

PRAYER

Almighty God we humbly beseech Thee to vouchsafe Thy blessing upon this House, direct and prosper our deliberations to the advancement of Thy glory and the true welfare of the people of Norfolk Island, Amen

SUSPENSION OF STANDING ORDERS

MR I BUFFETT Thank you Mr Speaker, I move that so much of Standing Orders be suspended as would prevent the House from only dealing with the matters listed on the Programme

SPEAKER Thank you. Could I have an indication from at least six members by their standing in their place that this is the desire of the House. Thank you Honourable Members. Is there any debate on Mr Buffett's proposal? There being no debate Honourable Members, I put the question

QUESTION PUT
AGREED

SPEAKER Suspension of Standing Orders is agreed amongst all members and that has determined the business of the House for today. We commence with Notices Honourable Members

IMMIGRATION ACT 1980 – VARIATION OF INSTRUMENT UNDER PARAGRAPH 21(3)(A) OF THE ACT

MR GARDNER Thank you Mr Speaker. I move that for the purposes of paragraph 21(3)(a) of the Immigration Act 1980 the House resolves that the instrument executed by the executive Member on the 27th February 2003 be varied by increasing the number of the General Entry Permits that may be granted in the period 17 February 2003 to 17 February 2004 from 35 to 50. As I've alerted Members earlier on in the week, I had made a request in early September to the Public Service in response to receiving an indication that the current the General Entry Permit quota of 35 that was set for the period that I alluded to earlier, had been exhausted. I requested from the Public Service a paper to give detail of those numbers of the General Entry Permit applications, in other words, those that had successfully passed through the process and were under the provisions of the Act, subsisting on Norfolk Island or actually subsisting in total and advise as to whether it would be appropriate to move in the direction of establishing a variation to the quota as is provided for under the Act. That advise I circulated to Members. We've had general discussion on it. The advise in itself recommends the provision of ten further positions on the quota which was fine at the date of the advise being given but I understand that since then there have been two further approvals given for the General Entry Permits and both I understand have requested to subsist, taking the total of subsisting applications to 12. In my view and being conscious of the fact that there are another three months until consideration is given to the establishment of a new quota for the period February 2004 until February 2005 it was my belief to give some flexibility in that, that an appropriate number to bring to the House would be 15 positions. For the benefit of listeners it may be useful to talk to the subsisting applications that are on the Island. I understand that six of those 10 are already persons on Norfolk Island in other words, have been here for a period of time and in some instances a number of years, that have decided in the long term to seek to make Norfolk Island their permanent home. Three of those 10 subsisting are dependent children of those family units and there are many reasons why in the past there have been fluctuations in the General

Entry Permit quota numbers. This would be the first time in three or four years that we've exceeded 35 in any one year. As I've said in numerous debate on the matter in population numbers and permanent figures on the island my belief is that the demand for positions and the population numbers are directly linked to economic activity on the Island. In other words, the permanent population on Norfolk Island follows the fortunes of the tourism industry which everybody recognises as being our primary industry. There are also other factors to take into account when considering permanent population numbers and the General Entry Permit quota numbers and that includes the movement in interest rates, going up or down, people are prepared to look at establishing themselves permanently in a place because there is the affordability of purchasing properties. Certainly when they go up that causes in itself the opposite reaction where there may be people who have entered into loans over their heads, and are affected by rising interest rates and then of course are forced to sell and leave the Island. There are other matters that need to be taken into consideration and those are directly related to family matters, including the need to take family Members away for health problems that they may experience to the mainland if they are unable to be catered for here and also for educational purposes. It is probably important to point out that the need to seek to raise the quota from 35 to 50 this year, in other words an additional 15 persons is not a blowout nor is it unreasonable. Members have had discussion about 2% population growth policy, that's certainly not in jeopardy and has never been in jeopardy since day one and with this motion it doesn't go close. In fact my projections seem to indicate that the population over the next twelve months will probably remain fairly static save for I understand the production of another 23 young souls on the island between now and Christmas which will have an effect on the permanent population. As I said, we've not got close to the 2% population growth policy since its inception. The question really is, is should we revisit that policy. There's been a lot of discussion over a number of years about that. Members certainly have indicated the view to me but they are interested in addressing the policy and therefore we need to develop and consider options if there are any, that may exist and as a result of that I'll be asking officers of the Administration to prepare a discussion paper on the policy options for all Members to consider prior to seeking to set a quota for the period February 2004 until February 2005. Mr Speaker unless Members are of a contrary view I propose to adjourn debate on this motion this morning until the next sitting of the House and in closing I commend the motion to the House

MS NICHOLAS

Thank you Mr Speaker. I suppose I've been taken a little unaware of the matter being adjourned today. I believed that the Chief Minister had hoped that maybe we might settle that figure today but let me say what I have to say. Obviously for some time the Legislative Assembly has been setting an annual quota and on many occasions that's redetermined during the ensuing twelve months and that's what the Chief Minister is proposing to do. The proposal is that the increase in the quota be 15 places to 50 for the 12 months to February 2004 and I support the proposal. Without wishing to breach any confidential matters, the fact is that a number of people are waiting in the wings, willing to invest significant dollars in Norfolk Island, they are investing in businesses which are being sold by people presently living on the island who for a variety of reasons, either wish or perhaps need to sell their business assets to realise their assets. I am mindful of those people's needs as much as I am of the people who have placed their lives on hold waiting to see when they can come to live on the Island or to remain on the Island. They are what is called subsisting. Their applications have been approved by the immigration Committee subject to a place becoming available of the quota and we are still running on the same kind of statistics that we have spoken of over the years. The Chief Minister has studied them in some depth has already told us that he believes that the increase in the quota is a matter of perhaps requirement when we have a sound economy and he's also said that it's a while since we've had such a number and certainly, 97, 98, 99 the intake was 30. 2001, 2002

and to date this year it's been 35. The exception was the year 2000 and bears out the Chief Minister's argument about a sound economy. There was an increase of 45 persons in that year and that's the year in which we headed for 39000 visitors so if you take the year that they are calculated on which is 200/2001 it is 40000 but if you just take the period for example that the quota was granted its certainly heading for 39000 and this year, if this motion is passed, there will be an increase of 50 overall. I hope that bodes well for our economy Chief Minister. Despite the increase as the Chief Minister has said, we come nowhere near the 2% increase, the target figure of 1785 which would have been the case if 2% per annum increase had been reached. The paper provided to us for the purpose of this debate indicates that the current average population comprising residents and holders of the General Entry Permits is 1605, and it seems to me that's about 180 shy of the target figure. One of the figures which would be really interesting to place into the equation would be the number of persons being resident or holders of the General Entry Permits who leave the island on a permanent or semi permanent basis. Some rough calculation can be made, using the figures provided which indicates that a the General Entry Permit holder will leave, in other words they don't see out their five and a half year term, but there are residents, there are times perhaps in times of downturn in the economy when a number of residents leave the island for varying reasons as always. It would be interesting to put that into the equation along with the birth figure that you've indicated. Hopefully a thorough review of immigration which has been promised, will provide some of the answers for these long term and as I have already said, in the meantime as a member of the Immigration Committee it's probably appropriate that I follow the Chief Minister's lead in this matter. Thank you

MR GARDNER

Thank you Mr Speaker if there is no further debate I move the debate be adjourned and that resumption of debate be made an Order of the Day for a subsequent day of sitting

SPEAKER

There being no further debate I put the question is that this matter be adjourned and that resumption of debate be made an Order of the Day for a subsequent day of sitting

QUESTION PUT
AGREED

That matter is so adjourned

PUBLIC SECTOR MANAGEMENT ACT 2000 – RECOMMENDATION TO EXECUTE WRITTEN AGREEMENT FOR APPOINTMENT OF CHIEF EXECUTIVE OFFICER

MR D BUFFETT

Thank you Madam Deputy Speaker I move the motion that stands in my name on the Notice paper in respect of this matter. I move that this House in accordance with section 40 of the Public Sector Management Act 2000 recommends that the responsible executive Members executes a written agreement in the form tabled in the House on the 29th October 2003 as the Terms and Conditions of Appointment of Luke Ross Johnson as the person recommended by the Legislative Assembly to the Chief Executive Officer's position at its meeting of the 23rd July 2003. In terms of background to this matter Members will recall that on the 23rd July 2003 this House resolved that Luke Johnson be appointed as the Chief Executive Officer in the Administration of Norfolk Island, in other words, head of the Public Service. At the time that that resolution was made I indicated to Members that when the Terms and Conditions of that appointment were concluded I would bring that document to the House for its formal endorsement and that's what this document is today so it is to finalise the total package of the appointment of the Chief Executive Officer . I formally

table this document Madam Deputy Speaker, but in doing so I point out two things. One that I have already consulted with Members of course about its content so that Members will have had prior knowledge of the detail of it, so that has been available to them. The second point that I do make is that although I'm tabling this document there are some confidential aspects about it, so it will not be widely available but it certainly is available to all of the Members who have been asked to make a decision upon it today. If I might just point out without trying to pre-empt debate in respect of other matters, that this appointment is one of a series of actions that will ensure that we flow things more smoothly in the Public Service then we have been able to over the past few months or so. With the finalisation of the appointment of the Chief Executive Officer it will mean that we will also then be able to move on to finalise the organisational structure and then it will mean that we will be able to move on and recruit various areas that may now require recruitment within that organisational structure and it will also mean that we can progress some other aspects of the Human Resource Policy document that really needs adjustment. One of them will be tackled today but there will be others, but it is important that we finalise this first step in that sequence of events. I commend Luke Johnson as I did on an earlier occasion. We are fortunate that he has had some opportunity to act in the position for a while and he is continuing to act. This will conclude the formalisation of his substantive appointment. I commend this to the House Madam Deputy Speaker,

MR SMITH Thank you Madam Deputy Speaker I certainly agree with this motion and welcome Mr Luke Johnson into the position of Chief Executive Officer

MR BROWN Madam Deputy Speaker, it is always difficult to fill an acting position and Mr Johnson has had to do that for quite some months. With his appointment as the result of a motion today he will be able to actually get down to confidently pursuing his task and I look forward to him being able to do that

MR GARDNER Thank you Madam Deputy Speaker firstly if I could just congratulate all those involved in bringing this matter to finalisation today. It has been a lengthy process and it has caused concern in a number of areas over that period of time, however we are at the finalisation stage subject obviously to an agreement from the House. Just to add to the words of Mr Brown and others, Mr Johnson has excelled in his role in my view, as the Acting Chief Executive Officer under what could be considered at times, to be very trying and difficult times. As I said, he has excelled. The Minister has talked about further appointments and that will be a matter of course, following the finalisation of Mr Johnson's appointment. That includes the appointment of the Executive Directors and some of the senior management positions within the Public Service, which will give certainty again to the Public Service. I join in the Minister in commending Mr Johnson and I wish him personally every success in his new role as Chief Executive Officer again, subject to the agreement of this House and commend the motion

DEPUTY SPEAKER Thank you Chief Minister, is there further debate. No further debate Honourable Members? Then I put the question that the Motion be agreed to

QUESTION PUT
AGREED

The motion is agreed thank you

**PUBLIC SECTOR MANAGEMENT ACT 2000 – DRAFT DETERMINATION
REGARDING ORGANISATIONAL STRUCTURE**

MR D BUFFETT Thank you Madam Deputy Speaker. This in a sense flows on from the earlier motion. Now that we have in place in a formal sense a Chief Executive Officer we move on to the more formalisation of the Organisational Structure. It shouldn't be thought that we don't have an Organisational Structure. This is an adjustment to that, that we have had. The Organisational Structure that we first commenced with in some significant review in the Public Service was some time ago but of recent months, Members have agreed to and we have put in place an interim Organisational Structure. The principal difference between that and the earlier one was the reduction of the number of executive directors. The provision arrangement, the interim arrangement has reduced the executive directors to two. That has meant that they have had some wider responsibilities but it also has given some responsibilities to the next level, which is the management levels of the Administration. We said when we introduced that interim arrangement that we would see how it worked and if it worked well, then we would give it some substance. It has been working well for a number of months now and Madam Deputy Speaker, this proposal before us now is to give formality to that and so I move this motion in that context. Would you like me to read this or would you like to have it as circulated? I will read it Madam Deputy Speaker. I move this, that the Legislative Assembly revokes any previous instrument of an Organisational Structure endorsed by the Legislative Assembly and having considered any written comments received in respect of the Draft Organisational Structure dated the 9th October 2003 in accordance with and pursuant to sections 26 and 27 of the Public Sector Management Act 2000 hereby makes a draft determination in respect of the Organisational Structure dated the 9th October 2003 produced by the Acting Chief Executive Officer and declares that a copy of this motion signed by the responsible executive member and appearing in the Gazette shall be the instrument in writing of the Legislative Assembly for the for the purposes of paragraph 26(1)(d) of the said Act and I have and table the Organisational Structure which has the date mentioned, October 2003. Madam Deputy Speaker, the motion may in fact bureaucratic and circuitous but in fact I'll explain its context and the reason and the background to bringing it forward today. It is a recommendation from the Acting Chief Executive Officer and the person who will now be Chief Executive Officer and there is confidence that this Organisational Structure will serve us well, that doesn't mean that from time to time there may be a need to have adjustments to it but there have been some proven worth in the context of that which is before you at this moment. There have been consultative processes. Honourable Members will recall that there have been consultative processes amongst the Members and there have been consultative process with both the Public Service Board and the Public Service Association. Those two consultative arrangements are by statute and they have been undertaken. I think from my point of view there is probably not a great deal more to be said then to commend this Organisational Structure to Members for endorsement

MR I BUFFETT Thank you Madam Deputy Speaker my debate is purely for the purpose of clarification and my colleague, the Minister for Community Services and Tourism, might indicate. I thought that we had removed at least public school from achieving the status of a statutory board or body and that an amendment was to have been made on the organisational chart. This is a minor amendment and if the minister can assure me that they are so amended on the copy that is to be tabled then I will be happy to agree the Organisational Structure

MR D BUFFETT Thank you Madam Deputy Speaker in terms of that clarification yes, in one of the boxes and Members will have in their earlier copy, these boxes, the boxes have not changed although there have been some minor comment, there is a box that says related bodies such as, statutory bodies. They are not meant to be all embracing. There is recognition that those examples may vary from time

to time but however the statutory board context is one that is identified in that particular box. In that area there was mention of public school and we have adjusted that. That has been deleted, not that public school is not within the context of this organisation but in another area education is listed and that is meant to be all embracing of that situation. There was also the suggestion that the Broadcasting Authority be included as one of the statutory bodies and that has been so made, and that is included on the document which I table

MR I BUFFETT
clarifies the issue

Thank you Madam Deputy Speaker that

DEPUTY SPEAKER

Members? Then I put the question that the Motion be agreed to

QUESTION PUT
AGREED

The motion is agreed thank you

WASTE MANAGEMENT BILL 2003

MR I BUFFETT

Thank you Madam Deputy Speaker I present the Waste Management Bill 2003 and move that the Bill be agreed to in principle. Madam Deputy Speaker, I table the explanatory memorandum and briefly touch on what this Bill endeavours to do. The Bill has three core areas. It provides for the management of the Waste Management Centre itself, it provides for a regime that would enable us to manage litter, and persons who litter and the general regulating of some public areas where persons may litter or where these offences may occur. It also provides most importantly, the mechanism for the making of fees and levies in respect of Waste Management issues in Norfolk Island. Madam Deputy Speaker, it was my intention to leave the bill on the table of the next day of sitting. I need to explain that this morning we have adjourned three previous matters and for the benefit of the community, just in case they have a misunderstanding that these things are going off for weeks or months, they are not because it's intended that we will sit again around the 19th November, so we are looking at approximately two weeks and I need to make that clear and hopefully we will be able to deal with some of these things to finality at that sitting so its not going on ad infinitum. Madam Deputy Speaker, as I mentioned the bill contains those three core areas. It is my intention to listen to other debate of Members. I intend to also provide this on the radio during the normal weekly broadcast that I do to explain to people what is happening in my portfolio, to seek comment from them and hopefully to take the matter to finality at the next sitting which I believe is scheduled for the 19th November

MR GARDNER

Thank you Mr Speaker I'm pleased to see that we have this Bill before the House. It is an important part of the whole Waste Management regime of Norfolk Island in having the legislation to support certainly the dollars and cents that have been invested in the project to date and also the ongoing handling of waste in Norfolk Island. I do have a couple of minor concerns or queries that may be able to be clarified by the minister or certainly if the intervening period give some consideration to them and the first one of those relates to the part 2, General Provisions under Section 6(5) which is entitled Litter and where an offence is committed if an authorised officer can determine the identity of the owner of litter as a result of the inspection of litter. The difficulty that I see there is that you have persons who collect rubbish on behalf of other people on Norfolk Island; you have the Post Office who operate with different persons property which may mistakenly have for example an

Administration Account that blows off a truck being carted by somebody else to the tip and if you are identified as being the person to whom that communication was intended to be sent under the provisions of this Act you are guilty of an offence. Now it probably needs some clarification so that it doesn't scare people off and everybody suddenly start running for shredders so that all evidence is got rid off but it certainly is going to be interesting to see just how those provisions will be policed and dealt with under the legislation and as I said, maybe the minister could give us some clarification on that. The only other concern that I have in relation to it is that obviously under section 16 which is the title, Property and Waste and Other Material, I think that anywhere else if you deposit waste material on any other site it becomes the property of the management authority or the organisation and if this case it's the Administration. I do have a concern about mistakenly deposited material that might be taken to the tip because under the provisions of this it automatically becomes the property of the Administration. That raises a couple of questions. Certainly the mistaken depositing of material for example, if a watch was to fall of a handyman who is picking up garbage, dropped in the truck and is swept off the truck does that automatically because it was deposited with other waste become the property of the Administration. One would think that commonsense would prevail and that it would be returned without any difficulty but this is going to be established in legislation and probably needs some clarification. The second point is that there is intended to be swap shop so to speak to put it crudely, in other words a recycle ability so that if somebody takes in an old bicycle to the dump and deposits it at the dump and somebody comes in and wants wheel or a part of that old bicycle being the property of the Administration are the officers who are involved in it going to be authorised to dispose of Administration property without some further power or ability given to them under the disposal of Administration property. A small thing. Some minor things but they are important things that we wouldn't want to see the general public being penalised for because of being unaware of the provisions and maybe that needs some tinkering with but as I said, I'm seeking some clarification from the Minister in the intervening period as to just how it is intended that those things be policed and maybe some minor amendment to those so that they don't appear quite so draconian. Other than that I fully support the provisions of the legislation and look forward to further input from Members thank you

MS NICHOLAS

Thank you Mr Speaker. Like the Chief Minister I support the intent of the Bill. First of all I want to compliment the Minister for Land and the Environment, Peter Davidson, and Brendan Christian and his workers on the user-friendly aspect of the Waste Management Centre. I must confess to venturing there on the first occasion, in fear and trembling because I'd heard that the guys were really tough on the sorting process, however, I was surprised to find how simple the process was and how little different to what I was doing anyway. Since that initial visit, I was there yesterday morning quite early and following the heavy shower of rain which we experienced and even though the tracks down to the green waste section were dirt tracks, I experienced no difficulty in dropping off a load of hedge clippings and was quite pleased to see the addition of what I assume are speed humps on the access road so again, my compliments to all concerned and well done but because of this Bill is before us for a fairly short time I believe the Minister would like to see it passed at the next sitting, I, like the Chief Minister, am concerned about a few things and would draw them to my colleagues attention to see if they can be addressed. I've had some discussion with the Minister in respect of the bill before us, and you will note that my copies carry the usual number of yellow stickers which denote questions that I have in regard to words or intentions of the Bill and I would like to make reference to some and I emphasise only some of those. There's a provision in clause 4(2) of the bill for the lessee of land held under a lease to make application to the executive member to list the land which he leases. Leases not owns, but leases. To make application to have that land, which doesn't belong to him, covered by provisions of the Waste Management Bill.

I query that. I query the intention of it and I also like to know how a potential new lessee if the land were transferred would remove that provision. Clause 6(5) of the bill. Aah. Chief Minister's dealt with that one. It talks about your friendly local waste collector dropping something on the run but I won't repeat what he's said. He's drawn your attention to it. Clause 7(3) of the bill says that if you injure or kill an animal that is not a wild or feral animal or an animal registered under any law of Norfolk Island you must report the incident to the owner of the animal, the police or stock inspect before removing any such animal. That appears a little awkward to me and I wonder if the word "domestic" or "domesticated" could be used to good effect in that clause. Clause 8(3) of the bill allows one to molest an authorised officer for a fine of five penalty units. Now that's an interesting one. Because it's going to cost you at least twenty penalty units if you litter or fail to cover your load under transportation, but for a mere five units, you can molest, obstruct or hinder the authorised officer. Another one for your consideration, clause 9(7)(b). This is talking about the liability of the owner of a motor vehicle and it says that the owner of a motor vehicle can make a statutory declaration to the effect that he was not the person who actually committed the offence but that Mr X did it and here's his name and address. Now that seems to me to usurp the role of the courts. The words used here in part are "providing the name and address of the person who actually committed the offence". "actually committed the offence". I can live with that if it becomes name and address of the person whom he believes committed the offence but I find the present working abit difficult to come to terms with. Clause 11(3)(b)(i). This is talking about the fixing of notices on motor vehicles and then out of the blue we've got reference to a boat. Now previously in the bill there's no reference to water or bodies of water and maybe one can visualise litter extruding from a boat, but it's a bit of a surprise to find it in this particular piece of legislation and perhaps a writ in admiralty would be more appropriate. Could someone take a look at that one please. Maybe it's justified. Finally clause 17(1) which deals with offences under the legislation and try thinking about going to a barbeque or a picnic and at the end of the day placing the rubbish in a receptacle provided. Now have you brought that litter intentionally or is it incidental to your picnic or barbeque. I suggest the insertion of the words "wilfully" might solve the problem. It would be an offence to wilfully bring domestic waste or litter onto a public place of the purpose of perhaps it would be better to insert the word "wilfully there, "wilfully disposing", but I think we really need to clarify that one. I probably have talked enough. The Minister may believe my comments worthy and he may not, as may my colleagues but as long as the matters are considered I shall be content. I see the function of this body of people, this Legislative Assembly in a literal sense. People concerned with the making of laws, an important part of our role and I would like to see us get it right and if that takes a little longer, so be it

MR DONALDSON

Thank you Mr Speaker just a few short words on it. First of all I commend the Minister for bringing this Bill to the House. It's an environmentally responsible action and is something that has to be done. Regrettably though Waste Management does not come cheaply and I notice there is a mechanism to be put in place to raise a levy to cover the Waste Management Centre. I would just like to point out that that levy should cover the Waste Management Centre as a self funding entity. The entity will be part of a GBE or a Government Business Enterprise of its own and it will be self funding, but once again I commend the Bill to the House on behalf of the Minister

MR SMITH

Thank you Mr Speaker a brief one. I think Ms Nicholas has raised an interesting one with the reference to animals where in clause 7 it says "if the animal referred to in that section is not a wild or feral animal or is an animal registered under any law" it suggests that there's some other type of animal. Maybe that needs some clarification or perhaps as Ms Nicholas has pointed out maybe there needs to be an "and" or something there instead of "or", thank you

MR I BUFFETT Thank you Mr Speaker perhaps if the authorised officer seeing this, see that they are fair game with only five penalty units they may well be the unregistered animal that we are referring to but I would make a strong suggestion that a horse, or most horses on Norfolk Island are not feral nor are they registered so that's that issue. Perhaps if I could just give a general indication of just how I intend to deal with the suggestions that have been made to me. I do apologise because the Bill was only circulated late last week to Members and we have not had the opportunity to sit down and talk about these issues in great detail. Some of the matters that have been raised this morning have certainly been addressed to me directly but I've not had the opportunity to go back to the officer and Legislative Draftsman and clarify some of those issues. I will certainly take all of these matters. I don't see them as major at this point in time and I think they could be clarified fairly simply, over the next two weeks or so. It would be my intention to circulate what I understand to be the interpretation and the correct wording of those to Members over the next two weeks. I also intend to let the community know both by way of the radio what those questions or interpretations are over the next two week period until the 19th with the clear understanding that it would be my intention to have the matter finalised on the next sitting which I understand is still the 19th November and Mr Speaker what also will happen, now that I have some indication that the Membership of this House is happy with the introduction of a Waste Management Centre Bill I will be indicating to the community what I understand to be some reasonable and equitable charges for the disposal of waste in Norfolk Island and I will be notifying them by means of the radio and to Members so that when this Bill is passed and we can use the provisions of the fees and levies section of this Bill, that I can have those regulations made, have had some discussions on them and implement some charging regime for the disposal of waste in Norfolk Island. Mr Speaker having said that if there's no further debate I would move that the matter be adjourned and that resumption of debate be made an Order of the Day for a subsequent day of sitting

SPEAKER There being no further debate I put the question is that this matter be adjourned and that resumption of debate be made an Order of the Day for a subsequent day of sitting

QUESTION PUT
AGREED

That matter is so adjourned

EMPLOYMENT AMENDMENT BILL 2003

MRS JACK Mr Speaker thank you. I present the Employment Amendment Bill 2003 and move that the Bill be agreed to in principle. Mr Speaker before detailing the proposed amendments in this Bill I would first like to acknowledge the assistance of the Minister for Finance Mr Graeme Donaldson. Without his backing the Legal Services required in the drafting of these proposals would not have been so readily available to me and I will add that it has been great being able to bounce thoughts and ideas back and forth over the various issues that have cropped up during the formulation of this Bill and while we may not have always shared the same ways of getting to this stage we share in the results. I would like to add that a somewhat similar vision of equity and fair mindedness has also assisted in the completion of these amendments. This Bill comprises three separate issues. The first concerns uniforms and is asking that uniforms once again be included within the Employment Act. Uniforms were included and covered under clause 25 of the old act. This clause was deleted on the understanding it could be included in the individual employment contracts

if required and the section numbered 10 that covers other provisions or special conditions. That is of course providing the employer felt obligated to mention it. It is not compulsory to filling this section nor is it compulsory to fill in an employment contract if the employee is a residence unless that person asks for one and then it is compulsory for the employer to fill out a contract and to do so within fourteen days. The result can be a situation of some employees not being aware of their rights and in the case of uniforms a possibility of being severely out of pocket as well. As is the case with all these three issues I bring before Members today there is an actual case side to this insertion and I find myself responding to the exception in employees rather than the rule. It is unfortunate that an employer can expect some staff to pay for uniforms and assist others in paying for the same uniform while denying any form of assistance or compensation to those staff who pay full costs. There is more to this story but overall it is this inequality and unfairness caused by the few, that I ask Members to agree with this re-insertion regarding uniforms. Mr Speaker earlier I made mention of an employment contract. These are contracts handed out on request by the Administration to mainly TEP holders but also residents who may want to have a formal statement of their duties, roster and other entitlements between themselves and their employer. Currently this new form is not a prescribed form but should be used as a guide or model and in conduction with a certificate of an employment contract which is still a prescribed form. I find it interesting that the title of this Employment Contract reads Minimum Standard Employment Contract, and asks that if the contract is a minimum one, then does enterprise bargaining start to have a base and should our Employment Act reflect the base rather than try and bring in all areas under the one rule. It is with this concern that I arrive at the second issue. Both Mr Donaldson and I have concerns over the current overtime provision and all I have done is to join our proposals together in the hope of finding a more realistic and acceptable approach. 150% of the normal hourly rate has resulted in a cancellation of any overtime for some staff. Others have worked their overtime and have not been paid at the new rate and will not bring their complaints before the Employment Conciliation Tribunal as they do not want to risk getting the sack. This is not a satisfactory state of affairs and it depresses me that the Administration does not seem to have the resources available to police this Act. This is not to be seen as a thumbs down on the Administration by any means but just a realisation that there are areas where a lack of adequate funds and resources, once again prohibit the full interpretation of an Act to be carried out. There is a danger that any overtime will now be handed out to casual staff. Now that in itself is not a bad thing. More staff trained to handle the same work situation. The down side is that there lies the opportunity for the permanent staff member to become a casual or to have lesser hours so that we can have two people to take the place of one permanent. Holiday and sick pay entitlements hardly change for the employer but for one employee there is the possibility of a sharp reduction in take home pay. What are the ramifications on the employers? We realise that our main industry is tourism. What effect will this scale of overtime have on our service industries? For those I the private sector who have contacted me and those that I have asked it does not look good. A slashing of any overtime and a cutting back in services offered is a possibility. Tourism is quiet at the moment. Will there be a push for more TEP's to fill these extra positions. I don't know. It may be that those who are already here receive more hours. Mr Speaker I see our role as setting out a base rate, a minimum rate and not trying to develop a full award rate scale of pay. The provision is there for those at the lower end of the wage rate to have their pay increased in recognition of the overtime done. All I am saying is, that what is the point in having a rate that is not being adhered to in what seems to me to be so many cases, that cannot be suitably policed due to resources and that breeds discontent when staff feel unable to complain. I am trying to introduce the rate that is workable, that is all. A rate that recognises those at the lower rate of pay, and affords them some provision. That recognises those above the medium rate of pay and says that they are perhaps better placed to enter into their own overtime agreements with the employers. The third issue

deals with employees aged under 15 years. At present the Act states that an employer must not employ a person under the age of 15 years for more than twenty hours per week. The regulations state that, that is the limit during school time and that during holidays 40 hours per week can be met. The act takes precedence over the regs and this would deny so many of the under 15 year olds the ability to work full time during their holidays. I'm of the opinion that the regulations are more realistic and reflect more accurately what is happening in the community and has been doing so for years. It is to this end that I would like to amend the Act to more accurately reflect the reality within the community. I look forward to further debate Mr Speaker

MR SMITH Thank you Mr Speaker. A couple of parts to this. Most of the amendment I don't have a difficulty with, and that's the uniform but after having some discussion with Mrs Jack and some people of the age group who are affected by the insertion of the forty hour week, I'm finding that, that doesn't appear to be a difficulty I have no difficulty with this. It's the overtime provision that Mrs Jack wouldn't be surprised to hear me say that I'm not supportive of doing what is proposed here in this form. We took some time, in fact in ended up being some years, to actually get the Employment Act back to the overtime that was provided at 150% or if you worked overtime you got half as much again in your pay packet for the hours worked outside of your normal forty hour week now part of the difficulty with the whole thing, is as Mrs Jack said, there's no checking on employers to see if they are doing the right thing anyway and of course, many of them generally do. There are employers and I know of one large employer who pays overtime rates at 150%. As far as I know he doesn't complain about it. They probably don't like it but they have done for many years and the employees work overtime because they know they are going to get extra for it however, this has been a subject of debate this year, and earlier in the year Mr Brown proposed an alternative which was that an employee and an employer could sign some sort of agreement to say that an employee does not mind working extra hours at their normal hourly rate. I was happy with a proposal such as that but where we are now proposing to make it that whatever you work for now is what you get if you 100 hours per week, you still get the same amount, I have difficulty with that. I'm probably the only one here that does but I think the last time we discussed this at least I had Mr Nobbs to support it, but I have difficulty with that but the rest of the amendments I'm very happy with

MRS JACK Mr Speaker a slight correction on what Mr Smith said. It wouldn't be the same rate that you're getting if you worked 100 hours. It would only be the same rate if in fact you were being paid above \$12.75, so if your rate was between the minimum which is \$8.50 and \$12.75 your rate of pay would go up to meet \$12.75 per hour. If you were on \$12.65 per hour I am saying your overtime would have to be at least that rate

MR SMITH Thank you Mr Speaker I do apologise. Mrs Jack did point that out to me. Anybody that earns more than the \$12.75 would not actually get any more but Mrs Jack did explain that to me thank you

MRS JACK Mr Speaker I move the debate be adjourned and that resumption of debate be made an Order of the Day for a subsequent day of sitting

SPEAKER There being no further debate I put the question is that this matter be adjourned and that resumption of debate be made an Order of the Day for a subsequent day of sitting

QUESTION PUT
AGREED

That matter is so adjourned

ORDERS OF THE DAY

Honourable Members we now move to Orders of the Day. I will not be calling on Airport Runways Loan Bill 2003, Order of the Day No 1 on advise of the appropriate Minister and will Order of the Day No 2

PUBLIC SECTOR MANAGEMENT ACT 2000 – DETERMINATION TO AMEND THE HUMAN RESOURCES POLICY

We resume debate on the question that the Amendment be agreed to and the Minister for Community Services and Tourism, Mr David Buffett has the call to resume

MR D BUFFETT Thank you Madam Deputy Speaker there are a couple of sequential things in terms of this matter and I wonder if I could walk through these. I would like to seek leave to withdraw the matter which is currently before the House then I will seek leave to pursue a replacement motion that I have already given notice of so firstly, Madam Deputy Speaker, I seek leave of the House to withdraw the motion and amendment presently on the Notice Paper relating to the draft chapter 13 of the Human Resource Policy

DEPUTY SPEAKER Thank you. Is Leave granted Honourable Members. Leave is granted Minister

MR D BUFFETT Thank you Madam Deputy Speaker following that and I thank you for that, I table a new draft version of chapter 13 dated the 4th August 2003, and I put that on the table and I move the following motion to accompany it. That this House having considered the written comments of the Public Service Association in respect of draft chapter 13 of the Human Resource Policy in accordance with and pursuant to sections 26 and 28 of the Public Sector Management Act 2000 here by makes the determination in respect of this chapter 13 of the Human Resource Policy dated the 4th August 2003 and produced by the Acting Chief Executive Officer which amends the Human Resource Policy dated the 21st February 2001 by replacing chapter 13 and declares that a copy of this motion signed by the responsible executive member and appearing in the Gazette shall be the instrument in writing of the Legislative Assembly for the purposes of paragraph 26(1)(d) of the said Act. Madam Deputy Speaker, that's the motion. May I just by way of preliminary point out the interconnection between this motion and the previous two that I promoted today. That is the matter of resolution of the Chief Executive Officer's position, the matter of the structure of the Public Service and this is now turning to one of the chapters of the Human Resource Policy and relates to determination change and redundancy and the idea is to tidy this particular amendment to that document. By way of background again, I point out that there has been significant consultation to bring us to the stage that we are at now, there has been consultation with the Public Service Association again with the Public Service Board again around this table with Members. In fact this one has taken quite some time to reach this stage. There's been much toing and froing, but the document that we have in front of us now is one that has finally been recommended to us and at an informal session we have understood that this is the best way to travel, recommended to us by the Acting Chief Executive Officer again after his consultations and negotiations in various quarters also. One of the main provisions in this particular arrangement is what is called a transitional provision which addresses employees who have been in that situation for some considerable time and they have been in that situation and because there have been other things not happening within the service they have been rather in a

time warp and this is an endeavour to within a window of time, because these provisions only have applicability until the 30th April 2004, in other words about six months but it is intended that people in certain employment situations, to have their situation regularised and we have been through that with Members so that's not new in my explaining that to Members but in the wider context of people listening to this Legislative Assembly today it might have that information and find it useful. It has been quite a process with this as I have already explained, but we have reached this stage and I commend to Members that we finalise it on that note

MR BROWN Madam Deputy Speaker, there has been a lot of discussion about this. There's been discussion with all of the relevant people. I'm satisfied with what's proposed and I'm happy to support it

DEPUTY SPEAKER Thank you Mr Brown. Is there further debate. No further debate Honourable Members? Then I put the question that the Motion be agreed to

QUESTION PUT
AGREED

The motion is agreed thank you

PUBLIC HOLIDAYS 2004

We resume debate on the question that the motion be agreed to in principle and Mr Donaldson you have the call to resume

MR DONALDSON Thank you Madam Deputy Speaker I think it's probably best if I just reread the motion that moved and that was, that for the purposes of subsection 9(2) of the Employment Act 1988 this House resolves that the Employment Regulations 1991 be amended to provide, (a) in respect of 2004, the day after Christmas Day is not to be observed as a public holiday; and (b) Monday 27 December 2004 is to be observed as a public holiday. In speaking to the motion the passing of this resolution will mean that for the purposes of the Employment Act, all public holidays except Boxing Day will be celebrated on the day on which they fall. Boxing Day will be celebrated on Monday 27th December 2004 thereby giving a three day long weekend over the Christmas break. Other options available to consider were to declare both Monday and Tuesday to be public holidays in lieu of Christmas and Boxing Day but this would have the undesirable effect of not compensating employees who have to work on the 25th December for being away from home on the day that Christmas is actually celebrated. Consideration was also given to declaring Monday and Tuesday to be public holidays in addition to Saturday and Sunday or in addition to Christmas and Boxing Day but this would have created two additional holidays during the year which would have been a financial cost to employers and a productivity loss to the economy. Madam Deputy Speaker, I believe the option expressed in the resolution before this House is the most suitable option and comment the resolution as it stands to the House

MRS JACK Thank you Madam Deputy Speaker I did have a bit of a spiel ready, but suffice to say that this motion is getting bigger than Ben Hur. In the last meeting I said that I would not support it and I will continue on with that view

MR SMITH Thank you Madam Deputy Speaker I continue my non support for doing away with the traditional way of dealing with Christmas and Boxing Day if they fall on a weekend. This occurs only once every six years I think it is and in the past from what I remember is that Christmas Day and Boxing Day if they fell

on the weekend there were days off on Monday and Tuesday following and I still support that view but this motion doesn't actually do that

MR GARDNER

Thank you Madam Deputy Speaker the Minister has pointed out that this is probably the mid ground position and I see there is a precedent for it in the documentation that he has circulated to us wherein his paper he does explain that this situation arose in 1993 and a similar amendment to the regulations was approved, resulting in a three day weekend. It has been good enough in the past. There is confusion might I add Madam Deputy Speaker, in relation to this. There is a thought in some areas that if we were to, for the purposes of the Employment Act, and it's important that we remember that that's what it's for, for the purposes of the Employment Act, that the public holiday for Boxing Day would be recognised on the Monday and let's be very clear. My understanding of that is that the Sunday which is Boxing Day is persons are working on it, will not be paid penalty rates or overtime because the public holiday for the purposes of the Employment Act has moved to the Monday. Now I understand that there was also the further proposal and I think Mr Smith alludes to this, that Saturday and Sunday, that is Christmas Day and Boxing Day, the Monday and Tuesday would be taken off in lieu. If that is the case the same thing applies if we were to move in that direction and were to make it Monday and Tuesday for the purposes of the Employment Act, the recognised public holiday then those persons working on Christmas Day and Boxing Day would not be entitled to penalty rates next year. This is a mid ground which attempts to deal with both of them. As I said, a precedent's been set, but then again the next most unusual step and I appreciate that the Minister was encouraged by Members to bring it to open discussion in the House is that this is looking to amend Regulations. That those Regulations would be made at Executive Council and then because it's a regulation tabled before this House it becomes a disallowable instrument so we go through the whole debate again whether there was agreement with this or not and obviously subject to lobbying from the different groups whether it be the employers, the Public Service Association or whoever and I recognise that we have all received submissions from different groups in relation to this matter. As I said, I'm supportive of the proposal as it stands. It is a mid ground, but we need to be conscious that if we go outside of that people working on Christmas Day and Boxing Day the traditional days under any other arrangement, in other words, Monday and Tuesday, would not be entitled to penalty rates or overtime or whatever the provisions would be. They would be normal working days for persons employed on those days

MR I BUFFETT

Thank you Madam Deputy Speaker my view is that the Minister should have decided what he wanted to do, tabled the damn thing and got on with it because we've been going around and around in circles now for a couple of weeks on this issue and at least a couple of sittings but one of the interesting things is, and the Minister may wish to clarify this because this is where a lot of the debate is stemming from, is whether in fact the Employment Act does apply to public servants or whether the public servants pursuant to the Public Sector Management Act 2000 are outside the ambit of what we are talking about and I have a suspicion that the Employment Act does not apply to Public Service and therefore if it's a management decision that the Public Service should be given the two extra days then they've got the two extra days so what we're talking about is the private sector employment. I think that needs to be made quite clear and perhaps the Minister if that is incorrect he can certainly put me straight. If the Employment Act does apply for the purpose of gazetted public holidays within the Public Service let's hear it because I think that is some of the current debate that's going around at least I can say Up Town

MR DONALDSON

Thank you Madam Deputy Speaker just to clarify that point, the Employment Act is divided into various parts. There's about seven

parts to it. Part 2 doesn't apply to the Public Service which talks about minimum statutory terms and conditions of employment, but part 1 by default does apply to Public Service and part 1 contains section 9 which is the public holiday declaration. The Employment Act does determine the Administration employee's public holidays. Whether or not there is a further mechanism within the Public Sector Management Act to declare a public holiday within the Public Service is another matter but it's certainly covered by this Act as being part of part 1 of the Act

MR BROWN Madam Deputy Speaker, as has been said this is half way. My view is that Christmas Day falls on Christmas Day and that Boxing Day falls on the day after Christmas Day and that's that. It is ridiculous for anyone to suggest that they should actually celebrate Christmas Day for any purpose, two days after it occurs. But what does one do about the motion. If I do not support the motion then there is a possibility that Christmas Day will stay on Christmas Day and boxing Day will stay on the day after Christmas Day and there will be no extra holidays as I understand it and that's very tempting because that's what I believe should happen. On the other hand if I support the motion and we go halfway to sensibility this year, there's room to go the remainder of the way to sensibility next year and there is room to also sort out the public service situation because it is obscene that the community in general pays the wages of the public service and the Public Service then get's given extra public holidays. Madam Deputy Speaker, that is obscene. It is time that we realise that without working a little bit harder and without achieving productivity and without doing our work properly we are going to run backwards at a fairly fast rate. You only have to look around the island now at the things that are not being done to figure that out. You've only got to look at the fact that the Minister for Finance have been talking with officers of the Australian Treasury about how he can introduce additional taxation measures to fund the Public Service and there they're not talking of \$100,000 there's words that indicate six zero's. That is, millions of dollars so it's time we got out of cloud cuckoo land and realise that if we are going to make things work we've got to work in order to do that and you can't work by perpetually being on holidays. Nevertheless the matter does need to be resolved, I tend to agree with the Minister for Land and the Environment, that a better course would have been simply to table the regulations and I'm prepared to support this in order to get it finished

DEPUTY SPEAKER Further debate. No further debate Honourable Members? Then I put the question that the Motion be agreed to

QUESTION PUT

Would the Clerk please call the House

MR BUFFETT	AYE
MR GARDNER	AYE
MR DONALDSON	AYE
MRS JACK	NO
MR IVENS BUFFETT	AYE
MS NICHOLAS	AYE
MR SMITH	NO
MR BROWN	AYE

The result of voting Honourable Members the ayes six the noes two, the ayes have it the motion is agreed thank you

FIXING OF THE NEXT SITTING DATE

MRS JACK Madam Deputy Speaker I move that the House at its rising adjourn until Wednesday 19 November 2003, at 10.00 am.

DEPUTY SPEAKER Thank you is there any debate. The question is that the Motion be agreed to.

QUESTION PUT
AGREED

ADJOURNMENT

MR BROWN Madam Deputy Speaker, I move that the House do now adjourn

DEPUTY SPEAKER Is there any debate Honourable Members?

MR GARDNER Madam Deputy Speaker, I just want to notify the listening public of the visit tomorrow of Senator the Honourable Ian Campbell who is our new Minister for Territories, Local Government and Roads. He is on a familiarisation visit to Norfolk Island and is arriving tomorrow evening. On Friday he will have the opportunity to meet with Members of the Legislative Assembly. I think he's having a luncheon with other invited Members of the community on Friday at lunchtime and will undertake some site visits as part of the familiarisation visit to Norfolk Island. He departs on Friday afternoon. Madam Deputy Speaker, I just want to record that I have been pleased that he has taken the time to visit Norfolk Island so early in his term as the Minister for Territories and certainly I will be welcoming him to Norfolk Island and look forward to our discussions during his brief visit. Thank you Madam Deputy Speaker

DEPUTY SPEAKER Chief Minister thank you. Is there any further adjournment debate Honourable Members?

MR GARDNER Thank you Madam Deputy Speaker one further matter. It's in regard to the appointment of the Administrator to Norfolk Island. Madam Deputy Speaker, as Members would be aware the Hon Grant Tambling will be sworn in at Government House in Canberra on Saturday morning and will then be proceeding on Sunday to take up his appointment on Norfolk Island for his two-year term. He will be accompanied by his wife Sandra and I look forward in the same way, to welcoming the Hon Grant Tambling and his wife Sandra to Norfolk Island following his appointment as Administrator of Norfolk Island

MR I BUFFETT Thank you Madam Deputy Speaker just for information of the community and in respect of two notice which were on the notice Paper and matters that were dealt with at the previous Sitting, in land speculation and primary industry, the two motions dealing with those topics, for the benefit of the community there will be a press release in next weekends newspaper that will ask the community to participate in some action that I hope to take in respect of those two matters which are in my executive portfolio. Madam Deputy Speaker, I will be mentioning those perhaps on the radio on Friday morning, which I've been invited to do but at this stage it is purely to let them know that they will be appearing and to keep an eye out for them and we hope for some participation in accordance with what's in the press

1237

29 October 2003

DEPUTY SPEAKER

Minister thank you. Is there any further adjournment debate Honourable Members? There being no further debate I put the question

QUESTION PUT
AGREED

Therefore Honourable Members this House stands adjourned until Wednesday 19 November 2003, at 10.00 am.

