

WESTERN AUSTRALIA  
**LEGISLATIVE COUNCIL**  
**MINUTES OF PROCEEDINGS**  
**No. 67**  
**THURSDAY, 28 JUNE 2018**

**1. Meeting of Council**

The Council assembled at 10.00am pursuant to order.

The President, Hon Kate Doust, took the Chair.

Prayers and an Acknowledgement of Country were read.

**2. President's Ruling — Question Without Notice No. 514**

The President ruled as follows —

I want to provide a ruling in relation to a question without notice requesting the tabling of a document. Yesterday, Hon Nick Goiran requested my ruling on a point of order on Legislative Council question without notice 514 asked by him to the Leader of the House representing the Minister for Prevention of Family and Domestic Violence. The rulings of successive Presidents of the Legislative Council have been consistent in stating that it is not the responsibility of the Chair to tell Ministers how they should respond to questions. This is purely a matter for Ministers, provided that their answers comply with the Standing Orders.

I therefore rule that there is no point of order. I do, however, make the observation that Ministers face political consequences for how they answer questions. These, again, are matters for consideration by Ministers when responding to questions consistent with the requirements of the Standing Orders.

**3. Papers**

The following Papers were laid on the Table by —

**Leader of the House**

*Reports —*

Report on Consultants Engaged by Government (for the six months ended 31 December 2017)..... 1516

Report of Overseas Air Travel undertaken by Ministers, Parliamentary Secretaries and Government Officers on Official Business (for the three months ended 31 December 2017)..... 1517

**Minister for Environment**

*Reports —*

Government Employees Superannuation Board — Statement of Corporate Intent (2018-2019)..... 1518

Insurance Commission — Statement of Corporate Intent (2018–2019)..... 1519

Metropolitan Redevelopment Authority — Operational Plan (2017–2018)..... 1520

**4. Standing Committee on Legislation — Report No. 36 — Animal Welfare Amendment Bill 2017**

Hon Dr Sally Talbot presented Report No. 36 of the Standing Committee on Legislation, *Animal Welfare Amendment Bill 2017*. (Tabled Paper 1521).

**5. Standing Committee on Uniform Legislation and Statutes Review — Report No. 114 — Fair Trading Amendment Bill 2018 — Extension of Time**

Hon Michael Mischin presented Report No. 114 of the Standing Committee on Uniform Legislation and Statutes Review, *Fair Trading Amendment Bill 2018 — Extension of Time*. (Tabled Paper 1522).

Hon Michael Mischin moved, without notice —

That the Committee requests an extension of time in which to report on the Bill from 14 August 2018 to 18 September 2018.

Hon Michael Mischin sought leave to continue his remarks at a later stage of this day's sitting.

Leave granted.

Debate stands adjourned pursuant to order.

**6. City of Busselton Standing Orders Local Law 2018 — Disallowance**

Hon Robin Chapple: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *City of Busselton Standing Orders Local Law 2018* published in the *Gazette* on 4 April 2018 and tabled in the Legislative Council on 10 April 2018 under the *Local Government Act 1995*, be and is hereby disallowed. (Tabled paper No. 1210).

**7. City of Karratha Fencing Local Law 2018 — Disallowance**

Hon Robin Chapple: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *City of Karratha Fencing Local Law 2018* published in the *Gazette* on 3 April 2018 and tabled in the Legislative Council on 10 April 2018 under the *Local Government Act 1995*, be and is hereby disallowed. (Tabled paper No. 1210).

**8. Shire of Quairading Animals, Environment and Nuisance Local Law 2017 — Disallowance**

Hon Robin Chapple: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Shire of Quairading Animals, Environment and Nuisance Local Law 2017* published in the *Gazette* on 26 March 2018 and tabled in the Legislative Council on 10 April 2018 under the *Health (Miscellaneous Provisions) Act 1911*, be and is hereby disallowed. (Tabled paper No. 1217).

**9. Cremation Amendment Regulations 2018 — Disallowance**

Hon Robin Chapple: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Cremation Amendment Regulations 2018* published in the *Gazette* on 6 April 2018 and tabled in the Legislative Council on 10 April 2018 under the *Cremation Act 1929*, be and is hereby disallowed. (Tabled paper No. 1218).

**10. Environmental Protection (Plastic Bags) Regulations 2018 — Disallowance**

Hon Robin Chapple: To move on the next day of sitting —

That the following words in regulation 3 of the *Environmental Protection (Plastic Bags) Regulations 2018* published in the *Gazette* on 12 June 2018 and tabled in the Legislative Council

on 26 June 2018 under the *Environmental Protection Act 1986*, be and are hereby disallowed (Tabled paper 1453):

- **barrier bag** means a plastic bag without handles used to carry unpackaged perishable food;
- [in the definition of ‘prescribed plastic bag’, paragraph (b)(i)]
  - (i) a barrier bag; or

and that consequential numbering amendments be made to the definition of ‘prescribed plastic bag’ in regulation 3, paragraph (b)(i).

#### **11. Environmental Protection (Plastic Bags) Regulations 2018 — Disallowance**

Hon Aaron Stonehouse: To move on the next day of sitting —

That the *Environmental Protection (Plastic Bags) Regulations 2018* published in the *Gazette* on 12 June 2018 and tabled in the Legislative Council on 26 June 2018 under the *Environmental Protection Act 1986*, be and are hereby disallowed. (Tabled paper 1453).

#### **12. Education and Care Services National Law (WA) Amendment Bill 2018**

The Leader of the House moved, without notice —

That, pursuant to Standing Order 128, the *Education and Care Services National Law (WA) Amendment Bill 2018* be discharged and referred to the Standing Committee on Uniform Legislation and Statutes Review for consideration and report in accordance with that Committee’s terms of reference not later than 45 days after the referral.

Debate ensued.

Question — put and passed.

Debate stands adjourned and Bill discharged and referred to the Standing Committee on Uniform Legislation and Statutes Review [SO 128].

#### **13. Equal Opportunity (LGBTIQ Anti-Discrimination) Amendment Bill 2018**

Non-Government Business No. 1 having been called, Hon Alison Xamon, pursuant to notice, moved —

That a Bill for “An Act to amend the *Equal Opportunity Act 1984 (WA)*.” be introduced and read a first time.

Question — put and passed.

Bill read a first time.

Hon Alison Xamon moved, That the Bill be read a second time.

Hon Alison Xamon tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 1523).

Debate stands adjourned.

#### **14. Environmental Protection Amendment (Banning Plastic Bags and Other Things) Bill 2018**

Non-Government Business No. 2 having been called for the adjourned debate on the second reading of this Bill.

Debate resumed.

*Interruption pursuant to order.*

#### **15. Matter of Privilege**

Hon Jim Chown, pursuant to SO93, raised a matter of privilege.

Hon Jim Chown, by leave, tabled two statutory declarations in relation to the matter of privilege. (Tabled Paper 1524).

*Statement by President*

The President made the following Statement —

Hon Jim Chown has raised a matter of privilege under Standing Order 93. It is my intention to defer the matter, to have a look at the documents tabled today and to review today’s *Hansard* and the *Hansard* from previous days about this particular matter. It will be my intention to take some time to look at that and provide a ruling to the House at a later stage.

## 16. Order of Business

Ordered — That Orders of the Day Nos 1, *Shire of Northam Cemeteries Amendment Local Law 2017 — Disallowance*, 2, *Shire of Toodyay Health Local Law 2017 — Disallowance*, 3, *Police (Fees and Charges) Regulations 2018 — Disallowance*, 4, *Environmental Protection Amendment Regulations 2018 — Disallowance*, 5, *Shire of Murray Health Local Law 2018 — Disallowance*, 6, *Shire of Woodanilling Animals, Environment and Nuisance Amendment Local Law 2018 — Disallowance*, 7, *Rights in Water and Irrigation Amendment Regulations 2018 — Disallowance*, and 9, *Shire of York Cat Local Law 2017 — Disallowance*, be taken after Order of the Day No. 23, *Terrorism (Extraordinary Powers) Amendment Bill 2018*. (Leader of the House).

## 17. Town of Claremont Waste Local Law 2017 — Disallowance — Discharge from Notice Paper

The Order of the Day having been called, Hon Martin Pritchard moved, without notice —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 8, *Town of Claremont Waste Local Law 2017*, be discharged from the Notice Paper.

Question — put and passed.

## 18. Estimates of Revenue and Expenditure — Consolidated Account Estimates 2018–2019

The Order of the Day having been read for the adjourned debate on the motion of the Minister for Finance representing the Treasurer as follows —

That pursuant to Standing Order 69(1) the Legislative Council take note of Tabled Paper 1340A-D (2018–2019 Budget Statements), laid upon the Table of the House on 10 May 2018.

On the motion of Hon Ken Baston the debate was adjourned to the next sitting.

## 19. Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Bill 2017

The Order of the Day for the further consideration of this Bill, in Committee of the Whole House, having been read.

The President left the Chair.

### In Committee

(Hon Adele Farina in the Chair)

Clause 1.

Debate resumed.

Clause agreed to.

Clause 2.

Debate ensued.

Clause agreed to.

Clause 3 agreed to.

Clause 4.

Debate ensued.

Clause agreed to.

Clauses 5 to 8 agreed to.

Clause 9.

Debate ensued.

Hon Alison Xamon moved —

Page 6, line 5 — To delete “functions.” and insert:

functions including but not limited to:

- (i) the number of cases in which the confiscable property was subject to a secured or unsecured debt;
- (ii) in relation to each such debt:
  - (A) the particulars of the debt;
  - (B) the nature of the creditor;
  - (C) whether and if so how the debt was taken into account in the exercise of the Commission’s functions; and
  - (D) whether the creditor used the objection process under Part 6 of the *Criminal Property Confiscation Act 2000* and if so the outcome of that process;
- (iii) excluding creditors referred to in (i) above, the number of cases in which a person apart from the person the subject of the confiscation proceedings had or claimed to have a legal or equitable interest in the confiscable property;
- (iv) in relation to each such interest:
  - (A) the particulars of the interest;
  - (B) whether and if so how the interest was taken into account in the exercise of the Commission’s functions; and
  - (C) whether the person used the objection process under Part 6 of the *Criminal Property Confiscation Act 2000* and if so the outcome of that process.

Debate ensued.

Amendment — put and negatived.

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

Clause 10 to 13 agreed to.

Clause 14.

Debate ensued.

Clause agreed to.

Clauses 15 to 24 agreed to.

New Clause 24A.

Hon Michael Mischin moved —

Page 14, after line 21 — To insert:

**24A. Section 226A inserted**

After section 226 insert:

**226A. Review of 2018 amendments to Act**

- (1) The Minister must carry out a review of the operation and effectiveness of the amendments made to this Act by the *Corruption, Crime and Misconduct and*

*Criminal Property Confiscation Amendment Act 2017* as soon as is practicable after every 5th anniversary of the date on which the *Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Act 2017* section 8 comes into operation.

- (2) The Minister must prepare a report based on each review and cause it to be laid before each House of Parliament —
- (a) as soon as practicable after the review is completed; but
  - (b) not later than 1 year after each 5 year anniversary.

Debate ensued.

New Clause — put and passed.

Clause 25 agreed to.

New Clause 25A.

Hon Alison Xamon moved —

Page 15, after line 4 — To insert:

**25A. Section 5A inserted**

After section 5 insert:

**5A Application of Act to CCC**

Where this Act confers functions on the CCC, the exercise of those functions is subject to the CCC being satisfied that there are reasonable grounds for suspecting that the matter is substantially connected to organised crime as defined in the *Corruption, Crime and Misconduct Act 2003* section 3.

Debate ensued.

New Clause — put and negatived.

Clauses 26 to 64 agreed to.

Clause 65 agreed to.

Clauses 66 to 76 agreed to.

New Clause 76A.

Hon Michael Mischin moved —

Page 36, after line 23 — To insert:

**76A. Section 140A inserted**

After section 140 insert:

**140A. Review of 2018 amendments to Act**

- (1) The Minister must carry out a review of the operation and effectiveness of the amendments made to this Act by the *Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Act 2017* as soon as is practicable after every 5th anniversary of the date on which the *Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Act 2017* section 27 comes into operation.

- (2) The Minister must prepare a report based on each review and cause it to be laid before each House of Parliament —
- (a) as soon as practicable after the review is completed; but
  - (b) not later than 1 year after each 5 year anniversary.

Debate ensued.

New Clause — put and passed.

Clause 77 agreed to.

Title agreed to.

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The Acting President resumed the Chair.

Bill reported with amendment.

The Leader of the House representing the Attorney General, by leave, moved, That the report be adopted.

Report adopted.

The Leader of the House representing the Attorney General moved, without notice —

That so much of Standing Orders be suspended so as to enable the *Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Bill 2017* to be read a third time.

The motion requiring the concurrence of an absolute majority.

Question — put.

The Acting President having counted the Council, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

The Leader of the House representing the Attorney General, by leave, moved, That the Bill be read a third time.

The Acting President announced that the Deputy Chair of Committees had certified that this was a true copy of the Bill as agreed to in Committee of the Whole House and reported.

Debate ensued.

Question — put and passed.

Bill read a third time and passed.

## **20. Order of Business**

Ordered — That Order of the Day No. 23, *Terrorism (Extraordinary Powers) Amendment Bill 2018*, be taken forthwith. (Leader of the House).

## **21. Terrorism (Extraordinary Powers) Amendment Bill 2018**

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

Debate resumed.

Question — put and passed.

Bill read a second time.

Leave was granted to proceed forthwith to the third reading.

The Minister for Environment representing the Minister for Police moved, That the Bill be read a third time.

Question — put and passed.

Bill read a third time and passed.

## **22. Order of Business**

Ordered — That Order of the Day relating to the Standing Committee on Uniform Legislation and Statutes Review — Report No. 114 — *Fair Trading Amendment Bill 2018 — Extension of Time*, be taken forthwith. (Leader of the House).

**23. Standing Committee on Uniform Legislation and Statutes Review — Report No. 114 — Fair Trading Amendment Bill 2018 — Extension of Time**

The Order of the Day having been called for the resumption of debate on the motion of Hon Michael Mischin as follows —

That the Committee requests an extension of time in which to report on the Bill from 14 August 2018 to 18 September 2018.

Debate resumed.

Question — put and passed.

**24. Tobacco Products Control Amendment Bill 2017**

The Order of the Day for the further consideration of this Bill, in Committee of the Whole House, having been read.

The Acting President left the Chair.

—————  
**In Committee**

(Hon Adele Farina in the Chair)

Clause 2.

Debate resumed.

Hon Rick Mazza moved —

Page 2, line 7 — To delete “24 months” and insert:

5 years

Amendment — put and negatived.

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

Clause 3

Debate ensued.

Clause agreed to.

Clause 4.

Debate ensued.

**25. Questions Without Notice**

Questions without notice were taken.

The Minister for Education and Training, by leave, incorporated into *Hansard* information in relation to projected student enrolments in public schools, in response to a question without notice asked by Hon Donna Faragher.

The Leader of the House tabled documents in relation to recommended locations for new women’s refuges, in response to a question without notice asked by Hon Nick Goiran. (Tabled Paper 1525).

The Leader of the House representing the Minister for Seniors and Ageing tabled a Media Call by Hockey WA, dated 16 April 2018 entitled *Hockey WA to welcome Singapore National Team to Perth*, in response to question on notice No. 1304 asked by Hon Nick Goiran. (Tabled Paper 1526).

The Minister for Environment representing the Minister for Aboriginal Affairs, by leave, incorporated into *Hansard* information in relation to staffing at the Office of Native Title, in response to a question without notice asked by Hon Michael Mischin.

The Minister for Environment representing the Minister for Transport tabled a map of the Principal Shared Path program funding commitments and time frames that were current prior to March 2017, in response to question on notice No. 1217 asked by Hon Tim Clifford. (Tabled Paper 1527).

The Minister for Regional Development tabled a list of all Local Projects Local Jobs projects funded by the Department of Primary Industries and Regional Development since March 2017 from Albany to Willagee, in response to question on notice No. 1268 asked by Hon Tjorn Sibma. (Tabled Paper 1528).



The Minister for Regional Development tabled a list of Local Projects Local Jobs projects where funding acquittal is overdue, in response to question on notice No. 1271 asked by Hon Tjorn Sibma. (Tabled Paper 1529).

The Minister for Regional Development tabled documents in relation to payments to each Local Projects Local Jobs project funded by the Department of Primary Industries and Regional Development since March 2017, in response to question on notice No. 1278 asked by Hon Tjorn Sibma. (Tabled Paper 1530).

The Minister for Regional Development tabled documents in relation to Local Projects Local Jobs projects funded by the Department of Regional Development in 2016–2017 and 2017–2018, in response to question on notice No. 1295 asked by Hon Tjorn Sibma. (Tabled Paper 1531).

## **26. Tobacco Products Control Amendment Bill 2017**

Resumption of consideration of this Bill in Committee of the Whole House (*see item 24 above*).

The President left the Chair.

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### **In Committee**

(Hon Martin Aldridge in the Chair)

Clause 4.

Debate resumed.

Clause agreed to.

Clause 5.

Debate ensued.

Clause agreed to.

Clause 6.

Debate ensued.

Parliamentary Secretary to the Minister for Health moved —

Page 3, line 21 to page 5, line 17 — To delete the lines and insert:

## **6. Section 23 amended**

(1) After section 23(1) insert:

(2) If a person is charged with an offence under section 22(1) it is a defence to prove that at the time the offence is alleged to have been committed —

- (a) the person was a specialist retailer; and
- (b) the display was of a cigar or an implement designed to cut a cigar; and
- (c) the display could not be seen from a public place outside the premises specified in the licence; and
- (d) a health warning sign in accordance with the regulations was displayed immediately adjacent to the display.

(2) Delete section 23(4).

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 7.

Debate ensued.

Clause agreed to.  
Clause 8.  
Debate ensued.  
Clause agreed to.  
Clause 9.  
Debate ensued.  
Clause agreed to.  
Clause 10.  
Debate ensued.  
Clause agreed to.  
Clause 11.  
Debate ensued.  
Clause agreed to.  
Clause 12.  
Debate ensued.  
Clause agreed to.  
Clause 13.  
Debate ensued.  
Clause agreed to.  
Clauses 14 and 15 agreed to.  
Clause 16.  
Debate ensued.  
Clause agreed to.  
Clause 17.  
Debate ensued.  
Clause agreed to.  
Clause 18.  
Debate ensued.  
Clause agreed to.  
Clause 19.  
Debate ensued.  
Clause agreed to.  
Clause 20.  
Debate ensued.  
Clause agreed to.  
Clause 21.  
Debate ensued.  
Clause agreed to.  
Title agreed to.

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The President resumed the Chair.

Bill reported with amendment.

The Parliamentary Secretary to the Minister for Health, by leave, moved, That the report be adopted.

Report adopted.

The Parliamentary Secretary to the Minister for Health moved, without notice —

That so much of Standing Orders be suspended so as to enable the *Tobacco Products Control Amendment Bill 2017* to be read a third time.

The motion requiring the concurrence of an absolute majority.

Question — put.

Debate ensued.

The President having counted the Council, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

The Parliamentary Secretary to the Minister for Health moved, That the Bill be read a third time.

The President announced that the Deputy Chair of Committees had certified that this was a true copy of the Bill as agreed to in Committee of the Whole House and reported.

Bill read a third time and passed.

## **27. Order of Business**

Ordered — That Members' Statement be taken forthwith. (Leader of the House).

## **28. Members' Statements**

Statements were taken.

The Minister for Environment tabled documents in relation to travel to Europe by the Minister to study container deposit schemes and waste management facilities. (Tabled Paper 1532).

The Minister for Environment tabled a report entitled *Proposal for a Directive of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment*. (Tabled Paper 1533).

## **29. Statement by President — Rod Clarke**

The President made the following Statement —

It is very important that, from time to time, we acknowledge the work that people do in this place. Tomorrow we will be saying farewell to Rod Clark, whom many of you know. Rod Clark has worked for the Leader of the House while in Government. He worked for Hon Sue Ellery when she was the Leader of the Opposition for a number of years and has obviously dealt with a significant number of people in the Chamber and certainly other staff in the building. Rod has decided to take on some new challenges and a new chapter in his life. I wanted to acknowledge the service he has given to people in this building, to the Labor Party, and certainly the work he has done with other parties in this chamber.

Rod is a very calm, intelligent man, who works in a very pressurised environment and has always managed to do excellent research work and liaise with everyone. I think everyone would agree that he is a very pleasant individual to deal with. I know he will be missed by those people who have worked with him on the Labor side of the Chamber and those others who have engaged with him over many years. I wanted to put on the public record my thanks to Rod Clark and to wish him well in his next chapter and hope he has a very exciting time ahead of him.

## **30. Residential Tenancies Legislation Amendment (Family Violence) Bill 2018**

The President reported the receipt of Message No. 67 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House representing the Minister for Prevention of Family and Domestic Violence moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Leader of the House representing the Minister for Prevention of Family and Domestic Violence moved, That the Bill be read a second time.

The Leader of the House representing the Minister for Prevention of Family and Domestic Violence tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 1534).

Debate stands adjourned.

**31. Liquor Control Amendment Bill 2018**

The following Message from the Legislative Assembly was reported —

Madam President

Message No. 68

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *Liquor Control Amendment Bill 2018*.

Mr S.J. Price

Acting Speaker

Legislative Assembly Chamber

Perth, 28 June 2018

**32. Ports Legislation Amendment Bill 2017**

The President reported the receipt of Message No. 69 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Environment representing the Minister for Transport moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Minister for Environment representing the Minister for Transport moved, That the Bill be read a second time.

The Minister for Environment representing the Minister for Transport tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 1535).

Debate stands adjourned.

**33. Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Bill 2017**

The following Message from the Legislative Assembly was reported —

Madam President

Message No. 70

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Bill 2017*.

Mr I.C. Blayney

Acting Speaker

Legislative Assembly Chamber

Perth, 28 June 2018

**34. Adjournment**

The Council adjourned at 6.52pm until Tuesday, 14 August 2018 at 2.00pm.

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

Attendance: Present all Members except Hon Simon O'Brien.

**NIGEL PRATT**  
Clerk of the Legislative Council

**HON KATE DOUST MLC**  
President of the Legislative Council