

1997
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Chief Minister)

Legislative Assembly (Privileges) Bill 1997

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1997
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Legislative Assembly (Privileges) Bill 1997

**A BILL
FOR**

**An Act to declare the non-legislative powers,
privileges and immunities of the Legislative
Assembly, and for related purposes**

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Legislative Assembly (Privileges) Act 1997*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.
- 10 (2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) The Minister shall consult the Speaker before fixing a day for the purposes of subsection (2).

5 (4) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Interpretation

3. (1) In this Act, unless the contrary intention appears—

“Assembly” means the Legislative Assembly;

10 “Assembly precinct” has the meaning given by section 11;

“Clerk” means the Clerk of the Assembly;

“committee” means —

(a) a committee of the Assembly; or

(b) a sub-committee of such a committee;

15 “court” includes any tribunal, authority or person having power to require the production of documents or the answering of questions;

“document” includes a part of a document;

“member” means a member of the Assembly;

20 “officer”, in relation to the Assembly, means the Clerk, the Deputy Clerk of the Assembly or any other person declared by the Speaker, by notice in the *Gazette*, to be an officer of the Assembly;

“Speaker” means the Presiding Officer of the Assembly under section 11 of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth.

25 (2) For the purposes of this Act, the submission of a written statement by a person to the Assembly or a committee shall, if so ordered by the Assembly or committee, be taken to be the giving of evidence in accordance with the statement by the person before the Assembly or committee.

PART II—POWERS, PRIVILEGES AND IMMUNITIES

30 Residual powers, privileges and immunities

4. (1) Except to the extent that this Act expressly provides otherwise, the powers of the Assembly and of its members and committees are the powers for the time being of the House of Representatives and its members and committees, respectively.

(2) In this section—

“powers” includes privileges and immunities but does not include legislative powers.

Freedom of speech

5 5. (1) To avoid any doubt, the provisions of article 9 of the Bill of Rights, 1688 apply in relation to the Assembly—

- (a) as if a reference in those provisions to proceedings in Parliament were a reference to proceedings in the Assembly; and
- 10 (b) as so applying, have effect in accordance with this section in addition to any other operation.

(2) In this section—

15 “proceedings in the Assembly” means all words spoken and acts done in the course of, or for the purposes of or incidental to, the transacting of the business of the Assembly or of a committee, and, without limiting the generality of the foregoing, includes—

- (a) the giving of evidence before the Assembly or a committee, and evidence so given;
- (b) the presentation or submission of a document to the Assembly or a committee;
- 20 (c) the preparation of a document for purposes of or incidental to the transacting of any such business; and
- (d) the formulation, making or publication of a document, including a report, by or pursuant to an order of the Assembly or a committee and the document so formulated, made or published.
- 25

(3) In proceedings in a court, it is not lawful for evidence to be tendered or received, questions asked or statements, submissions or comments made, concerning proceedings in the Assembly, by way of, or for the purpose of—

- 30 (a) questioning or relying on the truth, motive, intention or good faith of anything forming part of the proceedings in the Assembly;
- (b) otherwise questioning or establishing the credibility, motive, intention or good faith of a person; or
- 35 (c) drawing, or inviting the drawing of, inferences or conclusions wholly or partly from anything forming part of the proceedings in the Assembly.

(4) A court shall not—

5 (a) require to be produced or admit in evidence, a document that has been prepared for the purpose of submission, and submitted, to the Assembly or a committee and has been directed by the Assembly or a committee to be treated as evidence taken in camera; or

(b) admit evidence relating to such a document.

(5) A court shall not—

(a) admit evidence concerning any oral evidence taken by the Assembly or a committee in camera; or

10 (b) require to be produced or admit in evidence, a document recording or reporting such oral evidence;

unless the Assembly or a committee has published, or authorised the publication of, the document or a report of the oral evidence.

15 (6) In proceedings in a court concerning the interpretation of a law of the Territory, nothing in this section or the Bill of Rights, 1688 shall be taken to prevent or restrict—

(a) the admission in evidence of a record of proceedings in the Assembly the publication of which is authorised, or to be taken to be authorised, in accordance with section 6; or

20 (b) the making of statements, submissions or comments based on such a record.

25 (7) In proceedings for an offence against this Act, nothing in this section or the Bill of Rights, 1688 shall be taken to prevent or restrict the admission of evidence, the asking of questions or the making of statements, submissions or comments, in relation to proceedings in the Assembly to which the offence relates.

(8) Nothing in this section shall be taken to apply to proceedings in a court that commenced before the commencement of this section.

Authorised publications

30 6. (1) The Assembly may authorise the publication of a document presented to it or of evidence given before it.

(2) A committee may authorise the publication of a document presented to it or of evidence given before it.

35 (3) The Assembly shall be taken to have authorised the Clerk to publish—

(a) the notice papers, daily programs and minutes of meetings of the Assembly;

- (b) the reports of debates and proceedings of the Assembly; and
- (c) a document or evidence that the Assembly or a committee has ordered to be published.

5 (4) The Speaker may, in writing, authorise the Clerk to publish a proof version of a document referred to in subsection (3).

(5) An authorisation under subsection (1), (2) or (4) is subject to any condition specified in it.

(6) The Clerk shall ensure that copies of—

- (a) the minutes of meetings of the Assembly; and
- 10 (b) other documents that are authorised, or to be taken to be authorised, for publication in accordance with subsection (1), (2) or (3);

are available for supply to members of the public on payment of such fee (if any) as is determined under subsection (7).

15 (7) For the purposes of subsection (6), the Speaker may determine in writing—

- (a) fees; or
- (b) the rate at which fees are to be calculated.

20 (8) A determination under subsection (7) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Immunity for authorised publications

7. (1) No action, suit or proceeding lies against a person for publishing a document or evidence the publication of which is authorised, or to be taken to be authorised, in accordance with section 6.

25 (2) In proceedings concerning the publication of a document or evidence the publication of which is authorised, or to be taken to be authorised, in accordance with section 6, the court—

- (a) shall order a stay of the proceedings on production to the court of a certificate under section 22 to the effect that the publication is so
- 30 authorised; and
- (b) may order the respondent's or defendant's costs to be paid by the plaintiff or prosecutor, respectively.

(3) Nothing in this section shall be taken to affect a defence that a person would have apart from this section.

Immunity from arrest and attendance before courts

8. (1) A member shall not be required to attend before a court or be arrested or detained in a civil cause on a day—

- (a) on which the Assembly meets;
- 5 (b) on which a committee of which that member is a member meets; or
- (c) which is within 5 days before or 5 days after a day referred to in paragraph (a) or (b).

(2) An officer of the Assembly shall not be required to attend before a court or be arrested or detained in a civil cause on a day—

- 10 (a) on which the Assembly or a committee on which the officer is required to attend meets, or
- (b) which is within 5 days before or 5 days after a day referred to in paragraph (a).

15 (3) A person shall not be required to attend before a court or be arrested or detained in a civil cause on a day on which the person is required to attend before the Assembly or a committee.

20 (4) Except as provided by this section, a member, an officer of the Assembly or a person required to attend before the Assembly or a committee has no immunity from compulsory attendance before a court or from arrest or detention in a civil cause by reason of being a member or such an officer or person.

Summons to witness

9. (1) On the order of the Assembly, the Clerk may summon a person who is not a member to attend before the Assembly—

- 25 (a) to give evidence; or
 - (b) to produce a document or other thing specified in the summons;
- or to do both.

30 (2) On the order of a committee authorised by the Assembly to send for persons, documents or other things, the Clerk may summon a person who is not a member to attend before the committee—

- (a) to give evidence; or
 - (b) to produce a document or other thing specified in the summons;
- or to do both.

35 (3) A summons shall be in writing and shall be served on the person concerned.

Sworn evidence

10. (1) The Assembly may require a person who is summoned to attend before the Assembly to give evidence before the Assembly and be examined on oath or affirmation.

5 (2) For the purposes of subsection (1), the Clerk may administer an oath or affirmation to the person.

(3) A committee authorised by the Assembly to send for persons, documents or other things may require a person who is summoned to attend before the committee to give evidence before the committee and be examined on oath or affirmation.

10 (4) For the purposes of subsection (3), the presiding member of the committee may administer an oath or affirmation to the person.

PART III—ASSEMBLY PRECINCT

Precinct

15 11. (1) The Assembly precinct consists of the land described in subsection (2), and all buildings, structures and works on, above or under any of that land.

(2) The land within the Assembly precinct is—

- 20 (a) the land comprising Block 3, Section 19, Division of City, Canberra Central District;
- (b) that part of Civic Square over which the public entrance canopy projects; and
- (c) the land comprising the members' car-park, including that part over which the members' entrance canopy projects;

25 as represented by the hatched area in the plan in Schedule 1.

(3) In this section—

“Assembly Building” means the building occupying Block 3, Section 19, Division of City, Canberra Central District;

“members' car-park” means the land described in Schedule 2;

30 “members' entrance canopy” means the fixed canopy attached to the southern side of the Assembly Building near the members' entrance;

“public entrance canopy” means the fixed canopy attached to the northern side of the Assembly Building near the public entrance.

Speaker

12. A reference in this Part to the Speaker shall, if—

- (a) the Speaker is absent from duty; or
- (b) there is a vacancy in the office of Speaker;

5 be read as a reference to the Deputy Speaker of the Assembly

Control and management

13. (1) Subject to any direction by the Assembly, the Speaker is responsible for the control and management of the Assembly precinct and may take any action considered necessary for those purposes.

10 (2) In relation to the Executive area, the Speaker's functions and powers under subsection (1) shall be exercised in accordance with any limitations and conditions agreed in writing between the Speaker and the Chief Minister.

(3) In subsection (2)—

15 "Executive area" means the area of the Assembly precinct reserved for the use of the Executive by agreement in writing between the Speaker and the Chief Minister.

Removal of persons etc.

20 14. (1) The Speaker may, at any time, direct a person who is not a member—

- (a) to leave the Assembly precinct; or
- (b) not to enter the Assembly precinct.

25 (2) The Speaker may arrange for the removal or exclusion of a person directed under this section by such force, and with such assistance, as is necessary and reasonable in the circumstances.

(3) No action, suit or proceeding lies against the Speaker, or a person acting under the direction of the Speaker, in relation to an act or omission in good faith in the performance or purported performance of a function or duty under this section.

30 **Contravention of Speaker's direction**

15. A person shall not, without reasonable excuse, contravene a direction by the Speaker under subsection 14 (1).

Penalty: 50 penalty units, or imprisonment for 6 months, or both.

PART IV—MISCELLANEOUS

Prohibited publication etc.

- 5 **16.** A person shall not, without reasonable excuse, contravene an order of the Assembly or a committee prohibiting the printing or publication of words spoken or material published in proceedings in the Assembly or the committee.

Penalty:

- (a) if the offender is a natural person—50 penalty units, or imprisonment for 6 months, or both;
- 10 (b) if the offender is a body corporate—250 penalty units.

Unauthorised disclosure etc.

- 17. (1)** A person shall not, without reasonable excuse, publish or disclose—

- 15 (a) a document that has been prepared for the purpose of submission, and submitted, to the Assembly or a committee and has been directed by the Assembly or committee to be treated as evidence taken in camera; or
- (b) any oral evidence taken by the Assembly or a committee in camera, or a report of any such evidence;
- 20 without the authority of the Assembly or committee.

Penalty:

- (a) if the offender is a natural person—50 penalty units, or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.
- 25 **(2)** Subsection (1) does not apply to a document or evidence that has been published, or is authorised for publication, by the Assembly or a committee.

Failure by witness to attend or produce documents

- 30 **18. (1)** A person summoned to attend before the Assembly or a committee shall not, without reasonable excuse—

- (a) fail to attend as required by the summons; or
- (b) fail to attend from day to day unless excused, or released from further attendance, by the Assembly or committee.

(2) A person shall not, without reasonable excuse, fail to produce a document or other thing that the person was required to produce by a summons under this Act.

Penalty:

- 5 (a) if the offender is a natural person—50 penalty units, or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.

Failure by witness to be sworn or give evidence

10 **19.** A person summoned to attend before the Assembly or a committee shall not, without reasonable excuse, fail—

- (a) to comply with a requirement under section 10 to take an oath or make an affirmation; or
- (b) to answer a question that the person is required by the Assembly or committee to answer.

15 Penalty:

- (a) if the offender is a natural person—50 penalty units, or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.

False evidence

20 **20.** A person summoned to attend before the Assembly or a committee shall not—

- (a) knowingly give evidence to the Assembly or committee that is false or misleading in a material particular; or
- 25 (b) present a document to the Assembly or committee that is, to the person's knowledge, false or misleading in a material particular.

Penalty:

- (a) if the offender is a natural person—50 penalty units, or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.

Influencing witnesses etc.

21. (1) A person shall not improperly—

- (a) influence another person in respect of any evidence given or to be given before the Assembly or a committee; or
- 5 (b) induce another person to refrain from giving such evidence.

(2) A reference in subsection (1) to acting improperly shall be read as including a reference to acting by means of fraud, intimidation, force or threat or by an offer or promise of any inducement or benefit.

10 (3) A person shall not inflict a penalty or injury on another person, or deprive a person of a benefit, on account of—

- (a) the giving or proposed giving of evidence before the Assembly or a committee; or
- (b) the nature of that evidence.

Penalty for a contravention of subsection (1) or (3):

- 15 (a) if the offender is a natural person—50 penalty units, or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.

Certificate evidence

20 **22.** For the purposes of this Act, a certificate purporting to be signed by the Speaker, the Clerk or the presiding member of a committee stating that—

- (a) a specified document was prepared for the purpose of submission, and submitted, to the Assembly or a committee;
- 25 (b) a specified document was directed by the Assembly or a committee to be treated as evidence taken in camera;
- (c) specified oral evidence was taken by a committee in camera;
- (d) a specified document or evidence was, or was not, published by authority in accordance with section 6;
- (e) a specified person is or was an officer of the Assembly;
- 30 (f) a specified officer is or was required to attend on the Assembly or a committee on a specified day;
- (g) a specified person is or was required to attend before the Assembly or a committee on a specified day; or

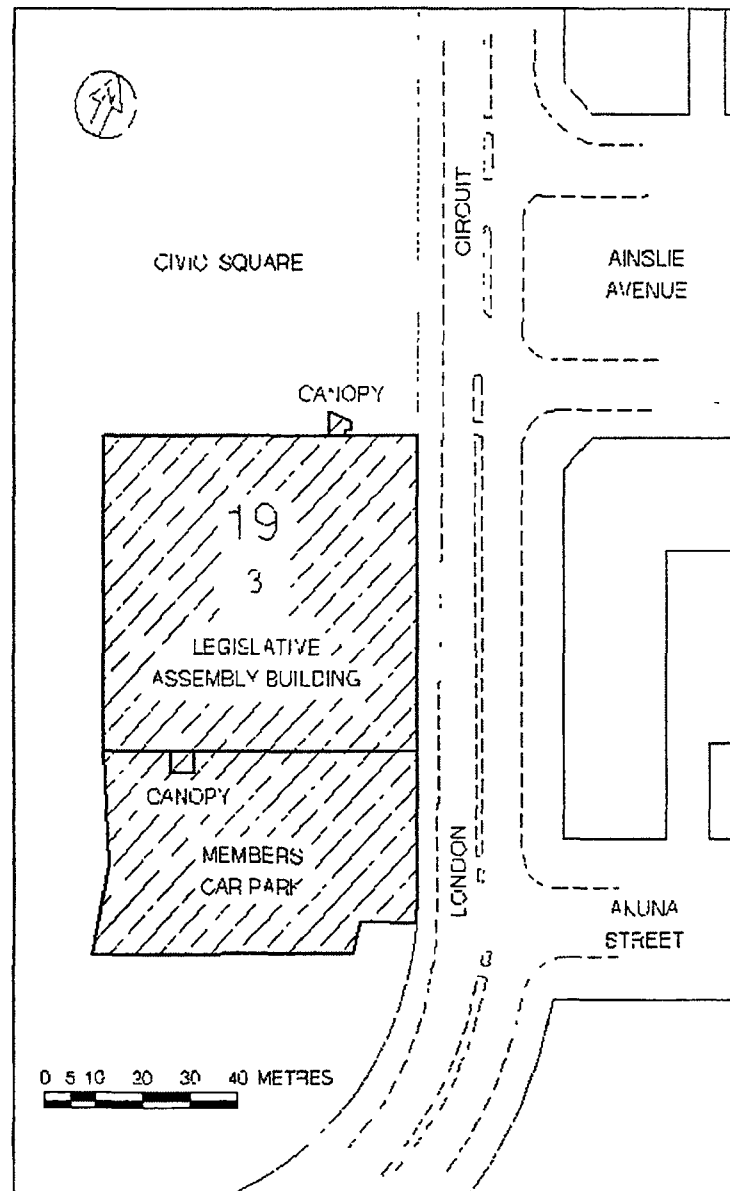
- (h) the Assembly or a specified committee met or will meet on a specified day;

is evidence of that matter.

SCHEDULE 1

Subsection 11 (2)

ASSEMBLY PRECINCT



SCHEDULE 2

Subsection 11 (3)

ASSEMBLY PRECINCT

MEMBERS' CAR-PARK

- 5 All that piece of land containing an area of approximately 2424 square
metres, being part of Section 19, Division of City, Canberra Central District,
in the Australian Capital Territory: Commencing at a point on a
southwestern side of London Circuit being the southeastern corner of Block
3 Section 19 and bounded thence on the southeast by a southwestern side of
10 London Circuit bearing 154 degrees 44 minutes 50 seconds 27.75 metres
and 156 degrees 56 minutes 12 seconds arc 4.795 metres and bounded
thence on the southwest bearing 245 degrees 35 minutes 30 seconds 11.575
metres thence on the southeast bearing 166 degrees 08 minutes 6.245 metres
thence on the southwest bearing 244 degrees 34 minutes 50 seconds 54.44
metres thence on the northwest bearing 346 degrees 58 minutes 50 seconds
15 17.40 metres and 331 degrees 31 minutes 10 seconds 21.61 metres to the
southwestern corner of Block 3 aforesaid Section thence on the northeast by
the southeastern boundary of Block 3 aforesaid Section bearing 64 degrees
41 minutes 64.96 metres to the point of commencement.

NOTE

Penalty units

See section 33AA of the *Interpretation Act 1967*.

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