiction to date to set a greenhouse target, and the first to adopt a strategy that will demonstrate that the target can be achieved. The ACT Government, Mr Speaker, is an active member of the international local government group called Cities for Climate Protection Campaign. With the release of this strategy, the ACT is leading the way in local government by setting emission targets and implementing a strategy that will meet these targets. We will be the first local government in Australia to achieve four of the five milestones in that program.

Debate (on motion by **Ms Tucker**) adjourned.

## **PRESENTATION OF PAPERS**

The following papers were presented by **Mr Humphries**:

### **Subordinate legislation (including explanatory statements) and commencement provisions**

Administration Act - Delegation of powers under the *Public Health Act 1997* - Instrument No. 9 of 2000 (S2, dated 14 January 2000).

Building Act - Approval of courses for eligibility for the grant of builders licences Instrument No. 303 of 1999 (No. 1, dated 6 January 2000).

Electoral Act - Appointment of Acting Electoral Commissioner - Instrument No. 13 of 2000 (No. 4, dated 27 January 2000).

Electricity Act - Appointment of Chairperson, Deputy Chairperson, members and deputy members of the Electrical Licensing Board - Instrument No. 279 of 1999 (No. 51, dated 22 December 1999).

Emergency Management Act - Emergency Management Regulations 1999 - Subordinate Law 1999 No 36 (S69, dated 24 December 1999).

*Emergency Management Act 1999* - Notice of commencement (1 January 2000) of Part VI Division 3 and (24 December 1999) of remaining provisions, except for section 72 which will commence on a date yet to be fixed or in accordance with subsection 2(3) (S69, dated 24 December 1999).

Gambling and Racing Control Act -

Acting appointment as Chief Executive of the Gambling and Racing Commission Instrument No. 281 of 1999 (S68, dated 22 December 1999).

15 February 2000

Appointment of members to the Gambling and Racing Commission - Instruments Nos 282 to 284 (inclusive) of 1999 (S68, dated 22 December 1999).

Appointment of person to be a Chairperson and member of the Gambling and Racing Commission - Instrument No. 285 of 1999 (S68, dated 22 December 1999).

*Gambling and Racing Control Act 1999* - Notice of commencement (1 December 1999) of remaining provisions (S63, dated 1 December 1999).

*Gambling and Racing Control (Consequential Provisions) Act 1999* - Notice of commencement (1 December 1999) of remaining provisions except for the provisions in the Schedule that amend sections 60B, 60I, 60E, 60G and 60K of the *Gaming Machine Act 1987* specified in item 1 under the heading "Further amendments" (S63, dated 1 December 1999).

*Gambling Legislation Amendment Act 1999* - Notice of commencement (1 December 1999) of remaining provisions (S63, dated 1 December 1999).

Gaming Machine Act - Determination of fees - Instrument No. 280 of 1999 (S68, dated 22 December 1999).

Hotel School Act - Appointments of Chairperson, Deputy Chairperson and members of the Australian International Hotel School Board of the Australian Capital Territory - Instrument No. 5 of 2000 (S2, dated 14 January 2000).

Independent Pricing and Regulatory Commission Act - Variation to specified requirements under section 16 of the Act, relating to investigations - Instrument No. 276 of 1999 (No. 50, dated 15 December 1999).

Justices of the Peace Act - Appointment of Justices of the Peace - Instrument No. 304 of 1999 (No. 2, dated 13 January 2000).

Land (Planning and Environment) Act -

Approved form of land management agreement - Instrument No. 271 of 1999 (No. 50, dated 15 December 1999).

Land (Planning and Environment) Regulations Amendment - Subordinate Law 1999 No 34 (No. 51, dated 22 December 1999). Subordinate Law 2000 No 2 (S4, dated 14 February 2000).

Legal Practitioners Act - Appointment of members to the Professional Conduct Board of The Law Society of the ACT - Instrument No. 278 of 1999 (No. 51, dated 22 December 1999).

Milk Authority Act - Appointment of Chairperson of the Board of the ACT Milk Authority - Instrument No. 273 of 1999 (No. 50, dated 15 December 1999).

Motor Traffic Act -

Determination of fees - Impounding and seizure - Instrument No. 12 of 2000 (No. 4, dated 27 January 2000).

Determination of maximum taxi fares including provision of New Year's Eve surcharge -Instrument No. 302 of 1999 (S68, dated 22 December 1999).

Motor Traffic Regulations Amendment 1999 - Subordinate Law 1999 No 33 (S63, dated 1 December 1999).

Motor Traffic Regulations Amendment - Subordinate Law 1999 No 37 (S1, dated 4 January 2000).

Motor Traffic Regulations - Declaration of declared holiday period - Friday 24 December 1999 to Monday 3 January 2000 (Inclusive) - Instrument No. 275 of 1999 (No. 50, dated 15 December 1999).

Nature Conservation Act - Appointment of members to the Flora and Fauna Committee -Instrument No. 277 of 1999 (No. 51, dated 22 December 1999).

Plumbers, Drainers and Gasfitters Board Act - Appointment of members to the Plumbers, Drainers and Gasfitters Board and appointment of deputy member of a specified person to the Plumbers, Drainers and Gasfitters Board - Instrument No. 268 of 1999 (No. 49, dated 8 December 1999).

Public Health Act -

Determination of fees - Instrument No. 10 of 2000 (S2, dated 14 January 2000).

Public Health Regulations 2000 - Subordinate Law 2000 No 1 (S2, dated 14 January 2000).

Public Health Risk (Boarding Houses) Declaration 2000 - Instrument No. 7 of 2000 (S2, dated 14 January 2000).

Public Health Risk (Hairdressing) Declaration 2000 - Instrument No. 8 of 2000 (S2, dated 14 January 2000).

Public Health (Hairdressing) Code of Practice 2000 - Instrument No. 11 of 2000 (S2, dated 14 January 2000).

Public Place Names Act –

Determination of street nomenclatures in the Divisions of Nicholls - Instrument No. 305 of 1999 (No. 3, dated 20 January 2000). O'Connor and Macquarie - Instrument No. 1 of 2000 (No. 3, dated 20 January 2000).

Amaroo - Instrument No. 2 of 2000 (No. 3, dated 20 January 2000).

Public Trustee Act - Appointment of member of the Public Trustee Investment Board -Instrument No. 6 of 2000 (No. 3, dated 20 January 2000).

Rates and Land Tax Act - Determination of interest rates - Instrument No. 3 of 2000 (S2, dated 14 January 2000).

Rates and Land Rent (Relief) Act - Notice fixing rates of interest - Instrument No. 4 of 2000 (S2, dated 14 January 2000).

*Territory Owned Corporations Amendment Act (No 2) 1999* - Notice of commencement (5 January 2000) of remaining provisions (S 1, dated 4 January 2000).

15 February 2000

University of Canberra Act - Approval of Statute No. 38, Courses and Awards Amendment (No. 2) 1999 - Instrument No. 274 of 1999 (No. 50, dated 15 December 1999).

Victims of Crime Act - Victims of Crime Regulations 1999 - Subordinate Law 1999 No 35 (S69, dated 24 December 1999).

*Victims of Crime (Financial Assistance) (Amendment) Act 1999* - Notice of commencement (24 December 1999) of remaining provisions (S69, dated 24 December 1999).

Vocational Education and Training Act –

Appointment of Members to the Accreditation and Registration Council - Instruments Nos 286 and 287 of 1999 (S68, dated 22 December 1999).

Appointment of Chairperson to the Accreditation and Registration Council - Instrument No. 288 of 1999 (S68, dated 22 December 1999). Appointment of Members to the Accreditation and Registration Council - Instruments Nos 289 to 292 (inclusive) of 1999 (S68, dated 22 December 1999).

Appointment of Members to the Vocational Education and Training Authority -Instruments Nos 293 and 294 of 1999 (S68, dated 22 December 1999).

Appointment of Chairperson to the Vocational Education and Training Authority -Instrument No. 296 of 1999 (S68, dated 22 December 1999). Appointment of Members to the Vocational Education and Training Authority -Instruments Nos 297 to 301 (inclusive) of 1999 (S68, dated 22 December 1999).

### **Miscellaneous paper**

Territory Owned Corporations Act, pursuant to subsection 9 (2) - ACTEW Corporation Limited - Summary of changes to the Constitution.

### **Performance reports**

Financial Management Act, pursuant to section 25A – Quarterly departmental performance reports for the December 1999-2000 quarter for the:

Chief Minister's Department  
Education and Community Services  
Department of Health and Community Care  
Department of Justice and Community Safety  
Department of Treasury and Infrastructure  
Urban Services.

The quarterly reports were circulated to members when the Assembly was not sitting.

**FINANCIAL MANAGEMENT ACT – APPROVAL OF GUARANTEE  
Paper and Ministerial Statement**

**MR HUMPHRIES** (Treasurer, Attorney-General and Minister for Justice and Community Safety): Further, Mr Speaker, for the information of members, and pursuant to subsection 47(3) of the Financial Management Act 1996, I present approval of a guarantee under an agreement between the Australian Capital Territory and the CPS Credit Union Cooperative (ACT) Ltd under the new enterprise loan guarantee scheme, together with an explanatory statement. I ask for leave to make a short statement.

Leave granted.

**MR HUMPHRIES:** For the information of members, I present, pursuant to subsection 47(3) of the Financial Management Act 1996, an approval for a loan guarantee to the CPS Credit Union for an applicant under the new enterprise loans guarantee scheme. The underlying principle of the scheme is to provide small businesses with financing for capital investments in the expectation that they will succeed in establishing and developing their businesses and increasing their potential for future business growth.

It is intended that the scheme give eligible applicants access to loans to a maximum of \$10,000 over a period of up to four years from an approved financial institution. The CPS Credit Union has agreed to support the principles of the scheme by providing concession rates to eligible applicants and has been selected as the loan provider. The attached FMA instrument has been approved by the chief executive, Department of Treasury and Infrastructure, as delegate, pursuant to the new enterprise loan guarantee scheme.

The loan guarantee is for Mr Michael Pearlman, the owner and director of Safebar Pty Ltd, an ACT company producing and retailing a new safety device for learner children bicycle riders. I stress that these are guarantees, not loans, grants or any other form of financial assistance, and that the maximum exposure under the scheme is capped at \$500,000. To date loans to the value of \$33,940 have been approved under the scheme.

**1999-2000 CAPITAL WORKS PROGRAM – PROGRESS REPORT  
Paper and Ministerial Statement**

**MR HUMPHRIES** (Treasurer, Attorney-General and Minister for Justice and Community Safety): For the information of members, I present the September quarter progress report on the 1999-2000 capital works program and ask for leave to make a short statement.

Leave granted.

**MR HUMPHRIES:** This is the first progress report for the current financial year's program. In line with the reforms that were first introduced in 1998-99, the September quarterly capital works report provides detailed information on the progress of expansion

15 February 2000

in the capital works program currently with particular focus on individual projects. This initiative has allowed for more extensive monitoring of the progress and funding of the individual projects.

This report incorporates quarterly and year-to-date expenditure information on all projects included in the 1999-2000 capital works program. It also includes an update from agencies of expected expenditure in the 1999-2000 financial year and presents all information at the project level according to departmental responsibility.

Territory departments incurred expenditure on capital works of \$9.927m in the September quarter, representing 10.7 per cent of the budget funded capital works projects. The Chief Minister's Department was the largest contributor to the program expenditure to date, with projects such as the IT modernisation cabling project and the construction of the Southern Boulevard by the Gungahlin Development Authority. It should be noted, Mr Speaker, that the level of expenditure indicated above for the first quarter is presented on a cash outflow basis; therefore the cash expenditure cannot be used as a reliable indicator of the full extent of work commenced on projects.

The quarterly report is project specific. It recognises that changes to expenditure estimates do occur and, where applicable, these updates have been provided. The major variation to date is the inclusion of the ACT hospice project in the program at a financing cost of \$3m this financial year. Capital works is one area where significant progress and improvements have been achieved in program formulation, accountability and reporting. This has been possible only through the assistance and cooperation of the Assembly, particularly the suggestions put forward by the standing committees.

It is important to remember that unforeseen delays do arise in the course of the capital works program. This in general could relate to market conditions, planning constraints and complaints from the community due to the forward design phase. To reduce the impact of such delays, the Government is developing a framework to respond to such delays through a range of measures which will assist in maintaining the overall program expenditure. This approach will provide a supplementary program on the shelf, which can be accessed during the year to bring a project forward or substitute delayed projects.

### **CRIMES AMENDMENT BILL (NO 3) 1999**

Debate resumed from 27 August 1999, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

**MR STANHOPE** (Leader of the Opposition) (4.01): The Crimes Amendment Bill (No. 3) was introduced by the Attorney-General on 25 November 1999. It proposes to amend the Crimes Act 1900 to create a special category of crimes dealing with the contamination of goods or threat of contamination with intent to cause public alarm or economic loss.

Mr Speaker, there have been a number of cases in which goods, particularly foodstuffs, have been tampered with, causing great alarm and stress throughout the community and losses obviously to the producers and retailers of the goods. The latest and best known case is perhaps the Arnott's Biscuit case, which resulted in great public alarm about whether the very popular – and I must say, quite lamentably, once Australian owned - biscuits were safe to eat.

There are existing offences, such as extortion and blackmail, with which the perpetrators of this type of crime may be charged; however, proving each element of those crimes can be difficult and jurisdictional problems may arise if, for example, the goods are tampered with in one State but offered for sale in another, or the demands of the perpetrator are made in yet another State. Given these potential difficulties, the Labor Party accepts that it is reasonable to enact this legislation and is quite happy to support it.

There is one point perhaps relevant to make in the context of that agreement; that is, that as a general principle of legal policy legislating for specific crimes in narrow terms, such as there are in this Bill, is probably not normally to be recommended. I think there is a view in some legal circles that narrowly drafted specific legislation such as this in the criminal law area can create very significant evidentiary problems, even whilst seeking to solve or address those same sorts of problems.

It has also been put to me – we have to take into account issues related to specific legislation about a whole range of new offences as they occur to us – that definitional problems can be created. There is the possibility therefore that a particular matter or a particular crime, offence or activity will fall between the cracks.

I make those points almost gratuitously and in a way to indicate we will not necessarily always support specific legislation that detracts from the general, but in this case we accept the wisdom of the Government's proposed Bill.

**MR HUMPHRIES** (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.04), in reply: I thank Mr Stanhope for the Opposition's support of the Crimes Amendment Bill (No. 3) 1999. It is certainly not a usual situation where one is asked to legislate in these very specific terms. But it was not difficult to conceive of weaknesses and shortfalls in our present legislation covering such situations as product contamination, blackmail, extortion and so on – situations such as those which arose in the Arnott's case.

The best example of that is that we have legislation which makes it clearly illegal to threaten or actually to contaminate food products as a basis for extorting money from the manufacturer or somebody else. But I think the situation that arose with the Arnott's case was that a biscuit manufacturer was threatened with these particular fates if the government of a particular State did not subject certain police officers to lie detector tests. So there was no personal gain that was to be obtained by the extortionist in these circumstances and, as such, the present legislation in force in the Australian Capital Territory, had this offence occurred here, would have been problematic and may not have allowed a prosecution to occur when clearly one ought to have occurred, and in fact I think did occur in that particular case.

15 February 2000

We need to take steps to prevent the community being exposed to problems of this kind. I welcome indications of support. I hope that this legislation is unnecessary and unused, and that we never have to face a situation where somebody threatens to contaminate the foodstuffs or products consumed by the ACT public.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

### ADJOURNMENT

Motion (by **Mr Humphries**) proposed:

That the Assembly do now adjourn.

### Budget Process

**MR WOOD** (4.07): Mr Humphries was a little upset when I suggested that he might not be the world champion budget producer. He was a bit concerned about that. It seems to me that his memory is a little less clear than mine, as I am currently one of three members in the chamber here from the very early days. When I get knocked about the head or kicked in the shins I remember it: It gives me much greater ability to recall things.

My interest in this was brought about when Mr Humphries brought down his budget statement - 500 pages or whatever it was he said. I had quite a number of calls to my office from the community sector saying, "Hey, what's in this for us?". He too probably got those sorts of calls in his office. Of course, I had to say, "I can't tell you. We've got bottom line stuff mostly. I can't tell you what's in it. I'm sorry, you'll have to wait till later".

**Mr Humphries**: You weren't trying very hard, Mr Wood.

**MR WOOD**: Come on, can you tell me what a specific community group is going to get?

**Mr Humphries**: In some cases I can - if there is something for them.

**MR WOOD**: Well, you had better spell those out. Yet in the material that Labor gave out - it was also very much in the way of face-to-face meetings with these community agencies and unions, I well remember - information was provided to bodies so that they could see what they would get in their particular project. The community bodies reacted

very strongly. I notice that on this occasion the Government is getting one step away from this face-to-face contact with people. It now wants the committees to go into that consultation process that will take place next week.

**Mr Kaine:** If you want to know, go and talk to a committee.

**MR WOOD:** That is what is happening. We are doing that and I am not sure that it is a good move, although I think Mr Humphries says "I'll talk to anybody anyway", so we will get some duplication. I remember the number of bodies - I will not mention names but they are certainly in my mind - that mounted quite strong public campaigns to get their previous year's funding level restored. I remember the trips I made to certain places as they convinced us to change their level of funding. They were quite successful because I think the government of the day, the Labor Government, backtracked on a lot of those.

My point is that we were able to tell - certainly community bodies - exactly what the year had for them in financial terms. They resisted that. They had sufficient knowledge of that budget - more knowledge than they have with this budget - to mount those campaigns.

**MR HUMPHRIES** (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.09), in reply: To close the debate, Mr Speaker, I think Mr Wood was telling us that the many, many more details that I have referred to in my comments in question time were details provided not in written form, but orally, to - - -

**Mr Wood:** No, it was not that document that you have there.

**MR HUMPHRIES:** My invitation stands to Mr Wood to table the documents that contain more detail than is here that he or the government of the day provided to community groups. Mr Wood makes the quite accurate point that one cannot open this book, look in the index and find Conservation Council of the South East Region in Canberra and turn to the page that states how much money the council gets. But then again, neither does a budget finally presented either by this Government or for that matter by previous governments. They have always been documents which provide the thrust of a particular portfolio's work in the coming financial year and they provide, in some cases, particular initiatives in a particular area, which may have an impact on a particular organisation. But budgets do not, and should not, target particular organisations, except in rare cases.

I have no doubt that some organisations came to the door and were given special treatment by the former government - unions Mr Wood referred to, for example, were told about what particular things were in the budget for them. But we see our job a little bit differently. We discuss the broad parameters of the budget itself, not who is promised particular grants or concessions or wherever it might be in respect of decisions that are properly made within the framework of the budget. We discuss whom the budget benefits and whom it does not - where taxes fall, where charges fall, what outlays in programs ought to occur. That is the process that is worthy of full community debate - not behind closed doors. None of the meetings that the Labor Government had that day were open meetings; they were all meetings held - - -

*15 February 2000*

**Mr Wood:** Everybody knew about it.

**MR HUMPHRIES:** I am sure they did. You made it quite clear you were having those meeting but the meetings were not - - -

**Mr Wood:** I am not saying we did the same as you did.

**MR HUMPHRIES:** We could not have come to the meetings, for example. The submissions that people will be making about our budget will be an open session and open to the public; people will be able to take part in that process in an up-front way.

That is the nature of this innovation. It is a worthwhile one and I hope that the community contributes to that. I hope that the Labor Party particularly – I know it has misgivings about this process - will contribute and at least play ball to see whether it can produce a more robust community-based budget development process.

Question resolved in the affirmative.

**Assembly adjourned at 4.12 pm**