

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 207

TUESDAY, 15 MAY 2012

1. Meeting of Council

The Council assembled at 3.00pm pursuant to order.

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

2. Petitions

Hon Sally Talbot presented a petition from 534 petitioners requesting the Legislative Council to support the enactment of a moratorium on hydraulic fracturing. (Tabled Paper 4501).

Hon Giz Watson presented a petition from 166 petitioners requesting the Legislative Council to support the enactment of a moratorium on hydraulic fracturing. (Tabled Paper 4502).

Hon Giz Watson presented a petition from 614 petitioners requesting the Legislative Council to oppose the *Criminal Organisation Control Bill 2011*. (Tabled Paper 4503).

3. Ministerial Statement – Aboriginal Skills and Labour - Underutilisation

The Minister for Training and Workforce Development made a Ministerial Statement with respect to progress to date of the Aboriginal Workforce Development Strategy, *Training Together – Working Together*.

4. Ministerial Statement – Disability Justice Centres

The Minister for Mental Health made a Ministerial Statement with respect to the establishment of Disability Justice Centres.

5. Ministerial Statement – Metropolitan Region Scheme Amendment No. 1211/41

The Minister for Mental Health representing the Minister for Planning made a Ministerial Statement with respect to Metropolitan Region Scheme Amendment No. 1211/41 Maddington-Kenwick Strategic Employment Area Precinct 1.

The Minister for Mental Health representing the Minister for Planning tabled plans relating to the Metropolitan Region Scheme Amendment No. 1211/41. (Tabled Paper 4504).

The Minister for Mental Health representing the Minister for Planning tabled a report on submissions relating to the Metropolitan Region Scheme Amendment No. 1211/41. (Tabled Paper 4505)

6. Ministerial Statement – Greater Bunbury Region Scheme Amendment No. 0019/41

The Minister for Mental Health representing the Minister for Planning made a Ministerial Statement with respect to Greater Bunbury Region Scheme Amendment No. 0019/41 - Harvey Townsite Expansion.

The Minister for Mental Health representing the Minister for Planning tabled a report on submissions relating to the Greater Bunbury Region Scheme Amendment No. 0019/41. (Tabled Paper 4507)

The Minister for Mental Health representing the Minister for Planning tabled plans relating to the Greater Bunbury Region Scheme Amendment No. 0019/41. (Tabled Paper 4506)

7. Papers

The following Papers were laid on the Table by –

Leader of the House

Management Plans -

Fish Resources Management Act 1994 (West Coast Demersal Gillnet and Demersal Longline Interim Managed Fishery Management Plan Amendment 2012 [1093] G.G. 04/05/2012, Joint Authority Southern Demersal Gillnet and Demersal Longline Managed Fishery Management Plan Amendment 2012 [1094] G.G. 04/05/2012, and (West Coast Demersal Scalefish (Interim) Management Plan Amendment 2012 [1095] G.G. 04/05/2012) 4488

Minister for Finance

Notices -

Energy Safety Act 2006 (Energy Safety Levy Notice 2012 G.G. 01/05/2012)..... 4489

Regulations -

Home Building Contracts Act 1991 (Home Building Contracts Amendment Regulations 2012 G.G. 08/05/2012 and Home Building Contracts (Home Indemnity Insurance Exemptions) Amendment Regulations 2012 G.G. 11/05/2012)..... 4490

State Superannuation Act 2000 (State Superannuation Amendment Regulations (No. 2) 2012 G.G. 11/05/2012)..... 4491

Response to Reports –

Standing Committee on Uniform Legislation and Statutes Review – Residential Tenancies Amendment Bill 2011 (Report No. 65) (Minister for Commerce)..... 4500

Minister for Energy

Regulations -

Energy Coordination Act 1994 (Energy Coordination (Gas Tariffs) Amendment Regulations (No. 2) 2012 G.G. 01/05/2012)..... 4492

Minister for Energy on behalf of the Minister for Child Protection

Local Laws -

Cemeteries Act 1986 (Shire of York Cemeteries Amendment Local Law 2012 G.G. 01/05/2012) 4493

Dog Act 1976 (Shire of York Dogs Amendment Local Law 2012 G.G. 01/05/2012) 4494

Local Government Act 1995 (City of Busselton Holiday Homes Local Law 2012 G.G. 30/04/2012, Shire of York Extractive Industries Amendment Local Law 2011 G.G. 01/05/2012, Shire of York Local Government Property Amendment Local Law 2012 G.G. 01/05/2012, Shire of Kalamunda Keeping and Control of Animals and Nuisance Amendment Local Law 2012 G.G. 04/05/2012 and Mindarie Regional Council Waste Facility Site Local Law 2012 G.G. 11/05/2012)..... 4495

Minister for Mental Health

Local Laws -

Health Act 1911 (Shire of Kalamunda Health Amendment Local Law 2012 G.G. 04/05/2012)..... 4496

Regulations -

Environmental Protection Act 1986 (Environmental Protection (Abattoirs) Amendment Regulations 2012 G.G. 08/05/2012 and Environmental Protection Amendment Regulations (No. 2) 2012 G.G. 08/05/2012) 4497

Parliamentary Secretary representing the Attorney General

Regulations -

Legal Profession Act 2008 (Legal Profession Amendment Regulations (No. 2) 2012 G.G. 01/05/2012)..... 4498

Restraining Orders Act 1997 (Restraining Orders Amendment Regulations 2012 G.G. 04/05/2012) ... 4499

8. Bank of Western Australia Amendment Bill 2012

The Minister for Finance: To move on the next day of sitting –

That a Bill for “An Act to amend the *Bank of Western Australia Act 1995* and to make a consequential amendment to the *Freedom of Information Act 1992*.” be introduced and read a first time.

9. Wills Amendment (International Wills) Bill 2012

The Parliamentary Secretary representing the Attorney General: To move on the next day of sitting –

That a Bill for “An Act to amend the *Wills Act 1970*.” be introduced and read a first time.

10. Inheritance (Family and Dependants Provision) Amendment Bill 2011

The Parliamentary Secretary representing the Attorney General: To move on the next day of sitting –

That a Bill for “An Act to amend the *Inheritance (Family and Dependants Provision) Amendment Act 2011*.” be introduced and read a first time.

11. Women’s and Children’s Hospitals Amendment By-laws (No. 2) 2011 – Disallowance

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

That the *Women’s and Children’s Hospitals Amendment By-laws (No. 2) 2011* published in the *Gazette* on 23 December 2011 and tabled in the Legislative Council on 6 March 2012 under the *Hospitals and Health Services Act 1927*, be and are hereby disallowed. (Tabled Paper 4221).

12. Queen Elizabeth II Medical Centre (Delegated Site) Amendment By-laws (No. 2) 2011 – Disallowance

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

That the *Queen Elizabeth II Medical Centre (Delegated Site) Amendment By-laws (No. 2) 2011* published in the *Gazette* on 9 December 2011 and tabled in the Legislative Council on 6 March 2012 under the *Queen Elizabeth II Medical Centre Act 1966*, be and are hereby disallowed. (Tabled Paper 4222).

13. Royal Perth Hospital Amendment By-laws (No. 2) 2011 – Disallowance

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

That the *Royal Perth Hospital Amendment By-laws (No. 2) 2011* published in the *Gazette* on 23 December 2011 and tabled in the Legislative Council on 6 March 2012 under the *Hospitals and Health Services Act 1927*, be and are hereby disallowed. (Tabled Paper 4221).

14. Metropolitan Health Service Amendment By-laws (No. 2) 2011 – Disallowance

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

That the *Metropolitan Health Service Amendment By-laws (No. 2) 2011* published in the *Gazette* on 23 December 2011 and tabled in the Legislative Council on 6 March 2012 under the *Hospitals and Health Services Act 1927*, be and are hereby disallowed. (Tabled Paper 4221).

15. Fremantle Hospital Amendment By-laws (No. 2) 2011 – Disallowance

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

That the *Fremantle Hospital Amendment By-laws (No. 2) 2011* published in the *Gazette* on 23 December 2011 and tabled in the Legislative Council on 6 March 2012 under the *Hospitals and Health Services Act 1927*, be and are hereby disallowed. (Tabled Paper 4221)

16. Osborne Park Hospital Amendment By-laws (No. 2) 2011 – Disallowance

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

That the *Osborne Park Hospital Amendment By-laws (No. 2) 2011* published in the *Gazette* on 23 December 2011 and tabled in the Legislative Council on 6 March 2012 under the *Hospitals and Health Services Act 1927*, be and are hereby disallowed. (Tabled Paper 4221).

17. Hospitals (Services Charges) Amendment Regulations (No. 7) 2011 – Disallowance

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

That the *Hospitals (Services Charges) Amendment Regulations (No. 7) 2011* published in the *Gazette* on 30 December 2011 and tabled in the Legislative Council on 6 March 2012 under the *Hospitals and Health Services Act 1927*, be and are hereby disallowed. (Tabled Paper 4236).

18. Order of Business

Ordered – That Orders of the Day Nos 1, *Town of Kwinana Extractive Industries Local Law 2011 – Disallowance*, 2, *Shire of Kellerberrin Parking and Parking Facilities Local Law 2011 – Disallowance*, and 3, *Mining Amendment Regulations (No. 5) 2011 – Disallowance*, be taken after Order of the Day No. 12, *Fines, Penalties and Infringement Notices Enforcement Amendment Bill 2012*. (Leader of the House).

19. Criminal Organisations Control Bill 2011

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 8.

Debate resumed.

Question - That the clause stand as printed - put and passed.

Clause 9.

Hon Giz Watson moved -

Page 12, line 16 — To delete “do not”.

Debate ensued.

Amendment put and negatived.

Question - That the clause stand as printed – put and passed.

Clause 10.

Debate ensued.

Hon Giz Watson moved -

Page 13, lines 9 to 13 — To delete the lines and insert —

- (3) Any member of the respondent, and any other person who may be directly affected (whether or not adversely) by the outcome of the application, may be present and, with the leave of the designated authority, make submissions in relation to the application at the hearing, but subject to subsection (4).

Debate ensued.

Hon Giz Watson, by leave, withdrew her amendment.

Debate resumed.

20. Questions Without Notice

Questions without notice were taken.

The Minister for Mines and Petroleum tabled an answer relating to details of funding assistance for uranium exploration to end April 2012, in response to question on notice No. 5388 asked by Hon Robin Chapple. (Tabled Paper 4508).

The Minister for Fisheries tabled documents in relation to details of commercial fisheries from Cape Leveque to the Western Australia/Northern Territory border, in response to question on notice No. 5305 asked by Hon Jon Ford. (Tabled Paper 4509).

The Minister for Finance representing the Minister for Transport tabled a document in relation to the number of train car sets during morning and afternoon peak periods on weekdays on the Joondalup, Mandurah, Midland, Armadale and Thornlie train lines, in response to question on notice No. 5297 asked by Hon Ken Travers. (Tabled Paper 4510).

The Minister for Finance representing the Minister for Transport tabled and by leave incorporated into Hansard, corrections to an answer given previously in relation to taxi related complaints lodged with the Department of Transport, in response to question on notice No. 4789 asked by Hon Ken Travers. (Tabled Paper 4511).

The Minister for Finance representing the Minister for Transport tabled, and by leave incorporated into Hansard, a correction to the answer relating to freight carried by trains into Fremantle Port Inner Harbour, in response to question on notice No. 5278 asked by Hon Ken Travers. (Tabled Paper 4512).

The Minister for Mental Health tabled documents relating to funding over four years to support 100 people with a mental illness, and the preferred locations for properties in the metropolitan region or country regions, in response to question on notice No. 5343 asked by Hon Alison Xamon. (Tabled Paper 4513).

The Minister for Mental Health representing the Minister for Environment tabled a document in relation to complaints to the relocation of Hanson's Quarry at Red Hill, in response to question on notice No. 5346 asked by Hon Alison Xamon. (Tabled Paper 4515).

The Minister for Mental Health representing the Minister for Water tabled documents in relation to the revised Wungong Thinning Trial, in response to question on notice No. 5380 asked by Hon Alison Xamon. (Tabled Paper 4517).

The Minister for Mental Health representing the Minister for Environment tabled documents in relation to the Babbington Forest Block fire, in response to question on notice No. 5313 asked by Hon Giz Watson. (Tabled Paper 4514).

The Minister for Mental Health representing the Minister for Environment tabled a document in relation to the Carnaby's Black Cockatoo recovery plan, in response to question on notice No. 5347 asked by Hon Giz Watson. (Tabled Paper 4516).

21. Criminal Organisations Control Bill 2011

The President left the Chair.

In Committee

(Hon Brian Ellis in the Chair)

Clause 10.

Debate resumed.

The Parliamentary Secretary representing the Attorney General moved –

Page 13, line 21 — To delete “either” and insert —

any

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 11 and 12 agreed to.

Clause 13.

Debate ensued.

Clause agreed to.

Clause 14.

Debate ensued.

Hon Giz Watson moved -

Page 16, after line 17 — To insert —

- (iii) the respondent or representatives of the organisation

Debate ensued.

The Parliamentary Secretary representing the Attorney General moved that consideration of clause 14 be postponed.

Question – put and passed.

Clause 15.

Debate ensued.

Clause agreed to.

Clause 16 agreed to.

Clause 17.

Debate ensued.

Clause agreed to.

Clauses 18 to 20 agreed to.

Clause 21.

Debate ensued.

Want of Quorum

There not being a quorum present, the Deputy Chair gave instructions for the ringing of the Bells.

A quorum being formed, the debate continued.

Clause agreed to.

Clauses 22 to 24 agreed to.

Clause 25.

The Parliamentary Secretary representing the Attorney General moved -

Page 23, lines 7 to 14 — To delete the lines and insert —

- (1) If the declaration relating to the declared criminal organisation identified in an interim control order or control order in accordance with section 60(1)(c) expires or is revoked, the order ceases to have effect on that expiry or revocation.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 26.

Debate ensued.

Clause agreed to.

Clause 27.

Debate ensued.

The Parliamentary Secretary representing the Attorney General moved that consideration of clause 27 be postponed.

Question - put and passed.

Clauses 28 to 30 agreed to.

Clause 31.

Debate ensued.

Clause agreed to.

Clause 32 agreed to.

Clause 33

The Parliamentary Secretary representing the Attorney General moved -

Page 27, lines 4 to 9 — To delete the lines and insert —

- (2) This Part provides for the making of control orders in relation to persons who are members of a declared criminal organisation and persons who have an association with a declared criminal organisation.

Debate ensued.

Amendment - put and passed.

Debate resumed.

Clause, as amended, agreed to.

Clause 34 agreed to.

Clause 35.

Debate ensued.

Clause agreed to.

Clause 36 agreed to.

Clause 37.

Hon Giz Watson, by leave, moved –

Page 29, lines 29 and 30 — To delete the lines.

Page 29, after line 31 — To insert —

- (3) If reasonable attempts were made to notify the person to whom the application relates, without success, the hearing can be held without that person.

Debate ensued.

Amendments - put and negatived.

Question – That the clause stand as printed - put and passed.

Clauses 38 to 41 agreed to.

Clause 42.

The Parliamentary Secretary representing the Attorney General moved -

Page 32, lines 24 to 29 — To delete the lines and insert —

- (c) include the information that section 60(1)(c) requires to be included in a control order;
and

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 43 to 44 agreed to.

Clause 45.

The Parliamentary Secretary representing the Attorney General moved -

Page 36, line 17 — To delete “section 25(2).” and insert —

section 25(1).

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 46 to 53 agreed to.

Clause 54.

Hon Giz Watson moved –

Page 42, after line 18 — To insert —

- (6) The application must be accompanied by information about the right of the person to whom the application relates to object to the application under Section 55.

Debate ensued.

The Parliamentary Secretary representing the Attorney General moved that consideration of clause 54 be postponed.

Question – put and passed.

Clauses 55 and 56 agreed to.

Clause 57.

Debate ensued.

Clause agreed to.

Clause 58 agreed to.

Clause 59.

Debate ensued.

Clause agreed to.

Clause 60.

The Parliamentary Secretary representing the Attorney General moved —

Page 48, line 6 — To delete “if the order is made under section 57(2)(a), (b) or (c),”.

Amendment - put and passed.

The Parliamentary Secretary representing the Attorney General moved -

Page 49, lines 1 to 3 — To delete the lines and insert —

- (h) set out an explanation of the circumstances in which the order might cease to have effect under section 25(1); and

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 61 agreed to.

Clause 62.

The Parliamentary Secretary representing the Attorney General moved -

Page 50, line 11 — To delete “section 25(2).” and insert —

section 25(1).

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 63 to 79 agreed to.

Clause 80

The Parliamentary Secretary representing the Attorney General moved -

Page 63, after line 2 — To insert —

- (5A) If an interim control order is varied under section 50, or a control order is varied under section 66 or 68, and the effect of the variation is to include or remove a condition that the controlled person is prohibited from carrying on a prescribed activity, then this section applies as follows —
- (a) if the effect of the variation is to include that condition —
 - (i) the prohibition on the controlled person carrying on the prescribed activity takes effect when the variation takes effect; and
 - (ii) the suspension of an authorisation or an application for an authorisation in relation to the prescribed activity takes effect when the variation takes effect; and
 - (iii) the prohibition on the controlled person applying for, or continuing with any existing application for, any authorisation to carry on the prescribed activity takes effect when the variation takes effect;
 - (b) if the effect of the variation is to remove that condition —
 - (i) the prohibition on the controlled person carrying on the prescribed activity ceases when the variation takes effect; and
 - (ii) the suspension of an authorisation or an application for an authorisation in relation to the prescribed activity ceases when the variation takes effect; and
 - (iii) the prohibition on the controlled person applying for, or continuing with any existing application for, any authorisation to carry on the prescribed activity ceases when the variation takes effect.

Amendment – put and passed.

Clause, as amended, agreed to.

Clauses 81 to 83 agreed to.

Clause 84.

Debate ensued.

Clause – put and negatived.

New Clause 84.

The Parliamentary Secretary representing the Attorney General moved —

Page 65, after line 21 — To insert —

84. Dealing with things surrendered or seized: firearms, firearms licences and weapons

- (1) If a firearm or weapon is surrendered under section 82 or seized under section 83 —
- (a) the firearm or weapon is forfeited to the State; and
 - (b) the *Criminal and Found Property Disposal Act 2006* applies to and in relation to the firearm or weapon as if —
 - (i) the firearm or weapon were property that has been seized in the course of a criminal investigation and has become forfeited property within the meaning of that Act; and

- (ii) the interim control order or control order that prohibits the controlled person to whom the order relates from possessing the firearm or weapon were an order that ordered the forfeiture of the firearm or weapon to the State.
- (2) If a firearms licence is surrendered under section 82 or seized under section 83 —
 - (a) the Commissioner of Police must destroy the licence as soon as practicable; and
 - (b) the destruction of the licence is to be treated as a cancellation of the licence under the *Firearms Act 1973* section 20(4).
- (3) However, the Commissioner of Police must not exercise the powers in subsection (1) or (2) in relation to the surrendered or seized firearm, firearms licence or weapon —
 - (a) if the surrender or seizure is by virtue of an interim control order, before a control order confirming the interim control order is made; and
 - (b) if a control order confirming the interim control order is made, or if the surrender or seizure is by virtue of a control order, before the expiration of the time allowed for appealing against the control order or, if an appeal is lodged within that time, before the appeal is concluded.
- (4) If any of the things set out in subsection (5) (a *relevant event*) occurs —
 - (a) the Commissioner of Police must hold the surrendered or seized firearm, firearms licence or weapon in safe custody until it is reclaimed by the person lawfully entitled to possess it or it may be otherwise lawfully disposed of, whichever occurs first; and
 - (b) the person lawfully entitled to possess the firearm, firearms licence or weapon may reclaim it from the Commissioner of Police, unless it has been sooner lawfully disposed of; and
 - (c) if the firearm, firearms licence or weapon is not reclaimed within one month after the relevant event occurs, the Commissioner of Police may —
 - (i) in the case of a firearm, dispose of the firearm under the *Firearms Act 1973* section 33 as if the owner of the firearm cannot be found; or
 - (ii) in the case of a firearms licence, exercise the power in subsection (2); or
 - (iii) in the case of a weapon, make a direction under the *Weapons Act 1999* section 18(1) as if the weapon had been forfeited to the State under that Act.
- (5) The following are the relevant events referred to in subsection (4) —
 - (a) in the case of an interim control order —
 - (i) the order is varied to remove the firearms condition or, as the case requires, the condition prohibiting the person to whom the order relates from possessing a weapon;
 - (ii) the application for a control order confirming the interim control order is withdrawn or dismissed;
 - (iii) the interim control order is revoked under section 47(2)(a) or 56(1)(b);
 - (iv) the interim control order ceases to have effect under section 25(1);

- (b) in the case of a control order, on an appeal under section 64 —
 - (i) the decision of the court to make the order is reversed; or
 - (ii) the order is varied under section 66 to remove the firearms condition or, as the case requires, the condition prohibiting the person to whom the order relates from possessing a weapon.

Debate ensued.

New clause agreed to.

The Parliamentary Secretary representing the Attorney General moved, That the Chair report progress and seek to sit again.

Question – put and passed.

The President resumed the Chair.

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

Ordered – That the Committee of the whole House sit again.

22. Members' Statements

Statements were taken.

23. Adjournment

The Council adjourned at 10.13pm until Wednesday, 16 May 2012 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Ken Baston and Hon Alyssa Hayden.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council