

No 57

VOTES AND PROCEEDINGS

OF THE

HOUSE OF ASSEMBLY

WEDNESDAY 20 MARCH 2019

1 Meeting of House

The House met pursuant to adjournment. The Speaker (Hon. V A Tarzia) took the Chair and read prayers. The Speaker also made the following statement:
I respectfully acknowledge the traditional owners of this land upon which this Parliament is assembled and the custodians of the sacred lands of our State.

2 Parliamentary Committees (Petitions) Amendment Bill

Ms Bedford, pursuant to notice, moved - That she have leave to introduce a Bill for an Act to amend the Parliamentary Committees Act 1991.

Question put and passed.

Bill presented and read a first time.

Ms Bedford moved - That this Bill be now read a second time.

Ordered, on motion of Mr Pederick, that the debate be adjourned until Wednesday 3 April.

3 Controlled Substances (Drug Offences) Amendment Bill

Order of the Day read for the adjourned debate on the question - That this Bill be now read a second time.

Mr Pederick, moved - That consideration of the Order of the Day be postponed.

Question put.

House divided (No. 1):

Ayes, 23

Mr Basham
Hon. V A Chapman
Mr Cowdrey
Mr Cregan
Mr Duluk
Mr Ellis
Hon. J A Gardner
Ms Luethen
Hon. S S Marshall
Mr McBride
Mr Murray
Mr Patterson
Mr Pederick
Hon. D G Pisoni
Ms Power
Hon. R Sanderson
Hon. D J Speirs
Mr Teague
Mr Treloar
Hon. D C van Holst Pellekaan
Hon. T J Whetstone
Hon. C L Wingard
Dr Harvey (Teller)

Noes, 20

Hon. Z L Bettison
Hon. L W Bignell
Mr Boyer
Hon. G G Brock
Dr Close
Ms Cook
Mr Gee
Ms Hildyard
Mr Hughes
Hon. A Koutsantonis
Mr Malinauskas
Ms Michaels
Hon. S C Mullighan
Mr Odenwalder
Hon. A Piccolo
Mr Picton
Ms Stinson
Mr Szakacs
Ms Wortley
Mr Brown (Teller)

So it was resolved in the affirmative.

Ordered, that the Order of the Day be taken into consideration on Wednesday 3 April.

4 Sentencing (Home Detention) Amendment Bill

Order of the Day read for the adjourned debate on the question - That this Bill be now read a second time.

Mr Pederick, moved - That consideration of the Order of the Day be postponed.

Question put.

House divided (No. 2):

Ayes, 23

Mr Basham
Hon. V A Chapman
Mr Cowdrey
Mr Cregan
Mr Duluk
Mr Ellis
Hon. J A Gardner
Ms Luethen
Hon. S S Marshall
Mr McBride
Mr Murray
Mr Patterson
Mr Pederick
Hon. D G Pisoni
Ms Power
Hon. R Sanderson
Hon. D J Speirs
Mr Teague
Mr Treloar
Hon. D C van Holst Pellekaan
Hon. T J Whetstone
Hon. C L Wingard
Dr Harvey (Teller)

Noes, 20

Mr Bell
Hon. Z L Bettison
Hon. L W Bignell
Mr Boyer
Hon. G G Brock
Dr Close
Ms Cook
Mr Gee
Ms Hildyard
Mr Hughes
Hon. A Koutsantonis
Mr Malinauskas
Ms Michaels
Hon. S C Mullighan
Mr Odenwalder
Hon. A Piccolo
Ms Stinson
Mr Szakacs
Ms Wortley
Mr Brown (Teller)

So it was resolved in the affirmative.

Ordered, that the Order of the Day be taken into consideration on Wednesday 3 April.

5 Motor Vehicles (Offensive Advertising) Amendment Bill

Order of the Day read for the adjourned debate on the question - That this Bill be now read a second time.

Debate ensued.

Mr Pederick, moved - That the debate be adjourned.

Question put.

House divided (No. 3):

Ayes, 23

Mr Basham
Hon. V A Chapman
Mr Cowdrey
Mr Cregan
Mr Duluk
Mr Ellis
Hon. J A Gardner
Ms Luethen
Hon. S S Marshall
Mr McBride
Mr Murray
Mr Patterson
Mr Pederick
Hon. D G Pisoni
Ms Power
Hon. R Sanderson
Hon. D J Speirs
Mr Teague
Mr Treloar
Hon. D C van Holst Pellekaan
Hon. T J Whetstone
Hon. C L Wingard
Dr Harvey (Teller)

Noes, 20

Mr Bell
Hon. Z L Bettison
Hon. L W Bignell
Mr Boyer
Hon. G G Brock
Dr Close
Ms Cook
Mr Gee
Ms Hildyard
Mr Hughes
Mr Malinauskas
Ms Michaels
Hon. S C Mullighan
Mr Odenwalder
Hon. A Piccolo
Mr Picton
Ms Stinson
Mr Szakacs
Ms Wortley
Mr Brown (Teller)

So it was resolved in the affirmative.

Ordered, that the adjourned debate be taken into consideration on Wednesday 3 April.

6 **South Australian Public Health (Immunisation and Early Childhood Services) Amendment Bill**

Order of the Day read for the adjourned debate on the question - That this Bill be now read a second time.

Mr Pederick, moved - That consideration of the Order of the Day be postponed.

Question put.

House divided (No. 4):

Ayes, 23

Mr Basham
Hon. V A Chapman
Mr Cowdrey
Mr Cregan
Mr Duluk
Mr Ellis
Hon. J A Gardner
Ms Luethen
Hon. S S Marshall
Mr McBride
Mr Murray
Mr Patterson
Mr Pederick
Hon. D G Pisoni
Ms Power
Hon. R Sanderson
Hon. D J Speirs
Mr Teague
Mr Treloar
Hon. D C van Holst Pellekaan
Hon. T J Whetstone
Hon. C L Wingard
Dr Harvey (Teller)

Noes, 20

Mr Bell
Hon. Z L Bettison
Hon. L W Bignell
Mr Boyer
Hon. G G Brock
Dr Close
Ms Cook
Mr Gee
Ms Hildyard
Mr Hughes
Mr Malinauskas
Ms Michaels
Hon. S C Mullighan
Mr Odenwalder
Hon. A Piccolo
Mr Picton
Ms Stinson
Mr Szakacs
Ms Wortley
Mr Brown (Teller)

So it was resolved in the affirmative.

Ordered, that the Order of the Day be taken into consideration on Wednesday 3 April.

7 **Road Traffic (Drug Testing) Amendment Bill**

Order of the Day read for the adjourned debate on the question - That this Bill be now read a second time.

Mr Pederick, moved - That consideration of the Order of the Day be postponed.

Question put.

House divided (No. 5):

Ayes, 23

Mr Basham
Hon. V A Chapman
Mr Cowdrey
Mr Cregan
Mr Duluk
Mr Ellis
Hon. J A Gardner
Ms Luethen
Hon. S S Marshall
Mr McBride
Mr Murray
Mr Patterson
Mr Pederick
Hon. D G Pisoni
Ms Power
Hon. R Sanderson
Hon. D J Speirs
Mr Teague
Mr Treloar
Hon. D C van Holst Pellekaan
Hon. T J Whetstone
Hon. C L Wingard
Dr Harvey (Teller)

Noes, 20

Mr Bell
Hon. Z L Bettison
Hon. L W Bignell
Mr Boyer
Hon. G G Brock
Dr Close
Ms Cook
Mr Gee
Ms Hildyard
Mr Hughes
Mr Malinauskas
Ms Michaels
Hon. S C Mullighan
Mr Odenwalder
Hon. A Piccolo
Mr Picton
Ms Stinson
Mr Szakacs
Ms Wortley
Mr Brown (Teller)

So it was resolved in the affirmative.

Ordered, that the Order of the Day be taken into consideration on Wednesday 3 April.

8 Postponement of business

Ordered - That Order of the Day: Private Members Business: Bills No. 6 be postponed until Wednesday 3 April.

9 Local Government (Ratepayer Protection and Related Measures) Amendment Bill

Order of the Day read for the adjourned debate on the question - That this Bill be now read a second time.

Debate ensued.

Ordered, on motion of the Minister for Education (Hon. J A Gardner), by leave, that the debate be adjourned until Wednesday 3 April.

10 SA Pathology and SA Medical Imaging - Motion re

Mr Picton, pursuant to notice, moved - That this House –

- (a) notes the vitally important work of SA Pathology and SA Medical Imaging in public hospitals across the State in saving the lives of countless South Australians;
- (b) condemns the State Government for its savage cuts to SA Pathology and SA Medical Imaging in the 2018 Budget;
- (c) condemns the State Government for its move towards the privatisation of SA Pathology and SA Medical Imaging;
- (d) expresses grave concerns that the privatisation of these vital services could mean fewer labs, fewer clinicians and longer processing times – potentially leading to life-threatening delays for patients; and
- (e) calls on the Government to immediately reverse these cruel cuts to SA Pathology and SA Medical Imaging and to rule out the privatisation of these services.

The Minister for Energy and Mining (Hon. D C van Holst Pellekaan) moved to amend the motion by deleting all words in paragraphs (b) and (c) and inserting the following words in lieu thereof:

- (b) Notes the actions of the former Labor Government to pursue efficiencies in SA Pathology;
 - (c) Condemns the hypocrisy of the Opposition, in particular former health ministers, in opposing efficiency measures in this parliament,
- and by deleting all words in paragraphs (d) and (e).

Debate ensued.

Question – That the amendment be agreed to – put.

House divided (No. 6):

Ayes, 23

Mr Basham
Hon. V A Chapman
Mr Cowdrey
Mr Cregan
Mr Duluk
Mr Ellis
Hon. J A Gardner
Ms Luethen
Hon. S S Marshall
Mr McBride
Mr Murray
Mr Patterson
Mr Pederick
Hon. D G Pisoni
Ms Power
Hon. R Sanderson
Hon. D J Speirs
Mr Teague
Mr Treloar
Hon. D C van Holst Pellekaan
Hon. T J Whetstone
Hon. C L Wingard
Dr Harvey (Teller)

Noes, 21

Ms Bedford
Hon. Z L Bettison
Hon. L W Bignell
Mr Boyer
Hon. G G Brock
Dr Close
Ms Cook
Mr Gee
Ms Hildyard
Mr Hughes
Hon. A Koutsantonis
Mr Malinauskas
Ms Michaels
Hon. S C Mullighan
Mr Odenwalder
Hon. A Piccolo
Mr Picton
Ms Stinson
Mr Szakacs
Ms Wortley
Mr Brown (Teller)

So it was resolved in the affirmative.

Question – That the motion as amended be agreed to – put.

House divided (No. 7):

Ayes, 23

Mr Basham
Hon. V A Chapman
Mr Cowdrey
Mr Cregan
Mr Duluk
Mr Ellis
Hon. J A Gardner
Ms Luethen
Hon. S S Marshall
Mr McBride
Mr Murray
Mr Patterson
Mr Pederick
Hon. D G Pisoni
Ms Power
Hon. R Sanderson
Hon. D J Speirs
Mr Teague
Mr Treloar
Hon. D C van Holst Pellekaan
Hon. T J Whetstone
Hon. C L Wingard
Dr Harvey (Teller)

Noes, 21

Ms Bedford
Hon. Z L Bettison
Hon. L W Bignell
Mr Boyer
Hon. G G Brock
Dr Close
Ms Cook
Mr Gee
Ms Hildyard
Mr Hughes
Hon. A Koutsantonis
Mr Malinauskas
Ms Michaels
Hon. S C Mullighan
Mr Odenwalder
Hon. A Piccolo
Mr Picton
Ms Stinson
Mr Szakacs
Ms Wortley
Mr Brown (Teller)

So it was resolved in the affirmative.

11 Matter of Privilege

Mr Brown raised as a matter of privilege, the alleged misleading of the House by the Minister for Education (Hon. J A Gardner) regarding a statement made concerning the use of Pairs in votes requiring an absolute majority.

The Speaker advised that he would consider the matter and report to the House.

12 Petitions Nos 54 and 55

The Clerk announced that the following Members had lodged Petitions for presentation:

No. 54. Ms Bedford from 500 Residents of Adelaide and greater South Australia requesting the House to urge the Government not to proceed with the proposed closure of the Service SA Modbury Branch announced as a cost saving measure in the 2018-19 State Budget.

No. 55. Hon. A Koutsantonis from 256 Residents of the relevant suburbs and greater South Australia requesting the House to urge the Government to immediately reverse its decision to exclude from the Adelaide High School and Adelaide Botanic High School zone the children of the families residing in Torrensville, Mile End, Hilton, Richmond, Marleston, Kurralt Park, Black Forest, Glandore and Clarence Park, and to recognise the immediate and adverse impact of its decision on families, students, educational outcomes and property values in the impacted suburbs.

13 Answers to questions

Answers to questions on the Notice Paper Nos 628 to 632, 635 to 637, 639 to 641, 644, 646 to 650, 669 and a question without notice were tabled by the Speaker.

14 Legislative Review Committee – Fifteenth Report – Subordinate Legislation

Mr Teague brought up the Fifteenth Report of the Committee on Subordinate Legislation. Report received.

15 Questions

Questions without notice were asked.

Direction to leave the Chamber

At 2.24 pm the Speaker directed the Leader of the Opposition (Mr Malinauskas) to leave the Chamber for 10 minutes pursuant to Standing Order 137A.

Questions, (interrupted by the foregoing), resuming.

Direction to leave the Chamber

At 2.41 pm the Speaker directed Mr Brown to leave the Chamber for 10 minutes pursuant to Standing Order 137A.

Questions, (interrupted by the foregoing), resuming.

Direction to leave the Chamber

At 2.50 pm the Speaker directed Hon. A Koutsantonis to leave the Chamber for 20 minutes pursuant to Standing Order 137A.

Questions, (interrupted by the foregoing), resuming.

Direction to leave the Chamber

At 3.06 pm the Speaker directed Hon. S C Mullighan and Hon. L W Bignell to each leave the Chamber for 10 minutes pursuant to Standing Order 137A.

Questions, (interrupted by the foregoing), resuming.

16 Grievance debate

On motion of the Speaker, the House noted grievances.

17 Landscape South Australia Bill

The Minister for Environment and Water (Hon. D J Speirs), pursuant to notice, moved - That he have leave to introduce a Bill for an Act to promote sustainable and integrated management of the State's landscapes, to make provision for the protection of the State's natural resources, to repeal the Natural Resources Management Act 2004 and to make consequential amendments to other Acts, and for other purposes.

Question put and passed.

Bill presented and read a first time.

The Minister moved - That this Bill be now read a second time.

Ordered, on motion of Dr Close, that the debate be adjourned until tomorrow.

18 Statutes Amendment (Liquor Licensing) Bill

Order of the Day read for the adjourned debate on the question - That this Bill be now read a second time.

Debate resumed.

19 Matter of Privilege

The Speaker stated that, with respect to the Matter for Privilege raised earlier today by Mr Brown alleging that the Leader of Government Business had misrepresented the conventions of the House regarding pairing agreements, he was of the view that the information provided to the House by the Leader of Government Business could not be genuinely regarded as tending to impede or obstruct the House in the discharge of its duties.

Accordingly the Speaker did not propose to give precedence which would enable the Member to pursue this matter forthwith as a matter of privilege.

20 Statutes Amendment (Liquor Licensing) Bill

Debate, (interrupted by the foregoing), resumed.

Question put and passed.

Bill read a second time.

In Committee

Clause No. 1 agreed to.

Clauses Nos 2 to 4 agreed to

Title agreed to.

The House having resumed:

Mr Treloar reported that the Committee had considered the Bill referred to it and had agreed to the same without amendment.

Bill read a third time and passed.

18 Message from the Legislative Council

The following Message from the Legislative Council was received and read:

Education and Children's Services Bill

Message No. 73

MR SPEAKER - The Legislative Council has agreed to the Bill returned herewith, titled an Act to provide for preschool, primary and secondary education in this State, to provide for children's services, to constitute the teaching service in this State and for other purposes, with the amendments indicated by the annexed Schedule, to which amendments the Legislative Council desires the concurrence of the House of Assembly.

Legislative Council, 19 March 2019

A L McLachlan, PRESIDENT

Schedule of amendments from the Legislative Council

No. 1.

Clause 3, page 10, after line 17 insert:

Education Ombudsman means the Education Ombudsman appointed under Part 10A (and includes a person acting in that office from time to time);

No. 2.

Clause 3, page 12, after line 4 insert:

school discipline means the manner in which a school regulates or enforces standards of student behaviour and includes—

- (a) suspension, exclusion or expulsion of students; and
- (b) proactive practices for school staff in their interactions with students; and
- (c) practices to reduce bullying in schools;

school discipline policy means the policies, guidelines, legislative requirements and other matters relating to school discipline with which Government schools are obliged to comply;

No. 3.

Clause 32, page 29, line 12 delete "Government"

No. 4.

Clause 54, page 40, after line 30 insert:

- (da) a person (not being a teacher at a school to which the review relates) nominated by the Australian Education Union (SA Branch);

No. 5.

Clause 82, page 56, line 26 after "may" insert:

, with the approval of the governing council of the school,

No. 6.

Clause 83, page 57, line 15 after "student" insert:

enrolled or attending at a Government or a non-Government school

No. 7.

Clause 106, page 68, line 34 after "regulations" insert:

and 1 a nominee of the Australian Education Union (SA Branch)

No. 8.

New Part, page 79, after line 17 insert:

Part 10A—Education Ombudsman

Division 1—Preliminary

123A—Interpretation

In this Part—

education service means a service consisting of the provision of—

- (a) preschool education; or
- (b) primary or secondary education;

education service provider means a person who provides an education service.

Division 2—Appointment and conditions of office

123B—Education Ombudsman

- (1) There is to be an Education Ombudsman.
- (2) The Education Ombudsman is appointed on conditions determined by the Governor and for a term, not exceeding 5 years, specified in the instrument of appointment.
- (3) The Governor may remove the Education Ombudsman from office on the presentation of an address from both Houses of Parliament seeking the Education Ombudsman's removal.
- (4) The Governor may suspend the Education Ombudsman from office on the ground of incompetence or misbehaviour and, in that event—
 - (a) a full statement of the reason for the suspension must be laid before both Houses of Parliament within 3 sitting days of the suspension; and
 - (b) if, at the expiration of 1 month from the date on which the statement was laid before Parliament, an address from both Houses of Parliament seeking the Education Ombudsman's removal has not been presented to the Governor, the Education Ombudsman must be restored to office.
- (5) The office of Education Ombudsman becomes vacant if the Education Ombudsman—
 - (a) dies; or
 - (b) resigns by written notice given to the Minister; or
 - (c) completes a term of office and is not reappointed; or
 - (d) is removed from office by the Governor under subsection (3); or
 - (e) becomes bankrupt or applies as a debtor to take the benefit of the laws relating to bankruptcy; or
 - (f) is convicted of an indictable offence or sentenced to imprisonment for an offence; or
 - (g) becomes a prohibited person under the *Child Safety (Prohibited Persons) Act 2016*; or
 - (h) becomes a member of the Parliament of this State or any other State of the Commonwealth or of the Commonwealth or becomes a member of a Legislative Assembly of a Territory of the Commonwealth; or
 - (i) becomes, in the opinion of the Governor, mentally or physically incapable of carrying out satisfactorily the duties of office.
- (6) Except as is provided by this section, the Education Ombudsman may not be removed or suspended from office, nor will the office of the Education Ombudsman become vacant.

123C—Remuneration

The Education Ombudsman is entitled to remuneration, allowances and expenses determined by the Governor.

123D—Acting Education Ombudsman

- (1) If for any reason—
 - (a) the Education Ombudsman is temporarily unable to perform official duties; or
 - (b) the office of the Education Ombudsman is temporarily vacant,
 the Governor may, by notice published in the Gazette, appoint a person to act in the office of the Education Ombudsman and a person so appointed has, while so acting, all the powers, functions and duties of the Education Ombudsman.
- (2) A person who is a Public Service employee may be appointed under this section to act in the office of the Education Ombudsman while remaining a Public Service employee for a term not exceeding 3 months and may, on the expiration of that term, be reappointed

(provided that the terms of appointment do not exceed 6 months in aggregate in any period of 12 months).

- (3) Subject to this Act, the terms and conditions of appointment and employment (including the salary and allowances) of the person appointed under subsection (1) will be as determined, from time to time, by the Governor.

123E—Staff

- (1) The Education Ombudsman's staff consists of—
 - (a) Public Service employees assigned to work in the office of the Education Ombudsman; and
 - (b) any person appointed under subsection (3).
- (2) The Minister may, by notice in the Gazette—
 - (a) exclude Public Service employees who are members of the Education Ombudsman's staff from specified provisions of the *Public Sector Act 2009*; and
 - (b) if the Minister thinks that certain provisions should apply to such employees instead of those excluded under paragraph (a)—determine that those provisions will apply, and such a notice will have effect according to its terms.
- (3) The Education Ombudsman may, with the consent of the Minister, appoint staff for the purposes of this Part.
- (4) The terms and conditions of employment of a person appointed under subsection (3) will be determined by the Governor and such a person will not be a Public Service employee.
- (5) The Education Ombudsman may, by agreement with the Minister responsible for an administrative unit of the Public Service, make use of the services of the staff, equipment or facilities of that administrative unit.

123F—Delegation

- (1) Subject to this Act, the Education Ombudsman may delegate a function or power under this Act (other than a prescribed function or power) to a specified body or person (including a person for the time being holding or acting in a specified office or position).
- (2) A delegation under this section—
 - (a) must be by instrument in writing; and
 - (b) may be absolute or conditional; and
 - (c) does not derogate from the ability of the Education Ombudsman (as the case requires) to act in any matter; and
 - (d) is revocable at will.
- (3) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.

123G—Independence

In performing and exercising functions and powers under this Act, the Education Ombudsman must act independently, impartially and in the public interest, and is not subject to the direction or control of the Minister or the Chief Executive.

Division 3—Investigations

123H—Matters subject to investigation

- (1) Subject to this Act, the Education Ombudsman may investigate—
 - (a) any matter relating to the provision of education services by an education service provider; and
 - (b) any matter relating to school discipline, whether the matter occurred, or relates to conduct occurring, before or after the commencement of this section.
- (2) The Education Ombudsman—
 - (a) may make such an investigation—
 - (i) on receipt of a complaint; or
 - (ii) on the Education Ombudsman's own initiative; and
 - (b) must make such an investigation—
 - (i) on the referral of a matter by the Minister; or
 - (ii) on the referral of a matter by either House of Parliament, or any committee of either of those Houses, or a joint committee of both Houses of Parliament.

- (3) The Education Ombudsman must not investigate a matter on a complaint unless satisfied that the procedures for resolving complaints or disputes, if any, of the relevant education service provider have been used appropriately but without resolution of the complaint.
- (4) If an education service provider is a member of a representative organisation the Education Ombudsman must, before commencing an investigation under subsection (2)(a), attempt to resolve the matter in consultation with that representative organisation.
- (5) The Education Ombudsman—
 - (a) may not decline to investigate a matter solely on the ground that the complainant is an employee or agent of the relevant education service provider or that the matter relates to the internal management of the relevant education services provider; but
 - (b) must decline to investigate a complaint if it relates only to a person's terms and conditions of employment.

123I—Conduct of investigation

- (1) An investigation may be conducted in such manner as the Education Ombudsman considers appropriate.
- (2) The Education Ombudsman may, at any time, require a complainant—
 - (a) to provide further information or documents; or
 - (b) to verify all or any part of the complaint by statutory declaration.
- (3) The Education Ombudsman may, at any time, decide to attempt to deal with a complaint by conciliation.
- (4) The Education Ombudsman may, if satisfied that the subject of a complaint has been properly resolved by conciliation under subsection (3), determine that the complaint should not be further investigated under this Part.
- (5) The regulations may make further provision in relation to the conduct of investigations by the Education Ombudsman, including (without limiting the generality of this subsection)—
 - (a) prescribing circumstances in which the Education Ombudsman may determine not to conduct an investigation following receipt of a complaint; and
 - (b) making provision with respect to the procedures to be followed on investigations.

123J—Education Ombudsman to have powers of a Royal Commission

For the purposes of an investigation, the Education Ombudsman has the powers of a commission as defined in the *Royal Commissions Act 1917* and that Act applies as if—

- (a) the Education Ombudsman were a commission as so defined; and
- (b) the subject matter of the investigation were set out in a commission of inquiry issued by the Governor under that Act.

Division 4—Reports and directions

123K—Reports

- (1) The Education Ombudsman—
 - (a) may prepare a report of the Education Ombudsman's findings and conclusions at any time during an investigation; and
 - (b) must prepare such a report at the conclusion of an investigation.
- (2) The Education Ombudsman may provide copies of a report to such persons as the Education Ombudsman thinks fit, and must, in the case of a matter referred to the Education Ombudsman under section 123H(2)(b)(ii), provide a report to the House or Committee that referred the matter.
- (3) A report may contain information, comments, opinions and recommendations for action.
- (4) No action lies against the Education Ombudsman in respect of the contents of a report under this section.
- (5) The regulations may make further provisions in relation to reports under this section.

123L—Education Ombudsman may direct Minister in relation to school discipline policy

- (1) The Education Ombudsman may, by notice in writing, issue a direction to the Minister in relation to school discipline policy.

- (2) If, following receipt of a notice under this section, the Minister is of the opinion that, in the circumstances, failure to comply with the terms of the notice would be reasonable and justifiable, the Minister may determine not to comply with the notice (in which case the Minister must advise the Education Ombudsman of that determination, in writing, as soon as practicable).
- (3) If the Minister fails to comply with the terms of a notice received under this section the following provisions apply:
 - (a) the Minister must, at the request of the Education Ombudsman, report to the Education Ombudsman within the time allowed in the request on the reasons for the failure to comply with the notice;
 - (b) if, following receipt of the Minister's report, the Education Ombudsman is of the opinion that the failure to comply with the notice was unjustified or unreasonable, the Education Ombudsman may make a report on the matter to the Premier;
 - (c) the Education Ombudsman may forward copies of any report to the Premier to the Speaker of the House of Assembly and the President of the Legislative Council with a request that they be laid before their respective Houses.
- (4) A power or function of the Education Ombudsman under this section must not be delegated.

Division 5—Miscellaneous

123M—Annual report

- (1) The Education Ombudsman must, on or before 31 October in each year, report to the Minister on the operation of the Education Ombudsman during the preceding financial year.
- (2) A report under this section must include the information required by the regulations.
- (3) The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

No. 9.

Clause 141, page 91, after line 10 insert:

- (ta) any matter relating to the functions and powers of the Education Ombudsman;

C D Schwarz CLERK OF THE LEGISLATIVE COUNCIL

Ordered - That the consideration of the amendments be an Order of the Day for tomorrow.

20 Adjournment

The House adjourned at 5.59 pm until tomorrow at 11.00 am.

Present during the day - All Members except the Minister for Transport, Infrastructure and Local Government (Hon. S K Knoll).

Hon. V A Tarzia
SPEAKER

Richard Crump
CLERK OF THE HOUSE OF ASSEMBLY

