

**NORFOLK ISLAND  
TENTH LEGISLATIVE ASSEMBLY  
MINUTES OF PROCEEDINGS  
WEDNESDAY 22 SEPTEMBER 2004**

**NORF'K AILEN  
DIISEM MENETS LARNEN WATHING HAEPN  
INAA  
TENTH LEJESLIETEW 'SEMBLE  
WENDSI 22 SEPTEMBA 2004**

**1** The Legislative Assembly met at 10.03 am, the Speaker, Hon David E. Buffett AM, took the Chair and read the Prayer.

**2 CONDOLENCES**

Ms Nicholas recorded the passing of –

**Lillias Ellen Buffett**

As a mark of respect to the memory of the deceased all Members stood in silence

**3 PRESENTATION OF PETITIONS**

Mr Donaldson presented a supplementary Petition from certain electors of Norfolk Island requesting the Legislative Assembly to amend the Road Traffic (Amendment) Bill to –

1. Not make the wearing of seatbelts compulsory
2. Not implement random breath testing; and
3. Not prohibit people over the age of 5 years from sitting down in the tray of a truck (with sides of 300 mm or more) while the truck is in motion

The supplementary petition contained 29 signatories.

**4 QUESTIONS WITHOUT NOTICE**

**Mr Brown joined the meeting at 10.12 am  
The Deputy Speaker took the Chair at 10.30 am**

Time for questions having expired Mr Brown moved –

**THAT time for questions be extended by 5 minutes**

Question put and agreed to on the voices

**5 ANSWERS TO QUESTIONS ON NOTICE**

An answer was provided to question on notice no. 57 (Mr Brown to the Minister for Community Services and Tourism) re. discussions with the Public Service Association in relation to productivity gains and cost reductions

**6 PRESENTATION OF PAPERS**

The following papers were tabled:

- (1) Mr Donaldson, Minister for Finance -
  - (a) Financial Indicators for July 2004
 Mrs Jack moved –

**THAT the House take note of the paper**

Debate ensued

Question put and agreed to on the voices

- (b) Expenditure from Executive Members vote for year ended 30 June 2004
  - (c) Virements from 22 June to 26 July, 2004
  - (d) Directions under the Public Moneys Act re unexpended appropriation
  - (e) Customs exemptions
  - (f) Employment Tribunal Annual Report for the year ended 30 June 2004
- (2) Mr Buffett, Minister for Community Services and Tourism, tabled the Inbound passenger statistics for August 2004

## 7 STATEMENTS OF AN OFFICIAL NATURE

- 1) Mr Buffett, Minister for Community Services and Tourism, gave an overview of discussions held and decisions taken at the recent Norfolk Island Fisheries Consultative Committee meeting held on the Island
- (2) Mr Donaldson, Minister for Finance –
- (a) reported on progress with tenders for the airport runway reseal project  
Mr Robinson moved –

### THAT the Statement be noted

Debate ensued  
Question put and agreed to on the voices

- (b) briefed Members on the proposed sale of three Administration properties  
Mr Brown moved –

### THAT the House taken note of the Statement

Debate ensued  
Question put and agreed to on the voices

## 8 MESSAGES FROM THE OFFICE OF THE ADMINISTRATOR

The Deputy Speaker reported –

**Message No. 35** from the Administrator advising that on 25 August 2004 he declared his assent to the *Public Moneys Amendment Act 2004* and the *Firearms Amendment Act 2004* and reserved for the pleasure of the Governor-General the Legislative Assembly (Amendment No. 1) Bill 2004 and the Legislative Assembly (Register of Members' Interests) Bill 2004

**Message No. 36** from the Administrator under section 24 of the *Norfolk Island Act 1979* advising that on 31 August 2004, His Excellency the Governor-General, acting on the advice of the Federal Executive Council, declared that he withheld assent to the Legislative Assembly Amendment Bill 2003

Mr Buffett, Minister for Community Services and Tourism, moved –

### THAT the House take note of Message No. 36

Debate ensued  
Question put and agreed to on the voices

**9 CUSTOMS ACT 1913 - EXEMPTION FROM PAYMENT OF CUSTOMS DUTY**

Mr Donaldson, Minister for Finance, pursuant to notice, moved –

**THAT, under subsection 2B(4) of the *Customs Act 1913*, this House recommends to the Administrator that the goods specified in the first column of the Schedule imported by the person specified opposite, and on the conditions mentioned, in the second column of the Schedule be exempted from duty -**

**SCHEDULE**

**Column 1**

**Column 2**

**Goods**

**Safety Equipment -  
EPIRBS and flare packs -  
amount of duty applicable -  
\$1064.00**

**Importer/conditions**

**Norfolk Island Fishing Club**

**Conditions: Nil**

Debate ensued  
Question put  
The House voted –

**AYES, 3**  
**Mr Buffett**  
**Mr Donaldson**  
**Mr Nobbs**

**NOES, 5**  
**Mr Gardner**  
**Mrs Jack**  
**Ms Nicholas**  
**Mr Robinson**  
**Mr Brown**

Motion negatived

**The Deputy Speaker suspended the sitting at 12.28 pm until 2 pm  
The House resumed at 2 pm, the Deputy Speaker taking the Chair**

**10 PUBLIC SECTOR MANAGEMENT ACT 2000 – APPOINTMENT OF PRESIDING MEMBER OF THE PUBLIC SERVICE BOARD**

Mr Buffett, Minister for Community Services and Tourism, pursuant to notice, moved –

**THAT the Legislative Assembly, in accordance with paragraph 10(1)(a) of the *Public Sector Management Act 2000*, recommends that the responsible executive member appoint –**

**Nadia Lozzi-Cuthbertson**

**to be the presiding member of the Public Service Board for the period 22 September 2004 to 21 September 2005**

Debate ensued  
Question put and agreed to on the voices, Mr Brown abstaining

**11 REMOVAL OF PRISONERS BILL 2004 - DECLARATION OF URGENCY**

The Deputy Speaker reported that the Business Committee, under standing order 158, declared that the Removal of Prisoners Bill 2004 should be passed through all stages at this sitting

**12 REMOVAL OF PRISONERS BILL 2004**

Mr Gardner, Chief Minister, pursuant to notice, presented a Bill for an Act relating to the removal from Norfolk Island to prisons in New South Wales of prisoners and certain other persons, and for other purposes and moved –

**THAT the Bill be agreed to in principle**

**Paper:** Mr Gardner tabled the Explanatory Memorandum to the Bill

Debate ensued

Question put

Bill agreed to in principle

**Detail stage:**

Mr Gardner moved the following amendments:

**Amend Clause 9 as follows**

(a) In subclause (1) for “6(3)” substitute “8(3)”

(b) Delete subclauses (3)-(6) inclusive

Question – That the amendments be agreed to – put and agreed to on the voices

Question – That the clause as amended be agreed to – put and agreed to on the voices

Question – That the remainder of the Bill be agreed to – put and agreed to on the voices

Mr Gardner moved –

**THAT the Bill as amended be agreed to**

Question put

Bill as amended agreed to on the voices

**13 ANNUAL REPORTS BILL 2004**

Debate resumed (Mr Buffett, Minister for Community Services and Tourism) from 19 August 2004, on the question – That the Bill be agreed to in principle

Question put

Bill agreed to in principle on the voices

Leave granted to dispense with the detail stage

Mr Buffett moved –

**THAT the Bill be agreed to**

Debate ensued

Question put

Bill agreed to on the voices

**14 SELECT COMMITTEE INTO ELECTORAL AND GOVERNANCE ISSUES**

Debate resumed (Mr Brown) from 19 August 2004 on the question – That the Report be adopted

The House proceeded to debate each Recommendation

**Recommendations 1 and 2**

Mr Brown moved –

**THAT Recommendations 1 and 2 be noted**

Question put and agreed to on the voices

**Recommendation 3**

Debate ensued  
Mr Brown moved –

**THAT Recommendation 3 be agreed to**

Question put and agreed to on the voices

**Recommendation 4**

Debate ensued  
Mr Brown moved –

**THAT Recommendation 4 be agreed and referred to the 11<sup>th</sup> Assembly for Consideration/action**

Question put and agreed to on the voices

**Recommendation 5**

Debate ensued  
Mr Brown moved –

**THAT recommendation 5 be agreed to**

Question put and agreed to on the voices

**Recommendation 6**

Debate ensued  
Mr Brown moved -

**THAT paragraph 6(a)(i) be noted**

Debate ensued  
Question put and agreed to on the voices  
Mr Brown moved –

**THAT paragraph 6(a)(ii) be noted and referred to the 11<sup>th</sup> Assembly for its early consideration**

Debate ensued  
Question put and agreed to on the voices  
Mr Brown moved –

**THAT paragraph 6(a)(iii) be noted**

Debate ensued  
Question put and agreed to on the voices  
Mr Brown moved –

**THAT paragraph 6(a)(iv) be agreed to**

Debate ensued  
Question put and agreed to on the voices  
Mr Brown moved –

**THAT paragraph 6(a)(v) be agreed to**

Debate ensued  
Question put and agreed to on the voices  
Mr Brown moved –

**THAT paragraph 6(a)(vi) be referred to the 11<sup>th</sup> Assembly for such action as is deemed appropriate**

Debate ensued  
Question put and agreed to on the voices

Mr Brown moved –

**THAT paragraph 6(b) be agreed to**

Debate ensued

Question put and agreed to on the voices

Mr Brown moved –

**THAT paragraph 6(c)(i) be agreed to**

Debate ensued

Question put and agreed to on the voices

Mr Brown moved –

**THAT paragraph 6(c)(ii) be noted and referred to the 11<sup>th</sup> Assembly  
for such action as is deemed appropriate**

Debate ensued

Question put and agreed to on the voices

Mr Brown moved –

**THAT paragraph 6(c)(iii) be noted and referred to the 11<sup>th</sup> Assembly  
for such action as is deemed appropriate**

Debate ensued

Question put and agreed to on the voices

Mr Brown moved –

**THAT paragraph 6(c)(iv) be noted and referred to the 11<sup>th</sup> Assembly  
for such action as is deemed appropriate**

Debate ensued

Question put and agreed to on the voices

Mr Brown moved –

**THAT paragraph 6(c)(v) be agreed to**

Debate ensued

Question put and agreed to on the voices

Mr Brown moved –

**THAT paragraph 6(c)(vi) be noted and referred to the 11<sup>th</sup> Assembly  
for such action as is deemed appropriate**

Debate ensued

Question put and agreed to on the voices

Mr Brown moved –

**THAT paragraph 6(c)(vii) be noted**

Debate ensued

Question put and agreed to on the voices

Mr Brown moved –

**THAT paragraph 6(c)(viii) be agreed to**

Debate ensued

Question put and agreed to on the voices

Mr Brown moved –

**THAT paragraph 6(c)(ix) be noted**

Debate ensued

Question put and agreed to on the voices

Mr Brown moved –

**THAT paragraph 6(c)(x) be noted and referred to the 11<sup>th</sup> Assembly  
for such action as is deemed appropriate**

Debate ensued

Question put and agreed to on the voices

Mr Brown moved –

**THAT paragraph 6(c)(xi) be noted and referred to the 11<sup>th</sup> Assembly for such action as is deemed appropriate**

Debate ensued

Question put and agreed to on the voices

Mr Brown moved –

**THAT paragraph 6(c)(xii) be noted and referred to the 11<sup>th</sup> Assembly for such action as is deemed appropriate**

Debate ensued

Question put and agreed to on the voices

Mr Brown moved –

**THAT paragraph 6(c)(xiii) be noted and referred to the 11<sup>th</sup> Assembly for such action as is deemed appropriate**

Debate ensued

Question put and agreed to on the voices

Mr Brown moved –

**THAT paragraph 6(c)(xiv) be noted and referred to the 11<sup>th</sup> Assembly for such action as is deemed appropriate**

Debate ensued

Question put and agreed to on the voices

Debate on the recommendations having concluded, Mr Brown moved that the motion before the House be amended to reflect –

**THAT the Report as annotated be adopted**

Question put and agreed to on the voices

## **15 PLANNING (AMENDMENT) BILL 2004**

Debate resumed (Mr Gardner, Chief Minister) from 26 May 2004, on the question – That the Bill be agreed to in principle

Bill agreed to in principle on the voices, Mr Nobbs being absent from the Chamber

**Detail stage** -

Mr Brown moved the following amendment:

**That the following new clause be added:**

**“4A. Subsection 78(2) of the principal Act is repealed”**

Question – That the amendment be agreed to – put and agreed to on the voices

Question – That the clause as amended be agreed to – put and agreed to on the voices

Mr Gardner moved the following amendments:

**That the Bill be amended as follows:**

1. Insert new clause 9 –

**“Amendment of subsection 48(1)**

**9.** Subsection 48(1) of the principal Act is amended by replacing the word “less” with the word “more”.

2. insert new clause 10 –

**“Amendment of section 91**

**10. (1)** For subsection 91(2) substitute –

“(2) The Assembly, on the recommendation of the executive member, may resolve to appoint a person to investigate any matters specified in the resolution (being matters relating to those to which this section applies) and to make recommendations on those matters. Such resolution shall be published in the Gazette.”; and

**(2)** From subsection 91(3)

- (a) delete “is taken to be a Commission of Inquiry issued under the *Royal Commissions Act 1928* and”; and  
 (b) delete “under that Act” and insert “as described in the *Royal Commission Act 1928*.”

Question – That the amendments be agreed to – put and agreed to on the voices

Question – That the clauses as amended be agreed to – put and agreed to on the voices

Question – That the remainder of the Bill be agreed to – put and agreed to on the voices

Mr Gardner moved –

**THAT the Bill as amended be agreed to**

Debate ensued

Question put

Bill as amended agreed to

**16 ROAD TRAFFIC AMENDMENT BILL 2004**

Debate resumed (Mr Buffett, Minister for Community Services and Tourism) from 19 August 2004 on the question – That the Bill be agreed to in principle

**Acting Deputy Speaker Brown took the Chair at 4.50 pm**

Mr Nobbs moved –

**THAT the debate be adjourned**

Question put

The House voted –

**AYES, 2**

**Mr Nobbs**

**Mr Robinson**

**NOES, 5**

**Mr Buffett**

**Mr Gardner**

**Mr Donaldson**

**Mrs Jack**

**Ms Nicholas**

**ABSTENTIONS, 1**

**Mr Brown**

Motion negatived

Mr Gardner, Chief Minister, moved –

**THAT the question be put**

Question – That the question be put - put and agreed to on the voices, Mr Nobbs dissenting

Question – That the Bill be agreed to in principle – put



The House voted –

**AYES, 5**

**Mr Buffett**

**Mr Gardner**

**Mr Donaldson**

**Mrs Jack**

**Ms Nicholas**

**NOES, 2**

**Mr Nobbs**

**Mr Robinson**

**ABSTENTIONS, 1**

**Mr Brown**

Bill agreed to in principle

**Detail stage:**

Mr Buffett moved the following amendments:

**1. After Clause 5 Insert —**

**“Insertion of new section -**

**5A. The principal Act is amended by inserting immediately following section 15 —**

**“Permitting an unlicensed driver to drive a motor vehicle**

**15A. A person who is the owner of, or not being the owner is in control of, a motor vehicle must not knowingly permit a person to drive the motor vehicle if that person would thereby be in breach of a provision of section 15.**

**Penalty: (a) 3 penalty units; or**

**(b) in the case of a second or subsequent conviction — 10 penalty units.”.”**

**2. Amend Clause 8 as follows -**

**For subsection 44J(2) substitute —**

**“ (2) After December 31, 2004, no vehicle imported into Norfolk Island that has not been previously registered in Norfolk Island, may be registered unless it has been fitted with approved seatbelts or is exempt by Regulation from the requirements to fit seatbelts.”**

**3. Amend clause 12 as follows —**

**(a) Following subsection (3) substitute —**

**“ (4) The Committee is required to provide an annual report to the executive member on the operation of the Act for the preceding year ending 30 June, and its effectiveness, and may make recommendations for changes to the Act or the Regulations that may make it more effective in regulating road traffic for the purpose of improving road safety for persons in Norfolk Island.”**

**(b) Re-number subsection “(4)” as “(5)”**

**4. Delete clause 7.**

Question – That amendment No. 1 be agreed to – put and agreed to

Question – That amendment No. 2 be agreed to – put and agreed to

Question – That amendment No. 3 be agreed to – put and agreed to

Question – That amendment No. 4 be agreed to – put and agreed to

Mr Robinson moved the following amendments:

**1. Amend Clause 8 as follows:**

- (a) in section 44G(2)a) for “and” substitute “or”;  
 (b) Following subsection 44G(6) insert

“ (7) A person is exempt from wearing a seat belt if that person is over the age of 18 years.”

**2. Amend clause 11 as follows:**

**Following paragraph 40A(6)(c) insert**

“(d) over the age of 5 years sitting on the tray of a truck while the truck is moving if the truck has 4 sides that are at least 300mm high measured from the surface upon which the person is seated, and are securely fixed in place.”

Question – That amendment (1)(a) be agreed to – put  
 The House voted –

**AYES, 2**  
**Mr Nobbs**  
**Mr Robinson**

**NOES, 5**  
**Mr Buffett**  
**Mr Gardner**  
**Mr Donaldson**  
**Mrs Jack**  
**Ms Nicholas**

**ABSTENTIONS, 1**  
**Mr Brown**

Motion negatived

Question – That amendment 1(b) be agreed to – put  
 The House voted –

**AYES, 3**  
**Mr Nobbs**  
**Mr Robinson**  
**Ms Nicholas**

**NOES, 4**  
**Mr Buffett**  
**Mr Gardner**  
**Mr Donaldson**  
**Mrs Jack**

**ABSTENTIONS, 1**  
**Mr Brown**

Motion negatived

Question – That amendment 2 be agreed to – put  
 The House voted –

**AYES, 2**  
**Mr Nobbs**  
**Mr Robinson**

**NOES, 5**  
**Mr Buffett**  
**Mr Gardner**  
**Mr Donaldson**  
**Mrs Jack**

**ABSTENTIONS, 1**  
**Mr Brown**

Motion negatived

Debate ensued

Question – That the clauses as amended be agreed to – put and agreed to on the voices, Mr Nobbs and Mr Robinson dissenting

Question – That the remainder of the Bill be agreed to – put and agreed to on the voices, Mr Nobbs and Mr Robinson dissenting

Mr Buffett moved –

**THAT the Bill as amended be agreed to**

Question put

The House voted –

**AYES, 5**

**Mr Buffett**

**Mr Gardner**

**Mr Donaldson**

**Mrs Jack**

**Ms Nicholas**

**NOES, 2**

**Mr Nobbs**

**Mr Robinson**

**ABSTENTIONS, 1**

**Mr Brown**

Bill as amended agreed to

**The Deputy Speaker took the Chair at 5.30 pm**

**17 ROAD TRAFFIC (DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS)  
BILL 2004 - DECLARATION OF URGENCY**

The Deputy Speaker reported that the Business Committee, under standing order 158, declared that the Road Traffic (driving under the influence of alcohol or drugs) Bill 2004 should be passed through all stages at this sitting

**18 ROAD TRAFFIC (DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS)  
BILL 2004**

Mr Buffett, Minister for Community Services and Tourism, pursuant to notice, presented a Bill for an Act to amend the *Road Traffic Act 1982* and moved –

**THAT the Bill be agreed to in principle**

Debate ensued

Mr Nobbs moved –

**THAT debate be adjourned**

Question put

The House voted -

**AYES, 3**

**Mr Nobbs**

**Mr Robinson**

**Mr Brown**

**NOES, 5**

**Mr Buffett**

**Mr Gardner**

**Mr Donaldson**

**Mrs Jack**

**Ms Nicholas**

Motion negatived

Question – That the Bill be agreed to in principle – put

The House voted –

**AYES, 5**

**Mr Buffett**

**Mr Gardner**

**Mr Donaldson**

**Mrs Jack**

**Ms Nicholas**

**NOES, 3**

**Mr Nobbs**

**Mr Robinson**

**Mr Brown**

Bill agreed to in principle

**Detail stage:**

Mr Robinson moved the following amendments:

**Amend Clause 4 as follows:**

- (a) In section 32E, delete subsections (2), (3), (4) and (5)
- (b) remove references to the deleted sub-sections

Question – That the amendments be agreed to – put  
The House voted –

<b>AYES, 6</b>	<b>NOES, 2</b>
<b>Mr Gardner</b>	<b>Mr Buffett</b>
<b>Mr Donaldson</b>	<b>Mrs Jack</b>
<b>Mr Nobbs</b>	
<b>Ms Nicholas</b>	
<b>Mr Robinson</b>	
<b>Mr Brown</b>	

Amendments agreed to  
Question – That the clauses as amended be agreed to – put  
The House voted –

<b>AYES, 7</b>	<b>NOES, 1</b>
<b>Mr Buffett</b>	<b>Mrs Jack</b>
<b>Mr Gardner</b>	
<b>Mr Donaldson</b>	
<b>Mr Nobbs</b>	
<b>Ms Nicholas</b>	
<b>Mr Robinson</b>	
<b>Mr Brown</b>	

Clauses as amended agreed to  
Question – That the remainder of the Bill be agreed to – put  
The House voted –

<b>AYES, 7</b>	<b>NOES, 1</b>
<b>Mr Buffett</b>	<b>Mrs Jack</b>
<b>Mr Gardner</b>	
<b>Mr Donaldson</b>	
<b>Mr Nobbs</b>	
<b>Ms Nicholas</b>	
<b>Mr Robinson</b>	
<b>Mr Brown</b>	

Remainder of the Bill agreed to  
Mr Buffett moved –

**THAT the Bill as amended be agreed to**

Question put  
The House voted –

<b>AYES, 4</b>	<b>NOES, 4</b>
<b>Mr Buffett</b>	<b>Mrs Jack</b>
<b>Mr Gardner</b>	<b>Mr Nobbs</b>
<b>Mr Donaldson</b>	<b>Mr Robinson</b>
<b>Ms Nicholas</b>	<b>Mr Brown</b>

Bill as amended negatived

**Mr Nobbs left the meeting at 6.09 pm**

**19 EVIDENCE BILL 2004**

Debate resumed (Mr Gardner, Chief Minister) from 26 May 2004 on the question – That the Bill be agreed to in principle

**The Speaker took the Chair at 6.20 pm**

Debate ensued

Question put

Bill agreed to in principle on the voices, Mr Nobbs being absent from the Chamber

**Detail stage:**

Mr Gardner moved the following amendments:

**1. Clause 19 to be amended as follows —**

**In clause 19(a) – amend “1968” to “1960”**

**In clause 19(b) and (c) - delete words “of Norfolk Island”**

**2. Clause 119 – 4<sup>th</sup> last line – omit “or” where second appearing****3. Clause 160(3) - add before the definition of “*working day*” the following**

—

**“ ‘*an address in Norfolk Island*’ includes reference to the number of a post office box rented in the name of a person or at which a person’s correspondence and notices may be ordinarily sent.”**

**4. Clause 196 – delete “a local Court” and substitute “the Court of Petty Sessions”****5. Dictionary - in the definition of “Norfolk Island Record” – paragraph (a) omit “a”;**

**- in the definition of “Statistician” after “*Australian Bureau of Statistics Act 1975*” insert “of the Commonwealth”.**

Mr Brown, by leave, moved the following amendments:

**1. Delete clause 25****2. Delete the whole of Part 3.2 (sections 59 to 75 inclusive)****3. Delete clause 77**

Question – That amendment 1 be agreed to – put

The House voted –

**AYES, 2**

**Mr Robinson**

**Mr Brown**

**NOES, 5**

**Mr Buffett**

**Mr Gardner**

**Mr Donaldson**

**Mrs Jack**

**Ms Nicholas**

Question – That amendment 2 be agreed to – put and negated on the voices

Question – That amendment 3 be agreed to – put and negated on the voices

Mr Brown’s amendments negated

Question – That the clauses as amended be agreed to – put and agreed to on the voices

Question – That the remainder of the Bill be agreed to – put and agreed to on the voices

Mr Gardner moved –

**THAT the Bill as amended be agreed to**

Debate ensued

Question put

Bill as amended agreed to, Mr Brown dissenting

**20 ADJOURNMENT**

Mr Robinson moved –

**THAT the House do now adjourn**

Debate ensued with Mr Gardner, Ms Nicholas, Mrs Jack, Mr Robinson, Mr Donaldson  
and Mr Buffett participating

Question put and agreed to on the voices

**AND THEN the House at 6.52 pm adjourned**

Robin-Eleanor Adams  
**Clerk to the Legislative Assembly**

**MEMBERS PRESENT:** All Members were present