

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 181

FIRST SESSION OF THE THIRTY-NINTH PARLIAMENT

THURSDAY, 19 NOVEMBER 2015

1. Meeting of Assembly

The Assembly met at 9.00 a.m. pursuant to adjournment.

The Speaker took the Chair.

Prayers were read.

2. Papers

The following papers were presented and ordered to lie upon the Table of the House –

By the Speaker –

Parliamentary Commissioner for Administrative Investigations [Ombudsman] – Investigation Into Issues Associated With Violence Restraining Orders and Their Relationship With Family Domestic Violence Fatalities (3640).

By the Clerk –

Treasury, Department of – Perth Market Authority Asset Sale Project – Stakeholder Engagement (3641).

3. Brief Ministerial Statements

Brief Ministerial Statements were made by –

The Minister for Finance on the technology based strategies the Government has implemented to make life easier for business and the community.

The Minister for Tourism on recent changes to the Liquor Regulations to ensure tourism in Western Australia continues to grow.

The Minister for Environment on the latest initiative to further consolidate the State's Environmental Protection Regulations.

4. Grievances

The Speaker called for grievances which were then made.

Papers

The following papers were presented and ordered to lie upon the Table of the House –
By the Minister for Transport –

Transport, Minister for – Forrestfield Station Location Plan (3643).

Transport, Minister for – Forrestfield Station Location Plan No. 2 (3642).

5. Public Health Bill 2014

The Deputy Speaker presented the Legislation Committee's report on the Bill.

Papers

The following papers were presented and ordered to lie upon the Table of the House –

By the Deputy Speaker –

Public Health Bill 2014 – Legislation Committee Report No. 1 (3644).

Public Health Bill 2014 and the Public Health (Consequential Provisions) Bill 2014 –
Legislation Committee, Minutes (3645).

The report was as follows –

LEGISLATION COMMITTEE

REPORT No. 1

Public Health Bill 2014

The Legislation Committee reports that it has considered the *Public Health Bill 2014*, as referred to it by the Legislative Assembly.

Clauses already agreed to by the Legislative Assembly

1 and 2.

Agreed clauses

The Committee has agreed to the following clauses of the Bill:

3;

6 to 33;

36 to 45;

47;

48 to 89;

92 to 105;

107 to 145;

147 to 167;

169 to 173;
 175 to 187;
 188 to 228;
 230 to 254;
 268 to 279;
 283 to 285; and
 287 to 311.

Amendments and new clauses

The Committee has agreed to the following clauses with amendments, and new clauses:

No. 1

Clause 4.

Page 9, line 32 – To insert after the word ‘health’:

“ and well-being ”

No. 2

New Part 5A.

Page 43, after line 10 – To insert:

“

Part 5A — Public health policies

47A. Minister may issue public health policies

- (1) The Minister may issue public health policies for any purposes relating to the objects of this Act.
- (2) A public health policy may be issued only if —
 - (a) sections 47B, 47C and 47E have been complied with in relation to a draft of the public health policy; and
 - (b) the Chief Health Officer has recommended under section 47E(2)(d) that the public health policy be issued.

47B. Chief Health Officer may prepare and publish draft public health policies

- (1) If the Chief Health Officer considers that it is in the interests of public health for a public health policy to be issued under section 47A, the Chief Health Officer may prepare a draft of the public health policy and make it available for public comment.

- (2) The Chief Health Officer must give public notice of the proposal to issue the public health policy, and the notice must —
 - (a) contain information about the draft policy; and
 - (b) specify where copies of the draft policy are available without charge; and
 - (c) invite interested persons to make submissions to the Chief Health Officer on the draft policy within a period specified in the notice; and
 - (d) specify how those submissions may be made.
- (3) The notice required by subsection (2) may be published in any way the Chief Health Officer considers appropriate, including (without limitation) by posting the notice on a website maintained by or on behalf of the Department.

47C. Chief Health Officer to consult on proposal to issue public health policy

- (1) The Chief Health Officer must make reasonable efforts to consult any public authority or other person or body that the Chief Health Officer considers may be affected if the draft policy becomes a public health policy under this Part.
- (2) Consultation may be undertaken in any way that the Chief Health Officer considers appropriate in the circumstances, having regard to the number of persons or bodies considered likely to be affected as described in subsection (1).

47D. Submissions may be made to the Chief Health Officer

A person may make submissions to the Chief Health Officer, in the manner and within the period specified in the relevant notice required by section 47B(2), in relation to the draft policy to which that notice relates.

47E. Chief Health Officer to report to Minister on outcome of consultation on draft policy

- (1) After the end of the period for making submissions under section 47B in relation to a draft policy, the Chief Health Officer —
 - (a) must consider any submissions made during that period and any views expressed by a public authority, person or body consulted under section 47C; and
 - (b) may —
 - (i) decide to recommend to the Minister that the draft policy be issued as a public health policy without revision; or
 - (ii) revise the draft policy to any extent the Chief Health Officer considers appropriate, and decide to recommend to the Minister that the draft policy (as revised) be issued as a public health policy; or
 - (iii) decide not to recommend to the Minister that the draft policy (whether revised or not) be issued as a public health policy.

- (2) After deciding what to do under subsection (1)(b), the Chief Health Officer must submit a report to the Minister that contains —
 - (a) a summary of the consultation undertaken by the Chief Health Officer under section 47C in relation to the draft policy; and
 - (b) a summary of the submissions made to the Chief Health Officer under section 47D on the draft policy; and
 - (c) the Chief Health Officer's decision under subsection (1)(b); and
 - (d) if the decision of the Chief Health Officer is to recommend to the Minister that the draft policy (whether revised under subsection (1)(b)(ii) or not) be issued as a public health policy —
 - (i) the Chief Health Officer's recommendation; and
 - (ii) a copy of the draft policy (as revised, if applicable) that the Chief Health Officer recommends be issued as a public health policy; and
 - (iii) if the Chief Health Officer has revised the draft policy recommended, the reasons for the revision.
- (3) Nothing in this section prevents the Chief Health Officer from consulting any public authority, body or person in relation to a draft policy revised under subsection (1)(b)(ii) before submitting the report to the Minister.

47F. Tabling of reports and public health policies

- (1) The Minister must cause a copy of a report submitted to the Minister by the Chief Health Officer under section 47E(2) to be laid before each House of Parliament as soon as is practicable after the Minister receives the report.
- (2) The Minister must cause a copy of a public health policy issued under this Part to be laid before each House of Parliament as soon as is practicable after the policy is issued.

47G. Publication of reports and public health policies

- (1) The Chief Health Officer must make the following publicly available without charge —
 - (a) reports submitted to the Minister by the Chief Health Officer under section 47E(2);
 - (b) current public health policies issued under section 47A.
- (2) The Chief Health Officer may comply with subsection (1) in any way the Chief Health Officer considers appropriate, including (without limitation) by making the documents available on a website maintained by or on behalf of the Department.

47H. Application of *Interpretation Act 1984* to public health policies

- (1) A public health policy is not subsidiary legislation for the purposes of the *Interpretation Act 1984*.

- (2) The *Interpretation Act 1984* sections 43 (other than subsection (6)) and 44 and Part VIII apply to a public health policy as if it were subsidiary legislation.

47I. Power to make regulations not limited

Nothing in this Part or in any public health policy limits or affects the power to make regulations under section 293 or 311.

”
.

No. 3

Clause 90.

Page 74, line 25 – To delete “advocate” and substitute:

“ representative ”.

No. 4

Clause 91.

Page 76, line 24 – To delete “relevant” and substitute:

“ deceased ”.

No. 5

Clause 106.

Page 89, line 18 – To delete “advocate” and substitute:

“ representative ”.

No. 6

Clause 146.

Page 120, line 6 – To delete “advocate” and substitute:

“ representative ”.

No. 7

Clause 168.

Page 137, line 25 – To delete “advocate” and substitute:

“ representative ”.

No. 8

Clause 174.

Page 141, after line 8 – To insert:

“

- (6) This section overrides the *Poisons Act 1964*, the *Medicines and Poisons Act 2014* and the *Misuse of Drugs Act 1981*.

”.

No. 9

New Clause 187A.

Page 154, after line 20 – To insert:

“

187A. Chief Health Officer may authorise persons to administer, manufacture, supply or prescribe poisons

- (1) In this section —
poison —
- (a) until the commencement of the *Medicines and Poisons Act 2014* section 3, has the meaning given in the *Poisons Act 1964* section 5(1); and
- (b) after the commencement of the *Medicines and Poisons Act 2014* section 3, has the meaning given in that section.
- (2) For the purposes of emergency management during a public health state of emergency —
- (a) the Chief Health Officer may authorise a person, or class of persons, to administer, manufacture, supply or prescribe a poison; and
- (b) a person authorised under paragraph (a) may administer, manufacture, supply or prescribe a poison.
- (3) The Chief Health Officer may give directions in relation to the exercise of a power under subsection (2)(b).
- (4) When exercising a power under subsection (2)(b), a person must comply with —
- (a) the terms and conditions of the authorisation (if any); and
- (b) any directions of the Chief Health Officer given under subsection (3).
- (5) This section overrides the *Poisons Act 1964*, the *Medicines and Poisons Act 2014* and the *Misuse of Drugs Act 1981*.

”.

No. 10

New Clause 187B.

Page 154, after line 20 – To insert:

“

187B. Further provisions relating to authority to administer, manufacture, supply or prescribe poisons

- (1) In this section —
authorisation means an authorisation given under section 187A(2)(a);
direction means a direction given under section 187A(3).
- (2) An authorisation —
 - (a) is subject to any limitation in a declaration under section 158(3)(b) or 160 or 161; and
 - (b) must state that it is given under section 187A; and
 - (c) must generally describe the public health state of emergency to which it relates; and
 - (d) must specify —
 - (i) the person, or class of persons, to whom it applies; and
 - (ii) the poison, or class of poisons, to which it applies; and
 - (iii) the terms and conditions (if any) to which it is subject.
- (3) The Chief Health Officer may vary or revoke an authorisation or a direction.
- (4) Authorisations and directions, and variations and revocations of authorisations or directions —
 - (a) may be given orally or in writing; but
 - (b) if given orally, must be put in writing as soon as is practicable.
- (5) A failure to put an authorisation or direction, or a variation of an authorisation or direction, in writing does not invalidate the authorisation, direction or variation or anything done under the authorisation or direction.
- (6) The powers that an authorisation confers on a person are in addition to, and do not limit, the powers that the person may have under another written law or other law.

”.

No. 11

Clause 229.

Page 179, line 22 – To delete “subsection (3)(a)” and substitute:

“ subsection (3)(b) ”.

No. 12

Clause 286.

Page 209, lines 13 to 16 – To delete the lines and substitute:

“

- (4) A person who, at the request or direction of an authorised officer or emergency officer or a person authorised under section 187A(2)(a), assists the officer or person to exercise a power under this Act is to be taken to be performing a function under this Act for the purposes of this section.

”.

No. 13

Title of the Bill.

Page 1 – To insert after the word “**health**” in the long title:

“ **and well-being** ”

Postponed clauses

The Committee has agreed to postpone the following clauses for consideration in the Legislative Assembly:

5;

34;

35 with the following amendment:

Page 31, lines 3 and 4 deleted.

46;

255 to 267; and

280 to 282.

WENDY DUNCAN, MLA

CHAIR TO THE LEGISLATION COMMITTEE

DEPUTY SPEAKER OF THE LEGISLATIVE ASSEMBLY

On the question, That the Report No. 1 of the Legislation Committee be adopted, and that the Bill be committed to consideration in detail stage for consideration of clauses postponed by the Legislation Committee.

Debate ensued.

Question put and passed.

Ordered, That the consideration in detail of the bill for the purposes of considering only those clauses that the Legislation Committee postponed to this House be made an Order of the Day for the next sitting of the Assembly.

6. Public Health (Consequential Provisions) Bill 2014

The Deputy Speaker presented the Legislation Committee's report on the Bill.

Paper

The following paper was presented and ordered to lie upon the Table of the House –

By the Deputy Speaker –

Public Health (Consequential Provisions) Bill 2014 – Legislation Committee Report No. 2 (3646).

The report was as follows –

LEGISLATION COMMITTEE

REPORT No. 2

Public Health (Consequential Provisions) Bill 2014

The Legislation Committee reports that it has considered the *Public Health (Consequential Provisions) Bill 2014*, as referred to it by the Legislative Assembly.

Agreed clauses

The Committee has agreed to the following clauses of the Bill:

1 to 35;
37 to 89;
90 to 98;
100 to 174;
175 to 209;
211 to 265;
267 to 351; and
Title.

Amendments

The Committee has agreed to the following clauses with amendments, and new clauses:

No. 1

Clause 36

Page 21, lines 9 to 17 – To delete the lines and substitute:

“

(1) In section 335(1) delete “her,” and insert:

the midwife,

”

No. 2

New Clause 89A

Page 61, after line 11 – To insert:

“

89A. Section 360 amended

Delete section 360(2) to (5) and insert:

- (2) Local laws and regulations made under this Act may create offences with —
 - (a) a maximum penalty of not more than \$10 000; and
 - (b) if the offence is a continuing offence, a daily penalty of not more than \$1 000.
- (3) For the purposes of subsection (2) —
 - (a) local laws and regulations may provide for the imposition of a minimum penalty for an offence; and
 - (b) the level of the penalty for an offence (whether the maximum penalty or a minimum penalty) may be related to either or both of the following —
 - (i) the circumstances or extent of the offence;
 - (ii) whether the offender has committed previous offences and, if so, the number of previous offences that the offender has committed.

”.

No. 3

Clause 99

Page 74, after line 6, the Table the 15th row – To delete the 2nd column.

No. 4

New Clause 174A

Page 103, after line 22 – To insert:

“

174A. Section 157 deleted

Delete section 157.

”.

No. 5

Clause 210

Page 115, line 11 – To delete “sections 171, 173 and 174” and substitute:

“ sections 171, 173, 174 and 174A ”.

No. 6

Clause 266

Page 125, lines 11 to 17 – To delete the lines and substitute:

“ (6) In section 360(3)(a) delete “local laws and”. ”.

WENDY DUNCAN, MLA
CHAIR TO THE LEGISLATION COMMITTEE
DEPUTY SPEAKER OF THE LEGISLATIVE ASSEMBLY

On the question, That Report No. 2 of the Legislation Committee 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 of the Assembly.

7. Disposal of Uncollected Goods Amendment Bill 2015

The Parliamentary Secretary to the Minister for Commerce, pursuant to notice, moved,

That a bill for “An Act to amend the *Disposal of Uncollected Goods Act 1970*.” be introduced and read a first time.

Question put and passed.

The Parliamentary Secretary to the Minister for Commerce presented an explanatory memorandum and bill read a first time.

The Parliamentary Secretary to the Minister for Commerce moved, That the bill be now read a second time.

Ms S. McGurk moved, That the debate be adjourned.

Question put and passed.

8. Ministerial Statement

The Premier was granted leave to make a Ministerial Statement regarding parliamentary entitlements.

9. Natural Gas (Canning Basin Joint Venture) Agreement Amendment Bill 2015

The Order of the Day for the resumption of the debate upon the second reading of the bill was read.

Debate resumed.

Debate interrupted by the Chair (Mr W.J. Johnston speaking) and adjourned until a later stage of the sitting.

10. Members' Statements

The Acting Speaker called for members' statements which were then made.

11. Questions

Questions without Notice were taken.

Questions on Notice Nos 4721 and 4722 were asked.

Question on Notice No. 4611 was answered.

12. Variation to the Order of Business

Ordered, That consideration of Government Business Order of the Day No. 1 be resumed.

13. Natural Gas (Canning Basin Joint Venture) Agreement Amendment Bill 2015

The Order of the Day for the resumption of the debate upon the second reading of the bill was read.

Debate resumed.

Question put and passed.

Bill read a second time.

CONSIDERATION IN DETAIL

Clauses 1 to 7 agreed to.

Title agreed to.

Consideration in detail concluded.

The Premier moved, That the bill be now read a third time.

Question put and passed.

Bill read a third time and forwarded to the Legislative Council for concurrence.

14. Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Bill 2015

The Order of the Day for the resumption of the debate upon the second reading of the bill was read.

Debate resumed.

The Leader of the House moved, That the debate be adjourned.

Question put and passed.

15. Child Support (Adoption of Laws) Amendment Bill 2015

Message No. 113 dated 19 November 2015 from the Legislative Council was reported forwarding for concurrence a bill for "An Act to amend the *Child Support (Adoption of Laws) Act 1990*."

Question put and passed.

The Parliamentary Secretary to the Minister for Commerce presented an explanatory memorandum and bill read a first time.

The Parliamentary Secretary to the Minister for Commerce moved, That the bill be now read a second time.

Ms S. McGurk moved, That the debate be adjourned.

Question put and passed.

16. Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Bill 2015

Message No. 112 dated 19 November 2015 from the Legislative Council was reported as follows –

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Bill 2015* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

Schedule indicating the amendments made by the Legislative Council in the Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Bill 2015

No. 1

Clause 2, page 2, line 8 — To delete “Assent;” and insert —

Assent (*assent day*);

No. 2

Clause 2, page 2, lines 12 and 13 — To delete “a day fixed by proclamation, and different days may be fixed for different provisions.” and insert —

the day after assent day.

No. 3

Clause 3, page 5, after line 11 — To insert —

director, of a company, means a person who is a director of the company under paragraph (a) of the definition of *director* in the Corporations Act section 9;

No. 4

Clause 3, page 6, lines 9 to 11 — To delete the lines and insert —

liquidator means a liquidator of a WA Bell Company and includes a provisional liquidator of a WA Bell Company immediately before —

- (a) for a WA Bell Company that was registered immediately before the transfer day — the transfer day; and
- (b) for a reinstated WA Bell Company — the day on which the company was deregistered;

No. 5

Clause 3, page 7, after line 12 — To insert —

reinstated WA Bell Company means a WA Bell Company that was not registered immediately before the transfer day but which had its registration reinstated on or after the transfer day;

No. 6

Clause 3, page 8, line 15 — To delete “12 noon on”.

No. 7

Clause 3, page 9, line 3 — To delete “12 noon on the transfer day.” and insert —

the dissolution of that company under section 27.

No. 8

Clause 3, page 9, line 7 — To delete “by” and insert —

under

No. 9

Clause 3, page 9, after line 7 — To insert —

- (4) A reference in this Act to —
 - (a) the deregistration of a company is a reference to the deregistration of the company under the Corporations Act or the Corporations Law (as in force before 15 July 2001); and
 - (b) the reinstatement of the registration of a company is a reference to the reinstatement of the registration of the company under the Corporations Act.

No. 10

Clause 4, page 9, lines 10 and 11 — To delete “mechanism to resolve, without litigation, disputes which have arisen in relation to” and insert —

mechanism, that avoids litigation, for

No. 11

Clause 4, page 10, lines 4 to 6 — To delete “intentions of the liquidator and the creditors who funded the Bell litigation as set out in agreements” and insert —

commercial substance of the agreements between the liquidator and the creditors who funded the Bell litigation, as

No. 12

Clause 9, page 12, after line 10 — To insert —

- (aa) to administer each WA Bell Company until it is dissolved; and

No. 13

Clause 10, page 12, after line 28 — To insert —

- (da) seek the reinstatement of the registration of a WA Bell Company;
- (db) indemnify a liquidator of a WA Bell Company against costs or liability in relation to the performance of a function as liquidator of the company, on the terms and conditions determined by the Authority;

No. 14

Clause 10, page 13, line 4 — To delete “section 7(3) or”.

No. 15

Clause 18, page 16, after line 15 — To insert —

- (aa) expenses of, and incidental to, the administration of a WA Bell Company by the Authority;
- (ab) any amount payable under an indemnity under section 10(2)(db);

No. 16

Clause 18, page 16, line 22 — To delete “all other payments.” and insert —

the payment of amounts specified in the determination of the Governor under section 37(2).

No. 17

Clause 22, page 19, lines 12 to 14 — To delete the lines and insert —

- (c) all property held (in any capacity) by a person who is a liquidator of a WA Bell Company on trust for any person, other than property held in a capacity that does not relate to the liquidation of a WA Bell Company.

No. 18

Clause 22, page 19, after line 14 — To insert —

- (1A) Property received by a WA Bell Company or another person, on or after the transfer day, that would have been transferred to, and vested in, the Authority by subsection (1) were it vested or held by the company or person as described in subsection (1) before the transfer day, is transferred to, and vested in, the Authority by force of this section, at the time at which it is received.

- (1B) In relation to a reinstated WA Bell Company, property revested in the company as a consequence of its reinstatement is taken to have been received by the company for the purposes of subsection (1A).
- (1C) Subsection (1) or (1A), whichever is relevant, does not apply to a share in a company that was a subsidiary of TBGL —
 - (a) immediately before the transfer day; or
 - (b) if the company was deregistered before the transfer day — immediately before the time at which the company was deregistered.
- (1D) A share to which subsection (1) or (1A) would have applied but for subsection (1C), is transferred to, and vested in, the Authority by force of this section immediately before the earlier of —
 - (a) the day specified by the Authority, by instrument published in the Gazette, for the purposes of this paragraph; and
 - (b) the day on which the WA Bell Company is dissolved under section 27.
- (1E) To the extent to which a right to make a taxation objection, or a right or capacity to seek the review of, or to appeal against, a decision of the Commissioner in relation to a taxation objection, is property of a WA Bell Company, subsection (1) or (1A), whichever is relevant, does not apply to the right or capacity.
- (1F) Words and expressions used in subsection (1E) and also in the *Taxation Administration Act 1953* (Commonwealth) Part IVC have the same meanings in that subsection as they have in that Part.

No. 19

Clause 22, page 19, line 28 — To delete “transfer day.” and insert —

day specified in the certificate.

No. 20

Clause 23, page 20, lines 14 to 16 — To delete “held, property that, before the transfer day, was property of a kind referred to in section 22(1).” and insert —

held —

- (a) property that, before the transfer day, was property of a kind referred to in section 22(1); or
- (b) in relation to a reinstated WA Bell Company — property that, before the day on which the company was deregistered, was property of a kind referred to in section 22(1); or
- (c) property to which section 22(1A) applies.

No. 21

Clause 25, page 21, line 10 — To insert after “incurred by” —

a WA Bell Company or

No. 22

Clause 25, page 21, line 17 — To insert after “of” —

a WA Bell Company or

No. 23

New Division 3A, page 22, after line 29 — To insert —

(c) **Division 3A — Administration of WA Bell Companies**

26A. Authority to administer WA Bell Companies

- (1) The Authority is, by force of this section, the administrator of each WA Bell Company.
- (2) Subsection (1) has effect —
 - (a) for a WA Bell Company that was registered immediately before the transfer day — from the beginning of the transfer day; and
 - (b) for a reinstated WA Bell Company — from the time at which the company’s registration is reinstated.
- (3) The Authority’s administration of a WA Bell Company ceases on the earlier of —
 - (a) the dissolution of the company; and
 - (b) the day specified in a notice given by the Authority to the liquidator (or other officer if there is no liquidator) of the company that the Authority will cease to be the administrator of the company on that day.

26B. Role of Authority as administrator of WA Bell Companies

- (1) While a WA Bell Company is under the administration of the Authority, the Authority —
 - (a) has control of the company’s property and affairs; and
 - (b) may manage that property and those affairs; and
 - (c) may dispose of any of that property; and
 - (d) may perform any function, and exercise any power, that the company or any of its officers could perform or exercise if the company were not under the administration of the Authority.
- (2) Nothing in subsection (1) limits the generality of anything else in it.
- (3) Nothing in this section limits any other power of the Authority under this Act or any other written law.

26C. Powers of other officers

- (1) While a company is under the administration of the Authority, a person (other than the Authority) cannot perform or exercise, and must not purport to perform or exercise, a function or power as an officer of the company.
- (2) Subsection (1) does not apply to the extent that the performance or exercise is with the Authority’s written approval or is in the exercise of a power or duty under this Act.

- (3) Subsection (1) does not remove a director or the liquidator of a WA Bell Company from his or her office.

No. 24

Clause 27, page 23, lines 3 and 4 — To delete the lines and insert —

- (1) The Governor may, by proclamation, dissolve a WA Bell Company.

No. 25

Clause 27, page 23, line 5 — To delete “a WA” and insert —

the WA

No. 26

New Division 1A, page 25, after line 2 — To insert —

(d) **Division 1A — Application of this Part**

28A. Application of this Part in relation to certain interests

- (1) In relation to a liability referred to in section 25(3), this Part has effect as if —
- (a) the liability were, immediately before the transfer day, a liability of the WA Bell Company referred to in section 25(2) in relation to the liability; and
 - (b) the person who, immediately before the transfer day, had the benefit of the liability were, immediately before the transfer day, a creditor of the WA Bell Company.
- (2) If property vested in a WA Bell Company or held by a liquidator of a WA Bell Company, to which section 22(1)(a) or (b) applied at the beginning of the transfer day, was freed from an encumbrance, trust, equity or interest (the *interest*) by section 22 and the WA Bell Company was not the beneficiary of the interest, this Part has effect as if —
- (a) the interest were, immediately before the transfer day, a liability of the WA Bell Company; and
 - (b) the person who, immediately before the transfer day, had the benefit of the interest were, immediately before the transfer day, a creditor of the WA Bell Company.
- (3) If property to which section 22(1) applied at the beginning of the transfer day was freed from an encumbrance, trust, equity or interest (the *interest*) by section 22 and subsection (2) does not apply in relation to the property, this Part has effect as if —
- (a) the interest were, immediately before the transfer day, a liability of each WA Bell Company; and
 - (b) the person who, immediately before the transfer day, had the benefit of the interest were, immediately before the transfer day, a creditor of each WA Bell Company.

- (4) In relation to a claim referred to in section 26(3), this Part has effect as if —
 - (a) the claim were, immediately before the transfer day, a liability of the WA Bell Company referred to in section 26(2) in relation to the claim; and
 - (b) the person who, immediately before the transfer day, had the benefit of the claim were, immediately before the transfer day, a creditor of the WA Bell Company.
- (5) If the Authority determines, under section 33, that an interest to which subsection (3) applies is a liability of each WA Bell Company, each company is jointly and severally liable.

No. 27

Clause 29, page 26, lines 14 to 16 — To delete “liquidator, in the capacity of liquidator of the company, on trust for any person other than the company;” and insert —

liquidator referred to in section 22(1)(c);

No. 28

Clause 29, page 26, after line 24 — To insert —

- (12) This section has effect in relation to a reinstated WA Bell Company as if references in it to the transfer day were references to the day on which the registration of the company was reinstated.

No. 29

Clause 30, page 27, after line 7 — To insert —

- (2A) The Authority may also publish the notice referred to in subsection (2) by any other means that the Authority thinks necessary to bring it to the attention of the persons referred to in that subsection.

No. 30

Clause 32, page 28, lines 3 and 4 — To delete the lines and insert —

- (2A) The Authority may prepare more than one draft report.
- (3) The Authority must provide each draft report to each person who gave particulars of a liability under section 30.
- (3A) The first draft report under subsection (2) must be prepared, and provided in accordance with subsection (3), within the period of 150 days beginning on the transfer day.

No. 31

Clause 34, page 28, line 28 — To delete “A report under this section” and insert —

The report under subsection (1)

No. 32

Clause 34, page 28, after line 29 — To insert —

- (2A) Before making a final determination under section 33, the Authority may make one or more interim reports to the Minister based on its preliminary determination of the property and liabilities of each WA Bell Company under section 33.
- (2B) The Authority must make a report under subsection (2A) if directed to do so by the Minister.
- (2C) A report under subsection (2A) may contain a description of any contingencies and uncertainties and any interim recommendations of the Authority under section 35 or 36.

No. 33

Clause 35, page 30, after line 12 — To insert —

- (2A) A recommendation in an interim report under section 34(2A) is an interim recommendation.
- (2B) A recommendation in the report under section 34(1) is a final recommendation and must take into account any amount or property that the Governor under section 36A(2) has determined is to be paid to, or transferred to or vested in, a person.

No. 34

Clause 36, page 31, line 8 — To delete “litigation” and insert —

litigation, whether directly or indirectly

No. 35

Clause 36, page 32, after line 9 — To insert —

- (3A) A recommendation in an interim report under section 34(2A) is an interim recommendation.
- (3B) A recommendation in the report under section 34(1) is a final recommendation and must take into account any amount or property that the Governor, under section 36A(2), has determined is to be paid to, or transferred to or vested in, a person.

No. 36

Clause 36, page 32, line 24 — To delete “mentioned in section 25 or 26”.

No. 37

Heading to Division 3, page 33, line 4 — To delete “**Determination by**” and insert —

Determinations of**No. 38**

Clause 37, page 33, line 5 to page 34, line 7 — To delete the clause.

No. 39

New Clause 36A, page 33, line 5 — To insert —

36A. Governor may determine amounts and property: interim determinations

- (1) The Minister may submit to the Governor an interim report of the Authority under section 34(2A).
- (2) The Governor may, by instrument in writing, determine an amount to be paid to, or property to be transferred to or vested in, a person.

No. 40

New Clause 37, page 33, line 5 — To insert —

37. Governor may determine amounts and property: final determination

- (1) The Minister must submit to the Governor the report of the Authority under section 34(1).
- (2) The Governor may, by instrument in writing, determine an amount to be paid to, or property to be transferred to or vested in, a person.
- (3) The amount or amounts to be paid to, and the property to be transferred to or vested in, a person under this Division —
 - (a) is in respect of the aggregate of all liabilities of all WA Bell Companies to that person as a creditor; and
 - (b) may be by way of compensation for providing funding or an indemnity.

No. 41

New Clause 37A, page 33, line 5 — To insert —

37A. Determinations: general provisions

- (1) Nothing in this Act requires the Governor to determine that any amount is to be paid to, or any property is to be transferred to or vested in, any person on any account whatsoever.
- (2) Nothing in this Act requires that the aggregate value of all money determined by the Governor to be paid, and all property determined by the Governor to be transferred or vested, under this Division must be equal to the value of the money or property held by the Authority or the total liabilities of all WA Bell Companies as determined under section 33.

- (3) The Minister must give a determination of the Governor to the Authority.
- (4) A determination need not contain reasons.
- (5) A determination is not subsidiary legislation for the purposes of the *Interpretation Act 1984*.
- (6) Nothing in this Division creates any right in, or for the benefit of, a creditor of a WA Bell Company or any other person.
- (7) The Governor has absolute privilege in making a determination and in relation to any fact or matter stated in it.
- (8) On the making of the determination under section 37(2), every liability of every WA Bell Company to a person to whom nothing is to be paid and to whom no property is to be transferred and in whom no property is to be vested under a determination under this Division is, by force of this Act, discharged and extinguished.

No. 42

Clause 38, page 34, line 11 — To delete “the determination of the Governor under section 37,” and insert —

a determination of the Governor under Division 3,

No. 43

Clause 38, page 34, after line 12 — To insert —

- (aa) notify each person specified in the determination to or in whom the Governor has determined an amount is to be paid or property is to be transferred or vested; and

No. 44

Clause 38, page 34, line 26 to page 35, line 12 — To delete the lines and insert —

- (4) Subsection (5) applies to a person covered by the determination of the Governor under section 37(2).
- (5) At the end of the period of 3 months beginning on the day on which notice of the determination of the Governor under section 37(2) is given to the person —
 - (a) every liability of every WA Bell Company to the person is, by force of this Act, discharged and extinguished; and
 - (b) if the person has not given a duly executed deed in accordance with subsection (3) in relation to a determination of the Governor under Division 3 — the determination ceases to have effect in relation to the person.
- (6) Subsection (7) applies to a person covered by a determination of the Governor under section 36A(2) but not covered by the determination of the Governor under section 37(2).
- (7) At the end of the period of 3 months beginning on the day on which the Governor makes the determination under section 37(2) —
 - (a) every liability of every WA Bell Company to the person is, by force of this Act, discharged and extinguished; and

- (b) if the person has not given a duly executed deed in accordance with subsection (3) in relation to a determination of the Governor under section 36A(2) — the determination ceases to have effect in relation to the person.
- (8) A reference to a person covered by a determination of the Governor is a reference to a person to or in whom the Governor has determined an amount is to be paid or property is to be transferred or vested.

No. 45

Clause 40, page 36, lines 6 and 7 — To delete “under section 38”.

No. 46

Clause 40, page 36, line 8 — To delete the line and insert —

- (b) the end of the period of 6 months beginning on the day on which the Governor makes the determination under section 37(2).

No. 47

Clause 43, page 37, lines 18 to 24 — To delete the clause.

No. 48

New Clause 43, page 37, line 18 — To insert —

43. Reports on Authority’s functions

- (1) The Administrator must —
 - (a) within 3 months after each anniversary of the commencement of Part 2 — prepare a report on how the Administrator carried out the Authority’s functions as outlined in section 9 in the year prior to the anniversary; and
 - (b) within 3 months after each anniversary of the commencement of Part 2 — prepare a report on how the Administrator carried out the Authority’s functions as outlined in section 9 in the year prior to the anniversary; and
- (2) The final report under subsection (1)(b) must —
 - (a) set out each recommendation of the Authority under sections 35 and 36; and
 - (b) set out each determination of the Governor under Part 4 Division 3; and
 - (c) state whether a determination of the Governor under Part 4 Division 3 of an amount to be paid to, or property to be transferred to or vested in, a person differed from a recommendation in a report of the Authority under section 34 in relation to the person.
- (3) A report under subsection (1) need not contain reasons in relation to the matters referred to in subsection (2).
- (4) The Minister is to cause to be laid before each House of Parliament —
 - (a) a report under subsection (1)(a) within 6 sitting days after the preparation of the report; and
 - (b) the final report under subsection (1)(b) within 6 sitting days after the day on which the Authority is abolished.

No. 49

Clause 45, page 38, line 27 — To delete “by” and insert —

under

No. 50

Clause 45, page 38, line 29 — To delete “by” and insert —

under

No. 51

Clause 45, page 38, after line 31 — To insert —

- (c) the registration of a WA Bell Company to be reinstated, and (without limiting that) the functions in the Corporations Act section 601AH to be performed and the matters provided for in that section to occur.

No. 52

Clause 48, page 42, lines 4 and 5 — To delete “to proceedings in a court to challenge the constitutional validity of this Act.” and insert —

to —

- (a) proceedings in a court to challenge the constitutional validity of this Act; or
- (b) proceedings in a court contemplated by this Act.

Examples for this subsection:

For the purposes of subsection (6)(b), proceedings referred to in sections 67 and 68 are examples of proceedings contemplated by this Act.

No. 53

Clause 49, page 42, lines 6 to 11 — To delete the clause.

No. 54

New Clause 49, page 42, line 6 — To insert —

49. Certain deregistered companies not to be reinstated by certain persons

- (1) A person (other than the Authority) must not take any step for achieving the reinstatement of the registration of a deregistered company listed in Schedule 1.
Penalty: a fine of \$10 000.
- (2) Before the day on which section 7 comes into operation, subsection (1) does not apply to a WA Bell Company, a liquidator of a WA Bell Company or a former liquidator of a deregistered company.
- (3) On and after the day on which section 7 comes into operation, subsection (1) does not apply to a person if the person has the written approval of the Authority to take the step referred to in subsection (1).

No. 55

Clause 67, page 54, after line 31 — To insert —

- (2) To the extent to which a right to make a taxation objection, or a right or capacity to seek the review of, or to appeal against, a decision of the Commissioner in relation to a taxation objection, is property of the company, subsection (1) does not apply to the right or capacity.
- (3) Words and expressions used in subsection (2) and also in the *Taxation Administration Act 1953* (Commonwealth) Part IVC have the same meanings in that subsection as they have in that Part.

No. 56

Clause 68, page 55, line 10 — To delete “certiorari” and insert —

certiorari, or a remedy having the same effect as a remedy that could be provided by means of such a writ,

No. 57

Clause 78, page 58, lines 2 and 3 — To delete the lines and insert —

This Act expires at the end of the 6 years beginning on the day on which the Governor makes the determination under section 37(2).

No. 58

Schedule 1, page 59, after line 5 — To insert —

3A. Belcap Nominees Pty Ltd. ACN 009 265 178 (Deregistered)

No. 59

Schedule 1, page 59, after line 12 — To insert —

10A. B. P. T. Pty Ltd ACN 009 190 292 (Deregistered)

No. 60

Schedule 1, page 59, after line 26 — To insert —

24A. TBGL Securities Pty Ltd ACN 008 713 513 (Deregistered)

Ordered, That consideration in detail of Legislative Council Message No. 112 be made an Order of the Day for the next sitting of the Assembly.

17. Adjournment

The Leader of the House moved, That the House do now adjourn.

Question put and passed.

The Assembly adjourned accordingly at 5.11 p.m. until Tuesday, 24 November 2015 at 2.00 p.m.

Members present during any part of the day's proceedings – All the members except Mr I.C. Blayney, Mr V.A. Catania, Ms J. Farrer, Mrs L.M. Harvey, Dr G.G. Jacobs, Mr N.W. Morton and Mr P.B. Watson.

KIRSTEN M. ROBINSON
Clerk of the Legislative Assembly

HON. MICHAEL SUTHERLAND
Speaker of the Legislative Assembly