

STANDARDISATION OF FORMATTING BILL 2009

Second Reading

Resumed from 18 August 2009.

HON SUE ELLERY (South Metropolitan — Leader of the Opposition) [8.24 pm]: I do not have enough space in this chamber for this file, which is a very large one. The opposition will be supporting the Standardisation of Formatting Bill 2009. For what is an extremely large piece of legislation, it addresses a very narrow matter. This bill essentially seeks to make legislation machine readable. It amends a large number of pieces of legislation for the purpose of ensuring standardised layout and format so that the database of Western Australian legislation can be easily maintained and therefore easily accessible to all persons who might want to peruse it. The bill seeks to achieve uniformity in relation to the layout of legislation, clauses within legislation, style and formatting.

The second reading speech advised that the intention of the bill is to improve the readability of legislation, to improve structural consistencies so it is easier for those seeking to access legislation to conduct internal searches within the legislation and to manipulate the data on the database, and to enable what is described as additional functionality to be incorporated into the database so that hyperlink functions can be used to search for particular word sets and clauses relating to particular matters. It has been said that the bill is aimed at reducing the complexity of the database. It remains to be seen whether it will actually achieve that.

We were told in the second reading speech that the amendments before us really relate to two broad areas; that is, the headings of the various respective legislative components and the structure of subsections. We are quite literally talking about turning roman numerals into capital letters, and changing letters into numbers and numbers into letters in a lot of cases.

In addition, the drafters took the opportunity to repeal certain schedules and some other provisions where those provisions are redundant, spent or exhausted. It was explained to me in the briefing that it was thought necessary to take this opportunity to do that so that no future court, or somebody trying to interpret legislation, would take the fact that we had changed the formatting of a piece of redundant schedule, for example, to mean that we somehow had the view that that schedule ought remain in operation even though it was clearly redundant. It is a very big piece of legislation which does a very little thing—it changes the format.

I am advised that some issues were raised and examined by the Standing Committee on Legislation around freedom of information legislation and conflicting views amongst different officers of that office. Those matters have been withdrawn. I ask the parliamentary secretary to outline for us what the government's response was to those issues.

The bill was considered by the Standing Committee on Legislation, which canvassed all of those matters; and I welcome the comments of the parliamentary secretary in providing us with a response. I trust this bill will be dealt with quickly tonight because I am sick of this big file taking up a lot of space and I look forward to not having to carry it around any more. With those comments, I indicate that the opposition will be supporting the legislation.

HON ALISON XAMON (East Metropolitan) [8.29 pm]: The Greens (WA) will be supporting the Standardisation of Formatting Bill 2009 as it will be amended. The Greens appreciated the opportunity to have this legislation considered further by the Standing Committee on Legislation.

HON MICHAEL MISCHIN (North Metropolitan — Parliamentary Secretary) [8.30 pm] — in reply: I am in the curious position of not only delivering the address in reply to the Standardisation of Formatting Bill 2009, but also speaking to the report of the Standing Committee on Legislation of which I am the chairman. It is a brilliant report, too, I should say—succinct, concise, clear and probably a model for other committees to follow!

Several members interjected.

Hon MICHAEL MISCHIN: I commend the work of my colleagues on the committee and the staff who were involved in the preparation of that report.

As has been said, this is a vast piece of legislation but it does very little substantively other than push into modern form legislation going back to about 1856. Drafting styles have changed over time, and although styles that were once acceptable may have the benefit of quaintness now, they do present problems for the electronic searchability—if that is a word—of the legislation that we have accumulated in this state over the last century or so.

The bill proposes to bring the legislation into line with current practice, to restructure long sections into more manageable provisions and to reform scheduling and the like. The bill has been developed since about 2003; and

here I am speaking about it not only in reply but also to the committee report. The evidence revealed that the drafting officer, Nicky Armstrong—who I believe has now fled the jurisdiction to the Northern Territory!—had been working on it since 2003. It consists of about three major blocks of provisions. Part 2 of the bill, clauses 3 through to 42, deals with amendments to bring about consistency in the schedules for various pieces of legislation over the past century or so; part 3, clauses 43 to 50, deals with amendments to headings and the like; and part 4, which is clauses 51 to 63, deals with the structure of subsections and paragraphs in broad terms.

The point has been made that a number of provisions have been repealed. At first sight it might appear to be an opportunity—I think in my second reading speech I described it as such—to correct errors and to remove redundant, obsolete and exhausted provisions from statutes. But as a consequence of the purpose of the bill, which is to reformat the legislation, it arises in the following way. The drafting officer, having come across various pieces of law that had no longer any application, was faced with the problem of either reformatting them and so presenting them to this house and to Parliament to consider and pass and run the risk of Parliament then giving its imprimatur as though these pieces of exhausted legislation still had some currency; or to repeal those pieces of exhausted legislation. The drafting officer chose the latter. That is what is being done in many of these cases where errors are being corrected or provisions are being removed. In order to reflect that more clearly, the committee determined that there should be an amendment not to the short title of the bill but to the long title of the bill in the manner that is set out in the second of the amendments on the notice paper whereby in the long title of the bill after the word “laws” we will insert the additional words “and to make other minor amendments for that purpose”; that purpose being the reformatting of legislation.

The only other area of substance to which the committee had reference was in respect of clause 59 of the Standardisation of Formatting Bill 2009, which deals with the removal of certain headings to schedule 1 of the Freedom of Information Act. What emerged from the evidence we heard was that the genesis of those changes came initially from the then Information Commissioner who had no difficulty with the removal of the headings to the clauses. Of course, by way of operation of the Interpretation Act 1984 those headings would not have influenced the interpretation of those clauses and their application in law so the commissioner had no problem with them being removed as being unnecessary. The Acting Information Commissioner who followed on from that Information Commissioner temporarily, Mr Lightowlers, felt that there was no problem with the removal of the clause headings but that some clarity should be provided by the introduction of some subclauses to point out that these were exemptions to a general principle and therefore suggested that the current content of the bill be included to provide that clarity. The current Information Commissioner took a different view when we approached him for submissions as to whether he had any problems with the bill. He took the view that the clause headings ought to remain in some way but had no difficulty with the removal of the actual subclauses proposed by the Acting Information Commissioner who preceded him. In the end, the committee determined that it would remove the clause headings and proposed substantive subclauses that are contained in the bill. In effect, it should make no difference to the bill’s initial purpose; we are back to where we were and where we should have been had there not been a change of opinion along the way.

There is not much more that I can usefully say about the Standardisation of Formatting Bill 2009. It is a matter of form rather than substance. A vast number of parties were approached for their views on the legislation. The only issue was that raised by the Information Commissioner. For those members who are interested in the detail of it, I commend the report to them; otherwise, I commend the bill to the house.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon Matt Benson-Lidholm) in the chair; Hon Michael Mischin (Parliamentary Secretary) in charge of the bill.

Clauses 1 to 58 put and passed.

Clause 59: Freedom of Information Act 1992 amended —

Hon MICHAEL MISCHIN: I move —

Page 204, line 10 to page 206, line 5 — To delete the lines.

It deletes subclauses (2) to (12) inclusive.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 60 to 63 put and passed.

Title —

Hon MICHAEL MISCHIN: I move —

Page 1, line 6 — To insert after “**laws**” —

and to make other minor amendments for that purpose

The long title should then read —

An Act to amend various written laws to standardise the formatting of certain aspects of those laws and to make other minor amendments for that purpose.

The CHAIRMAN: The question is that the amendment be agreed to.

Hon SUE ELLERY: Mr Chairman, I just want to get it very clear. The supplementary notice paper that I have reads —

Long Title

Committee Recommendation: To move —

Page 1, line 6 — To insert after “**laws**” —

and to make other minor amendments for that purpose

I thought I heard a slightly different wording when the amendment was read out, so I want to be clear on that.

The CHAIRMAN: What the member heard is correct.

Hon SUE ELLERY: Thank you, Mr Chairman.

Amendment put and passed.

Title, as amended, put and passed.

Bill reported, with amendments.