

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 238

WEDNESDAY, 17 OCTOBER 2012

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 — Chamber Clock

The President made the following Statement —

Members will note that one of the clocks in the Chamber is much more reliable than the other one at the moment. Obviously the clock above me is still working okay; the other clock has a bit of a problem.

3. Papers

The following Papers were laid on the Table by —

President

Auditor General's Papers —

Major Capital Projects (Report No. 12) (October 2012) 5195

Leader of the House

Management Plans —

Fish Resources Management Act 1994 (West Coast Demersal Scalefish (Interim) Management Plan Amendment (No. 2) 2012 [1113] G.G. 12/10/2012, West Coast Estuarine Fishery (Interim) Management Plan Amendment 2012 G.G. 12/10/2012 and West Coast Rock Lobster Management Plan Amendment (No. 2) 2012 [1118] G.G. 12/10/2012) 5196

Orders —

Fish Resources Management Act 1994 (Prohibition on Commercial Fishing (Shoalwater Islands Marine Park) Amendment Order 2012 [1076] G.G. 09/10/2012) 5197

Regulations —

Fish Resources Management Act 1994 (Fish Resources Management Amendment Regulations (No. 5) 2012 G.G. 25/09/2012) 5198

Petroleum and Geothermal Energy Safety Levies Act 2011 (Petroleum and Geothermal Energy Safety Levies Amendment Regulations 2012 G.G. 28/09/2012) 5199

Racing Bets Levy Act 2009 (Racing Bets Levy Amendment Regulations 2012 G.G. 12/10/2012) 5200

Minister for Finance

Regulations —

Economic Regulation Authority Act 2003 (Economic Regulation Authority (Electricity Networks Access Funding) Regulations 2012 G.G. 09/10/2012) 5201

Fair Trading Act 2010 (Fair Trading (Retirement Villages Interim Code) Regulations 2012 G.G. 26/09/2012).....	5202
Motor Vehicle Dealers Act 1973 (Motor Vehicle Dealers (Prescribed Vehicles) Amendment Regulations 2012 G.G. 02/10/2012)	5203
Western Australian Marine Act 1982 (Western Australian Marine (Infringements) Amendment Regulations 2012 G.G. 09/10/2012)	5204
Workers' Compensation and Injury Management Act 1981 (Workers' Compensation and Injury Management (Scales of Fees) Amendment Regulations 2012 G.G. 25/09/2012).....	5205

Minister for Education

Regulations —

Vocational Education and Training Act 1996 (Vocational Education and Training (Colleges) Amendment Regulations (No. 2) 2012 G.G. 12/10/2012)	5206
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Minister for Child Protection

Local Laws —

Dog Act 1976 (City of Nedlands Dogs Local Law G.G. 11/10/2012)	5207
Local Government Act 1995 (Shire of East Pilbara Parking and Parking Facilities Local Law 2011 G.G. 09/10/2012, City of Gosnells Parking Local Law 2012 G.G. 12/10/2012, Shire of Kellerberrin Parking and Parking Facilities Local Law 2012 G.G. 03/10/2012, City of Nedlands Parking and Parking Facilities Local Law 2012 G.G. 11/10/2012 and City of South Perth Standing Orders Amendment Local Law 2012 G.G. 05/10/2012)	5208

Minister for Mental Health

Annual Reports —

Occupational Therapists Registration Board (for the year ended 30 June 2012) (Date received 16/10/2012)	5209
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By-laws —

Hospitals and Health Services Act 1927 (Fremantle Hospital Amendment By-laws 2012 G.G. 28/09/2012 and Osborne Park Hospital Amendment By-laws 2012 G.G. 28/09/2012).....	5210
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Regulations —

Environmental Protection Act 1986 (Environmental Protection (Diesel and Petrol) Amendment Regulations 2012 G.G. 09/10/2012)	5211
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4. Child Support (Adoption of Laws) Amendment Bill 2012

The Attorney General, by leave, tabled a corrected explanatory memorandum in relation to the *Child Support (Adoption of Laws) Amendment Bill 2012*. (Tabled Paper 5212).

5. Electoral Amendment (Access to Ministers) Bill 2012

Hon Alison Xamon: To move on the next day of sitting —

That a Bill for “An Act to amend the *Electoral Act 1907*.” be introduced and read a first time.

6. Mr Neil Winzer — Amendment to Motion No. 11

Hon Max Trenorden, pursuant to SO 61(a), amended Motion No. 11 to the following —

That this House calls on the Public Sector Commissioner to conclude expeditiously the employment and associated issues of Mr Neil Winzer in relation to the Western Australian Public Sector.

7. Universal Child Health Checks

Motion No. 1 having been called, Hon Linda Savage continued her introductory remarks in moving the motion as follows —

That this House calls on the Government to implement the recommendations of the Auditor General's Report 11 — November 2010, *Universal Child Health Checks*.

Debate ensued.

Interruption pursuant to order.

8. Consideration of Committee Reports

Pursuant to order for the consideration of Committee Reports.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Joint Standing Committee on the Corruption and Crime Commission — Report No. 30 — Annual Report 2011–2012

Hon Nick Goiran moved, That the Report be noted.

9. Questions Without Notice

Questions without notice were taken.

Hon Ljiljanna Ravlich, by leave, tabled a signed authorisation form from Mr Ian Edwards, in relation to a question without notice asked of the Minister for Mental Health. (Tabled Paper 5213).

Point of Order

Hon Jon Ford raised the following Point of Order —

Mr President, the Minister keeps on referring to some restriction that some Act has on her delivering some information to the Parliament, and she implies some criminality. I seek your ruling on what has primacy: the Parliament and privilege, or the Act that the Minister refers to. I make the point so that I can understand that there is validity in her argument.

President's Ruling

The President ruled as follows —

Members, it is a very pertinent point of order in terms of the debates over a couple of pieces of legislation with which this chamber has been involved in recent months. The Minister can choose to answer the question in whichever way she likes. She is not bound by the criminality aspects of it if she chooses to answer questions in Parliament containing information, because Parliament provides the Minister and any other Member with that privilege within the parliamentary precincts. If a Member is absolutely determined to obtain that information, it would have to be done via a motion in this House to require the Minister to provide that information to Parliament.

The Minister for Mines and Petroleum, in accordance with Standing Order No. 107(2), advised that an answer to question on notice No. 5956 asked by Hon Giz Watson will be provided on 23 October 2012.

The Minister for Commerce tabled documents in relation to the WorkSafe Enforcement Policy and an information pamphlet on the role and powers of WorkSafe inspectors, in response to question on notice No. 5958 asked by Hon Alison Xamon. (Tabled Paper 5214).

The Minister for Commerce, in accordance with Standing Order No. 107(2), advised that an answer to question on notice No. 6005 asked by Hon Linda Savage will be provided on 18 October 2012.

The Minister for Education on behalf of the Minister for Child Protection representing the Minister for Local Government, by leave, incorporated into Hansard, an updated answer to question without notice No. 774 asked by Hon Matt Benson-Lidholm on 16 October 2012.

The Minister for Mental Health, in accordance with Standing Order No. 107(2), advised that answers to questions on notice Nos 5973 and 5974 asked by Hon Alison Xamon will be provided on 25 October 2012.

10. Consideration of Committee Reports

Pursuant to order for the consideration of Committee Reports (*see item 8 above*).

In Committee

(Hon Brian Ellis in the Chair)

Joint Standing Committee on the Corruption and Crime Commission — Report No. 30 — Annual Report 2011–2012

Debate resumed on the motion of Hon Nick Goiran, That the Report be noted.

Question — put and passed.

The Deputy President resumed the Chair.

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

Joint Standing Committee on the Corruption and Crime Commission — Report No. 30 — Annual Report 2011–2012 and had noted same.

Report adopted.

11. Trans-Tasman Mutual Recognition (Western Australia) Amendment Bill 2012

The Deputy President reported the receipt of Message No. 278 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House representing the Premier 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 Premier moved, That the Bill be read a second time.

The Leader of the House representing the Premier tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 5215).

Debate stands adjourned.

12. Order of Business

Ordered — That Orders of the Day Nos 1, *City of Bayswater Standing Orders Local Law 2012 — Disallowance*, 2, *City of Perth Standing Orders Amendment Local Law 2012 — Disallowance*, 3, *Shire of Broomehill-Tambellup Removal of Refuse, Rubbish and Disused Materials Local Law 2012 — Disallowance*, and 4, *Submission No. 13/2012 — Amendment to Class A Reserve 8485 and Cancellation of Class A Reserve 28535 — Disallowance*, be taken after Order of the Day No. 11, *Courts Legislation Amendment Bill 2012*. (Leader of the House).

13. Criminal Investigation (Covert Powers) Bill 2011

The Order of the Day having been read for the consideration of the Committee of the Whole House's report upon this Bill.

The Leader of the House on behalf of the Attorney General representing the Minister for Police moved, That the report be adopted.

Question — put and passed.

Ordered — That the third reading of the Bill be made an Order of the Day for the next sitting.

14. Cognate Debate — Mining Rehabilitation Fund Bill 2012 and Mining Rehabilitation Fund Amendment Bill 2012

The Minister for Mines and Petroleum sought leave of the Council to debate Order of the Day No. 13, *Mining Rehabilitation Fund Bill 2012* and Order of the Day No. 14, *Mining Rehabilitation Fund Amendment Bill 2012* cognately [SO 127].

Leave granted.

15. Mining Rehabilitation Fund Bill 2012 and Mining Rehabilitation Fund Amendment Bill 2012

The Orders of the Day having been read for the adjourned debate on the second reading of these Bills. Debate resumed.

Hon Robin Chapple moved, without notice —

That Order of the Day No. 13, the *Mining Rehabilitation Fund Bill 2012*, and Order of the Day No. 14, the *Mining Rehabilitation Fund Amendment Bill 2012*, be discharged and referred to the Standing Committee on Legislation for consideration and report not later than 15 November 2012.

Debate ensued.

Question — put.

The Council divided.

Ayes (4)

Hon Robin Chapple
Hon Lynn MacLaren

Hon Giz Watson
Hon Alison Xamon (*Teller*)

Noes (26)

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 Adele Farina
Hon Jon Ford

Hon Philip Gardiner
Hon Nick Goiran
Hon Nigel Hallett
Hon Col Holt
Hon Robyn McSweeney
Hon Michael Mischin
Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien
Hon Sally Talbot
Hon Ken Travers
Hon Max Trenorden
Hon Ken Baston (*Teller*)

Question thus negatived.

Debate resumed.

Question — That the *Mining Rehabilitation Fund Bill 2012* be read a second time — put and passed.

Bill read a second time.

Question — That the *Mining Rehabilitation Fund Amendment Bill 2012* be read a second time — put and passed.

Bill read a second time.

The Deputy President left the Chair.

In Committee

(Hon Brian Ellis in the Chair)

Mining Rehabilitation Fund Bill 2012

Clause 1.

Debate ensued.

Clause agreed to.

Clause 2 agreed to.

Clause 3.

Debate ensued.

Clause agreed to.

Clauses 4 to 9 agreed to.

Point of Order

The Minister for Mines and Petroleum raised the following Point of Order —

Deputy Chair, we may save some time if you can answer my question for me. I ask whether, in your view, proposed new clauses 9A and 9B in Supplementary Notice Paper No. 298, Issue No. 2 are within the scope of the bill.

Deputy Chair's Ruling

The Deputy Chair ruled as follows —

Standing Order 134 allows amendments to be moved if they are within the subject matter of the Bill. Schedule 3 of the Standing Orders defines “*subject matter*” to mean “*the provisions of the Bill as printed, read a second time and referred to the Committee of the Whole House*”. The provisions of the Bill before us are to secure adequate ongoing funds for the State to rehabilitate land affected by mining operations when the original operator does not fulfil its mine rehabilitation requirements. It is therefore narrow in scope and any amendment must be relevant to that purpose. The proposed amendment would introduce a new policy of creating an offence for not complying with the requirements of a relevant mine closure plan established under the *Mining Act 1978* that is not contemplated within the scope of the Bill. I therefore rule the amendments out of order.

Clauses 10 to 25 agreed to.

Clause 26.

Debate ensued.

Clause agreed to.

Clauses 27 to 36 agreed to.

Clause 37.

Debate ensued.

Clause agreed to.

New Clause 37A.

The Minister for Mines and Petroleum moved —

Page 22, after line 17 — To insert —

37A. Review of Act

- (1) The Minister must carry out a review of the operation and effectiveness of this Act as soon as is practicable after the end of the period of 10 years beginning on the day on which this Act receives the Royal Assent.
- (2) The Minister must prepare a report based on the review and must cause the report to be laid before each House of Parliament as soon as is practicable after it is prepared and, in any event, not later than 18 months after the end of the period referred to in subsection (1).

Debate ensued.

New Clause — put and passed.

Clause 38 agreed to.

Title agreed to.

Mining Rehabilitation Fund Amendment Bill 2012

Clause 1 agreed to.

Clauses 2 to 4 agreed to.

Title agreed to.

The Deputy President resumed the Chair.

The *Mining Rehabilitation Fund Bill 2012* was reported with amendment.

The *Mining Rehabilitation Fund Amendment Bill 2012* was reported without amendment.

The Minister for Mines and Petroleum, by leave, moved, That the reports be adopted.

Reports adopted.

Ordered — That the third reading of the Bills be made an Order of the Day for the next sitting.

16. Community Protection (Offender Reporting) Amendment Bill 2011

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

The Deputy President left the Chair.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Clause 11.

Debate resumed.

Clause agreed to.

Clause 12.

Debate ensued.

Clause agreed to.

Clauses 13 to 15 agreed to.

Clause 16.

Hon Giz Watson moved the following Committee recommendation —

Page 12, lines 27 and 28 — To delete “form of identification or other document,” and insert —

identification documents,

Debate ensued.

Interruption pursuant to order.

The President resumed the Chair.

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

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

17. Members' Statements

Statements were taken.

18. Adjournment

The Council adjourned at 10.05pm until Thursday, 18 October 2012 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Donna Faragher and Hon Alyssa Hayden.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council