

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 87

TUESDAY, 18 MAY 2010

1. Meeting of Council

The Council assembled at 3.00pm pursuant to Temporary Orders.

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

2. Message from His Excellency the Governor - Assent to Bill

The President reported the receipt of a Message from His Excellency the Governor assenting to the following Bill -

14 May 2010 - Message No. 96

Act No.

Pay-roll Tax Rebate Bill 2010

5 of 2010

3. Ministerial Statement - Water Utilities Performance Report

The Parliamentary Secretary representing the Minister for Water made a Ministerial Statement with respect to the release of the performance report for Western Australia's water utilities.

Ordered - That consideration of the Ministerial Statement be made an Order of the Day for the next sitting.

4. Standing Committee on Procedure and Privileges - Standing Orders Review - Extension of Reporting Time

The President presented a Special Report of the Standing Committee on Procedure and Privileges in relation to the *Standing Orders Review* advising that the Committee had resolved to extend the time for the Committee to report from 20 May 2010 to 12 August 2010. (Tabled paper 2016).

The Leader of the House moved, That the Report do lie upon the Table and be adopted and agreed to.

Question - put and passed.

5. Papers

The following Papers were laid on the Table by -

Leader of the House

Management Plans -

Fish Resources Management Act 1994 (West Coast Rock Lobster Management Plan

Amendment (No. 6) 2010 [970] G.G. 05/05/2010) 2017

Fish Resources Management Act 1994 (West Coast Rock Lobster Management Plan Amendment (No. 7) 2010 [971] G.G. 12/05/2010)	2018
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Regulations -

Gas Standards Act 1972 (Gas Standards (Infringement Notices) Amendment Regulations 2010 G.G. 04/05/2010).....	2019
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Petroleum and Geothermal Energy Resources Act 1967 (Petroleum and Geothermal Energy Resources Amendment Regulations (No. 2) 2010 G.G. 11/05/2010, Petroleum and Geothermal Energy Resources (Management of Safety) Regulations 2010 G.G. 14/05/2010 and Petroleum and Geothermal Energy Resources (Occupational Safety and Health) Regulations 2010 G.G. 14/05/2010	2020
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Petroleum and Geothermal Energy Resources (Registration Fees) Act 1967 (Petroleum and Geothermal Energy Resources (Registration Fees) Amendment Regulations 2010 G.G. 11/05/2010).....	2021
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Petroleum Pipelines Act 1969 (Petroleum Pipelines Amendment Regulations (No. 2) 2010 G.G. 14/05/2010, Petroleum Pipelines Amendment Regulations (No. 3) 2010 G.G. 11/05/2010, Petroleum Pipelines (Management of Safety of Pipeline Operations) Regulations 2010 G.G. 14/05/2010 and Petroleum Pipelines (Occupational Safety and Health) Regulations 2010 G.G. 14/05/2010).....	2022
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Petroleum (Submerged Lands) Act 1982 (Petroleum (Submerged Lands) Amendment Regulations (No. 2) 2010 G.G. 11/05/2010).....	2023
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Petroleum (Submerged Lands) Registration Fees Act 1982 (Petroleum (Submerged Lands) Registration Fees Amendment Regulations 2010 G.G. 11/05/2010)	2024
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Minister for Transport

Regulations -

Road Traffic Act 1974 (Road Traffic (Charges and Fees) Amendment Regulations (No. 2) 2010 G.G. 07/05/2010).....	2025
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Road Traffic Act 1974 (Road Traffic (Authorisation to Drive) Amendment Regulations 2010 G.G. 14/05/2010).....	2026
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Shipping and Pilotage Act 1967 (Ports and Harbours Amendment Regulations (No. 2) 2010 G.G. 14/05/2010).....	2027
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Minister for Energy

Local Laws -

Dog Act 1976 (Shire of Capel Dogs Amendment Local Law 2009 G.G. 04/05/2010).....	2028
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Local Government Act 1995 (Shire of Capel Keeping and Welfare of Cats Amendment Local Law 2009 G.G. 04/05/2010 and Shire of Nannup Standing Orders Local Law 2010 G.G. 04/05/2010).....	2029
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Local Government Act 1995 (Shire of Goomalling Health Amendment Local Law 2010 G.G. 11/05/2010 and Shire of Serpentine-Jarrahdale Standing Orders Amendment Local Law 2010 G.G. 14/05/2010).....	2030
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Minister for Child Protection

Regulations -

Planning and Development Act 2005 (Planning and Development Amendment Regulations 2010 G.G. 14/05/2010).....	2031
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Reviews -

Agricultural Produce Commission Act 1988 - section 26 Legislation Review (23 August 2006).....	2032
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Minister for Environment*Leases -*

CALM Lease No. 2202/100 - Between CALM and The National Trust of Australia -
Wellington Dam Hydro Power Station Wellington National Park 2033

CALM Lease No. 2307/100 - Between CALM and Boele Vrieling and Wendy Joy
Perdon - Part Reserve 46213 - Wellington National Park..... 2034

Parliamentary Secretary representing the Treasurer*Reports -*

Western Australian Treasury Corporation Quarterly Report (for the quarter ended
31 March 2010) (Deemed tabled 07/05/2010)..... 2035

6. Standing Committee on Estimates and Financial Operations - Special Report - Resolution of the Committee to Amend the Terms of Reference of its Inquiry into the Removal of Year 11 and 12 Courses at 21 District High Schools

Hon Giz Watson presented a Special Report of the Standing Committee on Estimates and Financial Operations in relation to a resolution of the Committee to amend the terms of reference of its inquiry into the Removal of Year 11 and 12 Courses at 21 District High Schools. The amended terms of reference are -

The Standing Committee on Estimates and Financial Operations has resolved to inquire into and report to the Legislative Council on the Government decision, announced in March 2010, to cease to provide senior school allocation funding for Year 11 and 12 courses at 21 District High Schools across Western Australia, with particular reference to -

- (a) the decision-making process and rationale behind the decision;
- (b) the effect of the decision on the State budget, the affected students and communities;
- (c) the adequacy, cost effectiveness and social impact of the educational alternatives proposed; and
- (d) any other relevant matter.

The Committee intends to report to the Legislative Council in August 2010.

(Tabled paper 2036).

Hon Giz Watson moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

7. Joint Standing Committee on Delegated Legislation - Fortieth Report - Betting Control Amendment Regulations (No. 4) 2009, Casino Control Amendment Regulations 2009, Casino Control (Burswood Island) (Licensing of Employees) Amendment Regulations (No. 2) 2009, Gaming and Wagering Commission Amendment Regulations 2009, Racing and Wagering Western Australia Amendment Regulations 2009 and Liquor Control Amendment Regulations (No. 7) 2009

Hon Robin Chapple presented the Fortieth Report of the Joint Standing Committee on Delegated Legislation in relation to the *Betting Control Amendment Regulations (No. 4) 2009, Casino Control Amendment Regulations 2009, Casino Control (Burswood Island) (Licensing of Employees) Amendment Regulations (No. 2) 2009, Gaming and Wagering Commission Amendment Regulations 2009, Racing and Wagering Western Australia Amendment Regulations 2009 and Liquor Control Amendment Regulations (No. 7) 2009*. (Tabled paper 2037).

Hon Robin Chapple moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

8. Renewable Energy Feed-in Tariff (REFiT WA) Bill 2010

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

That a Bill for “An Act to facilitate power industry development and employment, and to improve energy security by diversifying fuel sources, through the commercialisation of renewable energy technologies in Western Australia.” be introduced and read a first time.

9. State Trading Concerns (Authorisation) Amendment Regulations (No. 2) 2009 - Disallowance

Hon Ken Travers: To move on the next day of sitting -

That the *State Trading Concerns (Authorisation) Amendment Regulations (No. 2) 2009* published in the *Gazette* on 26 February 2010 and tabled in the Legislative Council on 3 March 2010 under the *State Trading Concerns Act 1916*, be and are hereby disallowed.

10. State Trading Concerns (Authorisation) Amendment Regulations 2009 - Disallowance

Hon Sally Talbot: To move on the next day of sitting -

That the *State Trading Concerns (Authorisation) Amendment Regulations 2009* published in the *Gazette* on 26 February 2010 and tabled in the Legislative Council on 3 March 2010 under the *State Trading Concerns Act 1916*, be and are hereby disallowed.

11. City of Albany Parking and Parking Facilities Local Law 2009 - Disallowance

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

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *City of Albany Parking and Parking Facilities Local Law 2009* published in the *Gazette* on 12 February 2010 and tabled in the Legislative Council on 3 March 2010 under the *Local Government Act 1995*, be and is hereby disallowed.

12. State Trading Concerns (Authorisation) Amendment Regulations (No. 2) 2009 - Disallowance

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

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *State Trading Concerns (Authorisation) Amendment Regulations (No. 2) 2009* published in the *Gazette* on 26 February 2010 and tabled in the Legislative Council on 3 March 2010 under the *State Trading Concerns Act 1916*, be and are hereby disallowed.

13. City of Gosnells Animals, Environment and Nuisance Local Law 2009 - Disallowance

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

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *City of Gosnells Animals, Environment and Nuisance Local Law 2009* published in the *Gazette* on 15 December 2009 and tabled in the Legislative Council on 3 March 2010 under the *Local Government Act 1995*, be and is hereby disallowed.

14. Shire of Busselton Dust and Building Waste Control Local Law 2009 - Disallowance

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

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Shire of Busselton Dust and Building Waste Control Local Law 2009* published in the *Gazette* on 24 February 2010 and tabled in the Legislative Council on 3 March 2010 under the *Waste Avoidance and Resource Recovery Act 2007*, be and is hereby disallowed.

15. Mining Amendment Regulations 2009 - Disallowance

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

That the *Mining Amendment Regulations 2009* published in the *Gazette* on 15 January 2010 and tabled in the Legislative Council on 3 March 2010 under the *Mining Act 1978*, be and are hereby disallowed.

16. Order of Business

Ordered - That Orders of the Day Nos 1, *Genetically Modified Crops Free Areas Exemption Order - Disallowance*, 2, *Betting Control Amendment Regulations (No. 4) 2009 - Disallowance*, 3, *Casino Control Amendment Regulations 2009 - Disallowance*, 4, *Casino Control (Burswood Island) (Licensing of Employees) Amendment Regulations (No. 2) 2009 - Disallowance*, 5, *Gaming and Wagering Commission Amendment Regulations 2009 - Disallowance*, 6, *Racing and Wagering Western Australia Amendment Regulations 2009 - Disallowance*, 8, *Waste Avoidance and Resource Recovery Levy Amendment Regulations 2009 - Disallowance*, 9, *Agriculture and Related Resources Protection (European House Borer) Amendment Regulations 2010 - Disallowance*, 10, *Liquor Control Amendment Regulations (No. 7) 2009 - Disallowance*, and 11, *Retail Trading Hours (Tourism Precincts and Holiday Resorts) Amendment Regulations (No. 2) 2009 - Disallowance*, be taken after Order of the Day No. 15, *Appropriation (Consolidated Account) Capital 2007-08 and 2008-09 (Supplementary) Bill 2009*. (Leader of the House).

17. Racing Penalties (Appeals) Amendment Regulations 2009 - Disallowance - Discharge from Notice Paper

The Order of the Day having been called, Hon Robin Chapple moved, without notice -

That Order of the Day No. 7, *Racing Penalties (Appeals) Amendment Regulations 2009 - Disallowance*, be discharged from the Notice Paper.

Question - put and passed.

18. Aboriginal Housing Legislation Amendment Bill 2009

The Order of the Day having been read for the third reading of this Bill.

The Parliamentary Secretary representing the Treasurer moved, That the Bill be now read a third time.

The President having reported that the Deputy Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as agreed to in Committee, and reported.

Debate ensued.

Question - put and passed.

Bill read a third time and passed.

19. Road Traffic Amendment Bill 2010

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

The President left the Chair.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Clause 6.

Debate resumed on the amendment of the Minister for Energy as follows -

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.

Amendment - put and passed.

Clause, as amended, agreed to.

Postponed Clause 4.

The Minister for Energy moved -

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

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

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

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

Amendments - put and passed.

Clause, as amended, agreed to.

Postponed Clause 5.

The Minister for Energy moved -

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

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

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 7.

The Minister for Energy moved -

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,

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 8.

The Minister for Energy moved -

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.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 9.

The Minister for Energy moved -

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

or a surrender alternative vehicle notice under section 79BCD

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

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

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

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

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

notice or surrender alternative vehicle notice,

Amendments - put and passed.

Clause, as amended, agreed to.

Clause 10.

The Minister for Energy moved -

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;

Amendment - put and passed.

The Minister for Energy moved -

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

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

Amendment - put and passed.

Hon Giz Watson moved -

Page 11, lines 10 to 12 — To delete the lines and insert —

- (a) a senior police officer is satisfied that unless the vehicle is released, hardship will be suffered in the particular case that may include but is not limited to a case that would or does deprive a person of —
 - (i) the means of obtaining urgent medical treatment for an illness, disease or disability known to be suffered by the person responsible for the vehicle or a member of his or her family; or
 - (ii) the principal means of obtaining income with which to pay the costs associated with the impoundment; or
 - (iii) on the grounds that the impoundment of the vehicle would or does seriously hinder the person responsible for the vehicle in performing family or personal responsibilities;

or

Debate ensued.

The Minister for Energy moved, That further consideration of Clause 10 be postponed until after consideration of Clause 13.

Question - put and passed.

Clause 11.

The Minister for Energy moved -

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

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 12 agreed to.

Clause 13 agreed to.

New Clause 11.

Hon Giz Watson moved -

Page 13, after line 22 — To insert —

11. Section 79EA inserted

After section 79D insert:

79EA. Release of motor vehicle on application to State Administrative Tribunal

- (1) A person may apply to the State Administrative Tribunal for a review of an unsuccessful application under section 79D.
- (2) The State Administrative Tribunal is not limited by the provisions of section 79D, and is entitled in any case to have regard not only to the public interest but to any alleged hardship or other circumstances of the case.
- (3) Subsection (2) applies even though the Commissioner may have refused an application under section 79D, and the State Administrative Tribunal may order or refuse to order the release of an impounded motor vehicle as justice requires.
- (4) The State Administrative Tribunal may determine whether or not the prescribed fees for storage of the motor vehicle by the Commissioner, or some of those fees, are payable by the applicant to the Commissioner.

Debate ensued.

New Clause - put and negatived.

Postponed Clause 10.

Debate resumed on the amendment of Hon Giz Watson as follows -

Page 11, lines 10 to 12 — To delete the lines and insert —

- (a) a senior police officer is satisfied that unless the vehicle is released, hardship will be suffered in the particular case that may include but is not limited to a case that would or does deprive a person of —
 - (i) the means of obtaining urgent medical treatment for an illness, disease or disability known to be suffered by the person responsible for the vehicle or a member of his or her family; or
 - (ii) the principal means of obtaining income with which to pay the costs associated with the impoundment; or
 - (iii) on the grounds that the impoundment of the vehicle would or does seriously hinder the person responsible for the vehicle in performing family or personal responsibilities;

or

20. Questions Without Notice

Questions without notice were taken.

The Minister for Child Protection tabled a report by Mr Terry Simpson for the Department for Child Protection entitled *Review of Adoption Services - Streamlining Practices, Policy and Processes (August 2008)*, in response to a question without notice asked by Hon Sue Ellery. (Tabled paper 2038).

The Minister for Transport tabled documents in relation to Main Roads Key Performance Indicators for the morning peak period travel times for the metropolitan centres to the Perth central area (2005-2010), in response to question on notice No. 2295 asked by Hon Ken Travers. (Tabled paper 2039).

The Minister for Environment tabled documents in relation to details of nutrients and heavy metals in sediment around the proposed Anvil Road Artificial Wetland, in response to question on notice No. 2177 asked by Hon Alison Xamon. (Tabled paper 2040).

The Minister for Environment tabled documents in relation to details of staff transferred from the Office of the Environmental Protection Authority (OEPA) to the Department of Environment and Conservation, in response to question on notice No. 2178 asked by Hon Sally Talbot. (Tabled paper 2041).

The Parliamentary Secretary representing the Minister for Water tabled documents in relation to details of sewerage pumping stations and duration of power outage (22 March 2010 to 23 March 2010), in response to question on notice No. 2182 asked by Hon Alison Xamon. (Tabled paper 2042).

21. Road Traffic Amendment Bill 2010

The President left the Chair.

In Committee

(Hon Michael Mischin in the Chair)

Postponed Clause 10.

Debate resumed on the amendment of Hon Giz Watson as follows -

Page 11, lines 10 to 12 — To delete the lines and insert —

- (a) a senior police officer is satisfied that unless the vehicle is released, hardship will be suffered in the particular case that may include but is not limited to a case that would or does deprive a person of —
 - (i) the means of obtaining urgent medical treatment for an illness, disease or disability known to be suffered by the person responsible for the vehicle or a member of his or her family; or
 - (ii) the principal means of obtaining income with which to pay the costs associated with the impoundment; or
 - (iii) on the grounds that the impoundment of the vehicle would or does seriously hinder the person responsible for the vehicle in performing family or personal responsibilities;

or

The Minister for Energy, by leave, tabled a document relating to the assessment of exceptional hardship conditions for early release of impounded vehicles. (Tabled paper 2043).

Amendment - put.

The Committee divided.

Ayes (14)

Hon Matt Benson-Lidholm
 Hon Helen Bullock
 Hon Robin Chapple
 Hon Ed Dermer
 Hon Kate Doust
 Hon Sue Ellery
 Hon Jon Ford

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

Noes (19)

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

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

Amendment thus negatived.

The Minister for Energy moved -

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

person lawfully in possession of it,

Debate ensued.

Amendment - put and passed.

The Minister for Energy moved -

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

Debate ensued.

Amendment - put and passed.

The Minister for Energy moved -

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.

Amendment - put and passed.

Clause, as amended, agreed to.

Title agreed to.

The Deputy President resumed the Chair.

Bill reported with amendments.

Ordered - That consideration of the Committee's Report be made an Order of the Day for the next sitting.

22. Cognate Debate - Revenue Laws Amendment and Repeal Bill 2010 and Revenue Laws Amendment Bill 2010

The Parliamentary Secretary representing the Treasurer sought leave of the House to debate Order of the Day No. 21, *Revenue Laws Amendment and Repeal Bill 2010* and Order of the Day No. 22, *Revenue Laws Amendment Bill 2010* cognately [SO 228].

Leave granted.

23. Revenue Laws Amendment and Repeal Bill 2010 and Revenue Laws Amendment Bill 2010

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

Debate ensued.

Question - put and passed.

Bills read a second time.

The Deputy President left the Chair.

In Committee

(Hon Max Trenorden in the Chair)

Revenue Laws Amendment and Repeal Bill 2010

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 to 10 agreed to.

Clause 11.

Debate ensued.

Clause agreed to.

Clauses 12 to 18 agreed to.

Clause 19.

Debate ensued.

Clause agreed to.

Clause 20 agreed to.

Clause 21.

The Parliamentary Secretary representing the Treasurer moved -

Page 10, line 14 — To insert after “*credit*” —

or debit

Page 10, line 16 — To insert after “credit card” —

or debit card

Page 10, after line 16 — To insert —

debit card means an article intended for use by a person in obtaining access to an account that is held by the person for the purpose of withdrawing or depositing cash or obtaining goods or services;

Page 10, line 19 — To insert after “credit” —

or debit

Page 10, line 21 — To insert after “credit” —

or debit

Page 10, line 23 — To insert after “credit card” —

or debit card

Page 10, line 24 — To insert after “credit” —

or debit

Page 10, line 27 — To insert after “credit cards” —

or debit cards

Page 11, line 1 — To insert after “credit” —

or debit

Debate ensued.

Amendments - put and passed.

Clause, as amended, agreed to.

Clauses 22 to 31 agreed to.

Title agreed to.

Revenue Laws Amendment Bill 2010

Clause 1 agreed to.

Clause 2.

Debate ensued.

Clause agreed to.

Clause 3 agreed to.

Clause 4.

Debate ensued.

Clause agreed to.

The Parliamentary Secretary representing the Treasurer moved, That progress be reported and leave asked to sit again at a later stage of this day's sitting.

Question - put and passed.

The Deputy President resumed the Chair.

The Deputy Chairman of Committees reported that the Committee had considered these Bills, made progress, and asked leave to sit again at a later stage of this day's sitting.

Ordered - That the Committee have leave to sit again at a later stage of this day's sitting.

24. Order of Business

Ordered - That Order of the Day No. 1, *Genetically Modified Crops Free Areas Exemption Order - Disallowance*, be now taken. (Minister for Transport).

25. Genetically Modified Crops Free Areas Exemption Order - Disallowance

Pursuant to SO 152(b) the following motion was moved *pro forma* by Hon Giz Watson -

That the *Genetically Modified Crops Free Areas Exemption Order* published in the *Gazette* on 29 January 2010 and tabled in the Legislative Council on 3 March 2010 under the *Genetically Modified Crops Free Areas Act 2003*, be and is hereby disallowed.

Debate ensued.

Question - put.

The House divided.

Ayes (14)

Hon Matt Benson-Lidholm
 Hon Helen Bullock
 Hon Robin Chapple
 Hon Sue Ellery
 Hon Adele Farina
 Hon Jon Ford
 Hon Lynn MacLaren

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

Noes (19)

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

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

Question thus negatived.

26. Members' Statements

Statements were taken.

27. Adjournment

The House adjourned at 10.28pm until Wednesday, 19 May 2010 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members.

MALCOLM PEACOCK
 Clerk of the Legislative Council

HON BARRY HOUSE
 President of the Legislative Council