

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

NOTICES AND ORDERS OF THE DAY

No. 16

THURSDAY, 19 MARCH 2009, 9.00 a.m.

Prayers *

Petitions

Papers

Giving Notices of Motion

Brief Ministerial Statements *

Questions Without Notice *

Matter of Public Interest

Private Members' Business

Grievances

Private Members' Statements

–	approximately 2.00 p.m. each day
–	one per week on any day
–	4.00 p.m. to 7.00 p.m. Wednesdays
–	approximately 9.00 a.m. Thursdays
–	12.50 p.m. Thursdays

**Note: On days when the Assembly meets at 2.00 p.m. Brief Ministerial Statements and Questions Without Notice will follow immediately after Prayers.*

Memorandum: *An electronic version of the Assembly's Questions on Notice booklet is available on the Parliament's Internet site at www.parliament.wa.gov.au.*

BILL – NOTICE OF MOTION

1. Parliamentary Commissioner Amendment Bill 2009 (Notice given – 18/3/09)

The Premier: To move –

That a Bill for “An Act to amend the *Parliamentary Commissioner Act 1971* and as a consequence to amend the *Children and Community Services Act 2004*.” be introduced and read a first time.

GOVERNMENT BUSINESS – ORDERS OF THE DAY

1. Statutes (Repeals and Miscellaneous Amendments) Bill 2008 (Attorney General)
(LC No. 013)

To be read a first time.

2. Treasurer's Advance Authorisation Bill 2009 (Treasurer) (No. 032, 2r. – 17/3/09)

Second reading. Adjourned debate.

3. Fines, Penalties and Infringement Notices Enforcement Amendment (Compensation) Bill 2008 (Attorney General) (No. 019, 2r. – 3/12/08)

Second reading. Adjourned debate (Ms M.M. Quirk).

4. Revenue Laws Amendment Bill (No. 3) 2008 (Treasurer) (No. 002, 2r. – 12/11/08)

Second reading. Adjourned debate (Mr D.A. Templeman).

5. Royal Perth Hospital Protection Bill 2008 (Minister for Health) (No. 008, 2r. – 11/11/08)

Second reading. Adjourned debate (Mr D.A. Templeman).

6. Criminal Code Amendment Bill 2008 (Attorney General) (No. 014, 2r. – 4/12/08)

To be read a third time.

7. Sentence Administration (Interstate Transfer of Community Based Sentences) Bill 2009 (Attorney General) (No. 030, 2r. – 17/3/09)

Second reading. Adjourned debate (Mr D.A. Templeman).

8. Address-in-Reply

Adjourned debate (Minister for Health – continuation of remarks).

9. Premier's Statement

Adjourned debate (Leader of the House) on the question, That the statement be noted.

10. Interpretation and Reprints Amendment Bill 2008 (Premier) (No. 003, 2r. – 3/12/08)

Second reading. Adjourned debate (Leader of the House).

11. First Home Owner Grant Amendment Bill 2009 (Treasurer) (No. 021, 2r. – 18/3/09)

Second reading. Adjourned debate (Mr D.A. Templeman).

12. Co-operatives Bill 2009 (Minister for Commerce) (No. 024, 2r. – 18/3/09)

Second reading. Adjourned debate (Mr D.A. Templeman).

13. Major Events (Aerial Advertising) Bill 2009 (Minister for Sport and Recreation) (No. 029, 2r. – 18/3/09)

Second reading. Adjourned debate (Mr D.A. Templeman).

14. Local Government Amendment (Elections) Bill 2009 (Minister for Local Government) (No. 034, 2r. – 18/3/09)

Second reading. Adjourned debate (Mr D.A. Templeman).

PRIVATE MEMBERS' BUSINESS – NOTICES OF MOTION

1. Burmese Constitution and Planned 2010 Elections (Notice given – 11/11/08)

Mr J.N. Hyde: To move –

That this House rejects the Burmese junta's newly adopted Constitution and planned 2010 elections and notes:

- (1) The Constitution was designed to institutionalise military rule; was drafted by the junta's hand-picked delegates rather than elected representatives; and was approved by coercion in a sham referendum held in the midst of devastation caused by Cyclone Nargis in May 2008.
- (2) The 2010 elections will be held only in accordance with the catastrophically flawed 2008 Constitution; will go ahead with the strict intention to nullify the 1990 democratic general elections, which Suu Kyi's party won by a landslide; and will guarantee a military-dominated parliament and military-controlled government.

2. Education and Health Standing Committee – Inquiry into Nickel Loading (Notice given – 2/12/08)

Ms A.J.G. MacTiernan: To move –

- (1) That the House direct the Education and Health Standing Committee to enquire into and report on:
 - (a) the health effects of nickel exposure resulting from nickel loading operations at the Esperance Port Authority;
 - (b) the capacity of nickel exposure to be kept within recognised safe limits during bulk operations; and
 - (c) any other matter relating to safety of nickel loading operations.
- (2) That the Committee report by 30 April 2009.

3. Liberal Party Law and Order Election Promises (Notice given – 2/12/08)

Ms M.M. Quirk: To move –

That this House condemns the Premier for his failure to deliver on key law and order promises outlined in the *Liberal Plan for the First 100 Days of Government* which include:

- (a) the passing of laws for mandatory sentences for thugs who assault police and public officers;
- (b) the introduction of additional powers for the Courts to impose restrictions on anti-social behaviour;
- (c) the re-establishment of the Graffiti Taskforce and increased penalties for graffiti vandals and those who sell spray cans to minors;
- (d) an increase in penalties for hoons – including the confiscation of the vehicles of repeat offenders;
- (e) legislation for tougher penalties for cannabis and other drug possession, cultivation, the sale of drugs to children, and the sale of drug paraphernalia;
- (f) the commencement of work on a new juvenile prison facility for 18–22 year old offenders in the metropolitan area;
- (g) commencement of work on the installation of CCTV at locations across the state in cooperation with local communities as part of a \$6 million Community Crime Prevention Program; and
- (h) the repeal of Labor’s prostitution legislation to stop the spread of brothels in our suburbs and towns.

4. Liberal Party Health Promises and Plan for Better Health Services (Notice given – 2/12/08)

Mr R.H. Cook: To move –

That this House condemns the Minister for Health for his failure to act on issues as detailed in the *Liberal Plan for the First 100 Days of Government* and the Government’s policy on health, *Liberal Plan for Better Health Services*.

5. Independent Mental Health and Wellbeing Commissioner (Notice given – 2/12/08)

Mr R.H. Cook: To move –

That this House condemns the Minister for Mental Health for his failure to act on issues as detailed in the *Liberal Plan for the First 100 Days of Government* which says the Government will appoint an independent Mental Health and Wellbeing Commissioner.

PRIVATE MEMBERS' BUSINESS – ORDERS OF THE DAY

1. ***Tobacco Products Control Amendment Bill 2008** (Dr J.M. Woollard) (No. 017, 2r. – 26/11/08)

Second reading. Adjourned debate (Minister for Health – continuation of remarks).

2. **Weapons (Supply to Minors and Enhanced Police Powers) Amendment Bill 2008** (Ms M.M. Quirk) (No. 022, 2r. – 3/12/08)

Second reading. Adjourned debate (Minister for Police).

3. **Implementation of Government's Hundred Day Plan** (Moved – 3/12/08)

Adjourned debate (Mr J.M. Francis – continuation of remarks) on the motion moved by Mr M. McGowan –

That the House condemns the Barnett Government for its failure to implement the election promises contained within its first 100-day plan document.

4. **Perth Theatre Trust Amendment Bill 2009** (Mr J.N. Hyde) (No. 035, 1r. – 11/3/09)

To be read a second time.

COMMITTEES TO REPORT

Joint Standing Committee on the Corruption and Crime Commission:

Inquiry into the Respective Functions, Powers and Responsibilities of the Corruption and Crime Commission (and its Commissioner) and the Parliamentary Inspector as they Pertain to Each Other	–	19 March 2009
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Public Accounts Committee:

Inquiry into the Implications of the New Structure and Functions of the Department of Premier and Cabinet and the Public Sector Commission	–	11 June 2009
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Community Development and Justice Standing Committee:

Inquiry into the Adequacy of Services to Meet the Developmental Needs of Western Australia's Children	–	31 July 2009
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Economics and Industry Standing Committee:

Inquiry into the Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in Western Australia	–	24 September 2009
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Education and Health Standing Committee:

Review of Western Australia's Current and Future Hospital and Community Health Services	–	19 November 2009
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REFERENCES TO COMMITTEES

<i>Committee</i>	<i>Reference</i>	<i>Date Due</i>
Education and Health Standing Committee	General Health Screening of Children at Pre-primary and Primary School Level	18 June 2009

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- * Denotes amendments appear in the Notices and Amendments section of the Notice Paper.
† Denotes time allocated for Bill appears in the Notices and Amendments section of the Notice Paper.
‡ Denotes second reading debate on the Bill was undertaken cognately with a principal Bill, and no further second reading debate will occur.
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NOTICES AND AMENDMENTS

Tobacco Products Control Amendment Bill 2008 (No. 017)

Clause 2.

Dr J.M. Woollard — To move:

Page 2, line 6 — To delete “Assent;” and substitute:

Assent (*assent day*);

Page 2, lines 7 and 8 — To delete “Act within 6 months of sections 1 and 2 receiving the Royal Assent.” and substitute:

Act — on the day after the end of the period of 12 months after assent day.

Clause 4.

Dr J.M. Woollard — To move:

Page 2, lines 11 to 25 — To delete the lines.

Clause 5.

Dr J.M. Woollard — To move:

Page 3, lines 4 to 17 — To delete the lines and substitute:

22. Prohibition on display of tobacco products, packages, smoking implements

- (1) The holder of a retailer’s licence must ensure that a tobacco product, package or smoking implement is not displayed in the premises specified in the licence.

Penalty: see section 115.

- (2) If a person is charged with an offence under subsection (1) it is a defence to prove that the display was made to a specific customer at the customer’s request.

New clause

Dr J.M. Woollard — To move:

Page 3, after line 17 — To insert:

6. Section 23 deleted

Delete section 23.

Clause 6.

Dr J.M. Woollard — To move:

Page 3, lines 21 to 29 and page 4 lines 1 to 25 — To delete the lines and substitute:

107A. Prohibition on smoking “between the flags”

A person must not smoke in an area that is between flags or other markers placed on a beach for the purpose of indicating a patrolled swimming area.
Penalty: a fine of \$1 000.

107B. Prohibition on smoking in outdoor eating areas

(1) In this section —

outdoor eating area means a public place or part of a public place that is provided as an area where food or drink may be consumed, whether or not on a commercial basis and —

- (a) that is not covered by a roof or part of a roof; or
- (b) that is covered by a roof or part of a roof but is bounded by only —
 - (i) one straight wall; or
 - (ii) 2 straight walls that are set in a angle of 90 degrees or more.

(2) A person must not smoke in an outdoor eating area.

Penalty: a fine of \$2 000.

(3) If a person commits an offence under subsection (2) the occupier of the outdoor eating area commits an offence.

Penalty: a fine of \$2 000.

(4) If a person is charged with an offence under subsection (3) it is a defence to prove that —

- (a) neither the accused nor any employee or agent of the accused was aware, or could reasonably be expected to have been aware, that the offence was occurring; or

- (b) as soon as the accused or an employee or agent of the accused became aware that the offence was occurring, the accused or an employee or agent of the accused —
 - (i) informed the person concerned that the person was committing an offence; and
 - (ii) requested the person to stop smoking in the outdoor eating area and to extinguish, and properly dispose of, the tobacco product; and
 - (iii) if the person failed to comply with a request under subparagraph (ii), requested the person to leave the outdoor eating area until the person finished smoking the tobacco product.

107C. Prohibition on smoking near children in open playgrounds or sportsgrounds

- (1) In this section —

child —

- (a) means any boy or girl who has not reached 18 years of age; and
- (b) in the absence of positive evidence as to age, means any boy or girl who apparently has not reached 18 years of age;

play/sport area means a public place or part of a public place that is provided as an area where a child may play, or where a person may play sport or watch sport being played, and —

- (a) that is not covered by a roof or part of a roof; or
- (b) that is covered by a roof or part of a roof but is bounded by only —
 - (i) one straight wall; or
 - (ii) 2 straight walls that are set in a angle of 90 degrees or more.

- (2) A person who is in a play/sport area must not smoke within 10 metres of any child who is in the play/sport area.

Penalty: a fine of \$1 000.

107D. Prohibition on smoking in or on vehicles if under 17 year old present

- (1) In this section —

child —

- (a) means any boy or girl who has not reached 17 years of age; and
- (b) in the absence of positive evidence as to age, means any boy or girl who apparently has not reached 17 years of age;

vehicle means any thing used or capable of being used to transport people or goods on roads;

road means any highway, road or street open to, or used by, the public and includes every carriageway, footway, reservation, median strip and traffic island on it and any parking area in a public place.

- (2) A person must not smoke in or on a vehicle if —
- (a) the vehicle is on a road; and
 - (b) any other person in or on the vehicle is a child.

Penalty: a fine of \$1 000.

107E. Prohibition on smoking near entrances of buildings used by or open to the public

A person must not smoke within 5 metres of any entrance to a building that is a public place or part of a public place.

Penalty: a fine of \$1 000.

Clause 7.

Dr J.M. Woollard — To move:

Page 5, line 2 — To delete “section 115(b) in the Table:” and substitute:

section 115(1)(b) in the Table in column 1 delete “s. 22(1), (2), (3), (4)” and insert:

s. 22(1)

Page 5, lines 3 to 10 — To delete the lines.

New clauses 8, 9, 10 and 11.

Dr J.M. Woollard — To move:

Page 5, after line 10 — To insert:

8. Section 124A inserted

After section 123 insert:

124A. Provision of information about alleged offences of smoking near children

- (1) If a police officer suspects on reasonable grounds that a person has committed an offence under section 107C or 107D, the Commissioner of Police is to supply the CEO with the alleged offender’s name, address and date of birth and the date and details of the alleged offence, to the extent that the Commissioner has that information.
- (2) Information supplied under subsection (1) may be used in the performance of any function that the CEO or the Foundation has under this Act.

- (3) Subsection (1) applies whether or not the person is charged with having committed the alleged offence, or otherwise dealt with for the alleged offence without being prosecuted.

9. Section 124 amended

In section 124(2):

- (a) delete paragraph (b) and insert:
 - (b) prescribing matters in relation to the storage of tobacco products, packages and smoking implements at places where those items are sold by way of retail sale including the means to avoid or minimise attention being given to those items;
- (b) in paragraph (c) after “products” insert:
 - or smoking implements

10. Schedule 2 Division 3 inserted

In Schedule 2 after clause 10 insert:

Division 3 — Transitional and savings provisions arising from amendments made by the *Tobacco Products Control Amendment Act 2009*

11. Pre-commencement day sections 22 and 23 saved for 12 months in relation to specialist retailers

- (1) In this clause —
 - amending Act* means the *Tobacco Products Control Amendment Act 2009*;
 - commencement day* means the day mentioned in section 2(b) of the amending Act.
- (2) Despite the deletion by the amending Act sections 5 and 5A of sections 22 and 23 as they were in operation immediately before commencement day, those provisions continue to apply —
 - (a) to a person who is a specialist retailer as defined in section 23 immediately before commencement day; and
 - (b) for the period of 12 months starting on commencement day.

11. Glossary amended

In the Glossary insert in alphabetical order:

occupier, in relation to a public place, means a person having the management or control, or otherwise being in charge, of that place;

roof includes a ceiling, and any material —

- (a) through which air cannot flow; and
- (b) that is used for the same purpose as a ceiling or roof;

wall means a wall or any other vertical structure, covering or device, whether fixed or moveable, but does not include a balustrade —

- (a) that is one metre or less in height; and
- (b) of which more than 50% of its total vertical surface is open;

PETER J. MCHUGH
Clerk of the Legislative Assembly
