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**NORFOLK ISLAND LEGISLATIVE ASSEMBLY
12TH NILA HANSARD – 15 JULY 2009**

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

Thank you Honourable Members

LEAVE OF ABSENCE FOR MR IAN ANDERSON MLA

MRS JACK
Anderson

Mr Speaker seek leave for the sitting for Mr Ian Anderson

SPEAKER:
you. Leave is granted?

Honourable Members, is leave granted? Thank

PETITIONS

Are there any petitions this morning Honourable Members?

GIVING OF NOTICES

Are there any notices Honourable Members?

QUESTIONS WITHOUT NOTICE

Are there any questions without notice this morning Honourable Members

MR BRENDON CHRISTIAN Thank you Mr Speaker, a question for the Chief Minister. Minister it has been reported by the Sydney Morning Herald this morning that Norfolk Island has made representations to the US Consul General in Sydney enquiring about the possibility of taking detainees from Guantanamo Bay. Would the Minister confirm or deny these allegations

MR NOBBS Thank you Mr Speaker. Good morning Mr Christian and thank you for that question. I'll begin by pointing out that the Norfolk Island Legislative Assembly enjoyed many informal discussions with the US Consul General whilst he was present on Norfolk Island and further to those we were well aware of the issue of the Guantanamo Bay detainees and also aware of Palau for instance, taking on seventeen of those detainees and being compensated to the tune of about \$200m US. In pointing that out, what I would say is that if anything we have carried out an informal information gathering process which I would say would be in line with the informal discussions we have had with the US Consul General and in the policy decision of whether or not Norfolk Island took on Guantanamo Bay detainees that would be a matter for the Australian Government to decide in its own policy whether or not that was something that is acceptable, and I understand that, that is something the US and Australian Governments have had discussions on. Interestingly enough, the source for

the story that you are talking about quotes that the source was from Senior Government sources and that really for me is a disappointing display of perhaps how the Norfolk Island and Commonwealth relationship is, at the present time. And it further demonstrates some of the issues that we have on Norfolk Island with self-Government. It's not unusual for us to have had, or been in some ways, shoehorned into having discussions with other entities outside Australia and an example of that would be the SPIN fibre optic network. We've made numerous offers to the Australian or the Commonwealth regarding fibre optic connectivity and those approaches were refused or unsuccessful, hence the Norfolk Island Government took the initiative and the long sighted view of what we needed to do and how we needed to do it, through dealing with other entities. Our airline, Norfolk Air charters a plane through Air Nauru so again, these are discussions that we have with other entities. I might just point out that a lot of the difficulties that we have, come down to inconsistencies in information that goes backwards and forwards between us and the Commonwealth or the Federal Ministers in things like that, so I hope that answers your question.

MR BRENDON CHRISTIAN Thank you Mr Speaker, a supplementary question there, so to the original question Minister, no formal representations have been made to the US Consul in relation to seeking or getting or housing detainees at all on Norfolk Island

MR NOBBS Thank you Mr Speaker as I said earlier, if anything, an informal information gathering exercise was carried out, but no formal application to take detainees was undertaken

MR BRENDON CHRISTIAN Thank you Mr Speaker, another one for the Chief Minister whilst we're on Government affairs, does the Minister intend to give a statement on the outcomes of recent meetings held between Norfolk Island Ministers and the Federal Minister Brendon O'Connor

MR NOBBS Thank you Mr Speaker we've had some discussion upon returning from those meetings last Thursday and I do intend putting some information in the newspaper and I do intend providing some details today and also in the Minister's Forum we'll no doubt also discuss it as well. It's worth providing an overview of those meetings in answer to Mr Christian's questions and that is that myself, the Minister for Finance and the Minister for Tourism and Health and the Secretary to Government met with Minister Brendon O'Connor at his offices on Thursday. We had wide ranging discussions which revolved around the longer term governance discussions that we previously had with Minister Debus, the stimulus funding progress, the implementation of the issues already agreed and already decided in the Cabinet decision paper, education arrangements and infrastructure funding applications and we also covered some of our budget and financial arrangements for the year. Of note, and of frustration to me is that we seem to be back at square one. In the time that I've been in these offices we've had Minister Lloyd, we've had Minister Debus, and now we have Minister Brendon O'Connor. Additional to those three Ministers we've had innumerable office staff that we're dealing with and that our officers are dealing with. However, it hasn't stopped this Legislative Assembly or the Ministers in particular in putting our best forward and being as proactive as we could in getting communications and co operative communications in particular happening in these areas. Now the reason that I say we're back to square one is that similar discussion I suppose occurred with Minister Brendon O'Connor as occurred with Minister Debus when he arrived, and that revolved around why Norfolk Island didn't have a closer affinity to the Australian Taxation system, what financial data was available on Norfolk Island and the transparency and accountability mechanisms. If we go back a few steps you will find that when we first met with Minister Lloyd we put across a co-operative front when this Legislative Assembly met with him, in regard that we sought a longer term investing relationship with Australia, and I'm not necessarily talking about financial investing, I'm talking about investing in Norfolk Island's forward progress in terms of how we manage infrastructure, programme

delivery, and communications and co-operation with the Commonwealth. When we met with Minister Debus for the first time, the Minister for Finance and myself in particular laid out the opportunity for a heads of Government type projection that projected forward on what we could do as two Governments working towards better outcomes intergovernmentally between Norfolk Island and also better outcomes fiscally for both Norfolk Island and in terms of how we are related to the Commonwealth and those discussions involved investment in infrastructure and also a programme of service delivery and how we manage ourselves into the future. Those discussions as they went along, also encompassed the ICAC or Independent committee Against Corruption and Ombudsman, the Commonwealth Auditor and various other mechanisms that we saw would enable the Commonwealth to have a better insight to how we operated as well as giving us better mechanisms to provide transparency and accountability to the community as well. Following on from many discussions, meetings, conferences and definitely much written communication with Minister Debus's office, we came out some time ago with a Cabinet decision which involves the carriage of the transparency and accountability mechanisms such as the Ombudsman and the ICAC provisions. Also the Government Auditor and some of the investments that the Commonwealth may make into those in terms of resourcing or delivery. The reason I run through all those issues Mr Speaker, is that at this point now, we've had a change of Minister. Yes we've had a Cabinet decision document. The time line that actually determines when or if those matters come into being is a little bit unknown at this time and it really cements the issues that I think we discussed with the Joint Standing Committee when they were on the Island, or the Indian Ocean Island Territories and just the same for Norfolk Island, the continuity of communications is one of the things that will enable better and more responsible and reactive governance on island and off island for how we operate. But in coming back to the main thrust of Mr Christian's question which refers specifically to the meeting with Brendon O'Connor, and I digress for the purpose of pointing out the challenges that we've had in keeping communications going, probably the single positive that came out of that meeting was the commitment of Minister O'Connor to put in place the task force that this Legislative Assembly recommended back in December of last year to analyse the taxing measures currently on island and taxing options that the Commonwealth particularly want us to consider in moving forward. Now we proposed that, following Minister Debus's statement to the House of Reps and that as we saw it was the most effective way to answer a lot of the questions that have hampered Norfolk Island's access to some of the areas of programme assistance and the like from the Commonwealth and have also formed the basis for perhaps some disharmony between the Federal Government and Norfolk Island in terms of the fact that we don't fit neatly within the taxation. So we welcomed the initialization of that task force and we certainly hope that it commences very shortly but interestingly enough is that one of the issues that we did discuss was the stimulus funding that we were invited among the other grant and infrastructure type grants, to apply for many, many months ago, and in fact our stimulus application dates back to January of this year. That hasn't particularly moved along anywhere and it really highlights for me the wisdom and the great commitment that Norfolk Island's past councils and Governments put in, to recognising that for Norfolk Island to be able to manage itself and to be able to have the reactions and the reaction time necessary to take care of issues that are relevant to Norfolk Island that we needed self governance. The stimulus funding at this point is something that we applied for as a result of the worst global financial crisis in seventy years and a crisis that affected our incoming tourism, therefore it affected our private sector. What this Government has done in the interim, is taken a responsible view on how we can move ourselves forward on the basis that we do not gain any such stimulus funding that relates to the global economic crisis hence the budget that we have recently released so, the discussion that we had with Minister O'Connor with regard to the stimulus funding basically indicated that stalling point for that was that considering Norfolk Island wasn't part of the income tax paying area of Australian territories it made it a more difficult stimulus to be agreed to and so that was really the outcome of that. One of the things that the Minister for Finance, Minister for Tourism and myself definitely laid on the table was that we had given wholehearted agreement to the Government Auditor or the Commonwealth

Auditor's role in Norfolk Island, we invite and had invited officers from Minister O'Connor's area to come and work with us on assessing both the taxation and the management and the fiscal relationship that Norfolk Island has with the Commonwealth
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SPEAKER Chief Minister. Chief Minister will you be presenting a paper on this matter of your attendance in Canberra. It's just the answer to the question appears to be getting along a bit. Are you proposing to make a statement

MR NOBBS No. I'll leave that as the statement but overall the meeting I suppose set an opportunity for us to once again begin information transfer with the Federal Minister

SPEAKER Thank you. Any further questions.

MR BRENDON CHRISTIAN Thank you Mr Speaker, a supplementary question on that please. Minister given that the Federal Minister has committed to provide officers to form a taskforce to investigate the possibility of introducing some or all of the Australian taxes, will the Minister be constructing this team immediately with Terms of Reference that will include a comparison of the advantages and disadvantages to the community in becoming a part of the Australian taxation system so that the community might be able to make an informed decision on this very important matter

MR NOBBS Thank you Mr Speaker that's totally the understanding that I had whilst we were in the meeting was that the task force would undertake a full enquiry into the data as it may impact on Norfolk Island and how that may benefit or otherwise the overall economy as well as the fiscal relationship that may come out of that with Norfolk Island and Australia

MR BRENDON CHRISTIAN Thank you Mr Speaker, a supplementary question, Minister given that Ministers don't like giving time lines on introducing mechanisms such as this. Would you be able to put a possible idea of time before we can expect to see this task force constructed or put together

MR NOBBS Certainly all that I can do is what I've already commenced is a minute or response from the meeting that we had with the Minister responsible for Territories, asking that it be advanced as soon as possible

MR SHERIDAN Mr Speaker a supplementary question there for the Chief Minister, with regards to this task force that Mr Christian was talking about, Chief Minister did the Minister Brendon O'Connor state that he was willing to raise a task force or did he give the underlying feeling that he would look favourably upon such a formation of a task force

MR NOBBS It's a difficult one for me to quote from that meeting. I definitely felt that he supported the set up of that task force and that he felt it was something that was also necessary to establish what the options were in terms of taxation for Norfolk Island

MR SHERIDAN Mr Speaker a question for the Minister for Tourism, the croaky Minister over there on the far side. Minister I note by an Australian newspaper article of Thursday 9th July that an advertising company by the name of DDI has been awarded a \$1m contract to promote Norfolk Island in both Australia and New Zealand. Minister could you advise the community if this is correct and if so correct, who is paying for this contract and what are the details as you know them

MR GARDNER Thank you Mr Speaker, I was aware of the press release, I'm not sure whether it was yesterday or the day before but I'm a little surprised

by the quantum of the contract as awarded as I'm not even aware of that detail. I have had some discussion obviously with the Tourist Bureau in relation to the awarding of a contract to the company known as DDI who were successful over I think 22 other contenders for the role. My understanding of the contract that is proposed, and I stress proposed, because I haven't signed one, nor am I aware of any contract that has been signed as yet, as I understand it, the detail is still under negotiation but is for a term extending over three years and the funding for this is taken from those areas where similar companies provide similar services today so the intention is that today they will be taking over the role in many of those areas, including PR, advertising, promotion, marketing, brochure publishing and distribution, the development of creative to support the branding process and all of those other areas but as soon as that detail has been properly documented I'm more than happy to provide that to all Members and I'm sure that it will be made public in due course

MR SHERIDAN Mr Speaker a supplementary question there for the Minister. Minister I note in your question there that you referred to a couple of areas, and I refer to one of them, that in the past couple of months, Norfolk Tourism employed a marketing person whose role I believe is to market Norfolk Island in both Australia and New Zealand. Minister does this new contract now make this position redundant

MR GARDNER Thank you Mr Speaker, no it doesn't. there is a difference between the people who prepare the advertising, promotion and the brochure documentation, they have a particular degree of expertise in that area. The marketing promotion role, as has been said many times, in this House is a joint initiative of both the airline and Norfolk Island Tourism, it is a body on the ground that we haven't had since probably the Bob Doyle era and the Bryce Henderson era where it was costing us well in excess of \$100,000 a year to maintain that sort of presence on the ground. It's a return to that recognising the value of having people on the ground actually talking to people at the coal face so there needs to be a clear understanding that there is a distinction between the role of DDI and the preparation of all of the material that will go to industry for the promotion and marketing in Norfolk Island and the actual face to face contact between the marketing manager and all those people that we engage with them promoting Norfolk Island generally both in Australia and New Zealand and the role of DDI and the marketing manager is in both of those areas

MR SHERIDAN Mr Speaker a further supplementary question for the Minister. Minister can you advice what is the total advertising dollar the Tourist Bureau has been allocated for this financial year

MR GARDNER Almost \$1.1m in total

MR SHERIDAN Mr Speaker a further supplementary question for the Minister. Minister is that \$1.1m purely allocated to advertising because I believe the budget is \$1.28m to the Tourist Bureau so \$1.1m of that is purely allocated to advertising for Norfolk Island

MR GARDNER It is advertising and promotion in Australia and New Zealand and in Norfolk Island and the budget in total from the revenue fund, the grant that is made from the revenue fund is not the total quantum of funds that is available to the Tourist Bureau because of their own entrepreneurial activity as you are well aware Mr Sheridan. I'm not sure just how much more that adds at the moment, I don't have that detail with me, but it's probably in the area of another \$200,000 odd at least I would think and that's not inclusive of the airline's contribution to marketing and promotion which is done in the main on a joint effort with the Norfolk Island Government Tourist Bureau

MR SHERIDAN Minister how will this contract effect Norfolk Tourism's relationship with wholesalers who currently advertise Norfolk Island co-

operatively with the Tourist Bureau and does this mean that there'll be less dollars for this co-op advertising

MR GARDNER No in actual fact, and Mr Speaker I thank Mr Sheridan for that question, it was made clear at the wholesalers meeting that I attended in Sydney last week that the marketing spend in total is up some 30% and the bulk of that is committed to the co-operative advertising relationship with our wholesale partners

MR BRENDON CHRISTIAN Thank you Mr Speaker, a question to the Minister responsible for the airline. There's several questions in the one and probably its easier if I just ask him in the one question. Could the Minister explain why it is possible to purchase airline tickets from Qantas at a rate that is sometimes more than \$100 cheaper than with Norfolk Air. Are Qantas fares sustainable for Norfolk Air. Under the co-share arrangement does Qantas pay a set amount for the seats they on sell from Norfolk Air or are they able to sell them at what price they wish

MR N CHRISTIAN Thank you Mr Speaker. Firstly, yes we do have a co share arrangement with Qantas. What the co-share effectively does is set up two separate airlines that share one aircraft, and in this situation, the aircraft is provided by Norfolk Air and Norfolk Air underwrites the entire operation and provision of all seats within the aircraft. It is correct at the moment that Qantas does have the ability to undersell Norfolk Air in the market place and in the longer term, the question of whether that's sustainable or not comes down to the bottom line of the airline, but at the moment I've got to say that Qantas is what I would term a predatory partner with Norfolk Air, that is, it's dog eat dog at the moment and Norfolk Air clearly cannot continue to afford Qantas as a partner in the longer term if they continue with this sort of activity. If the community of Norfolk Island decides that the Qantas brand is worth retaining at any cost, and they are prepared to underwrite the Qantas presence in Norfolk Island by subsidising the losses that Norfolk Air is currently incurring, well that's a decision for the community and we will be guided by the feedback that comes back through the elected representatives in Norfolk Island but for me personally as the Minister responsible for the airline, I now see Qantas as a huge liability that we would be better off without. Are they able to set their own fare. Yes they are. Under the fair trading laws in Australia which are overseen by the ACCC we are in fact two separate airlines. We cannot talk prices and even though on a number of occasions Norfolk Air has attempted to put a floor on the cost of what Qantas can sell seats on the aircraft that we underwrite for we've been unsuccessful, so what we've tried to do on a number of occasions, is set a minimum price for the seat but Qantas has resisted that at every opportunity to the fact of the matter is now, if Qantas wanted to give a seat away for free or sell it for \$2 or \$3 inclusive of taxes, they are able to do that and Norfolk Air must carry that passenger, so it's clearly not a very comfortable situation to be in. We continue to try and negotiate with Qantas and negotiations were held between the CEO of Norfolk Air and Qantas as late last Friday in Sydney, and we still as yet have been unable to break the impasse. So for the foreseeable future, it will be cheaper to travel on the Qantas side of the Norfolk Air aircraft, than the Norfolk Air side of the aircraft.

MR SHERIDAN Mr Speaker a supplementary question, I think Mr Christian asked the question of the Minister exactly how much does Norfolk Air in dollar terms gain from a Qantas sale. Does Norfolk Air get the whole lot, or just a percentage of it or is Qantas on a commission selling those seats. Can the Minister explain that

MR N CHRISTIAN As I've said Mr Speaker there is no set price for a seat. I would love to have a set price or minimum price for a seat. That price would have to be somewhere around, on a typical Sydney service for instance, on a one way basis, I would love to net to the Norfolk Air something around \$190 to \$200. We could live with that. At the moment we can't achieve that and what was the balance of the question again

MR SHERIDAN How does Qantas reimburse Norfolk Air for the fare that they charge

MR N CHRISTIAN So how does Qantas reimburse Norfolk Air. Basically it's an airfare that is net of the retail and wholesale commissions so they take the retail commission off, they take the wholesale commission off and they give us what's left of whatever they sell the ticket for

MR GARDNER Thank you Mr Speaker, a supplementary question just to clarify Minister, Minister can you confirm that the fare level that Qantas is offering seats for, these are the ones quoted by Mr Brendon Christian that are up to in excess of \$100 cheaper per flight, do they actually cover the cost of the provision of the seat

MR N CHRISTIAN Thank you Mr Speaker and I thank Mr Gardner of that question this morning. No they don't. Qantas is actually selling the seat for less than Norfolk Air's cost of production

MR MAGRI Mr Speaker this is a question along the same vein for the Minister for Finance or the Minister with responsibility for the airline. Minister is there any way of measuring how much of the passengers who come to Norfolk Island are travelling on Qantas frequent flyer points and who might not have otherwise come to Norfolk Island if they didn't have those points. Is there any mechanism employed within the airline to measure that

MR N CHRISTIAN Thank you Mr Speaker I don't have that information available to me and obviously what we see is a Qantas ticket. How a Qantas customer has paid for that ticket is not information that is available to me. When we next meet with Qantas I could pose that question to them but I doubt that they would share the information with me

MR BRENDON CHRISTIAN Thank you Mr Speaker, a further supplementary question to that to make it clear for the listening public, that means Minister that Qantas does not cover any costs incurred with delayed flights, diverted flights, any disruptions whatsoever, they just pay the bottom line commission on what they sell their ticket for

MR N CHRISTIAN Thank you Mr Speaker we take responsibility for the seat cost obviously and the aircraft charter fees, but in respect of disrupt situations it can be a little blurred on some occasions, where we do look after Qantas passengers because it's in Norfolk Island's interest to look after them and in other occasions, Qantas looks after their own passengers. It just depends on the situation that occurs at the time, the time of night and where the disrupt occurs

MR SHERIDAN Mr Speaker a question for the Minister for Finance, Minister in the past financial year I believe that there's been quite a few transfers of money from one entity from the Administration to another entity. Minister are these transfers usually conducted by virement which are lodged with this House during a sitting

MR N CHRISTIAN No Mr Speaker. The virement situation is used to top various accounts within the Administration where there is insufficient funds to cover whatever is necessary expenditure and we use the virement procedure to shuffle the funds sideways if you like but the total amount of moneys spent doesn't exceed what the Appropriation Bill for the year allows, but we do make internal loans from one area to another within the Administration and when I do shuffle money like that, I do so based on memo's prepared for me by either an executive director, the Chief Executive Officer or the Finance Manager of the Administration

MR SHERIDAN Mr Speaker a supplementary question for the Minister, Minister just to clarify it in my mind, I know that in May and June the sum of \$1.85m was transferred from various entities into the airport GBE. What you are saying there is that these were done as a loan and not as additional funds for the airline to use in that current financial year but as an actual loan that would be repaid at some stage

MR N CHRISTIAN That's correct Mr Speaker and I'll elaborate on that. You will see financial indicators that I will table for the airline for May indicated that we had incurred losses at the airline of about \$1.9m at that time. The actual losses for the whole financial year will come out at about \$2.1m and I did shuffle \$1.2m into the revenue fund from the airport GBE because that's where the airline operates from in order to keep the airline operations up and running. They are a short term internal loan and as we formulate the airlines budget for the year going forward well, it has been formulated but assuming we meet our targets, that money will be progressively repaid to the revenue fund as and when the airport is able to do so.

MR SHERIDAN Mr Speaker just a further supplementary question there, the Minister touched on it, for the Minister for Finance, you touched on the actual GBE budgets and you gave an undertaking at the sitting of the House at the end of June when we passed the Appropriation Bill that you would be tabling the GBE budgets, can you inform the House as to when these budgets will be ready to be tabled

MR N CHRISTIAN Thank you Mr Speaker yes, they're not too far away and I thank Mr Sheridan for the question. We put the final touches to the Telecommunications budget yesterday afternoon, we put the final touches to the Airport budget yesterday afternoon and at three o'clock this afternoon we should have the Water Assurance budget completed and once they're all done, I'll table them, so I imagine when's the next meeting, 29th July, so they should all be ready at that stage for tabling Mr Speaker

MR BRENDON CHRISTIAN Thank you Mr Speaker, a question to the Minister for Health. Minister would you be able to give an update on the status of swine flu in Norfolk Island

MR GARDNER Thank you Mr Speaker, despite the jesting of my colleagues I would like to confirm that I don't have swine flu but it is an important matter and something that shouldn't be made light of. There was as I understand it another press release in the paper on the weekend that provided another update on the swine flu status on Norfolk Island and I believe that it continued to confirm that there had not been any incidence of swine flu that had been identified in Norfolk Island and with my own attendance at the hospital on Monday seeking medical attention I was able to confirm with the doctor attending at that time that there had been no identified cases. There had only been a handful less than five. I don't recall the exact number of people who had presented with flu like symptoms who had been assessed by the doctors at the hospital and in those cases, I understand that Mr Russell Lowry, the pathologist does take swabs and send them away for assessment at one of the Commonwealth approved laboratories on the mainland and of those swabs to date I'm not aware that any have come back with positive indications of swine flu in Norfolk Island. In saying that I think it's important to point out that it is simply not possible and I think its been demonstrated around the world to identify each and every person who is a carrier or is affected by swine flu and the same goes for Norfolk Island. We may have in our midst, people with swine flu and that is where the press release on the weekend encouraged people to continue to maintain personal hygiene standards as far as coughing and the like to ensure that they are, in the event that they are carrying flu of whichever description it might be, that they are not transmitting it to people to whom they come in contact and included advise such as washing hands and of course all those matters are important to person hygiene. There is a Norfolk Island Government taskforce that is dealing with the swine flu issue and it has met on a number of occasions and with a change in status

both in Australia and New Zealand and worldwide it hasn't been meeting as frequently as it did initially, back starting in April when we were meeting on a weekly basis, to assess the situation, particularly in our neighbours jurisdictions but also on Norfolk Island but it is interesting to note that the World Health Organisation has now declared swine flu in its proper technical name as being a pandemic that is now unstoppable so it is something that we will have to live with and we will have to manage but as I say, I keep referring to the press release. The best way of preventing the rapid spread of this anywhere and that includes here, is to ensure that you maintain a very high standard of personal hygiene and if there is a thought that you might be displaying the symptoms and they are outlined in the media release, is to ensure that you do make telephone contact with the hospital so they are able to discuss with you your symptoms and whether you need to present at the hospital to seek further treatment. It's inevitable that Norfolk Island will have cases of swine flu and as I've provided answers to a question in this House and in the press releases that we have made we have ordered in additional stocks of both Tami flu and Relanza and there are also amongst that some specific child dosages that have been made available so that's for infants. I don't quite recall at the moment what the total number of dosages in the island are, but it must be in excess of 400 that are available should an outbreak occur in Norfolk Island and it be identified, those drugs will be made available to effected patients by prescription only and it is important that those who do hold stocks of those privately in Norfolk Island with the outbreak of bird flu a few years ago many of our front line officers at border security were provided, or the departments were provided with doses of them, and they are kept in those departments but it is important that before anybody partakes of those prescription medicines that they do seek medical attention to make sure that they are actually on appropriate and professional advise. I'm not sure what other information I can provide in relation to that, that is in addition and supporting of the press release that was made other than to say I've discussed the issue with the Secretary to Government this morning and we will be convening a further meeting of the Government swine flu influenza taskforce tomorrow morning, to further discuss the situation both in Australia and New Zealand and in Norfolk Island to see what other measures are available to us in the short, medium and long term for attending to this virus. It's also important to say that there are a number of commentators that have down played the severity of it. I think in recent days it has become clearly very obvious that it's not just those with other underlying respiratory infections or medical conditions that are being affected or are actually dying from swine flu. It appears now that it is causing significant problems with people who have an otherwise very healthy status so it is important to be vigilant. Important to bear in mind that the Norfolk Island Government and the Commonwealth who obviously work closely with us in regard to these matters have swine flu at a significant level or degree of importance, so much so that as you would be aware Mr Speaker we have put into place under legislation particular protocols for the handling of any outbreak of swine flu in Norfolk Island and rest assured that those protocols are still in place and are being adhered to. It's important that we don't downplay the importance of this despite the fact that there are some commentators who suggest that the common old influenza A and B have taken a lot more lives in Australia and around the world than swine flu has to date. That is true but still it is a serious illness and it's causing severe concern to a number of health professionals and jurisdictions around the globe, not just around Australia and New Zealand but obviously they are of particular concern to us because they are the major source of any potential infection in Norfolk Island and so we will continue to maintain our border control mechanisms for identification and management of swine flu and potential outbreak in Norfolk Island and if the situation does change, certainly there will be public statements made in relation to it

MRS JACK

Thank you Mr Speaker a supplementary question on that. Minister I noticed on the television last night the Australian Government ordering 21 million vaccinations for the Australian population so that everyone can have at least one vaccination. I'm just wondering are we included in that

MR GARDNER

Thank you Mr Speaker, I haven't had any firm advise on that but certainly from previous experience in dealing with the Federal Health Minister through her office in relation to childhood vaccinations for example and also the cervical cancer vaccine it was certainly relayed back to me in no uncertain terms from her office that because Norfolk Island was outside of the Health Act in Australia that we were not eligible for cover under either of those programmes so that was Gardasil and also the childhood vaccinations so I would expect that consistent with that advise that we would not be covered for the same reason under the Commonwealth initiative but certainly I would be making enquiries in relation to that

MR MAGRI

Mr Speaker also a supplementary question on that to the Minister for Health, I notice that there's a growing body of medical opinion in Australia that suggests that if this particular influenza had turned out to be a more virulent strain, that the systems put in place by the Commonwealth would have been inadequate. I wonder whether there's any suggestion at this stage whether Norfolk Island, given that we are this far into the process, that Norfolk Island couldn't have coped well with a more virulent strain and additionally, my question relates to the fact that it seems only a matter of time before a more serious strain of influenza does strike the planet and I wonder if the Minister has emergency measures in place should that happen to prevent anybody boarding the plane to Norfolk Island that presents with flu like symptoms

MR GARDNER

Thank you Mr Speaker, I think it's important to point out that swine flu is not the first strain of flu that's caused a pandemic worldwide. Certainly in the last century there were two if not three of them that were responsible for the deaths of many millions of people worldwide. Certainly in this day and age with the advent of regular air travel, and certainly a lot more people cruising and the like, the chances of these things spreading much faster are far greater and that's already been demonstrated with this initial outbreak of swine flu in or around about March of this year and suddenly virtually every country in the world now is touched in some form or fashion with swine flu just shows that within three or four months the ability of this thing to be transmitted around to globe has been openly demonstrated to us. As far as Norfolk Island's handling of the matter, some would say maybe we should pride ourselves on the fact that we haven't identified any swine flu in Norfolk Island. It's probably more by good luck than good management that that's occurred by I am heartened by the fact that we have a taskforce that is in place that has turned it's mind and its attention to developing proper management protocols for any potential outbreak in Norfolk Island. It is clearly obvious that the best way to maintain and control this is obviously attention to personal hygiene and that's something that's continued to be re-emphasised in the press releases and statements that have been made in relation to this. I am confident that we have in place a response mechanism to deal with this, but we can't tell tomorrow whether we're going to have some other virulent influenza strain that is going to develop and it is foisted upon us. Unfortunately people don't walk around with a stamp on their foreheads saying, I'm infectious, I've got a disease that you need to be concerned about. I wish it was only that simple because it would be far easier to deal with. We have taken I believe responsible steps and it's not me as the Minister for Health, I don't have any medical training, but it is a combination of a lot of people including His Honour the Administrator, our people at border control, the airlines, our medical staff at the hospital that have been providing advise on the preparation of our response and I guess our standby management systems to deal with this. We obviously will rely very heavily upon the Commonwealth for assistance in this area, despite the fact that we don't come under their Health Act, we are part of their pandemic flu alert system and management systems and we can draw on their expertise as and when is required and if it does break out in Norfolk Island then obviously it's something that we need to notify them of in the first instance. We are bound by our arrangements that we have in place with the Commonwealth to do that. So that said, what we have in place has worked for us so far, whether it will continue to work for us, I don't have a crystal ball but we will do everything in our power to contain the outbreak and make sure that if we do have an outbreak in

Norfolk Island we are able to respond appropriately to it with appropriate medical attention drug treatment and the like

MR BRENDON CHRISTIAN Thank you Mr Speaker, just one last one for the Minister for Finance. Minister there has been discussion in the community about the purchase of the fire tenders, mainly that there was a cheaper option available from New Zealand. Would the Minister put on record the procurement process that was followed for the purchase of the two fire engines, and was a New Zealand option explored

MR N CHRISTIAN Thank you Mr Speaker I'll deal with the question in its components. Was the New Zealand option cheaper? The answer is no. Was the New Zealand option explored. The answer is yes. What procurement process was followed? The procurement process followed was this, and I have responded to this question previously in the House but in short, Air Services Australia and the Australian Defence Force conducted an open tender process to procure approximately fifty units and after an exhaustive evaluation they selected the Rosenbauer product. Now when I say an exhaustive evaluation, they called for bids from around the world and the New Zealand manufacturer submitted a bid. The only manufacturer that I'm aware of, major manufacturer in the world that didn't submit a bid to the Australian request was Auskoch of the United States. The New Zealand product by the way, is a copy of the American product and they possibly infringe copyright and they've gotten around that by just changing the name. The American stuff is called Striker spelled with I think an i and the New Zealand product is called Stryker spelled with a y. what happened as a result of the procurement process undertaken by the Australian Government was this, Norfolk Island was able to tag onto the end of that process which would ensure that Norfolk Island would operate identical equipment to air services Australia which would allow the exchange of personnel so that if we in Norfolk Island had the situation where we had insufficient firemen to man our airport fire tenders we could borrow crew from air services Australia and they would be immediately familiar with our equipment. It would also ensure that spares availability and product support for the fire engines in Norfolk Island would be available for at least the next forty years, because of the major support required in Australia for the tenders purchased there. It's also noting that at the time we were going through our evaluation process, that Christchurch and Queenstown airports both ran their own procurement processes and selected the Rosenbauer product in preference to the locally manufactured New Zealand product so I hope that fixes it up once and for all Mr Speaker

SPEAKER Thank you. Any further Questions without Notice. There being no further questions without notice we move on

PRESENTATION OF PAPERS

Are there any Papers for presentation this morning Honourable Members

MR MAGRI Mr Speaker in accordance with the requirement of Section 41 the Interpretation Act 1979 I table the Road Traffic (Fees) (Amendment) Regulations 2009

MRS JACK Thank you Mr Speaker in accordance with the requirement of Section 41 the Interpretation Act 1979 I table the Waste Management (Amendment) Regulations 2009

MR N CHRISTIAN Thank you Mr Speaker in accordance with the requirement of Section 41 the Interpretation Act 1979 I table the Goods and Services Tax (Amendment) Regulations 2009, the Norfolk Island Broadcasting (Amendment) Regulations 2009 and the Airport (Amendment) Regulations 2009

SPEAKER
Members

Any further Papers for presentation Honourable

STATEMENTS OF AN OFFICIAL NATURE

Are there any Statements of an official nature this morning Honourable Members? No.
We move on

MESSAGE FROM THE OFFICE OF THE ADMINISTRATOR – NO 31

SPEAKER Honourable Members, I have received the following Message from the Office of the Administrator and it is Message No 31 which reads that on the 7th July 2009, pursuant to section 21 of the Norfolk Island Act 1979, I declared my assent to the following proposed law passed by the Legislative Assembly, the Cemeteries Act 2009 (Act No 12 of 2009) and that message was dated the 7th July 2009 and signed Owen Walsh, Administrator

MESSAGE FROM THE OFFICE OF THE ADMINISTRATOR – NO 32

SPEAKER Honourable Members, I have received the following Message from the Office of the Administrator and it is Message No 32 which reads that on the 7th July 2009, pursuant to section 21 of the Norfolk Island Act 1979, I reserved the following proposed law for the pleasure of the Governor-General: the Valuation of Land Act 2009 and that message was dated the 7th July 2009 and signed Owen Walsh, Administrator

REPORTS OF STANDING COMMITTEES

Are there any Reports of Standing Committees. No. We move on

NOTICES

CHILD WELFARE BILL 2009

MRS JACK Thank you Mr Speaker, I present the Child Welfare Bill 2009 and move that the Bill be agreed to in principle and I table the explanatory memorandum to the Bill. Mr Speaker in tabling the explanatory memorandum to this Bill I would like the community to be aware that the explanatory memorandum alone is some twenty-one pages long and while it is the usual practice of Minister's to read the explanatory memorandum into Hansard it's not my intention to do so today, I'll be content with just abbreviating it as I read, but Mr Speaker I ask that the full explanatory memorandum be printed into Hansard, and I'll then move on the some other comments afterwards. The purpose of this Bill is to reform the law relating to children and young people in certain key areas. The relevant law was previously contained in the Child Welfare Act 1937 and the Child Welfare Agreement Act 1941 but will now be contained in the Child Welfare Act 2009. The Child Welfare Act 1937 is to be repealed: the Child Welfare Agreement Act 1941 is far out dated and inappropriate and is also to be repealed. Across the Bill the concept of "parental responsibility" has been introduced to replace traditional notions of custody, guardianship and wardship in line with developments in other places. The fundamental notion of decision-makers acting with the best interests of the child or young person as their paramount consideration remains entrenched. In the child protection area there is an emphasis at all points on cooperation with and support for children and young people, from infancy through to adolescence, and their families. The Act also recognises that when the authorities do have to intervene in the life of a child or young person, the procedures and effects of such intervention should be clear at all stages. The Bill is a significant attempt to reform the law relating to young offenders and brings Norfolk Island law and processes closer to those in place in the Commonwealth and elsewhere and takes

account of obligations under United Nations Conventions on the welfare of children. The Bill does not deal with issues relating to the involvement of children and young persons with the criminal court system or the general procedures in the courts as most of this is to be dealt with in other legislation reforming the court processes nor does it deal with child care licensing as it is anticipated that this subject also will be separately dealt with by other legislation. Mr Speaker When comment was sought from the various stakeholders to the draft Bill one of the issues that was raised by the Social Awareness Advisory Committee was that there was a need to address the question of costs should the Bill be implemented. Mr Speaker the appointment of a child welfare officer is to be made of a public sector employee or an employee under the Norfolk Island Hospital Act 1985. As such the costs will be contained to a minimum. It is not anticipated that there will be many applications within a given period but on introduction of the legislation the procedure will be in place should the circumstances demand it. Despite the requirement of the Chief Executive Officer to appoint the child welfare officer, that officer is answerable to the court. An example of this is found in part 5. 3 of the Bill where the child welfare officer may apply for an assessment order under section 5.3.3. There is no involvement of the Chief Executive Officer other than in the appointment of an appropriate officer. The whole focus of the Bill is therefore on the welfare of the child or young person and the judiciary is the determining body in respect of any orders made. This provides for the process to be transparent and for the interests of the child or young person to remain paramount. Another comment received has included the need for a Blue Card which in other jurisdictions is a screening process for those persons who are involved in supervision or working with children. Previous Norfolk Island governments have resolved that such a program would be bureaucratic and onerous to implement. This position is supported by the current Government at this time but will continue to be monitored and any change deemed necessary can be made at the appropriate time. The definition of the age was also raised as an issue by the stakeholders and I am of the opinion that definitions as listed in the Bill should remain as defined in the Bill before the House. That is that 'a child is a person who is under 12 years old' and a 'young person' is defined as 'a person who is 12 years old or older, but not yet 18 years old'. These provisions mirror other Commonwealth legislation such as the Family Court Act 1975 and various similar provisions are also found in other legislation in the Commonwealth and around the world. It is anticipated that the involvement of the family will be a key component in the whole process and where there is no family resident on the island then consideration will need to be given to facilitate sending the child off island in certain circumstances. Depending on circumstances consideration may have to be given in the future to having a scheme of foster care introduced to assist those most in need. However there is no proposal to have legislation introduced to provide for that level of care at this time. Mr Speaker, this Bill was widely circulated to stakeholders and displayed on the Norfolk Island Government web site as draft legislation so that maximum comment could be received prior to having the Bill finalised for tabling in the House today. It was also forwarded specifically to Barbara Holborow OAM, former New South Wales Children's Court magistrate and committed advocate to children and family rights. The comment received from Ms Holborow was that the Bill was well constructed as the focus was on the very best interests of the child and where necessary the family of the child and that she would be taking some of these innovative ideas in the Bill for discussion with her Minister for adoption in the State Parliament. This comment is indeed encouraging and I congratulate those persons who have contributed to the formulation of this Bill for their efforts in providing such an innovative and comprehensive Bill, which will be able to protect those most vulnerable in our society. I therefore commend the Bill to the House and Mr Speaker as I said earlier, I table the Explanatory Memorandum to the Bill and ask that it be printed into Hansard and for the benefit of the listening public, Hansard will be available at the public library.

In this Explanatory Memorandum: The purpose of this Bill is to reform the law relating to children and young people in certain key areas. The relevant law was previously contained in the *Child Welfare Act 1937* and the *Child Welfare Agreement Act 1941* but will now be contained in the *Child Welfare Act 2009*. The *Child Welfare Act 1937* is to be repealed: the *Child Welfare Agreement Act 1941* is far out dated and inappropriate

and is also to be repealed. Across the Bill the concept of “parental responsibility” has been introduced to replace traditional notions of custody, guardianship and wardship in line with developments in other places. The fundamental notion of decision-makers acting with the best interests of the child or young person as their paramount consideration remains entrenched.

In the child protection area there is an emphasis at all points on cooperation with and support for children and young people, from infancy through to adolescence, and their families. The Act also recognises that when the authorities do have to intervene in the life of a child or young person, the procedures and effects of such intervention should be clear at all stages. The Bill is a significant attempt to reform the law relating to young offenders and brings Norfolk Island law and processes closer to those in place in the Commonwealth and elsewhere and takes account of obligations under United Nations Conventions on the welfare of children. The Bill does not deal with issues relating to the involvement of children and young persons with the criminal court system or the general procedures in the courts as most of this is to be dealt with in other legislation reforming the court processes nor does it deal with child care licensing as it is anticipated that this subject also will be separately dealt with by other legislation.

Paragraph numbers in this explanatory memorandum correspond with clause numbers in the Bill.

Long Title

The long title of the Act reflects the fact that the Act is applicable to people ranging in age from infancy through to adolescence and the repeal of two previous pieces of legislation dealing with similar matters.

Chapter 1 – Preliminary

This Part contains formal provisions concerning commencement of the Act and some definitions aiding in the application of the Act.

Part 1.1 - Introductory

1. This clause provides that the Act is to be known as the *Child Welfare Act 2009*.
2. This clause provides for opening and regulation making clauses of the Act to commence on notification in the *Gazette* with others to commence on days to be fixed being not later than 90 days after gazettal.

Part 1.2 - Interpretation

3. For the purposes of the Act this clause enacts definitions by reference to a dictionary contained at the end of the Act.
4. This clause describes what it means for residence, contact and specific issues orders under the Act to be made in favour of a person.
5. This clause defines the meaning of “carer”.

Part 1.3 - Application of the Act

6. This clause states that the Act is applicable to people ranging in age from infancy through to adolescence.
7. This clause defines a child as a person under 12.
8. This clause identifies that in most of the Act a child who is aged 12 years old or older but not yet 18 years old is referred to as a “young person”, (an adult is defined in the dictionary as a person 18 years or more).
9. This clause provides that the nexus of children and young people with Norfolk Island forms the basis for the application of the Act – in other words that they ordinarily live in, or are present in, Norfolk Island, or are subject to an event occurring in Norfolk Island which leads to a voluntary or mandatory report about their care and protection. This nexus is varied by the operation of clause 39 in relation to abuse or neglect which occurs interstate.

Chapter 2 - General objects, principles and parental responsibility

This Part sets out the objects and principles underpinning the Act and introduces the concept of “parental responsibility”.

Part 2.1 - General objects

10. This clause sets out the objects which underpin the legislative structure of the Act in relation to all aspects of the welfare of children and young persons, whether in the wider community, in child care settings or when subject to the criminal law.

Part 2.2 - Principles applying to the Act

11. In addition to the operation of the objects, this clause makes clear that all decisions or actions under the Act are to be made or taken in accordance with certain principles.

12. The general principles in this clause are to guide all decisions and actions made or taken under the Act, whether made by the child welfare officer, the court or otherwise. Other principles and requirements of the Act are not intended to limit the operation of these principles.

The notion that the best interests of the child or young person are the paramount consideration is enshrined in the “best interests principle”, but sub-clause (1) also clearly states that primary responsibility for children and young people rests with their parents and other family members. By the operation of this clause an emphasis on cooperative and inclusive support for families is made to pervade the Act. Hence where family members are not able to meet their responsibilities to children themselves, the Act recognises that it is the place of the community and government to support them or, if necessary, share or take over their responsibilities. Government intervention is to be by the least intrusive means possible.

Sub-clause (2) requires that in decision-making processes about a child or young person under the Act, information about those processes is to be provided to participants in the processes in a manner they can understand, the views and wishes of the child or young person are to be sought and considered in light of their age and maturity, and others are to be given an opportunity for input into the processes. Decision-makers are exhorted to act without delay so as not to prejudice the wellbeing of the child or young person and to strive from the outset for settled and permanent living arrangements for the child or young person. The “no order principle” in sub-clause (3) reflects the fact that while it may have been appropriate for an action to be brought before a court in the first place, it may be equally appropriate at the end of the case for the court to decide that no order is then needed.

13. This clause clarifies that for the purposes of acting in accordance with the best interests principle, decision-makers are to take into account matters set out in the clause.

Sub-clause (1) identifies “best interests” factors in relation to children and young people under the Act which are not necessarily the same as under other legislation (for example the Commonwealth *Family Law Act 1975*), though it mirrors various similar provisions found in other legislation around the Commonwealth and around the world. The list of factors is not exhaustive. It refers to protection from “harm”, a term wider than simply “abuse and neglect”, and it requires the child or young person, his or her parents, siblings and other family members, and the importance and practicalities associated with their respective interactions with each other, to be considered. It also limits the extent to which a child’s views can be taken into account if they are counter to a carer’s reasonable requirements to supervise the child’s behaviour.

Part 2.3 - Parental responsibility

14. This clause defines “court order” for this Part to mean orders of the court (which is defined in the dictionary as the Court of Petty Sessions exercising its jurisdiction in connection with children and young persons under this Act or the *Court of Petty Sessions Act 1960*) or other courts (e.g. it could include orders of the Family Court under the Family Law Act).

15. This clause formally introduces the concept of “parental responsibility” to Norfolk Island law in line with the *Family Law Act (Cmth)* instead of more traditional concepts of custody and guardianship. In describing parental responsibility as the duties, powers and responsibilities and authority parents ordinarily have by law in relation to their children, it reflects the fact that it is impossible to define precisely what form that responsibility will take as a child grows, but it also recognises that there are certain aspects of the responsibility that relate to day-to-day issues and others that span years.

16. This clause spells out that, in addition to parents having parental responsibility, that responsibility can also be vested in a person by a court.

17. While a parent effectively only loses parental responsibility once and for all if his or her child is adopted, this clause provides that the responsibility can otherwise be shared or effectively suspended. Just as one parent can act independently of another

in making decisions for a child, so those who are given parental responsibility by a court order can act independently of each other.

However, this clause provides for the court to make an order as to whose responsibility takes precedence (see also sub-clause 21(3)) and stipulates that no person (for example a parent) can exercise their parental responsibility in a way that is incompatible with the exercise by the child welfare officer of any parental responsibility he or she might have.

18. This clause attempts to indicate the range of matters for which a person is responsible (subject to court order) if that person has parental responsibility for the day-to-day care, welfare and development of a child or young person. It is intended to cover all the practical arrangements associated with matters such as bedtime, pocket-money, clothing, hair-cuts, whether make-up may be worn, baby-sitting, short trips away, routine visits to and treatments by doctors and dentists etc, who a child or young person associates with (and how, when and where they do it), providing school lunches and uniforms and consenting for school excursions etc. The list is not intended to be exhaustive.

19. Likewise this clause attempts to indicate the range of matters for which a person is responsible (again subject to court order) if that person has parental responsibility for the long-term care, welfare and development of a child or young person. It is intended to cover matters such as managing financial affairs, determining the religious faith or the type of schooling or employment to be followed by the child or young person, consent to elective medical treatment or surgery (subject to the Act and other laws), and arranging a passport for international travel. If it is not clear whether a person who has day-to-day responsibility under the previous clause can do a certain thing, then at least a person with long-term responsibility may do it

Chapter 3 - Proceedings under this Act generally

This Part describes how a child or young person may be represented before the court.

20. This clause is authority for the principle that a child or young person has a right to take part in proceedings concerning himself or herself.

21. This clause anticipates that a child or young person may be represented in court (whether in criminal or child protection matters) by a lawyer or another person or both; but a next friend or litigation guardian may only act with leave of the court. The child or young person, and any person proposed to be appointed to represent a child or young person, are to have a say in the appointment. The clause also provides that whoever the representative is, he or she must put the child's or young person's views or wishes to the court and must indicate to the court whether he or she is acting in the best interests of the child or young person or on their instructions.

22. This clause requires the court not to continue with proceedings (again whether in criminal or child protection matters) unless the child or young person has a lawyer or has had an opportunity to get legal representation although the court may appoint a litigation guardian or a lawyer to represent the child. For Parts 5 and 6, in addition to matters in the last clause, a lawyer must act on the instructions of the client/child or young person who is of sufficient age, maturity and level of understanding to give instructions (though this age etc may vary from child to child); but must otherwise act in the best interests of the child or young person in accordance with the objects and principles of the Act.

23. This clause allows for the court to hear together more than one application under the Act about a child or young person (e.g. if a young person is the subject of criminal and child protection proceedings simultaneously), or applications about more than one child or young person whose cases are related (e.g. child protection proceedings concerning siblings or criminal proceedings concerning co-offenders).

Chapter 4 – Administration

This Part sets out the functions of the child welfare officer in relation to the Act.

24. This clause describes the child welfare officer's broad functions under the Act. It makes clear that services, supports and assistance for children and young people and their families may be provided directly by the child welfare officer or indirectly, which might, for example, be by funding of non-government agencies. Those services may cover the broad spectrum of children's welfare, including before, during and after such

time as the child welfare officer may have parental responsibility for a child or young person, when licensing child care or when young people are dealt with under the criminal law. The child welfare officer has power to do all things necessary or convenient for his or her functions.

25. This clause emphasises the child welfare officer's duty to operate in the same cooperative, supportive and inclusive manner that the Act describes elsewhere, including by observing objects and principles of the Act and by establishing methods for coordinating services and input from other stakeholders, providers and people concerned for the welfare of children and young people in Norfolk Island. While the range of matters for which the child welfare officer may provide is not closed, those matters may include accommodation, financial support, counselling, medical and like assistance, recreational and educational opportunities and clear inclusive ongoing care planning.

26. This clause specifically allows for the child welfare officer to request any public sector agency (such as police, schools, or hospitals and other medical services, whether or not they are established to provide services specifically for children and young people) to assist him or her in carrying out statutory functions under the Act. Agencies are to comply promptly with requests, with compliance in good faith protected as under the next clause.

27. This clause specifically allows for the child welfare officer to share (by providing or receiving) information concerning the operation of his or her functions relating to children and young people. It is intended to allow for provision, receipt and exchange of information in good faith with people in or outside Norfolk Island, without incurring liability for breach of privacy, defamation or other laws. It is intended to apply especially with respect to people with parental responsibility, carers and any relevant entities (again including police, schools, or hospitals and other medical services, whether or not they are established to provide services specifically for children and young people). The child welfare officer may give a person information he or she holds about the person.

28. This clause allows the child welfare officer to make general arrangements with suitable individuals or bodies - to be known in the Act as "carers" (and intended to include individuals, organisations, agencies and bodies corporate) - to exercise on behalf of the child welfare officer his or her parental responsibility for a child or young person. Even under such agreements particular children or young people are only to be cared for on specific authorisation by the child welfare officer under the next clause.

29. This clause provides for the child welfare officer to authorise (with written confirmation) a suitable carer who is willing to do so to exercise his or her parental responsibility for a particular child or young person. While any limit on the way in which that responsibility may be exercised will be set by the child welfare officer in the authorisation, by way of example it could be by what is commonly known as respite care, kinship care, shared care, crisis or temporary care and short, medium or long-term foster care. The provisions of the previous clause concerning agreement and suitability do not operate where a member of a child's or young person's kin is to be authorised.

30. For the purpose of monitoring the wellbeing of a child or young person for whom the child welfare officer has parental responsibility under the Act, this clause allows for the child welfare officer to enter premises at any reasonable time and with such assistance as is reasonable or necessary. For example social workers or other staff in the child protection area of the child welfare officer's department may visit a child at home, with police assistance if necessary. Staff must always produce identification if asked and must stop their actions if they cannot.

31. This clause allows for the child welfare officer to make arrangements for people when they leave care or cease to be under his or her parental responsibility, even if they are then over 18 years old.

32. This clause allows for valid delegation by the child welfare officer of any of his or her powers to a public sector employee.

Chapter 5 - Children and young people in need of care and protection

Part 5.1 - General

Division 5.1.1 - Preliminary

33. This clause defines terms for use in this Part. The term “abuse” is defined to mean physical abuse, sexual abuse or emotional abuse. When combined with the term “neglect”, this four-part categorisation reflects nationally accepted delineation of “abuse types”. “Emotional abuse” is a term intended by this clause to be wider than abuse of a strictly psychological nature, but linked also to the concept of significant harm ensuing for the child or young person. While that concept is not in turn defined in the Act, it is intended to allow for the possibility that some things, though probably emotionally challenging to a child or young person in strict terms, may result in a level of harm to the child or young person which is not sufficiently significant to warrant ongoing intervention by the Administration.

Paragraph (ii) of the description of “emotional abuse” brings in the notion that exposure of a child or young person to domestic violence (as described in the *Domestic Violence Act 1995*) may be of such psycho-social impact that it causes him or her significant harm.

This clause also links the concept of “neglect” to failure to provide necessities of life such as food, shelter, clothing or medical care (though these categories are deliberately not closed).

34. This clause has the effect of introducing the term “contact” to Norfolk Island law, to describe the interaction a child or young person may have with others. It is intended to focus on the right of the child or young person to have contact with those others, rather than on any apparent right of the others to have “access” to the child or young person.

35. For the purposes of this Part the term “former caregiver” is introduced. Where parental responsibility has shifted as a result of the operation of the Act (e.g. by court order or the taking of “emergency action”), the former caregiver is the person who was providing care for the child or young person prior to that shift. Where a voluntary care agreement is to be entered into, the former caregiver is the person caring for the child or young person at the time the agreement is being proposed. In both cases the term is not intended to cover a person such as a day carer or baby-sitter.

36. This clause allows the application of the provisions of this Part to all people reasonably believed by a court or other decision-maker to be under 18 years old, but requires that those provisions cease to operate as soon as the court or decision-maker becomes aware that the person is actually an adult.

37. As a counterpart to the previous provision this clause states that this Part ceases to have effect for people once they turn 18, with the exception that the clause does not operate to direct that a person serving a criminal sentence is to be released from that sentence by virtue only of the fact he or she has turned 18.

Division 5.1.2 - Abuse and neglect

38. This clause outlines the circumstances in which a child or young person may be considered to be in need of care and protection. It links this concept to the 2 critical strands of (a) abuse or neglect having occurred in the past, occurring in the present, or being likely to occur in the future and (b) there being no person with parental responsibility being willing or able to do something to prevent it.

The circumstances described in sub-clause (2) are not intended to be an exhaustive list of the matters which will satisfy both strands, but at the time of enactment it is anticipated they will cover the great majority of such matters. Hence for example they cover a range of circumstances: from there simply being no person with parental responsibility to provide adequate care and protection for the child or young person (whether because such people have died or disappeared or for any other reason); to there being a serious or persistent conflict between the child or young person and those with parental responsibility for him or her; to there having been sexual exploitation of the child or young person or threats to his or her life.

39. This clause allows for the event amounting to a child or young person being in need of care and protection under the previous clause to be one which occurs outside Norfolk Island - the critical nexus remains that given in clause 9.

40. This clause allows for any person (whether in or outside Norfolk Island) to report to the child welfare officer their reasonable belief or suspicion about a child or young person being in need of care and protection.

41. This clause requires certain people listed in sub-clause (1) to report to the child welfare officer their reasonable work-related suspicions of sexual abuse or non-accidental physical injury to a child or young person. In relation to the range of people mandated, note: the definition of "school" in the dictionary (for paragraph (1)(b)); also that only carers at child care centres are covered (not individual family day carers - for paragraph (1)(e)).

42. This clause requires that a report must not be made in bad faith.

43. This clause describes the action the child welfare officer may take on receiving a report, ranging from no action, to child protection appraisal, to emergency or court action. It includes the provision of voluntary support for families and assisting with kinship placement arrangements.

44. In addition to any other requirement of public sector legislation, this clause requires the child welfare officer to keep a record of reports of suspected abuse etc made under clauses 40 or 41 and of any ensuing child protection appraisal. In relation to the child welfare officer, disclosure of that record and the report is prohibited by later provision.

45. This clause protects those making reports in good faith under clauses 40 or 41 in that it renders reports valid exercises of professional or ethical conduct and immunises "reporters" from civil or criminal liability. In addition reports and their contents are neither admissible nor compellable in court or tribunal proceedings, except in child protection proceedings under the Act or through the reporter personally. The only other time reports are not protected in this way is in relation to charges or allegations in proceedings about the proper exercise of powers etc by a person (whether the child welfare officer, the reporter or other) under the Act.

Part 5.2 Voluntary action

Division 5.2.1 Voluntary care agreements

46. This defines what a party is for the purposes of this Division.

47. If a child or young person is in need of assistance the child welfare officer is empowered by this clause to enter into a voluntary care agreement for up to 6 months whereby the child welfare officer may share parental responsibility.

48. This clause sets the circumstances under which a voluntary care agreement may be extended beyond 6 months.

49. This clause allows for a young person over school age to be able to consent to an extension of a voluntary care agreement.

50. This clause makes it clear that a voluntary care agreement is not void or voidable just because a party who has parental responsibility is not an adult.

51. This clause makes the voluntary nature of agreement clear by providing that a voluntary care agreement may be terminated by a party at any time by giving notice to the other parties.

52. When a voluntary care agreement expires or is cancelled this clause provides what action is to be taken in relation to the child or young person concerned.

53. This clause provides that the child welfare officer may agree with a person with parental responsibility for a child for that person to contribute to the maintenance of the child or young person but that contribution must not be greater than the amount contributed by the Administration to the maintenance. Once the payment is agreed any arrears can be recovered as a debt due to the Administration.

Division 5.2.2 Appraisal and assessment.

54. This clause describes as a "child protection appraisal" what is likely to be a major part of the day-to-day work of the child welfare officer and his or her delegates in supporting families and children. Hence if the child welfare officer reasonably believes a child or young person is in need of care and protection at any time, he or she may arrange to: see, meet, talk with or visually examine a child or young person; interview people; give, request and receive information; and request special assessments (described in the next clause).

As was laid down in the principles to the Act, the clause calls again for cooperative child protection activity, but recognises that it may be necessary for the child welfare

officer to request specific matters (which if not met may become the trigger for the child welfare officer to seek an assessment order).

55. This clause outlines the classes of assessment which may form a special assessment as part of the child welfare officer's child protection appraisal process or for an assessment order, or for the purposes of assessment of young offenders. As the range of specific matters which may amount to a child being in need of care and protection is impossible to describe in advance, the list of assessment types is deliberately broad, ranging from general medical and social assessment to psychological and psychiatric testing and even surgery in limited circumstances; with possible assessors including social workers, psychologists, doctors (general or specialist) or other appropriately qualified people.

56. This clause precludes special assessment in certain circumstances, namely: where a child or young person, who is sufficiently mature to make a reasoned decision as to consent to the assessment, does not consent; where penetration of the skin or certain body cavities is intended and a person with parental responsibility has not consented; or where the child welfare officer with parental responsibility has not consented. However assessments may go ahead in the absence of otherwise relevant consents under a court's order or if they are primarily for saving life, preventing serious damage to health, relieving significant pain or setting broken or dislocated bones.

57. This clause allows for the child welfare officer to seek, and the police to provide, assistance with assessments, for example in entering and searching a place, seizing things or taking photographs etc, or requesting information. The clause creates penalties (and defences) for certain non-compliance as well as immunity from liability for certain compliance.

58. This clause requires (with penalty for failure) those assessing people under this Division to provide a report of their assessment to the child welfare officer unless the court orders otherwise.

Part 5.3 - Care and protection orders and emergency action

This Part describes orders that may be sought from the court for the care and protection of children and young people. Orders are divided into "short" and "final". Short orders are intended to be available quickly and in an uncomplicated manner, and may be for one-off events (such as assessment) or last in the short term (generally to a maximum of 18 weeks). Final orders may require more intense deliberation and may be long-term (even until a young person turns 18).

Division 5.3.1

General

59. This clause defines the type of short care and protection orders (i.e. assessment, specific issues, therapeutic protection, residence and contact orders) and final care and protection orders for which application may be made under this Chapter.

60. This clause clarifies that the basis for an application under this chapter by the child welfare officer is his or her reasonable belief, or in the case of assessment - reasonable suspicion, that a child or young person is in need of care and protection.

61. This clause enables a person other than the child welfare officer to seek leave to make an application to the court after consultation with the child welfare officer.

62. This clause makes clear that the civil burden of proof applies to care and protection proceedings.

63. This clause allows for information to be withheld on the basis of legal professional privilege or self-incrimination.

64. This clause applies the cooperative, inclusive principles of the Act to the courtroom situation by requiring the court to give a person a reasonable opportunity to be heard before imposing an obligation on him or her.

65. This clause ensures that a care and protection application must state what order is sought and on what basis.

66. This clause makes clear that once proceedings are on foot other parties who seek an order should cross-apply on the child welfare officer's applications, again stating particulars of the order sought and the grounds relied on by the cross-applicant. Orders which may be sought on cross-application are further detailed in clauses 82 and 119 and in connection with therapeutic protection orders in Division 5.3.5. In the ordinary course

of events the onus will lie on the cross-applicant to make the case for the order sought on any cross-application.

67. This clause provides that the court is not to give leave for a cross-application unless satisfied that there are reasonable grounds for believing that the child or young person in question would be in need of care and protection if an order was not made on the cross-application.

68. This clause allows for interim care and protection orders to be made during adjournment of proceedings for short or final care and protection orders. The court need not make a full determination of whether the child or young person is in need of care and protection before making such an interim order, but rather need only be satisfied that the child welfare officer reasonably believes that the child or young person would be in need of care and protection if an order was not made. (A similar test applies for the making of assessment orders).

69. Once an application for a care and protection order of any type has been made, this clause allows for the court to make whatever care and protection order it considers is in the best interests of the child or young person, provided the prerequisites for the relevant order have been made out.

70. If an application for a care and protection order of any type has been made, this clause allows for the court to exercise its powers under other legislation to make a domestic violence or restraining order, or both, in addition to or in substitution for any order sought or any interim order the court makes.

71. This clause mirrors the preceding clause in connection with the court making a final care and protection order.

72. This provides that a person cannot apply for a protection order if there is no care and protection order application before the court but such an application can still be made under the *Domestic Violence Act 1995*.

73. This clause provides that a protection order under this Act is to be taken as having been made under the *Domestic Violence Act 1995* thereby providing various forms of action that can be taken under that Act.

74. This clause provides for the making of contact orders whenever there are care and protection proceedings on foot (or where orders are already in place). There is a rebuttable presumption in favour of people with parental responsibility having contact, and siblings do not need leave to be joined as parties if appropriate, but other people seeking contact will have the onus of proving that the contact they seek is in the best interests of the child or young person. As contact is seen as a positive focus on the right of the child or young person to interact with others (rather than a right of adults, for example, to have access to him or her), contact orders are to be reserved for allowing contact, with disallowance of contact achieved by specific issues order (or as a final care and protection order).

75. Likewise where proceedings are on foot (or where orders are already in place) this clause allows for the court to make orders about the people with whom a child or young person is to reside. This clause also provides that (in addition to any day-to-day or long-term parental responsibility) the way for the court to give a person authority to determine where a child or young person is to live is by making a residence order in favour of that person.

76. This clause provides that a person who has a residence order concerning a child or young person can allow him or her to be away temporarily, for example on holiday, whether in or outside Norfolk Island.

77. This clause makes clear that a supervision order concerning a child or young person may require a person to report to, present the child or young person to, or hold discussions with, the named supervisor, and in any event allows the supervisor to meet or speak to the child or young person alone if necessary.

78. Where a person has been served with, or knows (or ought reasonably to know) about a short or final care and protection order having been made, this clause creates offences and penalties for non-compliance with the orders (whether in or outside Norfolk Island), especially orders requiring a person not to live with a child or young person.

Division 5.3.2 - Short care and protection orders

79. This clause provides that the court is to give initial consideration to applications and cross-applications within 2 days of them being filed, but may then adjourn the proceedings for up to 7 days at a time subject to the next clause.

80. In line with the notion that short care and protection orders are intended to be available quickly and in an uncomplicated manner, this clause requires the court to commence the final hearing of a short care and protection application (i.e. both the main application and any cross-application which may have been made on it) within 14 days of the main application having been filed. (Note that a therapeutic protection order application is to be dealt with within 2 working days.)

81. This clause provides for the maximum length of short care and protection orders. Assessment orders are to last for 4 weeks maximum (or, with extensions, up to an aggregate of 8 weeks maximum - see next clause); therapeutic protection orders for up to an aggregate of 8 weeks; other short care and protection orders are to last for 18 weeks maximum. Exceptions to these limits are where an assessment order or specific issues order is continued during adjournment of proceedings for a final care and protection order, or where a therapeutic protection order is made as a final care and protection order (in which case it may still only be made for 8 weeks at a time maximum, but that period may be renewed on application to vary the order).

82. This clause allows for parties to short care and protection order proceedings, or people named in short care and protection orders, to apply to extend, vary or revoke the orders. Extension orders may only take maximum aggregates to, for assessment orders and therapeutic protection orders - 8 weeks, and for other orders - 18 weeks. If an order would otherwise have expired after an application is filed but before it is determined, the court may adjourn the matter (and thereby extend the order) for up to 7 days only.

Division 5.3.3 - Assessment orders

83. This clause provides for the child welfare officer's applications for assessment orders where voluntary cooperation with assessments cannot be achieved, including by telephone etc in urgent cases.

84. This clause makes clear that cross-applications on the child welfare officer's assessment order application may only be for orders for special assessment.

85. This clause outlines the type of orders the court may make for the purposes of child protection appraisal or special assessment, including authorising the child welfare officer to arrange assessment, requiring a person (not just a child or young person) to be assessed or to present another person for assessment, and providing for information and documents to be gathered.

86. This clause provides that the court need not make a full determination of whether the child or young person is in need of care and protection before making an assessment order, but rather it must at least be satisfied that the child welfare officer reasonably believes that the child or young person would be in need of care and protection if an order was not made. The court is also required to pay close attention to the capacity of a child or young person to consent (or withhold consent) to any assessment proposed to be ordered.

87. This clause allows for the child welfare officer to call on the same assistance as is referred to in clause 57 when carrying out an assessment under an assessment order.

88. This clause requires an assessor under an assessment order to provide a report about his or her assessments to a person named in the order and to the court if the court orders it.

89. This clause allows for the court, even of its own motion, to make any care and protection order it considers appropriate to implement a recommendation arising from an ordered assessment.

Division 5.3.4 - Emergency action

90. This clause allows the child welfare officer or a police officer to take action (including by force and with assistance as reasonably necessary) for the immediate care and protection of a child or young person in an emergency, whether by keeping the child or young person at a place (e.g. a hospital) or by moving him or her to another place (e.g. a kinship or foster placement).

91. Where a police officer has taken emergency action under the last clause, this clause provides that he or she must inform the child welfare officer and people with parental

responsibility as soon as practicable, and take the child or young person to such place as the child welfare officer nominates.

92. By this clause parental responsibility following emergency action vests in the child welfare officer (if he or she, or his or her delegate or officer, took the action) or, if a police officer if he or she took the action. When the police officer tells the child welfare officer about his or her action under the last clause, his or her parental responsibility shifts to the child welfare officer, but the child welfare officer may authorise the police officer to continue taking steps relating to the child or young person.

93. This clause provides that the parental responsibility gained under the last clause (whether by the child welfare officer or a police officer or a combination of them) may only be exercised to cater for the immediate care and protection of the child or young person and only lasts for an aggregated maximum of 2 working days following the day on which the action was taken, unless those 2 working days are separated by a Saturday, a Sunday and a public holiday. In the latter case the matter is to be brought before the court (if necessary) on the next sitting day of the court following the day the action was taken. For example if the action is taken on the Thursday before Easter, and the following Friday and Monday are public holidays but the court sits on Saturday, the matter will come before the court on the Saturday.

94. This clause provides for the child welfare officer to notify people with parental responsibility for the child or young person about the emergency action, and the court.)

95. This clause provides for the action the child welfare officer may take if he or she has parental responsibility following emergency action, including arrangements for child protection appraisal and placing the child or young person with an appropriate carer.

96. While there is no requirement for the child welfare officer to apply to the court for an order following every emergency action (for example there may be no need if the issue which led to the action being taken can be resolved in the best interests of the child or young person on a voluntary basis), this clause provides that if the child welfare officer does apply for an order the court is to give initial consideration to the application on the day of application.

97. This clause requires the person in whom parental responsibility has vested following emergency action to allow the child or young person reasonable contact with siblings and those with parental responsibility for him or her, provided that contact need not be arranged if not in the best interests of the child or young person.

98. This clause requires the child welfare officer to keep written records of emergency actions.

99. This clause allows for the child or young person, or a person with parental responsibility for him or her, or his or her former caregiver, to apply in the period immediately following emergency action for the release of the child or young person from the parental responsibility of the child welfare officer or a police officer. However the court may not make an order to this effect unless satisfied that proper arrangements exist for the care and protection of the child or young person.

Division 5.3.5 - Therapeutic protection orders

100. This clause states that common law or statutory powers of the child welfare officer are not limited by this Division, but that to the extent that this Division is contrary to the law creating those powers this Division prevails (where permissible at law).

101. This clause describes "therapeutic protection" as care provided at a place for a child or young person by the child welfare officer, where the child or young person is confined in an appropriate way to protect him - or herself from serious harm.

102. This clause stipulates that therapeutic protection may only be provided under a therapeutic protection order (whether for the purposes of a short or final care and protection order).

103. This clause requires the court to be satisfied that the child or young person is in need of care and protection (or would be so in need if no order was made) before making a therapeutic protection order. Such an order may have conditions attached and operates as a residence order and a specific issues order in favour of the child welfare officer giving the child welfare officer responsibility for the day-to-day care, welfare and development of the child or young person.

104. This clause sets out the prerequisites of which the court must be satisfied before making a therapeutic protection order, including matters pertaining to: why the child's or young person's needs are said to require the order; the therapy or program that is to be put in place for him or her; and the time, date and duration for which the therapeutic protection is expected to be provided (and in the case of extensions - has been provided). Sub-clause (3) provides that the court is not required to rehear a matter completely where variation of a therapeutic protection order is sought, for example to extend the period of the order. Instead the court may take previous findings of fact into consideration.

105. This clause describes some of the types of action the child welfare officer may take when providing therapeutic protection for a child or young person, including restricting exit from a place, using reasonable force, personal searches, close or constant supervision and restriction on contact.

106. This clause limits the matters for which cross-application on a therapeutic protection application may be made to orders for special assessment, specific issues or residence.

107. This clause allows for the child or young person, or a person with parental responsibility for him or her, or his or her former caregiver, or the community advocate to apply for variation or revocation of a therapeutic protection order, and requires the child welfare officer, once served with such an application, to file particulars of therapeutic protection already provided.

108. This clause provides that the court must hear and determine applications for therapeutic protection orders within 2 working days of their filing, but allows for cross-applications to be dealt with (including adjourned) in accordance with clause 66.

109. This clause provides that if the child welfare officer limits contact by a child or young person with others, that limit must not: unreasonably restrict contact with siblings or those with parental responsibility.

110. While there is no requirement for where therapeutic protection may be provided, this clause provides that it may not be provided in premises used mainly for remandees or to confine criminal offenders.

111. This clause requires the child welfare officer promptly to respond to a request by the Chief Executive Officer to provide a schedule detailing how and when therapeutic protection has been provided for a child or young person subject to a therapeutic protection order.

112. This clause links to Division 5.3.7. by providing that where a therapeutic protection order is made as a final care and protection order, it may still only be made for 8 weeks at a time maximum, but that period may be renewed on application to vary the order.

113. This clause requires the executive member to annually review the operation of the Act in relation to therapeutic protection and report to the Legislative Assembly how the Act is working in connection with the matters stated in the clause.

Division 5.3.6 - Specific issues orders

114. This clause allows for the court to make specific issues orders (being orders, other than assessment or therapeutic protection orders, relating to the care and protection of a child or young person) if the court is satisfied that there are reasonable grounds for believing that the child or young person is in need of care and protection (or would be so in need if no order was made). The types of matter on which the court may make orders include matters relating to parental responsibility, the provision of information, the absence or removal of a person from a place where a child or young person lives, the requirement for no contact with the child or young person, referral to the Mental Health Tribunal, supervision or other matters.

115. This clause limits the matters for which cross-application on a specific issues application may be made to orders for other specific issues, special assessment or residence.

116. This clause requires the court, when making, varying or extending certain specific issues orders (namely those about the absence or removal of a person from a place where a child or young person lives, about the requirement for no contact with the child or young person, or directing a person as to certain stated things) to cause the orders to

be served on the relevant person, the community advocate and the police amongst others. The clause makes specific provision for personal, substituted or assisted service in certain circumstances (for example when a person is believed to be particularly violent).

Division 5.3.7 - Final care and protection orders

117. This clause provides that the court is to give initial consideration to applications and cross-applications for final care and protection orders within 5 working days of them being filed, but may then adjourn the proceedings. Adjournments may only be made on the proviso that the court commences the final hearing of the application (i.e. both the main application and any cross-application which may have been made on it) within 10 weeks of the main application having been filed. If this 10 week deadline is not met for any reason, orders or directions in force at the time continue to apply until the matter is determined.

118. This clause limits the matters for which cross-application on a final care and protection application may be made to orders for special assessment, specific issues or residence.

119. This clause provides that before adjourning an application under this Division: the court must define matters in dispute, consider the length of the hearing required in the matter, and give directions; and the court may extend or revoke specific issues or assessment orders then in place, order that a meeting take place, and make certain "interim orders" relating to the care and protection of the child or young person. (Note that these orders are considered to be interim to the extent that they only apply during the adjournment period, even though they may be fully-fledged as orders in themselves (e.g. for assessment).)

120. This clause provides that a court-ordered meeting referred to in the last clause must be presided over by a court nominee (who is to report to the court on the outcome of the meeting), and attended by the child welfare officer and people with parental responsibility for the child or young person (with optional attendance by their representatives, other parties and their representatives, and certain other people). Strict confidentiality attaches to meeting proceedings except as may be allowed for by consent of the parties or order of the court.

121. This clause relates to variation of the interim orders the court may make under clause 119 by providing that application for variation is to be heard and determined within 5 working days of filing, with an order made for variation, dismissal or such other matter as is open to the court under clause 119. If the variation application is not determined before the subject order would otherwise have expired, the order continues in force until the matter is determined.

122. This clause provides that assessment and specific issues orders made as "interim orders" on final care and protection applications may be appealed from as if they had been short care and protection orders.

123. This clause provides that the court may determine an application for a final care and protection order by declaring that the child or young person is in need of care and protection and making a final care and protection order. Such a declaration will be a matter for the court's decision and may not be admitted to by a party; such an order may be for a set period and made to create arrangements for the proper care and protection of the child or young person, or to preserve arrangements already in place, and may include an order that the child welfare officer supervise the child or young person, an order for parental responsibility (including an order for enduring parental responsibility to last until the child or young person turns 18, referral to the Mental Health Tribunal or another order.

In line with clause 11, the court would not be required to make a declaration, or having made a declaration would not be required to make an order, if it did not consider it to be in the best interests of the child or young person to do so; but the court is not to make an order without first having made a declaration (except if the order is a domestic violence, restraining or contact order).

124. This clause links to clause 112 in relation to the renewal of the period of a therapeutic protection order made as a final care and protection order.

125. This clause allows for the court, when making a parental responsibility order whether in favour of one or more people, to state limits on the various responsibilities that may apply under the order.

126. This clause requires the court to consider a “care plan” filed by the child welfare officer before making a final care and protection order.

127. This clause describes a care plan as the child welfare officer’s written plan (generally to be served on all parties if filed in court) for proposals concerning the care and protection of the child or young person, including as to allocation of parental responsibility, type of proposed placement for the child or young person, restoration to and contact with his or her family, and the services and supports to be provided to him or her by the child welfare officer or other agencies.

128. This clause relates to enduring parental responsibility orders. It defines “proposed carer” as a person who has cared for the child or young person under a care and protection order for at least 2 of the 3 years preceding the application, and “previous carer” as a person who has had parental responsibility for the child or young person other than under a care and protection order.

Where the court is satisfied that no previous carer has cared for the child or young person for at least 2 of the 3 years preceding the application, and no such person can or will do so in future (or it is not in the best interests of the child or young person for them to do so), the court may make an enduring parental responsibility order in favour of a proposed carer whom it believes is appropriate, willing and able to exercise day-to-day and long-term responsibility for the child or young person. The court may not make an order concerning an indigenous child or young person unless it has given a relevant indigenous organisation reasonable opportunity to comment on the proposed order.

An enduring parental responsibility order operates as a residence order in favour of the named carer and confers on him or her (or them) day-to-day and long term responsibility for the child or young person until he or she turns 18.

(Note that unlike adoption, it is not intended that an enduring parental responsibility order operate to change the status of parentage of the child or young person.)

129. This clause makes clear that an enduring parental responsibility order cannot be made in favour of the child welfare officer, though it does not preclude the making of an order under another clause which confers parental responsibility on the child welfare officer which happens to last until the child or young person turns 18.

130. This clause gives the person who has an enduring parental responsibility order priority in the exercise of that responsibility over others who may also have parental responsibility.

131. In relation to enduring parental responsibility orders, this clause allows for the child welfare officer in his or her discretion to arrange for financial or other assistance to the person with parental responsibility under the order. In other cases the clause also allows for the court to order that a person with parental responsibility contribute financially (giving rise to a recoverable debt due to the Administration) to the cost of care for a child or young person for whom the child welfare officer has parental responsibility. Otherwise a court order imposing a financial cost on a person is to be borne by the person.

132. This clause allows for parties to proceedings in which a final care and protection order was made, or other people, to seek leave of the court to apply to vary or revoke the order in a manner stated in the application. While leave may be given to previous parties more readily under this clause than to other people, no person may apply, other than in exceptional circumstances, more than once in any 12 month period. The onus of proof that the variation or revocation sought is in the best interests of the child or young person will rest on each applicant.

133. As to the orders available on an application for variation or revocation of a final care and protection order, this clause provides that the court may substitute or add any order open to it as a final care and protection order, or change the period or vary a term or condition of the subject order.

134. If the variation application under clause 132 is not determined before the subject order would otherwise have expired, the order continues in force until the matter is determined.

135. While the Act does not require court-based annual review of final care and protection orders, this clause directs that, for children or young people for whom the child welfare officer has parental or supervisory responsibility, the child welfare officer is to prepare and distribute annual reports on the circumstances of the child or young person, on the child welfare officer's fulfilment of terms of the order and on whether the arrangements in place at the time of reporting continue to be in the best interests of the child or young person.

Copies of the report are to be provided to the child or young person, people with parental responsibility for him or her, his or her carer, the community advocate and the court; and to be provided in the tenth month following the making, and each anniversary of the making, of any ongoing order (and/or the second-last month of orders lasting 6-12 months, or of orders made for a period which is less than 6 months short of a multiple of 12 months). The clause also makes provision for the child welfare officer to give a report to a person such as an interpreter or doctor to assist in bringing the contents of the report to the attention of one of the people mentioned above, and for the child welfare officer to make minor adjustments to the report before distribution to protect privacy and confidentiality of people named in it as required.

136. This clause describes the circumstances in which the child welfare officer is not required to provide a report to a person under the last clause, being where he or she considers that to do so would not be in the best interests of the child or young person or where a relevant person cannot reasonably be found.

In those circumstances the child welfare officer is required to apply to the court for an order waiving the obligation to provide the report. While service of that application will not be required on a person who cannot be found, service of the application at least will still be required on people otherwise entitled to the report. The court may hear an application *ex parte* if necessary and may refuse waiver, or may make any appropriate orders including to waive the obligation in whole or in part.

137. Where the child welfare officer is due to provide a report about a child or young person subject to a final care and protection order under clause 135, but has not done so or obtained an order waiving compliance, the community advocate may apply to the court for an order for production within 14 days and the court may extend the order for up to 1 month in the meantime.

Division 5.3.8 - Safe custody

138. This clause provides for the issue of warrants on application by the child welfare officer, a police officer or an officer in situations where a child or young person is placed in danger by the breach of an order of the court or where he or she is unlawfully absent or has unlawfully been removed from the place where he or she is supposed to be under an order. Note that, in the interests of increasing the likelihood of locating and recovering a child or young person (especially if it is necessary for a warrant to be executed interstate under the *Commonwealth Service and Execution of Process Act 1992*), there is no requirement for the magistrate issuing the warrant to specify the address at which the warrant must be executed.

Those executing warrants may use necessary reasonable force and assistance, and having taken the child or young person into safe custody must place him or her in the place stated in the warrant (or where the child welfare officer directs) and arrange for the matter to be brought back before the court within 1 working day.

139. This clause gives the court power, when a matter is brought back before it after execution of a warrant under the last clause, to make or vary care and protection orders (including assessment orders) or other orders as appropriate.

Division 5.3.9 - Representation of wishes of child or young person

140. In line with the entitlement of a child or young person to take part in proceedings relating to him - or herself (as expressed in clause 12), this clause requires the court to give him or her reasonable opportunity to give the court his or her views or wishes personally if desired.

141. In addition to receiving a child's or young person's wishes in person, this clause also allows the court to receive those views or wishes through a representative, a report or other means.

142. This clause stipulates that the court cannot force a child or young person to express his or her views or wishes.

Division 5.3.10 - Procedures

143 This clause provides that the Court of Petty Sessions Act and its rules of procedure apply to matters brought under this Act but where there is any inconsistency this Act prevails.

Chapter 6 - Transfer of child care and protection orders and proceedings

This Chapter mirrors model legislation already developed nationally between all other Australian jurisdictions and New Zealand for the transfer of child care and protection orders and proceedings between participating States (including New Zealand).

Part 6.1 - Preliminary

144. This clause describes the object of this chapter in terms of it being desirable to arrange transfers of orders and proceedings for the best and most timely protection of children or young people who move or propose to move between jurisdictions.

145. This clause defines certain terms to encompass courts and proceedings in the different jurisdictions to which transfers under the chapter may relate, and allows for the executive member to declare for the purposes of the Chapter that certain laws are "child welfare" or "interstate" laws and certain people are "interstate officers".

Part 6.2. - Transfer of certain child care and protection orders

Transfers of orders to participating States under this Part may be effected by administrative officers (such as the child welfare officer in Norfolk Island) in certain circumstances or otherwise by the courts.

Division 6.2.1 - Administrative transfers

146. This clause allows for the child welfare officer to transfer "home" (i.e. Norfolk Island) orders (with conditions as appropriate) if similar orders (and conditions) exist in the destination jurisdiction, but only if the orders are not subject to appeal and consents by relevant interstate officers and the people described in the next clause are in place. When considering whether a similar order could be made in the other jurisdiction, the child welfare officer is to disregard the period for which such an order may be made; but, on transferring, the child welfare officer is to set the period of the order as the period remaining to run on the order in Norfolk Island or as close a period to that period as could be made in that jurisdiction.

147. This clause requires people who have parental responsibility, residence orders or contact orders in relation to a child or young person (as well as the young person him - or herself if over the school-leaving age) to give consent to transfer before orders can be transferred administratively, provided that if the child or young person (or a person with parental responsibility for him or her) already lives in the proposed destination jurisdiction, it will be sufficient if the relevant people simply consent to the child or young person living there.

148. This clause requires the child welfare officer to give a young person (i.e. 12 or more years old), those people who can reasonably be found with parental responsibility for any child who is the subject of the transfer (i.e. not just if the subject person is 12 or over), any relevant notice of the decision to transfer within 3 working days of that decision.

149. This clause restricts to 10 working days the time within which a person may apply for judicial review of the child welfare officer's transfer decision, with such application to operate as a stay of the decision.

Division 6.2.2 - Judicial transfers

150. This clause allows for the court to order transfers of orders on the application of the child welfare officer if the orders are not subject to appeal and the relevant interstate officers have consented.

151. This clause describes the people on whom applications for transfer of orders are to be served by reference back to chapter 5.

152. This clause allows for the court to transfer "home" (i.e. Norfolk Island) orders (with conditions as appropriate) if similar orders (and conditions) exist in the destination

jurisdiction. Unlike administrative transfers, however, the court may also order transfer by making another type of order available in the other jurisdiction if it considers it in the best interests of the child or young person to do so. When considering whether a similar order could be made in the other jurisdiction, the court is to disregard the period for which such an order may be made; but, on transferring, the court is to set the period of the order as a period that could be made in that jurisdiction.

153. When considering transfer, this clause provides that the court is to have regard to whether the child welfare officer or an interstate officer is better able to provide for the care and protection of the child or young person, and to the desirability of the order operating under the law of the jurisdiction in which the child or young person is.

154. This clause requires the court to consider a care plan filed and served by the child welfare officer before making a transfer order.

155. This clause restricts to 10 working days the time within which a person may appeal to the Supreme Court (on a point of law) against a transfer order of the court, with such application to operate as a stay of the decision. The Supreme Court is empowered under this clause to make short care and protection orders pending its determination of an appeal, which determination may include remitting the matter to the court for rehearing.

Part 6.3 - Transfer of child care and protection proceedings

156. This clause allows for the court to order transfers of child care and protection proceedings on the application of the child welfare officer if the relevant interstate officers have consented, with such proceedings being discontinued in the court in Norfolk Island when the transfer order is registered in the relevant interstate court.

157. This clause requires the child welfare officer as soon as possible to give a young person (i.e. 12 or more years old), those people with parental responsibility for any child who is the subject of the transfer (i.e. not just if the subject person is 12 or over), and the community advocate a copy of the application for transfer of proceedings.

158. When considering transfer, this clause provides that the court is to have regard to whether there are or have been child care and protection proceedings concerning the child or young person in the proposed destination jurisdiction, the place where matters giving rise to the proceedings arose and the place where the child or young person, a person with parental responsibility for him or her or certain other people are living or likely to live.

159. This clause requires the court to make interim orders for up to 30 days duration for the care and protection of the child or young person when making a transfer of proceedings order. Such orders may confer parental or supervisory responsibility on a person (including a person in the other relevant jurisdiction), and may subsequently be varied, extended or revoked by a relevant court in the other jurisdiction.

160. This clause restricts to 10 working days the time within which a person may appeal to the Supreme Court (on a point of law) against a transfer of proceedings order of the court, with such application to operate as a stay of the decision but not of the interim order made under the last clause. The Supreme Court is empowered under this clause to make interim orders pending its determination of an appeal (or to stay, vary, extend or revoke existing interim orders). Final determination on appeal may include remitting the matter to the court for rehearing.

Part 6.4 - Registration

161. This clause provides for the child welfare officer to file in the court orders from other participating jurisdictions for the transfer of care and protection orders or proceedings, together with any interim orders made on transfer, as long as the time for appeal, review or stay of those orders has passed and they are not subject to such appeal, review or stay.

162. Under this clause registrars of courts in which transferred orders are registered under this chapter must notify relevant interstate courts and officers of the registration, or of the revocation of any such registration. The registrar of the court in Norfolk Island is to notify the child welfare officer, who in turn is to notify certain people.

163. By this clause registered orders are to be treated as if they were orders made by the court on the day of registration and as orders which may be varied, revoked, extended or enforced accordingly. Interim orders made on transfer are to be treated on

registration in Norfolk Island as short care and protection orders under the Act, which may also be varied, revoked, extended or enforced accordingly. Proceedings transferred under this chapter are to be treated on registration as having commenced in Norfolk Island on the day of registration.

164. This clause limits the circumstances in which revocation of registration of interstate orders may be sought to situations where the transfer order was subject to appeal, review or stay or the time for such appeal, review or stay had not expired in the "sending State". Such applications may be made by the child welfare officer, the child or young person concerned, a person with parental responsibility for him or her or a person who was a party to the proceedings in the sending State. Revocation does not prevent later re-registration (for example when the time for appeal, review or stay has expired or when any such action has been dismissed).

Part 6.5 - Miscellaneous

165. Where registration of an order is revoked under the last clause, this clause provides that the order in the sending State revives and runs for the remainder of the period for which it would have run if there had been no transfer. (One practical effect of revival would be that the child welfare officer's reporting obligations under clause 135 would apply as from the date of the original order.) Otherwise registration is to have the effect of causing the order in the sending State to cease to have effect.

166. On transfer, and after the time for any appeal, review or stay or determination of such action, this clause requires the registrar of a transferring court to send to the relevant court in the "receiving State" any documents on the sending court's file about the order or the proceedings from that court.

167. This clause states that the court is not bound by a finding of fact made in a court from which an order or proceeding was transferred, but allows for the court to have regard to the transcript of, or evidence led in, that other court.

168. This clause allows for the child welfare officer to give to an interstate officer such information concerning the care and protection of a child or young person as the child welfare officer considers is necessary for the interstate officer to perform his or her child welfare duties.

The clause also deals with disclosure by the child welfare officer of any information received by the child welfare officer from an interstate officer under a corresponding interstate law, which is equivalent to a report made to the child welfare officer under clauses 153 and 154 of this Act.

Chapter 7.

Appeals and review

This chapter describes which decisions of the court may be appealed to the Supreme Court

169. This clause provides that reference to an order includes a decision.

170. This clause describes the various class of appeal that may be taken to the Supreme Court.

171. This clause provides that the *Court of Petty Sessions Act 1960* applies to appeals that are authorised under section 170.

172. This clause prescribes the kind of order the Supreme Court can make in respect as a matter taken to it on appeal.

Chapter 8 -

General offences

This chapter makes certain actions concerning children and young people (such as tattooing or concealing) offences.

173. When a person is charged with an offence against the Act involving a child or young person then if the child or young person appears to the court to be under the relevant age, then that raises a presumption that the child is of such age but that presumption can be rebutted by evidence to the contrary.

174. This clause makes it an offence for a person to break, cause to be broken or assist in the breaking of the conditions of an order concerning a child or young person made in Norfolk Island, a State or New Zealand.

175. This clause makes it an offence for any person to harbour or conceal or assist in so doing a child or young persons who is absent without authority from a place where they have been placed under an order.

Chapter 9 - Powers of entry and search

This chapter sets out powers of entry and search, including under warrant, and describes the procedures to be followed when conducting a personal search of the clothing or body of a child or young person.

176. This clause clarifies what kinds of thing may be taken as being connected with offences. This is important because of the power to seize things connected with an offence.

177. This clause extends the meaning of "offence" to include when there are reasonable grounds for belief that one has been committed and is required to support an application for a warrant or to justify urgent action.

178. This clause empowers a police officer or the child welfare officer to enter premises in accordance with a warrant or where it is a matter that is serious and urgent to do so with or without a warrant.

179. This clause provides the formalities to be followed in applying for a search warrant.

180. This clause describes the circumstances under which a police officer or child welfare officer can enter premises without a warrant.

181. This clause provides that entry to premises may be made with consent but must not take place in these circumstances unless the person whose consent is required has been informed that they do not have to give consent.

182. This clause provides for personal searches of children and young persons when they are suspected of having in their possession anything that could cause serious damage to the health or life of themselves or someone else and for the persons who can perform the searches.

183. This clause prescribes the procedure for carrying out personal searches including where they may be done and who must be present.

184. This clause provides that where anything is seized as a result of a search it must be recorded along with a description of the thing and the date it was seized and the thing must be held for safekeeping and returned in due course unless it is a thing that could cause damage to the health or life of the person or another person.

Chapter 10 - Standards

This chapter provides for the executive member to publish standards to be applied for the purposes of the Act.

185. The executive member is empowered to make standards for the purposes of the Act in relation to the care to be provided by the child welfare officer for children for whom parental responsibility is held. The standards are a disallowable instrument.

Chapter 11 - Confidentiality and immunity

This chapter prohibits certain uses of information relating to children or young people and provides for certain immunities from suit.

186. This clause prohibits (with penalty) disclosure of information acquired under the Act otherwise than for the purposes of the Act or as required by law.

187. This clause prohibits (with penalty) the divulgence of a report or information in a report made in Norfolk Island, made as an appraisal of such a report or of an interstate report.

188. This clause protects a person acting in good faith from civil liability when disclosing information, answering questions or providing reports for the purposes of the Act.

189. Similarly this clause gives the child welfare officer or delegate immunity from civil proceedings for actions or omissions made in good faith and without negligence for the purposes of the Act.

Chapter 12 - Miscellaneous

This chapter consists of a variety of provisions relating to material in other chapters of the Act

190. This clause seeks to ensure that in all proceedings before any court a child or young person understands the proceedings and is aware of appeal rights.

191. Under this clause the child welfare officer or someone appointed so to do is to appear and be heard and to call witnesses but this does not apply in relation to care and protection proceedings.

192. Under this clause a person providing care of any kind for a child or young person must do what is required to safeguard and protect the child or young person.

193. When a child or young person voluntarily enters into a hospital, police station or refuge, if a person reasonably believes that no one who ought to know, knows of the child or young person's presence there, the person in charge must notify an appropriate person of that fact.

194. This clause provides for certain certificates of police officers or the child welfare officer to be evidence of the matters stated in the certificate.

195. This clause empowers the executive member to determine by disallowable instrument, fees payable under the Act.

196. This clause empowers the executive member to approve forms for the Act. The approval is a disallowable instrument.

197. This clause empowers the Administrator to make Regulations for the Act.

198 This clause repeals the *Child Welfare Act 1937* and the *Child Welfare Agreement Act 1941*.

Dictionary

The dictionary is an extensive aid to interpretation of terms and expressions used in the Act and relates back to clause 3. It defines some terms directly and others by relating back to relevant sections. Thank you Mr Speaker. I commend the Bill to the House

SPEAKER Thank you Mrs Jack. Is there any further debate Honourable Members. There being no further debate I call on the Minister

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

SPEAKER The question is that debate be adjourned and the resumption of debate made an Order of the Day for a subsequent day of sitting

QUESTION PUT
AGREED

The Ayes have it. Debate is so adjourned Honourable Members

SOCIAL SERVICES (AMENDMENT NO. 2) BILL 2009

MRS JACK Thank you Mr Speaker I seek leave to present the Social Services (Amendment No. 2) Bill 2009 dated the 14th July 2009

SPEAKER Is leave granted Honourable Members? Leave is granted. Please continue Mrs Jack

MRS JACK Thank you Mr Speaker I present the Social Services (Amendment No. 2) Bill 2009 and move that the Bill be agreed to in principle. Thank you Mr Speaker I will be reading the explanatory memorandum of this amendment Bill into Hansard. Mr Speaker this Bill proposes to make provision for the creation from time to time of special benefits to be paid to low income families and individuals in situations where economic circumstance, whether as the result of Administration policy or legislation or external effect, may make such action desirable in the public interest. The Bill introduces a new section 26A that— (1) empowers the executive member to decide that money benefits should be paid to some members of the community whose income is below a level determined by the member. The determination must be gazetted and is subject to disallowance by the Legislative Assembly; (2) requires a determination by the executive member to be in accordance with a recommendation by the Norfolk Island Social Services Board; (3) sets out the broad criteria that may be used to determine eligibility including setting different

levels or ranges of eligible income base, and the various classes of persons or family that might be made eligible; (4) limits the class of possible eligible persons to those normally resident on Norfolk Island while also making it clear that certain classes of person will not be eligible (including certain cases where a person may have a reasonable expectation of receiving compensation); (5) permits the executive member to apply the provisions of section 34 to persons who may have a right to compensation rather than apply the provisions of subparagraph (4)(b)(iii); (6) deems certain matters to be income for the purpose of the application of a determination under the section thereby minimising possible attempts to obtain an improper benefit; (7) makes it clear that applications for a benefit under the section must be made, as with all other benefit applications, in accordance with section 30; (8) requires that a benefit under the section must be paid by direct deposit to a bank; (9) empowers the executive member to attach conditions to the grant of a benefit under the section. Mr Speaker I would just like to say that already under the Social Services Act there is already a section 26(a) that covers special benefits, however, that is a discretionary benefit designed to cater for people who don't fit into other recognised categories within the Act and those categories are say, invalid, aged, handicapped, children, orphans and widows. It's an emergency area 26(a). It is determined and you have to meet the people seeking the benefit, they have to meet certain categories which is that they must be suffering hardship, they must prove that they are unable to earn, and that they are not qualified for another benefit. This is another type of special benefit that does not fit into those categories. It is and let me highlight this point, this Bill is legislation for a new type of special benefit, one that takes account of Government policy and external economic factors outside our control. Thank you Mr Speaker and I'll table that explanatory memorandum

MR SHERIDAN

Thank you Mr Speaker, just a few quick words on this. I think this area of special benefit has been a long time coming. Previously it's been very hard for people with low income to qualify for a benefit unless as the Minister pointed out, they qualified under the hardship provisions of 26(a) and you had to justify or you had to make a determination that you were suffering hardship and that you were unable to earn. In this instance, this benefit is purely for those people who are able to earn, but may not necessarily be in hardship but they are finding things tough to rationalise all their expenditure due to their low income, and that may as the Minister said, that may be because of some Government policies, they may have various reasons as to why they are unable to earn more income, so this benefit recognises the need that we support our low income earners on Norfolk Island in the way of providing a small benefit to assist them through their hard times. It must be, I believe, that it won't be an ongoing thing like a pension, they would have to I would presume through every six months or so, have to requalify so if their circumstances change, the Minister can correct me if I'm wrong, but if their circumstances change well then they'll be taken off, it's not a thing that will continue until the day they pass, but I believe it's a long time coming, this sort of benefit to make it a little bit easier for our low income earners on Norfolk Island and I do note that we don't discriminate between whether they are resident or a permit holder, as a GEP or TEP, it applies to everyone if they do qualify but I would imagine that if you do hold a TEP and you are on this benefit for quite some time, then you would have to realise that your tenure on Norfolk Island would most probably be cut short because it's part of your requirement on your permit. Thank you

MRS JACK

Thank you Mr Speaker just a couple of issues there, already on the broader aspects of special benefits, it's every three months for review and it would be determined if ever this is used, a determination would come in on how often that would be reviewed. As for being something where if you believe you are a low income person you can come in and now apply for a special benefit, that is determined by our policy on what category we are looking at in regards to income. It's

not just where you believe you may have a low income but you can come in and apply for a broad range of special benefits, it would be determined under a special category relating to a specific policy.

MR BRENDON CHRISTIAN Thank you Mr Speaker, I agree with what Mr Sheridan said, wholly and just for clarification for myself and maybe the public, this is a direct result of the rebate for GST done through the Social Services, is that correct

MRS JACK Thank you Mr Speaker no. This is purely in relation to Government policies being formulated both now and in the future so that if the Legislative Assembly 's of the day believe that it is necessary to look into possible benefits, that those policies can be brought into action under this section

MR MAGRI Mr Speaker thank you and just in relation to that, I think, and I know it's not appropriate to reflect of a past Bill but both the Child Welfare Bill and the Social Services Amendment Bill that the Minister has brought in are both initiatives that intend to provide a layer of care and protection for two of the more vulnerable sectors of the community and I applaud the Minister for bringing both of them forward and hope that they get speedy assent at the next meetings

MRS JACK Thank you Mr Speaker if I can, this is a schedule 3 matter and I'm asking that it lay on the table, both this amendment and another one that I'm bringing forward for a couple of weeks, hopefully they'll all be met then, but we'll be writing messages to accompany them for assent off island, Thank you

SPEAKER Any further debate Honourable Members. Then I call on the Minister for a final motion

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

SPEAKER The question is that debate be adjourned and the resumption of debate made an Order of the Day for a subsequent day of sitting

QUESTION PUT
AGREED

The Ayes have it. Debate is so adjourned Honourable Members

SOCIAL SERVICES (AMENDMENT NO. 3) BILL 2009

MRS JACK Thank you Mr Speaker I seek leave to present the Social Services (Amendment No. 3) Bill 2009 dated the 14th July 2009

SPEAKER Is leave granted Honourable Members? Leave is granted. Please continue Mrs Jack

MRS JACK Thank you Mr Speaker I present the Social Services (Amendment No. 3) Bill 2009 and move that the Bill be agreed to in principle. Mr Speaker I have a very short explanatory memorandum here that I'll read into Hansard and I table this explanatory memorandum. This Bill proposes to put in place a further change to the *Social Services Act 1980* by removing the requirement that benefits be paid by cheque and instead requiring them to be paid by direct deposit to a bank account specified by the benefit recipient or such other manner determined by the executive member. Payment by direct deposit to a bank account is now commonplace within the community. Direct deposits are instantaneous and have proved to be a highly

efficient and secure mode of funds transfer. Mr Speaker I see this more as an Administrative

And one that I believe is well overdue and I seek Members support. And if I just may add to that, it is my intention to leave this bill sitting on the table, waiting for our next sitting as well. Thank you

The tape for this section is faulty.

It may be possible to recover the lost recording. Until this is done, the Minutes of Proceedings are inserted into Hansard

SPEAKER Any further debate Honourable Members. Then I call on the Minister for a final motion

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

SPEAKER The question is that debate be adjourned and the resumption of debate made an Order of the Day for a subsequent day of sitting

QUESTION PUT
AGREED

The Ayes have it. Debate is so adjourned Honourable Members

JUSTICE LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2009

SPEAKER Honourable Members we resume debate on the question that the Bill be agreed to in principle and Mr Gardner you have the call to resume

MR GARDNER Thank you Mr Speaker

SPEAKER Any further debate. I put the question that the Bill be agreed to in principle

QUESTION PUT
AGREED

The Bill is agreed to in principle

We now move to the detail stage. Is it the wish of the House to dispense with the detail stage. We so dispense. I call on Mr Gardner

MR GARDNER Mr Speaker I move that the Bill be agreed to

SPEAKER Thank you Mr Gardner. Any further debate? The question is that the Bill be agreed to Honourable Members and I put that question

QUESTION PUT
AGREED

Thank you. The Bill is so agreed to

FIXING OF THE NEXT SITTING DATE

Thank you Honourable Members we move to the fixing of our next sitting day

MR MAGRI Mr Speaker I move that the House at its rising adjourn until Wednesday 29th July 2009, at 10.00 am.

SPEAKER Thank you Mr Magri. Is there any debate Honourable Members. No, then I put the question that the motion be agreed to

QUESTION PUT
AGREED

The motion is agreed to. We move now to adjournment

ADJOURNMENT

MR SHERIDAN Thank you Mr Speaker I move that the House do now adjourn

SPEAKER Thank you Mr Sheridan. Is there any further participation in adjournment debate Honourable Members?

MR GARDNER Thank you Mr Speaker, it's fair to say that there is a clear need for the establishment of a clear agenda for further discussions. I think Minister O'Connor is looking forward to meetings in future between the Government's that has a clear set agenda and are looking for clear outcomes from those agenda items and I certainly would support that as we do recognise that there is a need to finalise a number of matters and I'm pleased to say that Minister O'Connor in his mind, was clear about establishing that agenda. As far as the time frames are concerned, because I know that was part of Mr Brendon Christian's question to the Chief Minister about when some of these things might be resolved or when the taskforce might be established, certainly I reinforce the view of the Chief Minister on his understanding of the outcome of that meeting that Minister O'Connor is very keen to see the establishment of that taskforce for obvious reasons. To clearly establish the best system of financial management, taxation, revenue raising measures in Norfolk Island going forward. Important I think also to point out that he was keen to emphasise the fact that these are discussions between Governments and as such if a party disagrees then it shall be noted and we will move on to the next item or the next agenda and I clearly take from that his willingness to want to work with us in trying to resolve those issues. It should not be taken, I don't believe it should be taken in any form or fashion that he was attempting to dictate to us the terms of those meetings and the way they would be managed going forward but he is very clear in his own mind that he wants to find the resolution to a lot of the outstanding issues that have caused us concern and consternation over the last twelve months or so. I think it's also important to add that in those discussions he continues to raise the questions that have been raised by many of his predecessors that were touched on by the Chief Minister and I think in those discussions I raised the fact that he was now the seventh Federal Minister I have worked with in our ongoing discussions and workings with the Commonwealth and that the subject matter of those discussions hadn't changed a great a deal over all of those years and all of those Ministers but clearly there is a want to resolve them by both parties and I think that agreement has been had that we will set a firm agenda but I want to just emphasise the fact that there is a timeliness about that, that is required to be met. We don't have months in my view because if it's months, then all of the discussions that we have had as this Government will be swamped by impending election and therefore further delayed so it is important that a lot of the preliminary work and discussion is had so that meaningful decisions are made by both this and subsequent Governments and at least the groundwork has been prepared and I welcome the establishment of the taskforce and the commitment by both the Norfolk Island Government through the Chief Minister and also the Commonwealth Government through Minister O'Connor that they see that as the way forward.

Mr Speaker I also wanted to just to make brief acknowledgement of the other meetings that were held last week in which I was a participant, one of them was the meeting with the tourism wholesalers which we try to hold every three or four months or at least three times a year and that was held in Sydney and it was pleasing to see that we had a record turnout of representatives from all of our wholesale partners and included representatives of our marketing people DDI, the representatives of the Tourist Board, the General Manager of the Tourism Board and airline representatives and both Minister Christian and myself in attendance in our respective roles as Minister for Tourism and Minister for the Airline. There were clearly a number of issues that had been and remain of concern to some of the wholesalers and I mean some of them because they all operate in very different field and under very different models and some of those concerns relate to the Norfolk Island Government Tourist Bureau website and the presence of the Bookeasy system on that website. That was raised by two of the wholesalers. One of them who will not direct any of their business or interest to the Norfolk Island Government Tourist Bureau website for the fear that the Bookeasy booking engine will take business away from the wholesaler and that's a valid argument. There was one of the other wholesalers had similar concerns, but I gave an undertaking that we will continue to monitor that. We respect the arguments that have been put to us. I would probably venture to say that the Bookeasy booking system hasn't been the great success that we originally envisaged and for a number of reasons and some of those extend to downturn in interest in travel generally and travel to Norfolk Island still the lack of use of web booking systems in relation to travel to Norfolk Island despite the fact that some 30% of all travellers globally do use the website for booking. It's something that has not transpired in Norfolk Island and had a marked effect on travel to Norfolk Island so I guess in defence to Bookeasy system its hard to say that it has had an impact on wholesalers bottom line at all but I do understand the fact that you would not be keen to want to be directing traffic that shows an interest in purchasing your product to a website that shows a means of being able to book it independently. Obviously that clearly is of concern. I think generally most of the wholesalers see it that way. That it is not a great threat to them because they all understand the website booking presence generally, that's the 30% of all travellers that I refer to which just simply is not being translated in Norfolk Island as being an issue of major concern or having major impact on their bottom lines. Something obviously we need to be very conscious of because as we launch our branding arrangements which is scheduled for October, it is important that we are able to utilise all of the mechanisms available to us for promotion and marketing and getting the brand out there to the general public so if that means we have to modify the way that we present ourselves as a website or for people to source information on the destination before they either book on the web or go to their retail agent or through their wholesaler or however they plan to travel to Norfolk Island then so be it, we are going to have to make sure that we have a polished presentation that we are able to provide to the world. Generally the response to the branding has been exceptional. I think without exception all of the wholesalers commented on the positive attributes of at last branding Norfolk Island with one very clear message as far as a destination is concerned and with a brand that is going to be easily recognizable in the marketplace. It is important that when we talk about branding that we also recognise that our wholesale partners and many of their offshoots have their own brand themselves. Now whether that's Flightcentre and it's the red and white with the captain's hat on, or whatever it might be, they are the recognised brands or HWT for Hardy World Travel. They are their recognised brands. There is a concern by some that maybe those brands might swamp the Norfolk Island brand but I think a recognition that the detail and the creative that is attached to the Norfolk Island brand will be able to be promoted in harmony with those major entities brands themselves, in other words, with the colour scheme and with the message that's been sent etc so it's not a case of the major wholesalers and our offshoots brands that are going to swamp us and not going to use our material, they are keen to use our material. They just need clarification on how the material was proposed to be presented and it is not for us to go and swamp their brand. It is for us to act as a companion to the work that they're doing to feed them the material that will ensure that there is a

consistency of message in the marketplace and so I think with that in mind the general tenor of the meeting was certainly very much in support of the fact that we were moving down the branding mechanism but to ensure that there is going to be consistency in the message when we finally get to that point and that it is not thought by Tourism Norfolk Island to impose upon those wholesalers our brand for the sake of everything that they do in their own field and certainly I think that, that clarification will come more to the fore as we progress the implementation of the brand. You know our old campaigners Oxley Travel and others are very positive about the future going forward. Still some concerns about our place generally and the cost of airfares but as was pointed out by one wholesaler to me, when you look at the cost of airfares to competitive destinations like Lord Howe and the Cook Islands, we are cheaper than both of those destinations. I think it's probably fair to say that we enjoy visitation from Australia and to a greater degree to Norfolk Island than both of those destinations combined so I've picked on a couple of small destinations but they were the examples that were given to me. It's not necessarily the price of an airfare but some people will always continue to argue that it's the cost of the airfare that is our greatest drawback. Others, pointed out how incessant drive by operators on Norfolk Island to continually be increasing their mark ups on an annual basis in excess of 10% sometimes, and that is a concern to them. There is a recognition by them that there is a need for operators on Norfolk Island to probably be a little more realistic about the market place in which they are operating and the market that they are trying to attract when it comes to their pricing structures. But certainly a lot of discussion that came out of the meeting was very positive and a couple of those other concerns I've highlighted and we'll continue to work with our wholesale partners, but all in all it was a very positive meeting. I'm not privy to the discussions that were had on a one on one basis between representatives of the Norfolk Island Government Tourist Bureau and the airline and the wholesalers because clearly that is a forum that allows them to maybe vent their spleen or be a little more positive about their strategic approach to marketing and promoting Norfolk Island that you wouldn't as a rule generally share with a forum as the wholesalers meeting is where you have a table of a dozen or so competitors sitting and listening and hanging onto every word that you say but in saying that, those one on ones, which have been fairly recent introductions into the wholesalers meetings, have been positive, and have been well accepted by our wholesale partners. Thank you Mr Speaker

MRS JACK Thank you Mr Speaker I'm just wondering Minister you say the wholesalers show their concern over proposed 10% increases by some of the people on the ground here. I just voice my concern over the way that wholesalers seem to want to package Norfolk Island, with the agreement I realise that with people on the ground, to come for seven nights and only pay for four. That has a detrimental effect on the package we are trying to sell on the product that is Norfolk Island and my concern is yes, we need to get people through the door but are we in some way cheapening our product too much

MR GARDNER Thank you Mr Speaker, if I could respond to that. As I said in my introductory remarks the wholesalers meetings and the participants in the wholesalers meetings come from very different backgrounds and they have very different models. Some of them are clearly based on quantity and just rolling people through. Others are more specialist in their approach and like to build and experience that drives further business for them so they have different focus. So they're not all the same, they have different focus on the different levels of provision of services and some will want to like a mill just process bookings at the very cheapest price they can possibly get and drive for the best bargain. Others are more specific and will tell you that is not the way we operate. We look for a different type of market and we're looking at a market that has the dollars and cents to spend and they're not worried about the airfare, they're not worried about the cost of accommodation, their primary concern is about making sure that when they leave Norfolk Island and return home that they have experienced value for money across the board and not just been churned through the mill so to speak so, there are some that will continue to push for that type of so called co-operation from

the local industry and there are others who are operating right across the spectrum and do things in very, very different ways and some of them are concerned about the continual increasing of costs of ground operators in Norfolk Island. That's not just tourism accommodation, it's across the board but I need to stress that no two are alike. They all operate in very different arrangements and different circumstances for different reasons and approach the market in different ways

MR NOBBS Thank you Mr Speaker just in brief. We would normally have the radio forum tomorrow morning, however we are in the process of finalising the GBE budgets so I'll need to consult the schedule for that then I'll co-ordinate it with the Broadcast Manager

SPEAKER Thank you. Any further debate Honourable Members. I now put the question that the motion be agreed to that the House do now adjourn

QUESTION PUT
AGREED

Therefore Honourable Members this House stands adjourned until Wednesday 29th July 2009, at 10.00 am.

