

WESTERN AUSTRALIA

# LEGISLATIVE ASSEMBLY

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## VOTES AND PROCEEDINGS

**No. 93**

### FIRST SESSION OF THE THIRTY-EIGHTH PARLIAMENT

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**WEDNESDAY, 23 JUNE 2010**

#### **1. Meeting of Assembly**

The Assembly met at 12.00 noon pursuant to adjournment.

The Speaker took the Chair.

Prayers were read.

#### **2. Petition**

Agricultural Education at Muresk Campus – Mr I.C. Blayney presented a petition from 146 persons requesting that the Muresk Campus near Northam be upgraded to meet the education and training needs of regional Western Australia (P. 306).

#### **3. Papers**

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

By the Speaker –

Auditor General, Office of the [OAG] – Fiona Stanley Hospital Project, Report No. 5, June 2010 (2240).

By the Clerk –

Land Surveyors Licensing Board of Western Australia – Annual Report 2009 (2241).

#### **4. Notice of Motion**

#### **5. Joint Standing Committee on the Corruption and Crime Commission – Reporting Date**

The Speaker advised members that he had received a letter dated 18 June 2010 from the Chairman of the Joint Standing Committee on the Corruption and Crime Commission, advising of the extension of the reporting date for its Inquiry into how the Corruption and Crime Commission can best work together with the Western Australian Police Force to combat organised crime until 12 August 2010.

#### **6. Brief Ministerial Statements**

Brief Ministerial Statements were made by –

The Premier on the report of the review of the use of entitlements by the former Treasurer and the Member for Fremantle during the period December 2009 to April 2010.

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*Paper*

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

Public Sector Commissioner – Report on the Review of Use of Entitlements: Former Treasurer; Minister for Commerce; Science and Innovation; Housing and Works and Member for Fremantle, June 2010 (2242).

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The Minister for Education on a minor adjustment to school term dates in 2011.  
The Minister for Sport and Recreation on the decision to award “preferred respondent” status to AEG Ogden for the operational and facilities management of Perth Arena.

#### **7. Message from the Governor**

Message No. 95 from His Excellency the Governor was reported recommending the purpose of the appropriation for the Children and Community Services Amendment Bill 2010.

#### **8. Iron Ore Agreements Legislation Amendment Bill 2010**

The Minister for State Development, pursuant to notice, moved,

That a bill for “An Act to amend these Acts –

- the *Iron Ore (Goldsworthy-Nimingarra) Agreement Act 1972*;
- the *Iron Ore (Hamersley Range) Agreement Act 1963*;
- the *Iron Ore (Marillana Creek) Agreement Act 1991*;
- the *Iron Ore (McCamey’s Monster) Agreement Authorisation Act 1972*;
- the *Iron Ore (Mount Bruce) Agreement Act 1972*;
- the *Iron Ore (Mount Goldsworthy) Agreement Act 1964*;
- the *Iron Ore (Mount Newman) Agreement Act 1964*;
- the *Iron Ore (Rhodes Ridge) Agreement Authorisation Act 1972*;
- the *Iron Ore (Robe River) Agreement Act 1964*,

in order to alter certain rates of royalty, and for related purposes.” be introduced and read a first time.

Question put and passed.

The Minister for State Development presented an explanatory memorandum and bill read a first time.

The Minister for State Development moved, That the bill be now read a second time.

Mr D.A. Templeman moved, That the debate be adjourned.

Question put and passed.

#### **9. Police Amendment Bill 2010**

The Minister for Police, pursuant to notice, moved,

That a bill for “An Act to amend the *Police Act 1892*.” be introduced and read a first time.

Question put and passed.

The Minister for Police presented an explanatory memorandum and bill read a first time.

The Minister for Police moved, That the bill be now read a second time.

Mr M. McGowan moved, That the debate be adjourned.

Question put and passed.

#### **10. Variation to the Order of Business**

Ordered, That Bills Notice of Motion No. 3 be postponed to the next sitting of the Assembly.

**11. Private Members Business Precedence**

The Leader of the House, pursuant to notice, moved,

That so much of the Standing Orders be suspended as is necessary to enable Private Members' Business to have priority from 4.00 p.m. to 6.00 p.m. on Wednesday, 23 June 2010.

Debate ensued.

Question put and passed.

**12. Variation to the Order of Business**

Ordered, That Government Business Orders of the Day Nos 8 and 1 be next considered.

**13. Health and Disability Services Legislation Amendment Bill 2009**

The Order of the Day for the consideration in detail of the bill was read.

*CONSIDERATION IN DETAIL*

Clauses 1 to 67 agreed to.

Title agreed to.

Consideration in detail concluded.

Leave was granted to proceed forthwith to the third reading of the bill.

The Minister for Health moved, That the bill be now read a third time.

Debate ensued.

Question put and passed.

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

**14. Public Sector Reform Bill 2009**

The Order of the Day for the further consideration in detail of the bill was read.

*CONSIDERATION IN DETAIL*

Clause 34.

Mr E.S. Ripper had moved,

Page 25, line 23 – To delete “delegate” and insert –

“ , in an extreme or emergency situation, delegate, for a defined time, ”.

Amendment put and negated.

The Premier moved,

Page 25, line 25 – To delete “to any person.” and substitute:

“

to —

- (a) a public service officer; or
  - (b) any other employee; or
  - (c) a person who is appointed, employed or holds office in an entity that is —
    - (i) listed in Schedule 1 column 2; and
    - (ii) prescribed for the purposes of this section;
- or
- (d) with the approval of the Commissioner, any other person.

”.

Amendment put and passed.

The Premier moved,  
Page 25, after line 25 – To insert:

“

- (2A) The Commissioner must not approve a delegation under subsection (1)(d) unless the Commissioner is satisfied that the delegation is necessary or convenient having regard to —
  - (a) the functions of the department or organisation in relation to which the chief executive officer or chief employee has the power or duty; or
  - (b) the specialised knowledge, expertise or resources of the person to whom the power or duty is delegated.

”.

Amendment put and passed.

The Premier moved,  
Page 26, after line 4 – To insert:

“

- (5A) If a power or duty is delegated under subsection (1), the power or duty is, when exercised or performed by the delegate, to be taken to be exercised or performed by the person who delegated it.

”.

Amendment put and passed.

Mr E.S. Ripper moved,  
Page 26, after line 7 – To insert –

“(6) A person to whom a power or duty is delegated under this section is bound by this Act.”.

Amendment put and negatived.

On the question, That the Clause, as amended, be agreed to,  
Question put.

The Assembly divided.

	Ayes (29)	
Mr P. Abetz	Mr J.M. Francis	Ms A.R. Mitchell
Mr F.A. Alban	Mr B.J. Grylls	Dr M.D. Nahan
Mr C.J. Barnett	Dr K.D. Hames	Mr C.C. Porter
Mr I.C. Blayney	Mrs L.M. Harvey	Mr D.T. Redman
Mr J.J.M. Bowler	Mr A.P. Jacob	Mr A.J. Simpson
Mr T.R. Buswell	Dr G.G. Jacobs	Mr M.W. Sutherland
Mr G.M. Castrilli	Mr R.F. Johnson	Mr T.K. Waldron
Mr V.A. Catania	Mr A. Krsticevic	Dr J.M. Woollard
Mr M.J. Cowper	Mr W.R. Marmion	Mr J.E. McGrath ( <i>Teller</i> )
Mr J.H.D. Day	Mr P.T. Miles	

## Noes (22)

Ms L.L. Baker	Ms A.J.G. MacTiernan	Ms R. Saffioti
Ms A.S. Carles	Mr M. McGowan	Mr C.J. Tallentire
Mr R.H. Cook	Mr M.P. Murray	Mr A.J. Waddell
Ms J.M. Freeman	Mr A.P. O'Gorman	Mr M.P. Whitely
Mr J.N. Hyde	Mr P. Papalia	Mr B.S. Wyatt
Mr W.J. Johnston	Ms M.M. Quirk	Mr D.A. Templeman ( <i>Teller</i> )
Mr J.C. Kobelke	Mr E.S. Ripper	
Mr F.M. Logan	Mrs M.H. Roberts	

Clause, as amended, thus agreed to.

Clauses 35 to 40 agreed to.

Clause 41.

The Premier moved,

Page 28, lines 12 and 13 – To delete the lines.

Page 29, lines 3 to 31 – To delete the lines.

Page 29, line 33 – To delete “45(13) delete “nominated or”.” and substitute:

“

45(13):

- (a) delete “nominated or”;
- (b) delete “or the Minister, as the case requires.”.

”.

Amendments put and passed.

Clause, as amended, agreed to.

Clause 42.

The Premier moved,

Page 30, lines 10 to 12 – To delete the lines.

Page 30, lines 25 to 28 – To delete the lines.

Amendments put and passed.

Clause, as amended, agreed to.

Clauses 43 to 53 agreed to.

New Clause.

Mr J.C Kobelke moved,

Page 34, after line 28 — To insert:

“

#### 54. Section 73 amended

(1) In section 73 delete “Notwithstanding” and insert:

(1) Despite

(2) At the end of section 73 insert:

(2) For the purposes of subsection (1)(b), a person engaged under a contract for services under section 100(1) to assist a political office holder includes a person who is a director of, or engaged or employed by, a body corporate that —

- (a) is engaged under a contract for services under section 100(1) to assist a political office holder; and
  - (b) is providing the person to assist a political office holder under the contract for services referred to in paragraph (a).
- ”.

Amendment put.

The Assembly divided.

	Ayes (19)	
Ms L.L. Baker	Ms A.J.G. MacTiernan	Mr C.J. Tallentire
Ms A.S. Carles	Mr M.P. Murray	Mr A.J. Waddell
Mr R.H. Cook	Mr A.P. O'Gorman	Mr M.P. Whitely
Ms J.M. Freeman	Mr P. Papalia	Mr B.S. Wyatt
Mr J.N. Hyde	Ms M.M. Quirk	Mr D.A. Templeman ( <i>Teller</i> )
Mr W.J. Johnston	Mr E.S. Ripper	
Mr J.C. Kobelke	Ms R. Saffioti	
	Noes (27)	
Mr P. Abetz	Mr J.M. Francis	Mr P.T. Miles
Mr F.A. Alban	Mr B.J. Grylls	Ms A.R. Mitchell
Mr C.J. Barnett	Dr K.D. Hames	Dr M.D. Naham
Mr I.C. Blayney	Mrs L.M. Harvey	Mr C.C. Porter
Mr J.J.M. Bowler	Mr A.P. Jacob	Mr D.T. Redman
Mr G.M. Castrilli	Dr G.G. Jacobs	Mr A.J. Simpson
Mr V.A. Catania	Mr R.F. Johnson	Mr M.W. Sutherland
Mr M.J. Cowper	Mr A. Krsticevic	Mr T.K. Waldron
Mr J.H.D. Day	Mr W.R. Marmion	Mr J.E. McGrath ( <i>Teller</i> )

Amendment thus negated.

Clauses 54 to 56 agreed to.

Clause 57.

Debate interrupted by the Chair and adjourned until a later stage of the sitting.

## 15. Speaker's Statement – Parliament House Staff

The Speaker advised members that the Sergeant-at-Arms, Dr Julia Lawrinson, had resigned from the position and would be replaced by Mrs Isla Macphail. The Speaker further advised members that Mrs Jane Gray, the Parliamentary Education Officer, would retire in September and be replaced by Mr James Sollis. The Speaker also informed members of the retirement of the Security Manager, Mr Ken Craig.

## 16. Questions

Questions without Notice were taken.

Questions on Notice Nos 3229 to 3344 were asked.

Questions on Notice Nos 2879, 2942, 2944, 2970, 2988, 3067, 3069, and 3070 to 3072 were answered.

## 17. Matter of Public Interest – Management of Hospitals

The Speaker informed the Assembly that he was in receipt of a notice from Mr E.S. Ripper that he intended to move a motion on a matter of public interest.

At least five members having risen in support,

Mr E.S. Ripper moved,

This House condemns the Barnett Government for its mismanagement of the new children's hospital, Royal Perth Hospital and Midland Health Campus.

Debate ensued.

The Minister for Health moved, To delete "Barnett" and substitute:

" former Labor ".

Debate ensued.

On the question, That the words be deleted,

Amendment put.

The Assembly divided.

Ayes (27)

Mr P. Abetz	Mr J.M. Francis	Mr P.T. Miles
Mr F.A. Alban	Mr B.J. Grylls	Ms A.R. Mitchell
Mr C.J. Barnett	Dr K.D. Hames	Dr M.D. Nahan
Mr I.C. Blayney	Mrs L.M. Harvey	Mr C.C. Porter
Mr J.J.M. Bowler	Mr A.P. Jacob	Mr D.T. Redman
Mr T.R. Buswell	Dr G.G. Jacobs	Mr A.J. Simpson
Mr G.M. Castrilli	Mr R.F. Johnson	Mr M.W. Sutherland
Mr V.A. Catania	Mr A. Krsticevic	Mr T.K. Waldron
Mr J.H.D. Day	Mr W.R. Marmion	Mr J.E. McGrath ( <i>Teller</i> )

Noes (23)

Ms L.L. Baker	Ms A.J.G. MacTiernan	Mrs M.H. Roberts
Ms A.S. Carles	Mr M. McGowan	Ms R. Saffioti
Mr R.H. Cook	Mr M.P. Murray	Mr C.J. Tallentire
Ms J.M. Freeman	Mr A.P. O'Gorman	Mr A.J. Waddell
Mr J.N. Hyde	Mr P. Papalia	Mr M.P. Whately
Mr W.J. Johnston	Mr J.R. Quigley	Mr B.S. Wyatt
Mr J.C. Kobelke	Ms M.M. Quirk	Mr D.A. Templeman ( <i>Teller</i> )
Mr F.M. Logan	Mr E.S. Ripper	

Amendment thus passed.

On the question, That the words be inserted,

Amendment put and passed.

On the question, That the motion, as amended, be agreed to,

Question put.

The Assembly divided.

Ayes (28)

Mr P. Abetz	Mr J.M. Francis	Ms A.R. Mitchell
Mr F.A. Alban	Mr B.J. Grylls	Dr M.D. Nahan
Mr C.J. Barnett	Dr K.D. Hames	Mr C.C. Porter
Mr I.C. Blayney	Mrs L.M. Harvey	Mr D.T. Redman
Mr J.J.M. Bowler	Mr A.P. Jacob	Mr A.J. Simpson
Mr T.R. Buswell	Dr G.G. Jacobs	Mr M.W. Sutherland
Mr G.M. Castrilli	Mr R.F. Johnson	Mr T.K. Waldron
Mr V.A. Catania	Mr A. Krsticevic	Mr J.E. McGrath ( <i>Teller</i> )
Mr M.J. Cowper	Mr W.R. Marmion	
Mr J.H.D. Day	Mr P.T. Miles	

## Noes (23)

Ms L.L. Baker	Ms A.J.G. MacTiernan	Mrs M.H. Roberts
Ms A.S. Carles	Mr M. McGowan	Ms R. Saffioti
Mr R.H. Cook	Mr M.P. Murray	Mr C.J. Tallentire
Ms J.M. Freeman	Mr A.P. O'Gorman	Mr A.J. Waddell
Mr J.N. Hyde	Mr P. Papalia	Mr M.P. Whitely
Mr W.J. Johnston	Mr J.R. Quigley	Mr B.S. Wyatt
Mr J.C. Kobelke	Ms M.M. Quirk	Mr D.A. Templeman ( <i>Teller</i> )
Mr F.M. Logan	Mr E.S. Ripper	

Question thus passed.

**18. Variation to the Order of Business**

Ordered, That Private Members' Business Notice of Motion No. 8 be next considered.

**19. Legislative Control of Handguns**

Ms M.M. Quirk, pursuant to notice, moved,  
That this House –

- (a) condemns the Barnett government for its proposed dilution of controls on handguns under the *Firearms Act 1973* with the potential that access to handguns by organized crime may be facilitated;
- (b) further condemns the Barnett government for its failure to manage and resource the implementation of the new firearms licensing regime causing delays, uncertainty, incomplete record keeping, lack of transparency and inconsistent application of law and policy; and
- (c) calls on the Barnett government to immediately implement and resource the recommendations of the Auditor General's *Third Public Sector Performance Report 2009 (Regulation of Firearms; Managing Staff Attendance in the Public Sector; and Evaluation in Government)* dated 21 October 2009.

Debate ensued.

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*Paper*

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

By the Minister for Police –

Western Australia Police – Contentious Issues Briefing Note: Mr John Pollard – Revocation of Firearm Dealers Licence (2243).

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Debate interrupted by the Chair (Minister for Police speaking) and adjourned until a later stage of the sitting.

**20. Variation to the Order of Business**

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

**21. Public Sector Reform Bill 2009**

The Order of the Day for the further consideration in detail of the bill was read.

*CONSIDERATION IN DETAIL*

Clause 57 negated.

New clause.

Mr V.A. Catania moved,

Page 37, after line 11 – To insert:

“

**58. Section 99 deleted**

Delete section 99.

”

Amendment put and passed.

Clauses 58 to 65 agreed to.

Clause 66.

The Premier moved,

Page 41, lines 18 and 19 – To delete “entitled to hold office as Commissioner in accordance with Part 3A” and substitute:

“ to hold office as Commissioner subject to Part 3A Division 1 ”.

Amendment put and passed.

The Premier moved,

Page 43, line 17 – To delete “24I” and substitute:

“ 24H ”.

Amendment put and passed.

The Premier moved,

Page 46, after line 4 — To insert:

“

**10A. General savings — Commissioner**

- (1) A thing done or omitted to be done by, to or in relation to the former Commissioner before the commencement day, whether under this Act or any other written law, has the same effect after the commencement day, to the extent that it has any force or significance after that day, as if it had been done or omitted by, to or in relation to the Commissioner.
- (2) Subclause (1) does not apply if a contrary intention appears or the context otherwise requires.

”

Amendment put and passed.

The Premier moved,

Page 46, line 9 – To delete “regulation” and substitute:

“ recommendation ”.

Amendment put and passed.

Clause, as amended, agreed to.

Clauses 67 to 88 agreed to.

Clause 89.

The Premier moved,

Page 64, after line 9, in the Table – To insert in alphabetical order:

“

<i>Royalties for Regions Act 2009</i>	s. 20
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”.

Amendment put and passed.

Clause, as amended, agreed to.

Clauses 90 to 92 agreed to.

New clause.

The Premier moved,

Page 74, after line 15 – To insert:

“

### **93. Section 22A amended**

After section 22A(1) insert:

- (2A) The Commissioner must issue instructions to ensure that, if a decision is made under section 81(1)(a) in respect of an employee, the employee is —
  - (a) notified in writing of the possible breach of discipline; and
  - (b) given a reasonable opportunity to respond.

”.

Amendment put and passed.

Clause 93.

Mr E.S. Ripper moved,

Page 75, after line 17 – To insert:

“

- (8) Disciplinary action against a former employee will only proceed where it is in the public interest. A decision to proceed will be made by the Commissioner in accordance with the relevant Commissioner’s instruction on public interest.

”.

Amendment put and negatived.

Clause agreed to.

Clauses 94 and 95 agreed to.

Clause 96.

Mr E.S. Ripper moved,

Page 82, line 11 – To delete the fullstop and insert:

“

; and

- (d) must consider the evidence available.

”.

Amendment put and negatived.

Clause agreed to.

Clause 97.

The Premier moved,

Page 83, line 28 – To delete “81(1)(b),”.

Amendment put and passed.  
 Clause, as amended, agreed to.  
 Clauses 98 to 104 agreed to.  
 New clause.  
 Mr E.S. Ripper moved,  
 Page 89, after line 27 – To insert:

“

**105. Section 94 amended**

In section 94(2)(c) insert after “paragraph (a)” –  
 “subject to the proviso that such an offer shall be at salary, hours and  
 conditions not less than those applicable to that employee’s substantive  
 position ”.

”.

Amendment put.  
 The Assembly divided.

**Ayes (22)**

Ms L.L. Baker	Mr M.P. Murray	Mr C.J. Tallentire
Ms A.S. Carles	Mr P. Papalia	Mr A.J. Waddell
Mr J.N. Hyde	Mr J.R. Quigley	Mr P.B. Watson
Mr W.J. Johnston	Ms M.M. Quirk	Mr M.P. Whately
Mr J.C. Kobelke	Mr E.S. Ripper	Mr B.S. Wyatt
Mr F.M. Logan	Mrs M.H. Roberts	Mr D.A. Templeman ( <i>Teller</i> )
Ms A.J.G. MacTiernan	Ms R. Saffioti	
Mr M. McGowan	Mr T.G. Stephens	

**Noes (26)**

Mr P. Abetz	Mr J.H.D. Day	Ms A.R. Mitchell
Mr F.A. Alban	Mr J.M. Francis	Dr M.D. Nahan
Mr C.J. Barnett	Mr B.J. Grylls	Mr C.C. Porter
Mr I.C. Blayney	Mrs L.M. Harvey	Mr D.T. Redman
Mr J.J.M. Bowler	Mr A.P. Jacob	Mr A.J. Simpson
Mr T.R. Buswell	Dr G.G. Jacobs	Mr M.W. Sutherland
Mr G.M. Castrilli	Mr R.F. Johnson	Mr T.K. Waldron
Mr V.A. Catania	Mr W.R. Marmion	Mr J.E. McGrath ( <i>Teller</i> )
Mr M.J. Cowper	Mr P.T. Miles	

Amendment thus negated.  
 Clauses 105 and 106 agreed to.  
 Clause 107.

The Premier moved,  
 Page 91, line 30 – To delete “regulation” and substitute:

“ recommendation ”.

Amendment put and passed.

Clause, as amended, agreed to.

Clauses 108 and 109 agreed to.

Title agreed to.

Consideration in detail concluded.

Ordered, That the third reading of the bill be made an Order of the Day for the next sitting of the Assembly.

**22. Road Traffic Amendment Bill 2010**

The Order of the Day for the further consideration in detail of Legislative Council Message No. 79 was read.

The Message was as follows –

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Road Traffic Amendment Bill 2010* 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 Road Traffic Amendment Bill 2010*

**No. 1**

Page 2, line 14 — To delete the line and insert —

section 79BB(2), 79BCB(2) or 79BCE(2).

**No. 2**

Page 2, lines 16 to 18 — To delete the lines and insert —

(2) In section 78C(2) delete “section 79BB(2)” and insert:

section 79BB(2), 79BCB(2) or 79BCE(2)

**No. 3**

Page 2, line 22 — To delete the line and insert —

section 79BB(2), 79BCB(2) or 79BCE(2); or

**No. 4**

Page 3, line 4 — To delete the line and insert —

79A(1), 79BB, 79BCB or 79BCE

**No. 5**

Page 6, after line 29 — To insert —

**79BCC. Cancelling notices to surrender**

(1) In this section —

**notice to surrender** means —

- (a) a surrender notice given under section 79BA; or
- (b) a surrender substitute vehicle notice given under section 79BCA; or
- (c) a surrender alternative vehicle notice given under section 79BCD.

(2) If a senior police officer is satisfied that —

- (a) a notice to surrender has been given to a person in respect of a vehicle; and
- (b) the vehicle has not been impounded under section 79BB, 79BCB or 79BCE, as the case may be; and
- (c) either —
  - (i) if the vehicle were so impounded, the vehicle would be a vehicle that could, under section 79D, be released before the impounding period ends; or
  - (ii) the vehicle's condition is such that it no longer functions as a vehicle and a licence could not be issued for it under Part III,

the officer may cancel the notice to surrender.

- (3) As soon as is practicable after a senior police officer cancels a notice to surrender, the officer must give a written notice of the cancellation to the person to whom the notice to surrender was given.

#### **79BCD. Notice to surrender alternative vehicle if surrender notice cancelled**

- (1) This section applies if —
  - (a) under section 79BA a surrender notice is given to a person responsible for a vehicle (**vehicle A**) the driver of which (the **alleged offender**) is suspected of having committed an offence (the **offence**); and
  - (b) under section 79BCC the surrender notice is cancelled before vehicle A is impounded under section 79BB; and
  - (c) the alleged offender is a responsible person for one or more other vehicles.
- (2) If this section applies, a member of the Police Force may give the alleged offender, personally or by registered post, a notice in accordance with this section (a **surrender alternative vehicle notice**).
- (3) The surrender alternative vehicle notice cannot be given after 28 days after the date on which the surrender notice was cancelled.
- (4) The surrender alternative vehicle notice must contain a statement to the effect that, because vehicle A will not be impounded, a vehicle for which the alleged offender is a responsible person (the **alternative vehicle**) is required to be surrendered to the Commissioner for impounding instead of vehicle A.
- (5) The surrender alternative vehicle notice must specify the following —
  - (a) in relation to the offence, its details and the time and place at which it is suspected to have been committed;
  - (b) which of sections 79(1) and 79A(1) is the provision that authorised the impounding of vehicle A (the **impounding provision**);
  - (c) sufficient details of vehicle A to identify it;
  - (d) when the surrender notice was cancelled under section 79BCC;
  - (e) sufficient details of the alternative vehicle to identify it;
  - (f) if the impounding provision is section 79(1) and the alleged offender is a previous offender as defined in section 79(1A), sufficient details to explain why the alleged offender is regarded as a previous offender;
  - (g) the length of the impounding period for the alternative vehicle, which is to be —

- (i) if section 79(1) was the impounding provision for vehicle A, either 28 days or 3 months according to which of those periods was the impounding period for which section 79(1) required vehicle A to be impounded; and
  - (ii) if section 79A(1) was the impounding provision for vehicle A, 28 days;
  - (h) the place at which, and the time of day during which, the alternative vehicle and its keys are required to be surrendered under this Division;
  - (i) the last day on or before which the alternative vehicle and its keys are required to be surrendered, being the seventh day after the day on which the notice is given.
- (6) The surrender alternative vehicle notice must also include —
- (a) a statement to the effect that this Division contains law about the notice and the impounding of the vehicle; and
  - (b) a statement as to the effect of section 79BCE(5); and
  - (c) a statement to the effect that failure to comply with the notice will result in the vehicle being impounded by operation of section 79BCE(2).
- (7) If the alleged offender is a responsible person for 2 or more other vehicles, the surrender alternative vehicle notice must specify only one of them as the alternative vehicle, being the one decided by the member of the Police Force issuing the notice.

#### **79BCE. Consequences of surrender of alternative vehicle notice**

- (1) If a responsible person who is given a surrender alternative vehicle notice under section 79BCD surrenders the alternative vehicle specified in the notice according to the notice, the vehicle is impounded by operation of this subsection for a period that commences at the time when the vehicle is surrendered.
- (2) If a responsible person who is given a surrender alternative vehicle notice under section 79BCD fails to surrender the alternative vehicle specified in the notice according to the notice, the vehicle is impounded by operation of this subsection for a period that commences at the time when a member of the Police Force takes possession of the vehicle for the purpose of impounding it.
- (3) An impounding period the length of which is specified as 28 days or 3 months in a surrender alternative vehicle notice includes the part of the day on which the vehicle is impounded that is after the impounding occurred even though including that part of the day makes the period more than 28 days or 3 months, as the case requires.
- (4) The period for which a vehicle is impounded by operation of subsection (1) or (2) ends when the impounding period has passed since the end of the day on which the vehicle was impounded.
- (5) A responsible person who is given a surrender alternative vehicle notice under section 79BCD commits an offence and is liable to a fine of 50 PU if, when the alternative vehicle specified in the notice has not been impounded by operation of subsection (1) or (2) as a consequence of the notice, the person disposes of an interest that the person has in the vehicle.

**No. 6**

Page 7, line 13 — To delete the line and insert —

- notice; or
- (c) a responsible person for a vehicle who is given a surrender alternative vehicle notice under section 79BCD fails to surrender the alternative vehicle specified in the notice according to the notice,

**No. 7**

Page 9, after line 9 — To insert —

- (3C) The Commissioner is to ensure that, as soon as practicable after a vehicle (*the alternative vehicle*) is impounded under section 79BCE following the issue of a surrender alternative vehicle notice to a responsible person for the vehicle under section 79BCD, notice of the impounding is given to —
  - (a) each responsible person for the vehicle; and
  - (b) if the licence in respect of the vehicle is for the time being suspended under section 79BD, the Director General.
- (3D) The notice of the impounding given under subsection (3C) is to be in an approved form and contain details of —
  - (a) the offence referred to in section 79BCD(1)(a) including the time and place at which it is suspected to have been committed; and
  - (b) the alternative vehicle sufficient to identify it; and
  - (c) the time when the alternative vehicle was impounded; and
  - (d) the address of the place where the alternative vehicle is stored; and
  - (e) the length of the impounding period for the alternative vehicle which is to be the period specified in the surrender alternative vehicle notice under section 79BCD(5)(g); and
  - (f) the grounds on which the alternative vehicle may be released under section 79D; and
  - (g) how, when and to whom the alternative vehicle can be released; and
  - (h) the powers of a court under sections 80A, 80B, 80C and 80FA in relation to the impounding and confiscation of vehicles.

**No. 8**

Page 9, line 16 — After “section 79BCA” to insert —

or a surrender alternative vehicle notice under section 79BCD

**No. 9**

Page 10, line 12 — After “section 79BCB,” to insert —

or an alternative vehicle has been impounded under section 79BCE,

**No. 10**

Page 10, line 18 — To delete “given” and insert —

given, or under section 79BCD a surrender alternative vehicle notice has been given,

**No. 11**

Page 10, line 26 — To delete “notice,” and insert —

notice or surrender alternative vehicle notice,

**No. 12**

Page 10, after line 33 — To insert —

*taxi* means a vehicle —

- (a) on which taxi plates issued under the *Taxi Act 1994* are being used; or
- (b) in respect of which a taxi-car licence has been issued under the *Transport Co-ordination Act 1966* Part IIIB,

and it does not matter whether or not, at the relevant time, it is standing or plying for hire or carrying passengers for reward;

*taxi operator*, of a taxi, means a person who —

- (a) under the *Taxi Act 1994*, owns or leases the taxi plates, issued under that Act, that are being used on the taxi; or
- (b) holds the taxi-car licence issued under the *Transport Co-ordination Act 1966* in respect of the taxi;

**No. 13**

Page 11, line 7 — To delete the line and insert —

79A(1), 79BB, 79BCB or 79BCE;

**No. 14**

Page 11, line 20 — To delete “responsible person for it,” and insert —

person lawfully in possession of it,

**No. 15**

Page 12, after line 30 — To insert —

- (ga) a senior police officer is satisfied that, at the time the offence in respect of which the vehicle was impounded was committed —
  - (i) the vehicle was used primarily in the course of a business conducted by a person (the ***business owner***); and
  - (ii) the person who allegedly committed the offence (the ***alleged offender***) was an employee or contractor of the business owner; and
  - (iii) the alleged offender was driving the vehicle with the consent of the business owner or an agent of the business owner; and
  - (iv) the person who consented to the alleged offender driving the vehicle had complied with subsection (4A); and
  - (v) the alleged offender was not a responsible person for the vehicle;

or
- (gb) a senior police officer is satisfied that, at the time the offence in respect of which the vehicle was impounded was committed —
  - (i) the vehicle was a taxi; and
  - (ii) the person who allegedly committed the offence (the ***alleged offender***) was driving the taxi under an agreement between him or her and the taxi operator of the taxi, or an agent of the taxi operator, under which the alleged offender pays the operator or agent in order to be allowed to drive the taxi for reward; and
  - (iii) the taxi operator or agent who entered into the agreement with the alleged offender had complied with subsection (4B); and
  - (iv) the alleged offender was not a responsible person for the vehicle;

or
- (gc) a senior police officer is satisfied that, at the time the offence in respect of which the vehicle was impounded was committed —
  - (i) the vehicle was licensed under the *Transport Co-ordination Act 1966* to be operated as an omnibus; and
  - (ii) the person who allegedly committed the offence (the ***alleged offender***) was an employee or contractor of the holder of that licence; and
  - (iii) the alleged offender was driving the vehicle with the consent of the holder of that licence; and
  - (iv) the person who consented to the alleged offender driving the vehicle had complied with subsection (4A); and
  - (v) the alleged offender was not a responsible person for the vehicle;

or
- (gd) a senior police officer is satisfied that —
  - (i) the vehicle cannot be released under any of paragraphs (a) to (gc) or under circumstances prescribed under paragraph (g); and

- (ii) unless the vehicle is released, manifest injustice or manifest unfairness will be suffered by a person other than the alleged offender;

or

## No. 16

Page 13, after line 12 — To insert —

- (4A) For the purposes of subsection (2)(ga)(iv) and (gc)(iv), a person who consents to an employee or contractor driving a vehicle must —
  - (a) ensure the driver has a driver's licence that authorises him or her to drive the vehicle; and
  - (b) ensure the driver has been instructed to obey the law when driving the vehicle.
- (4B) For the purposes of subsection (2)(gb)(iii), a taxi operator or agent who enters into an agreement with a driver must —
  - (a) ensure the driver has a driver's licence that authorises him or her to drive the vehicle; and
  - (b) ensure the driver has been instructed to obey the law when driving the vehicle.
- (4C) For the purposes of subsection (2)(gd) none of these factors by itself means manifest injustice or manifest unfairness will be suffered by a person —
  - (a) if the offence in respect of which the vehicle was impounded was an impounding offence (driver's licence), the fact that a person responsible for the vehicle concerned had no grounds to suspect the alleged offender was not authorised to drive the vehicle at the time of the offence;
  - (b) the fact that, although a responsible person for the vehicle expressly or impliedly authorised the person who allegedly committed the offence in respect of which the vehicle was impounded (the *alleged offender*) to drive the vehicle, the responsible person had no grounds to suspect the alleged offender would drive in a manner that contravened this Act.

## No. 17

Page 13, lines 27 and 28 — To delete the lines and insert —

and any substitute vehicle impounded under section 79BCB and any alternative vehicle impounded under section 79BCE

### *CONSIDERATION IN DETAIL*

The Minister for Police had moved, That amendment No. 1 be agreed to.

Question put and passed.

The Minister for Police moved, That amendment Nos 2 to 17 be agreed to.

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*Paper*

The following paper was presented and ordered to lie upon the Table of the House –  
By the Minister for Police –

Road Traffic Amendment Bill 2010 – Explanatory Memorandum (2244).

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Question put and passed.

Consideration in detail concluded and the Legislative Council acquainted accordingly.

**23. Hairdressers Registration (Amendment and Expiry) Bill 2010**

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 18 agreed to.

Title agreed to.

Consideration in detail concluded.

Leave was granted to proceed forthwith to the third reading of the bill.

The Minister for Commerce moved, That the bill be now read a third time.

Debate ensued.

Question put and passed.

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

**24. Variation to the Order of Business**

Ordered, That Government Business Order of the Day No. 5 be next considered.

**25. Child Support (Adoption of Laws) Amendment Bill 2009**

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.

Ordered, That the consideration in detail of the bill be made an Order of the Day for the next sitting of the Assembly.

**26. Adjournment**

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

Question put and passed.

The Assembly adjourned accordingly at 10.37 p.m. until Thursday, 24 June 2010 at 9.00 a.m.

*Members present during any part of the day's proceedings – All the members except Mr I.M. Britza, Mrs C.A. Martin, Mr T.G. Stephens and Mr P.C. Tinley.*

**PETER J. McHUGH**

Clerk of the Legislative Assembly

**HON. GRANT WOODHAMS**

Speaker of the Legislative Assembly