

WESTERN AUSTRALIA

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

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No. 223

WEDNESDAY, 15 AUGUST 2012

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### 1. Meeting of Council

The Council assembled at 2.00pm pursuant to order.

The President, Hon Barry House, took the Chair and read prayers.

### 2. Statement by President — New Timer Display

The President made the following statement —

I advise that during the winter recess the Clerk arranged for the timer in the Chamber to be modified to include an additional display of the time remaining on individual motions. The adjustments were required to better reflect the various prescribed time limits in the new Standing Orders.

The first timer display headed “Speaker” continues to show the time remaining for the current individual who is speaking.

The second timer display headed “Motion” is new. It displays the total time available to debate a specific motion that is before the Council. Pursuant to Standing Order 32(1) motions on notice, motions noting committee reports, Non-Government Business motions and Private Members’ Business motions all have a set maximum debate time per individual motion, which may carry over to another sitting day.

The timer headed “Debate” continues to display the total debate time available for that particular day’s sitting on the business then before the Council, as prescribed by Standing Order 15.

### 3. Joint Standing Committee on Delegated Legislation — Resignation of Member

The President made the following Statement —

Members, I have a letter addressed to me as President of the Legislative Council. It states —

Dear Sir,

Please accept my resignation, effective today, as Chairman and Member of the Joint Standing Committee on Delegated Legislation.

It has been an honour to serve as a Member of this committee and the experience has provided me with invaluable knowledge on the operations of the Parliament and Government.

Yours sincerely,

Joe Francis MLA

14 August 2012

#### 4. Commercial Arbitration Bill 2011

The following Message from the Legislative Assembly was reported —

Mr President

Message No. 270

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *Commercial Arbitration Bill 2011*.

Hon Grant Woodhams

Speaker

Legislative Assembly Chamber

Perth, 15 August 2012

#### 5. Petition

Hon Lynn MacLaren presented a petition from 222 petitioners requesting the Legislative Council to support a referendum regarding the removal of trees on the Perth Esplanade Reserve and other public green spaces, and to repeal the powers of the Metropolitan Redevelopment Authority and local governments in respect of this. (Tabled Paper 4817).

#### 6. Ministerial Statement — Metropolitan Region Scheme Amendment No. 1215/41 — Cardup Industrial Precinct

The Minister for Mental Health representing the Minister for Planning made a Ministerial Statement with respect to Metropolitan Region Scheme Amendment No. 1215/41 — Cardup Industrial Precinct, Shire of Serpentine-Jarrahdale.

The Minister for Mental Health representing the Minister for Planning tabled plans relating to Metropolitan Region Scheme Amendment No. 1215/41 — Cardup Industrial Precinct. (Tabled Paper 4818).

The Minister for Mental Health representing the Minister for Planning tabled a report on submissions and transcripts of hearings relating to Metropolitan Region Scheme Amendment No. 1215/41 — Cardup Industrial Precinct. (Tabled paper 4819).

#### 7. Papers

The following Papers were laid on the Table by —

##### Parliamentary Secretary representing the Minister for Regional Development

*Proposals —*

Land Administration Act 1997 — Submission No. 11/2012 — Excision from Class A Reserve 24913, proposed amendment of route for previously approved power and access easements Shire of Denmark..... 4815

Land Administration Act 1997 — Submission No. 12/2012 — Excision from a portion of Class A Reserve 14943 for dedication of an extension of Cape Riche Road City of Albany ..... 4816

#### 8. Redress WA — Payments

Motion No. 1 having been called, debate resumed on the amendment of the Minister for Child Protection as follows —

To delete all the words after “decision” and insert —

to make the maximum payment available to Redress applicants was to be \$45,000, notes the extra \$30 million put into the scheme and congratulates the Government on delivering payments to all eligible Redress applicants.

to the motion of Hon Sue Ellery as follows —

That this House agrees with the comments by Premier Barnett that the Government's decision to cut the maximum payment available to Redress WA applicants from \$80,000 to \$45,000 was "a bit too tough", notes the devastating effect this second betrayal has had on many of the applicants and calls on the Government to re-visit this decision.

Amendment — put.

The Council divided.

**Ayes (19)**

Hon Liz Behjat  
Hon Jim Chown  
Hon Peter Collier  
Hon Mia Davies  
Hon Wendy Duncan  
Hon Phil Edman  
Hon Brian Ellis  
Hon Donna Faragher  
Hon Philip Gardiner  
Hon Nigel Hallett

Hon Alyssa Hayden  
Hon Col Holt  
Hon Robyn McSweeney  
Hon Michael Mischin  
Hon Norman Moore  
Hon Helen Morton  
Hon Simon O'Brien  
Hon Max Trenorden  
Hon Ken Baston (*Teller*)

**Noes (14)**

Hon Matt Benson-Lidholm  
Hon Helen Bullock  
Hon Kate Doust  
Hon Sue Ellery  
Hon Adele Farina  
Hon Jon Ford  
Hon Lynn MacLaren

Hon Ljiljanna Ravlich  
Hon Linda Savage  
Hon Sally Talbot  
Hon Ken Travers  
Hon Giz Watson  
Hon Alison Xamon  
Hon Ed Dermer (*Teller*)

Amendment thus passed.

Question, That the motion, as amended, be agreed to.

The Council divided.

**Ayes (19)**

Hon Liz Behjat  
Hon Jim Chown  
Hon Peter Collier  
Hon Mia Davies  
Hon Wendy Duncan  
Hon Phil Edman  
Hon Brian Ellis  
Hon Donna Faragher  
Hon Philip Gardiner  
Hon Nigel Hallett

Hon Alyssa Hayden  
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Hon Linda Savage  
Hon Sally Talbot  
Hon Ken Travers  
Hon Giz Watson  
Hon Alison Xamon  
Hon Ed Dermer (*Teller*)

Question thus passed.

Motion, as amended, agreed to.

## **9. Questions Without Notice**

Questions without notice were taken.

The Minister for Finance representing the Minister for Transport, in accordance with Standing Order No. 107(2), advised that an answer to question on notice No. 5652 asked by Hon Alison Xamon will be provided on 23 August 2012.

The Minister for Mental Health, in accordance with Standing Order No. 107(2), advised that an answer to question on notice No. 5696 asked by Hon Sue Ellery will be provided on 23 August 2012.

## **10. Consideration of Committee Reports**

Pursuant to order for the consideration of Committee Reports.

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### **In Committee**

(Hon Jon Ford in the Chair)

#### **Joint Standing Committee on the Corruption and Crime Commission — Report No. 25 — The use of Public Examinations by the Corruption and Crime Commission**

Hon Nick Goiran moved, That the Report be noted.

Debate ensued.

Question — put and passed.

#### **Joint Standing Committee on the Corruption and Crime Commission — Report No. 27 — Discontinuance of Contempt Proceedings against Members of the Coffin Cheaters Motorcycle Club**

Hon Nick Goiran moved, That the Report be noted.

Debate ensued.

*Interruption pursuant to order.*

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The President resumed the Chair.

The Deputy Chair of Committees reported that the Committee of the Whole House had considered the —

- (1) Joint Standing Committee on the Corruption and Crime Commission — Report No. 25 — The use of Public Examinations by the Corruption and Crime Commission and had noted same.
- (2) Joint Standing Committee on the Corruption and Crime Commission — Report No. 27 — Discontinuance of Contempt Proceedings against Members of the Coffin Cheaters Motorcycle Club made progress, and sought to sit again.

Report adopted.

## **11. Order of Business**

Ordered — That Bills for Introduction No. 1, *Mining Amendment Bill 2012*, be taken forthwith. (Leader of the House).

## **12. Mining Amendment Bill 2012**

The Minister for Mines and Petroleum, pursuant to notice, moved —

That a Bill for “An Act to amend the *Mining Act 1978* and the *Mining Amendment Act 2004*.” be introduced and read a first time.

Question — put and passed.

Bill read a first time.

The Minister for Mines and Petroleum moved, That the Bill be read a second time.

Debate stands adjourned.

### 13. Order of Business

Ordered — That Orders of the Day Nos 1, *Women's and Children's Hospitals Amendment By-laws (No. 2) 2011 — Disallowance*, 2, *Queen Elizabeth II Medical Centre (Delegated Site) Amendment By-laws (No. 2) 2011 — Disallowance*, 3, *Royal Perth Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 4, *Metropolitan Health Service Amendment By-laws (No. 2) 2011 — Disallowance*, 5, *Fremantle Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 6, *Osborne Park Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 7, *Hospitals (Services Charges) Amendment Regulations (No. 7) 2011 — Disallowance*, 8, *Queen Elizabeth II Medical Centre (Delegated Site) Amendment By-laws (No. 2) 2011 — Disallowance*, 9, *Fremantle Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 10, *Osborne Park Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 11, *Royal Perth Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 12, *Women's and Children's Hospitals Amendment By-laws (No. 2) 2011 — Disallowance*, 13, *Liquor Control Amendment Regulations (No. 10) 2011 — Disallowance*, 14, *Town of Bassendean Repeal Local Law 2010 — Disallowance*, 15, *Town of Bassendean Dust and Sand Local Law 2011 — Disallowance*, 16, *City of Swan Standing Orders Local Law 2010 — Disallowance*, and 17, *Mindarie Regional Council Standing Orders Amendment Local Law 2012 — Disallowance*, be taken after Order of the Day No. 24, *Water Services Legislation Amendment and Repeal Bill 2011*. (Leader of the House).

### 14. Fines, Penalties and Infringement Notices Enforcement Amendment (Taxation) Bill 2012 — Rescission of Vote

The Attorney General, pursuant to notice, moved —

That the vote passed by this Council on 27 June 2012 on the second reading of the *Fines, Penalties and Infringement Notices Enforcement Amendment (Taxation) Bill 2012* is hereby rescinded and consequent thereon that the Bill be restored to the Notice Paper.

Debate ensued.

Question — put.

There being a dissentient voice the President ordered the Council to divide.

#### Ayes (20)

Hon Liz Behjat  
Hon Jim Chown  
Hon Peter Collier  
Hon Mia Davies  
Hon Wendy Duncan  
Hon Phil Edman  
Hon Brian Ellis  
Hon Donna Faragher  
Hon Philip Gardiner  
Hon Nick Goiran

Hon Nigel Hallett  
Hon Alyssa Hayden  
Hon Col Holt  
Hon Robyn McSweeney  
Hon Michael Mischin  
Hon Norman Moore  
Hon Helen Morton  
Hon Simon O'Brien  
Hon Max Trenorden  
Hon Ken Baston (*Teller*)

#### Noes (14)

Hon Matt Benson-Lidholm  
Hon Helen Bullock  
Hon Kate Doust  
Hon Sue Ellery  
Hon Adele Farina  
Hon Jon Ford  
Hon Lynn MacLaren

Hon Ljiljanna Ravlich  
Hon Linda Savage  
Hon Sally Talbot  
Hon Ken Travers  
Hon Giz Watson  
Hon Alison Xamon  
Hon Ed Dermer (*Teller*)

The concurrence of an absolute majority of the whole number of Members being met, Question thus passed.

Bill restored to the Notice Paper.

# **15. Order of Business**

Ordered — That the *Fines, Penalties and Infringement Notices Enforcement Amendment (Taxation) Bill 2012*, be taken forthwith. (Leader of the House).

# **16. Fines, Penalties and Infringement Notices Enforcement Amendment (Taxation) Bill 2012**

The Order of the Day having been read for the resumed debate on the second reading of this Bill.

Question — put.

The Council divided.

## **Ayes (18)**

Hon Liz Behjat  
Hon Jim Chown  
Hon Peter Collier  
Hon Mia Davies  
Hon Wendy Duncan  
Hon Phil Edman  
Hon Brian Ellis  
Hon Donna Faragher  
Hon Nick Goiran

Hon Alyssa Hayden  
Hon Col Holt  
Hon Robyn McSweeney  
Hon Michael Mischin  
Hon Norman Moore  
Hon Helen Morton  
Hon Simon O'Brien  
Hon Max Trenorden  
Hon Ken Baston (*Teller*)

## **Noes (15)**

Hon Matt Benson-Lidholm  
Hon Helen Bullock  
Hon Kate Doust  
Hon Sue Ellery  
Hon Adele Farina  
Hon Jon Ford  
Hon Philip Gardiner  
Hon Lynn MacLaren

Hon Ljiljanna Ravlich  
Hon Linda Savage  
Hon Sally Talbot  
Hon Ken Travers  
Hon Giz Watson  
Hon Alison Xamon  
Hon Ed Dermer (*Teller*)

Question thus passed.

Bill read a second time.

# **17. Cognate Debate — Fines, Penalties and Infringement Notices Enforcement Amendment Bill 2012 and Fines, Penalties and Infringement Notices Enforcement Amendment (Taxation) Bill 2012**

The Leader of the House sought leave of the Council to debate the *Fines, Penalties and Infringement Notices Enforcement Amendment Bill 2012* and the *Fines, Penalties and Infringement Notices Enforcement Amendment (Taxation) Bill 2012* cognately [SO 127].

Leave granted.

# **18. Fines, Penalties and Infringement Notices Enforcement Amendment Bill 2012 and Fines, Penalties and Infringement Notices Enforcement Amendment (Taxation) Bill 2012**

The Orders of the Day for the cognate consideration of these Bills, in Committee of the Whole House, having been read.

The President left the Chair.

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**In Committee**

(Hon Brian Ellis in the Chair)

**Fines, Penalties and Infringement Notices Enforcement Amendment Bill 2012**

Clause 1 agreed to.

Clauses 2 and 3 agreed to.

Clause 4.

Debate ensued.

The Attorney General moved —

Page 3, lines 17 and 18 — To delete the lines and insert —

*number plate* —

- (a) before the *Road Traffic (Vehicles) Act 2012* section 3 comes into operation — has the meaning given in the *Road Traffic Act 1974* section 5(1); or
- (b) after the *Road Traffic (Vehicles) Act 2012* section 3 comes into operation — has the meaning given in that section;

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 5.

Debate ensued.

The Attorney General moved —

Page 4, lines 8 to 13 — To delete the lines and insert —

(2) Delete section 5(4) and insert:

- (4) For the purposes of the service of any document under this Act, a person's last known address may be taken to be the person's current address shown in the records of —
  - (a) the Director General; or
  - (b) the Electricity Retail Corporation.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 6 agreed to.

Clause 7.

The Attorney General moved —

Page 5, line 6 — To insert after "*Road Traffic Act 1974*" —

or, after the *Road Traffic (Administration) Act 2008* section 4 comes into operation, a road law

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 8 to 23 agreed to.

New Clause 23A.

The Attorney General moved —

Page 17, after line 24 — To insert —

**23A. Section 48A inserted**

After section 47B insert:

**48A. Order to attend for work and development: cancellation**

- (1) If —
  - (a) an order to attend for work and development is issued under section 47 or 47A; and
  - (b) it is not reasonably practicable to serve the order on the offender personally,

the Registrar may cancel the order to attend for work and development and make or again make a licence suspension order in respect of the offender.
- (2) For the purposes of subsection (1), section 43(2) to (9) (but not section 43(4)), with any necessary changes, apply and a licence suspension order may be made even if section 42 has not been complied with.

New Clause — put and passed.

New Clause 23B.

The Attorney General moved —

Page 17, after line 24 — To insert —

**23B. Section 53A inserted**

After section 52 insert:

**53A. WDO: effect of cancellation**

- (1) If a WDO is cancelled under section 52, the Registrar may make or again make a licence suspension order in respect of the offender.
- (2) For the purposes of subsection (1), section 43(2) to (9) (but not section 43(4)), with any necessary changes, apply and a licence suspension order may be made even if section 42 has not been complied with.

New Clause — put and passed.

Clause 24 agreed to.

Clause 25.

Debate ensued.

The Attorney General moved, That consideration of Clause 25 be postponed until after Clause 73.

Question — put and passed.



Clause 26.

The Attorney General moved —

Page 23, after line 20 — To insert —

***vehicle licensing law*** —

- (a) before the *Road Traffic (Vehicles) Act 2012* section 3 comes into operation — means the *Road Traffic Act 1974*; or
- (b) after the *Road Traffic (Vehicles) Act 2012* section 3 comes into operation — means that Act;

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 27 agreed to.

Clause 28.

The Attorney General moved —

Page 25, after line 7 — To insert —

(2) After section 68A(4) insert:

- (5A) If the Sheriff cancels an arrangement made under subsection (1) and a licence suspension order is not in force in respect of the debtor and the amount specified in the warrant under section 21A(3) or 45(4), as the case requires, the Registrar may make or again make a licence suspension order in respect of the debtor.
- (5B) For the purposes of subsection (5A) —
  - (a) if the cancelled arrangement related to a warrant issued under section 21A — section 19(2) to (9), with any necessary changes, apply and a licence suspension order may be made without the issue of a further order to pay or elect under section 17 or further notice of intention to enforce under section 18; or
  - (b) if the cancelled arrangement related to a warrant issued under section 45 — section 43(2) to (9), with any necessary changes, apply and a licence suspension order may be made without the issue of a further notice of intention to enforce under section 42.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 29.

Debate ensued.

Hon Philip Gardiner moved —

Page 25, lines 19 to 22 – To delete the lines.

Debate ensued.

Amendment — put.

The Committee divided.

**Ayes (5)**

Hon Philip Gardiner  
 Hon Lynn MacLaren  
 Hon Max Trenorden

Hon Giz Watson  
 Hon Alison Xamon (*Teller*)

**Noes (25)**

Hon Liz Behjat  
 Hon Matt Benson-Lidholm  
 Hon Helen Bullock  
 Hon Jim Chown  
 Hon Peter Collier  
 Hon Mia Davies  
 Hon Ed Dermer  
 Hon Kate Doust  
 Hon Wendy Duncan  
 Hon Sue Ellery  
 Hon Brian Ellis  
 Hon Donna Faragher  
 Hon Adele Farina

Hon Jon Ford  
 Hon Nick Goiran  
 Hon Nigel Hallett  
 Hon Alyssa Hayden  
 Hon Col Holt  
 Hon Michael Mischin  
 Hon Norman Moore  
 Hon Helen Morton  
 Hon Simon O'Brien  
 Hon Sally Talbot  
 Hon Ken Travers  
 Hon Ken Baston (*Teller*)

Amendment thus negatived.

Question, That the clause stand as printed — put and passed.

Clauses 30 and 31 agreed to.

Clause 32

The Attorney General, by leave, moved —

Page 32, lines 18 and 19 — To delete “the *Road Traffic Act 1974*,” and insert —

a vehicle licensing law,

Page 35, lines 21 and 22 — To delete “the *Road Traffic Act 1974*,” and insert —

a vehicle licensing law,

Amendments — put and passed.

Clause, as amended, agreed to.

Clauses 33 to 35 agreed to.

Clause 36.

The Attorney General moved —

Page 42, lines 11 to 28 — To delete the lines and insert —

**36. Section 101C amended**

(1) In section 101C(1)(d) and (e) after “issued” insert:

by the Registrar

(2) After section 101C(1) insert:

## (2A) Evidence —

- (a) that a vehicle licence suspension order was made under section 95G or a vehicle licence cancellation order was made under section 95J;
- (b) of the details of a vehicle licence suspension order made under section 95G, or a vehicle licence cancellation order made under section 95J, and of the matter to which it relates;
- (c) that a vehicle licence suspension order made under section 95G had not, at a particular time, been cancelled;
- (d) that a vehicle licence cancellation order made under section 95J had not, at a particular time, been cancelled to the extent that the order would disqualify a person from holding or obtaining a vehicle licence;
- (e) that a document issued by the Sheriff under this Act has been served on a person in accordance with section 5;
- (f) of any matter relevant to the service of a document issued by the Sheriff under this Act,

may be given by tendering a certificate to that effect in the prescribed form signed by the Sheriff.

## (3) After section 101C(3) insert:

- (4) Unless the contrary is proved, it is to be presumed that a certificate purporting to have been signed by the Sheriff was signed by a person who at the time was the Sheriff.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 37 and 38 agreed to.

Clause 39.

Debate ensued.

*Interruption pursuant to order.*

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The President resumed the Chair.

The Deputy Chair of Committees reported that the Committee of the Whole House had considered the Bills, made progress, and sought to sit again.

Report adopted.

Ordered — That the Committee of the Whole House sit again.

## 19. Members' Statements

Statements were taken.

**20. Adjournment**

The Council adjourned at 10.02pm until Thursday, 16 August 2012 at 10.00am.

**Members present during the day's proceedings**

Attendance: Present all Members except Hon Robin Chapple.

**MALCOLM PEACOCK**  
Clerk of the Legislative Council

**HON BARRY HOUSE**  
President of the Legislative Council