

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 61

TUESDAY, 10 NOVEMBER 2009

1. Meeting of Council

The Council assembled at 3.30pm pursuant to order.

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 -

22 October 2009 - Message No. 69

Act No.

Co-operatives Bill 2009

24 of 2009

3. President's Ruling - Fish Resources Management Amendment Bill 2009

The President ruled as follows -

On Wednesday, 14 October 2009, the Minister for Fisheries introduced into the Legislative Council the *Fish Resources Management Amendment Bill 2009*. The Deputy President indicated at the conclusion of the Minister's second reading speech that he would seek clarification on the Bill to determine whether Standing Order 230A applied.

The second reading speech and the explanatory memorandum to the *Fish Resources Management Amendment Bill 2009* clearly indicate that the amendments contained in the Bill will implement nationally agreed changes to the Offshore Constitutional Settlement (OCS) fisheries arrangements and other matters. The explanatory memorandum states with respect to the OCS that the amendments to part 3 of the *Fish Resources Management Act*, "Commonwealth-State management of fisheries", reflect the provisions of the Commonwealth's *Fisheries Legislation Amendment (Cooperative Fisheries Arrangements and Other Matters) Act 2006* made in accordance with a decision taken by the Natural Resources Management Ministerial Council in December 2004.

I therefore rule that the Bill is caught by Standing Order 230A and stands referred to the Standing Committee on Uniform Legislation and Statutes Review.

I take this opportunity to indicate that the Presiding Officer has no prior notice whether a Bill is caught by Standing Order 230A when a Bill originates in the Legislative Council. The Presiding Officer is reliant on the content of the Minister's second reading speech to determine whether a Bill is caught by Standing Order 230A. It may be of assistance if the cover sheet of a second reading in future indicates whether or not, in the view of the Minister, Standing Order 230A applies.

4. Suspension of Standing Order 230A

The Leader of the House moved, without notice -

That Standing Order 230A(2) and (3) be suspended in regards to the *Fish Resources Management Amendment Bill 2009*.

Debate ensued.

The motion requiring the concurrence of an absolute majority.

Question - put.

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

5. Petitions

Hon Matt Benson-Lidholm presented a petition, by delivery to the Clerk, [SO 130], from 38 petitioners requesting the Legislative Council oppose the introduction of new recreational fishing licence and fees, and the increase in existing fees. (Tabled paper 1498).

Hon Liz Behjat presented a petition from 1932 petitioners requesting the Legislative Council support the preservation of leased shack site communities in Western Australia. (Tabled paper 1499).

Hon Nick Goiran presented a petition from 1018 petitioners requesting the Legislative Council oppose voluntary euthanasia. (Tabled paper 1500).

6. Ministerial Statement - Workforce Development Plan

The Minister for Training made a Ministerial Statement with respect to the release of a workforce development plan entitled *A Skilled Workforce for the Future* to help drive development and coordination of the State's future skill and labour needs.

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

7. Papers

The following Papers were laid on the Table by -

President

Annual Reports -

Inspector of Custodial Services, Office of the (2008-2009) (Date received 29/09/2009)..... 1455

Joint Standing Committee on Treaties (Commonwealth of Australia) -

Nuclear Non-Proliferation and Disarmament (Report No. 106) (September 2009)..... 1456

Reports -

Office of the Inspector of Custodial Services - Report of an Announced Inspection of
Wooroloo Prison Farm (Report 61) (September 2009)..... 1457

Leader of the House

Annual Reports -

Greyhound Racing Association (2008-2009) (Date received 29/10/2009)..... 1459

Management Plans -

Fish Resources Management Act 1994 (West Coast Rock Lobster Management Plan
Amendment (No. 5) 2009 [929] G.G. 04/11/2009) 1460

Regulations -

Betting Control Act 1954 (Betting Control Amendment Regulations (No. 4) 2009 G.G. 30/10/2009) .. 1461

Casino Control Act 1984 (Casino Control Amendment Regulations 2009 G.G. 30/10/2009, and Casino Control (Burswood Island) (Licensing of Employees) Amendment Regulations (No. 2) 2009 G.G. 30/10/2009)	1462
Fish Resources Management Act 1994 (Fish Resources Management Amendment Regulations (No. 16) 2009 G.G. 05/11/2009, and Fish Resources Management Amendment Regulations (No. 4) 2009 G.G. 06/11/2009)	1463
Gaming and Wagering Commission Act 1987 (Gaming and Wagering Commission Amendment Regulations 2009 G.G. 30/10/2009)	1464
Liquor Control Act 1988 (Liquor Control (Oombulgurri Restricted Area) Amendment Regulations 2009 G.G. 06/11/2009)	1465
Racing and Wagering Western Australia Act 2003 (Racing and Wagering Western Australia Amendment Regulations 2009 G.G. 30/10/2009)	1466
Racing Penalties (Appeals) Act 1990 (Racing Penalties (Appeals) Amendment Regulations 2009 G.G. 30/10/2009)	1467

Minister for Transport

Local Laws -

Health Act 1911 (Health (Food) Local Laws 2009 G.G. 23/10/2009, Health (Rottnest Island) Amendment Local Laws 2009 G.G. 23/10/2009, Shire of Esperance Health Amendment Local Law 2009 G.G. 23/10/2009 and Shire of Kalamunda Health Amendment Local Law 2009 G.G.06/11/2009)	1468
---	------

Regulations -

Food Act 2008 (Food Regulations 2009 G.G. 23/10/2009)	1469
Health Act 1911 (Health (Food and Pet Meat) Repeal Regulations 2009 G.G. 23/10/2009)	1470
Hospitals and Health Services Act 1927 (Hospitals (Licensing and Conduct of Private Hospitals) Amendment Regulations 2009 G.G. 30/10/2009, and Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Amendment Regulations 2009 G.G. 30/10/2009)	1471

Minister for Energy

Annual Reports -

Independent Market Operator (2008-2009) (Date received 22/10/2009)	1472
--	------

Local Laws -

Local Government Act 1995 (Southern Metropolitan Regional Council Standing Orders Amendment Local Law 2009 G.G. 06/11/2009 and Town of Claremont Standing Orders Local Law 2009 G.G. 26/10/2009)	1473
--	------

Regulations -

Firearms Act 1973 (Firearms Amendment Regulations (No. 4) 2009 G.G. 06/11/2009)	1474
---	------

Reports -

Terrorism (Preventative Detention) Act 2006 - Quarterly Report (September 2009)	1475
---	------

Response to Reports -

Government Response to the City of Joondalup Cats Local Law 2008 (Minister for Local Government)	1476
--	------

Minister for Child Protection

Annual Reports -

Perry Lakes Redevelopment (2008-2009) (Date Received 27/10/2009)	1477
--	------

Regulations -

Grain Marketing Act 2002 (Grain Marketing Amendment Regulations (No. 2) 2009 G.G. 23/10/2009).....	1478
---	------

Reports -

Ministerial Travel Report - Visit to the United Kingdom (21 August 2009 to 31 August 2009).....	1479
--	------

Minister for Environment*Addendums -*

Tourism Western Australian Annual Report 2008-2009.....	1480
---	------

Leases -

CALM Lease No. 2044/97 - Between CALM and Tony Delpaul - Portion of State forest No. 21	1481
--	------

Proposals -

Conservation and Land Management Act 1984 - Partial Revocation of State Forest Nos 2, 12, 16, 38, 55 and 57.....	1482
Conservation and Land Management Act 1984 - Partial Revocation of State Forest Nos 4 and 65.....	1483
Conservation and Land Management Act 1984 - Partial Revocation of State Forest Nos 22, 23 and 25.....	1484
Conservation and Land Management Act 1984 - Partial Revocation of State Forest Nos 22 and 38.....	1485

Parliamentary Secretary representing the Attorney General*Response to Reports -*

Government Response to the Statutes (Repeals and Minor Amendments) Bill 2009 (Attorney General).....	1486
---	------

Regulations -

Cross-border Justice Act 2008 (Cross-border Justice Regulations 2009 G.G. 28/10/2009)	1487
---	------

Rules -

Supreme Court Act 1935 (Supreme Court (Corporations) (WA) Amendment Rules (No. 2) 2009 G.G. 06/11/2009).....	1488
---	------

Parliamentary Secretary representing the Treasurer*Annual Reports -*

Architects Board 2008-2009 (Date received 06/11/2009).....	1489
Occupational Safety and Health, Commission for (2008-2009) (Date received 06/11/2009)....	1490
Registrar of Housing Societies (2008-2009) (Date received 27/10/2009)	1491

Regulations -

Electricity Act 1945 (Electricity Amendment Regulations (No. 3) 2009 G.G. 27/10/2009)	1492
Energy Coordination Act 1994 (Energy Coordination (General) Amendment Regulations 2009 G.G. 06/11/2009).....	1493
Gas Standards Act 1972 (Gas Standards (Gas Supply and System Safety) Amendment Regulations 2009 G.G. 06/11/2009)	1494

Workers' Compensation and Injury Management Act 1981 (Workers' Compensation and Injury Management (Scales of Fees) Amendment Regulations 2009 G.G. 30/10/2009).....	1495
---	------

Reports -

Western Australian Treasury Corporation Quarterly Report (for the quarter ended 30 September 2009)	1496
--	------

Rules -

Workers' Compensation and Injury Management Act 1981 (Workers' Compensation (DRD) Amendment Rules 2009 G.G. 06/11/2009)	1497
---	------

8. Limitation Act 1935 - Reforms

Hon Nick Goiran: To move on the next day of sitting -

That this House condemns the former Attorney General for the gross misrepresentation he made regarding his reform of the *Limitation Act 1935* having said that his law reform would make the system fairer.

9. Matter of Urgency - Government Services - Privatisation

The President read the following letter -

Dear Mr President

At today's sitting it is my intention to move under SO 72 that the Council consider, as a matter of urgency, its grave concern at the Liberal National Government's intention to privatise government services.

Yours sincerely

Hon Sue Ellery

Member for South Metropolitan Region

Four members having risen in support.

Hon Sue Ellery moved the motion.

Debate ensued.

Interruption of Debate [SO 195].

10. Perth Parking Management Amendment Regulations (No. 2) 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. 1, *Perth Parking Management Amendment Regulations (No. 2) 2009 - Disallowance*, be discharged from the Notice Paper.

Debate ensued.

Question - put and passed.

11. Order of Business

Ordered - That Order of the Day No. 2, *Perth Parking Management Amendment Regulations (No. 2) 2009 - Disallowance*, be taken after Order of the Day No. 19, *Bookmakers Betting Levy Amendment Bill 2009*. (Leader of the House).

12. Medical Radiation Technologists 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. 3, *Medical Radiation Technologists Amendment Regulations 2009 - Disallowance*, be discharged from the Notice Paper.

Question - put and passed.

13. Building 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. 4, *Building Amendment Regulations 2009 - Disallowance*, be discharged from the Notice Paper.

Question - put and passed.

14. Bush Fires Amendment Bill 2009

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

Debate resumed.

Question - put and passed.

Bill read a second time.

15. Questions Without Notice

Questions without notice were taken.

The Minister for Community Services tabled documents in relation to details of non-Government services transferred to the Department for Communities from the Department of Child Protection in response to question on notice No. 1272 asked by Hon Sue Ellery. (Tabled paper 1458).

The Minister for Transport tabled documents in relation to details of crashes involving heavy goods vehicles, by crash severity (2001 - 2008) in response to question on notice No. 1235 asked by Hon Alison Xamon. (Tabled paper 1501).

16. Bush Fires Amendment Bill 2009

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

The President left the Chair.

In Committee

(Hon Helen Morton in the Chair)

Clause 1.

Debate ensued.

The Minister for Energy representing the Minister for Emergency Services, by leave, tabled the *State Emergency Management Plan for Bushfire* (Draft V4). (Tabled paper 1502).

Clause agreed to.

Clauses 2 to 4 agreed to.

Clause 5.

Debate ensued.

Hon Giz Watson moved -

Page 3, lines 27 to 29 — To delete the lines and insert —

- (b) a bushfire has assumed or is likely to assume such proportions as to be incapable of control or suppression by the fire fighting authority or agency in whose area or locality it is burning; or
- (c) a bushfire is not being effectively controlled or suppressed by the fire fighting authority or authorities in whose area or locality it is burning; or
- (d) a multi-agency or multi-tenure fire requires or may require the coordination of resources and community information.

Debate ensued.

Amendment - put.

The Committee divided.

Ayes (12)

Hon Helen Bullock
Hon Robin Chapple
Hon Kate Doust
Hon Adele Farina
Hon Jock Ferguson
Hon Lynn MacLaren

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

Noes (17)

Hon Jim Chown
Hon Peter Collier
Hon Mia Davies
Hon Wendy Duncan
Hon Phil Edman
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.

Debate resumed.

Clause agreed to.

Clause 6.

Debate ensued.

Hon Giz Watson moved -

Page 7, line 4 — To insert —

- (4) In proceedings for an offence under subsection (1) regarding an order to evacuate persons from the affected area made under section 14B(2)(b) ("**evacuation order**"), the following circumstances must be taken into account —
 - (a) the person's preparedness for fighting the bush fire;
 - (b) the impact of the fire on the person; and
 - (c) any other relevant information.
- (5) A person is not to be fined for the breach of an evacuation order if the enforcement of the order was or would have been unreasonable in the particular case.

Debate resumed.

Amendment - put.

The Committee divided.

Ayes (4)

Hon Lynn MacLaren
Hon Giz Watson

Hon Alison Xamon
Hon Robin Chapple (*Teller*)

Noes (25)

Hon Liz Behjat
Hon Helen Bullock
Hon Peter Collier
Hon Mia Davies
Hon Ed Dermer
Hon Kate Doust
Hon Wendy Duncan
Hon Phil Edman
Hon Donna Faragher
Hon Adele Farina
Hon Jock Ferguson
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 Ljiljanna Ravlich
Hon Sally Talbot
Hon Ken Travers
Hon Max Trenorden
Hon Ken Baston (*Teller*)

Amendment thus negatived.

Clause agreed to.

Clause 7.

Debate ensued.

Clause agreed to.

Clause 8.

Debate ensued.

The Minister for Training 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 the Bill, 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.

17. Extension of Sitting Time

The Leader of the House moved, That the House continue to sit beyond 10.00pm for the purpose of completing the Committee of the Whole stage of the *Bush Fires Amendment Bill 2009*.

Question - put and passed.

18. Order of Business

Ordered - That Order of the Day No. 6, *Bush Fires Amendment Bill 2009*, be taken forthwith. (Leader of the House).

19. Bush Fires Amendment Bill 2009

The Deputy President left the Chair.

In Committee

(Hon Michael Mischin in the Chair)

Clause 8.

Debate resumed.

Clause agreed to.

Clause 9 agreed to.

Clause 10 agreed to.

Clause 11.

Debate ensued.

Clause agreed to.

Clauses 12 to 18 agreed to.

Clause 19.

Hon Giz Watson moved -

Page 17, after line 18 — To insert —

(bb) that an order to evacuate persons from the affected area under section 14(B)(2) was reasonable; or

Debate ensued.

Amendment - put and negatived.

Clause agreed to.

Clause 20 agreed to.

Title agreed to.

The President resumed the Chair.

Bill reported without amendment.

Report adopted.

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

20. Adjournment

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

Debate ensued.

Question - put and passed.

The House adjourned at 10.19pm until Wednesday, 11 November 2009 at 4.00pm.

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