

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

NOTICES AND ORDERS OF THE DAY

No. 17

THURSDAY, 12 OCTOBER 2000, 9.00 a.m.

Prayers ★

Petitions

Papers

Giving Notices of Motion

Brief Ministerial Statements ★

Questions Without Notice ★

Matter of Public Interest

Private Members' Business

Grievances

Private Members' Statements

-	approximately 2.00 p.m. each day
-	one per week on any day
-	4.00 p.m. to 7.00 p.m. Wednesdays
-	approximately 9.00 a.m. Thursdays
-	12.50 p.m. Thursdays

★ *Note: On days when the Assembly meets at 2.00 p.m. Brief Ministerial Statements and Questions Without Notice will follow immediately after Prayers.*

Memorandum: An electronic version of the Assembly's Questions on Notice booklet is available on the Parliament's Internet site at www.parliament.wa.gov.au.

BUSINESS OF THE HOUSE - ORDERS OF THE DAY

1. **Select Committee on Pricing of Petroleum Products**

To report.

GOVERNMENT BUSINESS - ORDERS OF THE DAY

1. **Land Administration Amendment Bill 2000** (Minister for Lands) (No. 9, 2r. - 13/9/00)

To be read a third time.

2. Criminal Code Amendment (Home Invasion) Bill 2000 (Minister for Police) (No. 5, 2r. - 16/8/00)

Offenders (Legal Action) Bill 2000 (Minister for Police) (No. 16, 2r. - 16/8/00)

Second reading. Adjourned debate (Mrs Roberts - continuation of remarks).

3. Acts Amendment (Iron Ore Agreements) Bill 2000 (Minister for Resources Development) (No. 11, 2r. - 13/9/00)

Second reading. Adjourned debate (Mr Cunningham).

4. Universities Legislation Amendment Bill 2000 (Minister for Education) (No. 151, 2r. - 13/9/00)

Second reading. Adjourned debate (Mr Cunningham).

5. *Criminal Property Confiscation Bill 2000 (Minister for Police) (No. 145, 2r. - 29/6/00)

Further consideration in detail - Clause 28.

6. Criminal Property Confiscation (Consequential Provisions) Bill 2000 (Minister for Police) (No. 25, 2r. - 6/9/00)

Second reading. Adjourned debate (Mr Cunningham).

7. Mining Amendment Bill 2000 (Minister for Resources Development) (LC No. 149, 2r. - 10/10/00)

Second reading. Adjourned debate (Mr Cunningham).

8. *Animal Welfare Bill 1999 (Minister for Local Government) (No. 79, 2r. - 24/11/99)

Further consideration in detail - Clause 19 on the amendment moved by Mr McGowan.

9. Address in Reply

Adjourned debate (Mr Ripper).

10. Therapeutic Goods (Western Australia) Bill 2000 (Parliamentary Secretary to the Minister for Health) (No. 138, 2r. - 28/6/00)

Second reading. Adjourned debate (Mr Cunningham).

11. *Planning Appeals Bill 1999 (Minister for Planning) (No. 102, 2r. - 24/6/99)

Further consideration in detail - Clause 20.

12. *Planning Appeals (Transitional and Consequential Provisions) Bill 1999 (Minister for Planning) (No. 103, 2r. - 24/6/99)

Second reading.

13. Director of Public Prosecutions Amendment Bill 2000 (Minister for Police) (No. 93, 2r. - 21/3/00)

Second reading. Adjourned debate (Mr McGowan).

14. Bail Amendment Bill 2000 (Parliamentary Secretary to the Minister for Justice) (No. 96, 2r. - 23/3/00)

Second reading. Adjourned debate (Mr McGowan).

15. Building Legislation Amendment Bill 2000 (Minister for Fair Trading) (No. 123, 2r. - 24/5/00)

Second reading. Adjourned debate (Mr Cunningham).

16. Acts Amendment and Repeal (Competition Policy) Bill 2000 (Premier) (No. 132, 2r. - 25/5/00)

Second reading. Adjourned debate (Mr Kobelke).

17. Tree Plantation Agreements Bill 2000 (Minister for Primary Industry) (No. 140, 2r. - 28/6/00)

Second reading. Adjourned debate (Mr Cunningham).

- 18. Soil and Land Conservation Amendment Bill 2000** (Minister for Primary Industry) (No. 142, 2r. - 28/6/00)

Second reading. Adjourned debate (Mr Cunningham).

- 19. Stamp Amendment Bill (No. 2) 2000** (Minister for Primary Industry) (No. 141, 2r. - 28/6/00)

Second reading. Adjourned debate (Mr Cunningham).

- 20. Offshore Minerals Bill 2000** (Minister for Resources Development) (No. 126, 2r. - 11/5/00)

Second reading. Adjourned debate (Mr Cunningham).

- 21. Offshore Minerals (Consequential Amendments) Bill 2000** (Minister for Resources Development) (No. 127, 2r. - 11/5/00)

Second reading. Adjourned debate (Mr Cunningham).

- 22. Offshore Minerals (Registration Fees) Bill 2000** (Minister for Resources Development) (No. 128, 2r. - 11/5/00)

Second reading. Adjourned debate (Mr Kobelke).

- 23. Maritime Bill 1999** (Deputy Premier) (No. 39, 2r. - 25/11/99)

Second reading. Adjourned debate (Mr Cunningham).

- 24. Maritime and Transport Legislation Amendment and Repeal Bill 1999** (Deputy Premier) (No. 37, 2r. - 25/11/99)

Second reading. Adjourned debate (Mr Cunningham).

- 25. Maritime Fees and Charges (Taxing) Amendment Bill 1999** (Deputy Premier) (No. 34, 2r. - 25/11/99)

Second reading. Adjourned debate (Mr Cunningham).

- 26. *Road Traffic Amendment (Vehicle Licensing) Bill 2000** (Deputy Premier) (No. 148, 2r. - 29/6/00)

Second reading. Adjourned debate (Mr Cunningham).

- 27. Road Traffic Amendment (Vehicle Licensing) (Taxing) Bill 2000** (Deputy Premier) (No. 147, 2r. - 29/6/00)

Second reading. Adjourned debate (Mr Cunningham).

- 28. Parks and Reserves Amendment Bill 1998** (Minister for Lands) (No. 14, 2r. - 15/10/98)

Further consideration in detail - Clause 4.

- 29. *Heritage Bill 1999** (Minister for Heritage) (No. 95, 2r. - 24/6/99)

Heritage (Consequential Provisions) Bill 1999 (Minister for Heritage) (No. 94, 2r. - 24/6/99)

Second reading. Adjourned debate (Minister for Heritage in reply - continuation of remarks).

- 30. Acts Amendment (Prisons Administration) Bill 2000** (Parliamentary Secretary to the Minister for Justice) (No. 101, 2r. - 21/3/00)

Second reading. Adjourned debate (Mr McGowan).

- 31. Salaries and Allowances Amendment Bill 1999** (Premier) (No. 12, 2r. - 21/10/99)

Second reading. Adjourned debate (Mr Cunningham).

- 32. Rural Business Development Corporation Bill 2000** (Minister for Primary Industry) (No. 26, 2r. - 7/9/00)

Second reading. Adjourned debate (Mr Cunningham).

- 33. Trustee Legislation (GST Consequential Amendments) Bill 2000** (Minister for Police) (No. 150, 2r. - 7/9/00)

Second reading. Adjourned debate (Mr Cunningham).

- 34. Planning Legislation Amendment Bill 2000** (Minister for Planning) (No. 154, 2r. - 7/9/00)
Second reading. Adjourned debate (Mr Cunningham).
- 35. Stamp Amendment Bill (No. 3) 2000** (Minister assisting the Treasurer) (No. 43, 2r. - 11/10/00)
Second reading. Adjourned debate (Mr McGowan).
- 36. First Home Owner Grant Amendment Bill 2000** (Minister assisting the Treasurer) (No. 13, 2r. - 11/10/00)
Second reading. Adjourned debate (Mr McGowan).
- 37. Acts Amendment (Public Trustee and Trustee Companies) Bill 2000** (Minister for Police) (No. 27, 2r. - 11/10/00)
Second reading. Adjourned debate (Mr Cunningham).
- 38. *Culture, Libraries and the Arts Bill 1998** (Minister for the Arts) (No. 35, 2r. - 27/10/98)
Further consideration in detail - Clause 4.
Adjourned debate (Mr Bloffwitch) on the motion moved by the Hon. P.G. Pental -
That the Bill be referred to a Select Committee for consideration and report by 16 March 2000.
- 39. Culture, Libraries and the Arts (Consequential Provisions) Bill 1998** (Minister for the Arts) (No. 36, 2r. - 27/10/98)
Second reading.

PRIVATE MEMBERS' BUSINESS - NOTICES OF MOTION

- 1. Road Traffic Code Amendments** (Notice given - 15/8/00)
Ms MacTiernan: To move -
That the Road Traffic Code 2000 regulations be amended by inserting in Regulation No. 201 the following -
“(2) A person using a shared path shall keep as close as practicable to the left boundary of the path.”.
- 2. Select Committee on Crime and Punishment in Western Australia** (Notice given - 13/9/00)
Hon. P.G. Pental: To move -
That this House appoint a Select Committee to inquire into and report upon -
- (1) (a) the theories contained in the recent book “Justice on the Edge - Crime and Punishment in W.A.” by Thomas Lawson that 2,500 offenders commit more than half the total of all crime in this State;
 - (b) why every W.A. government for the past 30 years has failed to come grips with this;
 - (c) why the burglary rate in Perth is almost four times that of New York City, and
- (2) the effect on crime-fighting by police of policies which result from -
- (a) the refusal of the Government to provide suburb-by-suburb crime data to Parliament, as outlined in answer to question on notice No. 1610 on 21 December 1999;
 - (b) the claim by the Minister for Police in this House on 25 November 1998, that the Western Australian Police Service does not record persons convicted of home burglary offences; and

- (c) any link between police failure to reduce burglaries on the one hand, and the Service's failure to know what happens to offenders once they reach the courts.

That the Committee report to the Assembly by no later than 14 December 2000.

3. Disallowance of North West Districts Omnibus No. 4 Metropolitan Region Scheme Amendment No.1012/33 (Notice given - 11/10/00)

Ms MacTiernan: To move -

That this House disallows North West Districts Omnibus No. 4 Metropolitan Region Scheme Amendment No.1012/33 a copy of which was laid upon the Table of the Legislative Assembly on 10 October 2000.

PRIVATE MEMBERS' BUSINESS - ORDERS OF THE DAY

1. Police (Confidence Power and Review) Amendment Bill 1998 (Dr Gallop) (No. 6, 1r. - 12/8/98)

To be read a second time.

2. Local Government (Political Donations and Electoral Expenditure) Amendment Bill 1997 (Dr Gallop) (No. 108, 2r. - 19/11/97)

Second reading. Adjourned debate (Minister for Local Government).

3. Public Scrutiny of Bills and Regulations Bill 1997 (Mr Brown) (No. 113, 2r. - 26/11/97)

Second reading. Adjourned debate (Mr MacLean).

4. Scrutiny of Government Publicity Bill 1997 (Dr Gallop) (No. 72, 2r. - 17/9/97)

Second reading. Adjourned debate (Leader of the House).

5. Occupational Safety and Health Amendment Bill 1999 (Dr Gallop) (No. 109, 1r. - 23/6/99)

Consideration in detail.

6. Therapeutic Goods (Western Australia) Bill 1999 (Ms McHale) (No. 88, 2r. - 24/11/99)

Second reading. Adjourned debate (Mr Bradshaw).

7. Prisons (Pyrton) Amendment Bill 2000 (Mr Brown) (No. 139, 2r. - 14/6/00)

Second reading. Adjourned debate (Mr Tubby).

8. Aged Care Services in Broome (Moved 16/8/00)

Adjourned debate (Leader of the House) on the motion moved by Dr Gallop -

That this House notes the growing demand for aged care services in Broome and calls on the Government to support the proposed redevelopment of the Broome Aged and Disabled Services facility.

9. Law Reform (Miscellaneous Provisions (Asbestos Diseases)) Bill 2000 (Mr Graham) (No. 18, 2r. - 6/9/00)

Second reading. Adjourned debate (Mr Tubby).

10. Criminal Code Amendment (Protection of Seniors) Bill 2000 (Dr Gallop) (No. 24, 2r. - 6/9/00)

Second reading. Adjourned debate (Minister for Police - continuation of remarks).

11. Kimberley Tidal Power Project (Moved - 6/9/00)

Adjourned debate (Mr Ripper - continuation of remarks) on the motion moved by Mr Ripper -

That this House calls on the Minister for Energy to -

- (a) withdraw his de facto Cabinet veto against the Kimberley Tidal Power Project; and

- (b) make a full statement to the House about the outcome of the Federal feasibility assessment of the project and the level of financial support which the Federal Government is now offering the project.

12. Rates and Charges (Rebates and Deferments) Bill 2000 (Mr Pental) (No. 152, 2r. - 13/9/00)

Second reading. Adjourned debate (Dr Constable).

13. Bus Acquisition Programme (Moved - 13/9/00)

Adjourned debate (Ms MacTiernan - continuation of remarks) on the motion moved by Ms MacTiernan -

That this House condemns the Government for its failure to meet even its pathetic promise to purchase five gas buses in the first round of the bus acquisition programme and calls on the Government to give a firm timetable for the commencement and completion of the trial of gas buses and to provide a realistic estimate of what percentage of the 840 buses to be purchased under the Daimler-Chrysler contract will be gas.

14. Criminal Code Amendment Bill (No. 3) 2000 (Mr McGinty) (No. 30, 2r. - 20/9/00)

Second reading. Adjourned debate (Mr Bradshaw).

15. Metropolitan Region Town Planning Scheme Amendment Bill 2000 (Ms MacTiernan) (No. 3, 2r. - 11/10/00)

Second reading. Adjourned debate (Mr Kobelke).

GOVERNMENT RESPONSES TO COMMITTEE RECOMMENDATIONS

<i>Committee</i>	<i>Ministers to Respond</i>	<i>Date Due</i>
Joint Standing Committee on the Anti-Corruption Commission "The Investigative Powers and Operational Accountability of the Anti-Corruption Commission"	Premier	10 November 2000

REFERENCES TO COMMITTEES

<i>Committee</i>	<i>Reference</i>	<i>Date Due</i>
Public Accounts Committee	State Support for the Mid West Iron and Steel Project	
Standing Committee on Uniform Legislation and Intergovernmental Agreements	Developments in Organ Donation, Transplantation and Xenotransplantation; the adequacy of the Human Tissue and Transplant Act 1982 and the need for improved uniform legislation	30 November 2000

* Denotes amendments appear in the Notices and Amendments section of the Notice Paper.

† Denotes time allocated for the Bill appears in the Notices and Amendments section of the Notice Paper.

NOTICES AND AMENDMENTS***Animal Welfare Bill 1999***

Clause 19

Mr McGowan has moved,

Page 15, lines 4 and 5 – To delete the lines and substitute the following -

“ Penalty: Minimum – \$2 000
 Maximum – \$50 000 and imprisonment for five years. ”.

Mr McGowan: To move -

Page 15, line 18 – To insert after “transported” the following -

“ or is permitted to be transported ”.

Clause 25

Mr McGowan: To move -

Page 19, line 3 – To insert after “acting” the following -

“ humanely and ”.

Clause 31

Mr McGowan: To move -

Page 21, line 11 – To delete the line and substitute the following -

“ Penalty: \$20 000 and imprisonment for one year.”.

Clause 32

Mr McGowan: To move -

Page 21, lines 22 and 23 – To delete the lines and substitute the following -

“ Penalty: Minimum – \$2 000
 Maximum – \$50 000 and imprisonment for five years. ”.

Clause 33

Mr McGowan: To move -

Page 24, line 8 - To insert after “schools” the following -

“ and other educational institutions ”.

Clause 34

Mr McGowan: To move -

Page 24, lines 10 to 14 - To delete the lines and substitute the following -

“
 (1) The Executive Director is to appoint as scientific inspectors -
 (a) those members of the staff of the RSPCA nominated by the RSPCA,
 and whom the Executive Director considers to be suitably qualified or
 experienced for the purposes of the Act; and
 (b) as many other people whom the Executive Director considers are
 suitably qualified or experienced for the purposes of the Act and are
 required for the Purposes of the Act.
”.

Mr McGowan: To move -

Page 24, line 11 – To insert after “Act” the following -

“ , of whom –
 (a) the majority are to be general inspectors appointed under section 33
 (1) (a); and
 (b) the remainder are to be persons appointed under subsection (2) of this
 section ”.

Mr McGowan: To move -

Page 24, line 12 – To insert after “(1)” the following -

“ (b) ”

Clause 40

Mr McGowan: To move -

Page 29, line 25 – To delete the line and substitute the following -

“ Penalty: \$20 000 and imprisonment for one year.”.

Clause 46

Mr McGowan: To move -

Page 33, line 18 – To delete “\$1 000” and substitute the following -

“ \$2 000 ”.

Clause 49

Mr McGowan: To move -

Page 36, line 19 – To delete the line and substitute the following -

“ Penalty: \$20 000 and imprisonment for one year.”.

Clause 50

Mr McGowan: To move -

Page 37, line 24 – To delete the line and substitute the following -

“ Penalty: \$20 000 and imprisonment for one year.”.

Clause 51

Mr McGowan: To move -

Page 38, line 14 – To delete “\$1 000” and substitute the following -

“ \$2 000 ”.

Clause 55

Mr McGowan: To move -

Page 42, line 5 – To delete “\$1 000” and substitute the following -

“ \$2 000 ”.

Mr McGowan: To move -

Page 42, line 8 – To delete the line and substitute the following -

“ Penalty: \$20 000 and imprisonment for one year.”.

Clause 57

Mr McGowan: To move -

Page 43, lines 27 and 28 - To delete “forfeited to the Crown” and substitute the following -

“

if the offence was prosecuted by -

(a) an inspector appointed under section 33(1)(a) to be forfeited to the RSPCA;

(b) an inspector who is a member of the staff of a local government, to be forfeited to that local government; or

(c) any other person, to be forfeited to the Crown.

”.

Clause 76

Mr McGowan: To move -

Page 52, line 25 – To delete the line and substitute the following -

“ Penalty: \$20 000 and imprisonment for one year.”.

Clause 77

Mr McGowan: To move -

Page 53, line 3 – To delete the line and substitute the following -

“ Penalty: \$20 000 and imprisonment for one year.”.

Clause 78

Mr McGowan: To move -

Page 53, line 6 – To delete the line and substitute the following -

“ Penalty: \$20 000 and imprisonment for one year.”.

Clause 79

Mr McGowan: To move -

Page 53, line 18 – To delete “\$500” and substitute the following -

“ \$1 000 ”.

Clause 86

Mr McGowan: To move -

Page 58, after line 7 – To insert the following -

“ (b) an inspector who is a member of the staff of the RSPCA, the RSPCA; or ”.

Clause 91

Mr McGowan: To move -

Page 60, line 27 – To delete the line and substitute the following -

“ Penalty: \$20 000 and imprisonment for one year.”.

Clause 94

Mr McGowan: To move -

Page 63, line 9 – To delete “\$10 000” and substitute the following -

“ \$20 000 ”.

Criminal Property Confiscation Bill 2000

Clause 70

Hon. R.L. Wiese: To move -

Page 50, lines 13 and 14 - To delete the lines.

Hon. R.L. Wiese: To move -

Page 50, lines 23 to 26 - To delete the lines.

Clause 82

The Minister for Police: To move -

Page 59, line 2 - To insert after “establishes that” the following -

“ it ”.

Clause 83

The Minister for Police: To move -

Page 60, after line 5 - To insert the following -

“

- (2) If the court finds that the property is crime-derived, or is not required to decide whether the property is crime-derived, the court may set aside the freezing notice or freezing order if the objector establishes that it is more likely than not that -
 - (a) the objector is the owner of the property, or is one of 2 or more owners of the property;
 - (b) the property is not effectively controlled by a person who wholly or partly derived or realised the property, directly or indirectly, from the commission of a confiscation offence;
 - (c) the objector is an innocent party in relation to the property; and
 - (d) each other owner (if there are more than one) is an innocent party in relation to the property.

- (3) If the objector establishes the matters set out in subsection (2)(a), (b) and (c), but fails to establish the matter set out in subsection (2)(d), the court may order that, when the property is sold after confiscation, the objector is to be paid an amount equal to the amount that bears to the value of the property the same proportion as the objector's share of the property bears to the whole property.
- (4) In an order under subsection (3), the court is to specify the proportion that it finds to be the objector's share of the property.
- (5) On the application of the DPP or an owner of the property, the court may set aside the freezing notice or freezing order for the property if it also orders the objector to pay to the State the amount assessed by the court as the amount equal to the value of the property at the time of the application.
- (6) Sections 20, 25 and 26 apply in relation to making an order under subsection (5) and to the objector as if the order was a criminal benefits declaration and the objector was the respondent in relation to the declaration.
- (7) When making an order under this section, the court may make any necessary or convenient ancillary orders.

”.

Clause 87

The Minister for Police: To move -

Page 61, line 3 - To delete “except crime-derived property”.

The Minister for Police: To move -

Page 61, line 9 -To insert after “property” the following -

“ , or by a person who wholly or partly derived or realised the property, directly or indirectly, from the commission of a confiscation offence

”.

Clause 109

Hon. R.L. Wiese: To move

Page 71, lines 26 to 29 - To oppose the clause.

Clause 141

Hon. R.L. Wiese: To move -

Page 91, line 5 - To delete “2” and substitute the following -

“ 5 ”.

Hon. R.L. Wiese: To move -

Page 91, lines 6 to 8 - To delete the lines.

Hon. R.L. Wiese: To move -

Page 91, line 13 - To delete “2” and substitute the following -

“ 5 ”.

Clause 148

The Minister for Police: To move -

Page 96, after line 17 - To insert the following -

“

- (3) The reference in subsection (2)(b) to crime-derived property is not limited to crime-derived property described in subsection (1) or in subsection (2) (a), (c) or (d), but also includes a reference to property that is crime-derived property because of a previous operation or previous operations of subsection (2)(b).
- (4) Once property becomes crime-derived property it remains crime-derived property even if it is disposed of, used to acquire other property or otherwise dealt with, unless it stops being crime-derived property under subsection (8).
- (5) Property owned by 2 or more people, whether jointly or as tenants in common, is crime-derived if any part of the share of any of the owners is crime-derived, whether or not any of the owners is an innocent party in relation to the share or part-share that is crime-derived.
- (6) If a person once owned crime-derived property, but was divested of the property in such a way that it stopped being crime-derived property under subsection (8), then, if the person acquires the property again, it becomes crime-derived property again.
- (7) For the purposes of deciding whether property is crime-derived, the proceeds of a sale or other dealing do not lose their identity as those proceeds only as a result of being credited to an account.
- (8) Crime-derived property stops being crime-derived property -
 - (a) when it is acquired by an innocent party;
 - (b) if it is frozen property - when the freezing order is set aside under section 83;
 - (c) if it has been confiscated - when the court orders its release under section 87;
 - (d) if it is money to be paid into the Confiscation Proceeds Account under section 131(1) - when it is paid into the Confiscation Proceeds Account;
 - (e) if it has been confiscated, but is not money - when the property is disposed of in accordance with regulations under section 140(2)(e); or
 - (f) in any other circumstances prescribed by the regulations.

”.

Clause 152

Hon. R.L. Wiese: To move -

Page 97, line 15 - To delete “by State”.

Hon. R.L. Wiese: To move -

Page 97, line 16 - To insert after "State" the following -

" or for a victim of crime ".

Clause 153

The Minister for Police: To move -

Page 99, line 7 - To insert after "property" the following -

" or its effective control ".

The Minister for Police: To move -

Page 99, after line 9 - To insert the following -

"

- (4) A person is an innocent party in relation to crime-derived property if -
- (a) the person acquired the property, or the person's share of it (if it is owned by more than one person), for valuable consideration;
 - (b) the consideration was lawfully acquired;
 - (c) before acquiring the property or share, the person made reasonable inquiries, and took all other action reasonable in the circumstances, to ascertain whether or not the property was crime-derived;
 - (d) despite the enquiries made under paragraph (c), at the time of acquiring the property or share, the person did not know and had no reasonable grounds for suspecting that the property was crime-derived; and
 - (e) the person did not acquire the property or share with the intention of avoiding the operation of this Act.

".

Culture, Libraries and the Arts Bill 1998

Clause 29

The Minister for Arts: To move -

Page 19, lines 18 to 21 - To delete the lines and substitute the following -

“ **29. Attendance of State Librarian at Libraries Council meetings**

The person for the time being holding or acting in the office of State Librarian -

- (a) may attend any meeting of the Libraries Council; and
- (b) is to attend any such meeting if notified by the Libraries Council that the person's attendance at the meeting is required,

but is not entitled to vote.

”.

Heritage Bill 1999

New Part 4

Hon. P.G. Pandal: To move -

Page 15, after line 14 - To insert the following -

“ **PART 4 - MOVEABLE HERITAGE**

17. Interpretation

In this Part -

“**cultural heritage significance**” in relation to a moveable object or collection of objects means significance to any group or community (including future generations) in relation to the archaeological, architectural, cultural, historical, scientific, social or technical value of the moveable object or collection of objects;

“**inventory**” means the inventory of moveable heritage referred to in section 19(a) and “moveable heritage inventory” has the same meaning;

“**moveable heritage**” means any moveable object having cultural heritage significance; and

“**moveable object**” means any moveable object or collection of objects which in relation to their cultural heritage significance are not otherwise protected by this Act or any other Act.

18. Purpose

The purpose of this Part is to give effect to the Report of the Select Committee on Heritage Laws, so far as it relates to moveable heritage, tabled on 23 January 1995.

19. Council must prepare moveable heritage inventory and report to Minister

The Council must, within 18 months from the day on which this Act commences, submit a written report to the Minister containing -

- (a) a comprehensive inventory of the State's moveable heritage;
- (b) a consideration of the options available for the preservation and conservation of moveable heritage generally and in particular the moveable objects identified in the inventory including the option of incorporating the inventory into the Register and otherwise amending this Act so as to bring moveable heritage within its scheme; and
- (c) recommendations for the preservation and conservation of moveable heritage generally and in particular the moveable objects identified in the inventory.

20. Council must consult certain bodies and community on moveable heritage inventory

- (1) In preparing the inventory required under paragraph (a) of section 19C the Council must consult with -
 - (a) the Western Australian Museum;
 - (b) any person or body to which for the purposes of this section it is referred in writing by the Western Australian Museum;
 - (c) the Royal Western Australian Historical Society;
 - (d) the National Trust of Australia (W.A.); and
 - (e) the community generally.
- (2) In consulting with the community generally as required by paragraph (e) of subsection (1) of this section the Council must ensure that a notice in accordance with subsection (3) is published in -
 - (a) the *Government Gazette*; and
 - (b) a daily newspaper circulating generally throughout the State.
- (3) A notice under subsection (2) must -
 - (a) state the fact of and reasons for the notice including reference to the preparation of a moveable heritage inventory under this Part; and
 - (b) invite public submissions in writing to the Council within 2 months from the date of publication of the notice.
- (4) Where as part of its consultation the Council receives any written submission from any body referred to in paragraphs (a), (b), (c) or (d) of subsection (1) the Council must publish such submission in full in the report required under this Part.

21. Minister to table report

The Minister must table the report in both Houses within 30 sitting days from the day on which the report is due to be submitted to the Minister under section 19C. ”.

Planning Appeals Bill 1999

Clause 21

Ms MacTiernan: To move -

Page 14, lines 12 and 13 - To delete the lines.

Clause 23

Ms MacTiernan: To move -

Page 15, lines 12 to 15 - To delete the lines and substitute the following -

“ (3) The Planning Appeal Panel is to conduct a formal hearing in which each party will have the right to appear and address any issue raised in their submissions to the assessors or in the assessor’s report. ”.

Ms MacTiernan: To move -

Page 15, after line 23 - To insert the following -

“ (8) The Planning Appeals Panel must be impartial and must act in accordance with the rules of natural justice, equity fairness and good conscience. ”.

Clause 24

Ms MacTiernan: To move -

Page 16, line 4 - To delete the line.

Ms MacTiernan: To move -

Page 16, line 5 - To insert after “appeal” the following -

“ without a fair and reasonable justification for such withdrawal ”.

Clause 25

The Minister for Planning: To move -

Page 16, lines 20 and 21 - To delete the lines.

The Minister for Planning: To move -

Page 16, line 22 - To delete “*Heritage Act 1999*” and substitute the following -

“ *Heritage of Western Australia Act 1990* ”.

Ms MacTiernan: To move -

Page 17, after line 10 - To insert the following -

- “ (5) A copy of a written notice to the Director issued under subsection (1) is to be laid before each House of Parliament within 14 days after the direction is given or if a House of Parliament is not sitting when the direction is given and the Minister is of the opinion that the House will not sit during those 14 days, given to the Clerk of that House.
- (6) A document given to the Clerk of a House is to be taken -
- (a) to have been laid before that House; and
- (b) to be a document published by order or under the authority of that House.
- (7) The laying of a document that is taken to have occurred under subsection (5)(a) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the document is given to the Clerk. ”.

Clause 26

Ms MacTiernan: To move -

Page 17, after line 18 - To insert the following -

- “ (2) Any person investigating an appeal under subsection (1) must be impartial and must act in accordance with the rules of natural justice, equity, fairness and good conscience. ”.

Clause 28

Ms MacTiernan: To move -

Page 18, line 25 to page 19, line 13 - To delete the lines.

Clause 31

The Minister for Planning: To move -

Page 21, line 20 - To insert after “A referral” the following -

“ by the Minister ”.

The Minister for Planning: To move -

Page 21, line 21 - To delete “and determined”.

Clause 32

The Minister for Planning: To move -

Page 22, lines 1 to 25 - To oppose the clause with a view to substituting the following -

“ **32. Referral under section 30 of the *Heritage of Western Australia Act 1990***

- (1) A referral under section 30(1) of the *Heritage of Western Australia Act 1990* is to be dealt with as if it were an appeal by the owner or occupier against a decision of -
 - (a) if section 30(1)(a) of that Act applies, the Council; or
 - (b) if section 30(1)(b) of that Act applies, the person with whom negotiations have taken place,
not to enter into a Heritage Agreement in respect of the building or land.
- (2) When dealing with a matter under subsection (1), instead of making a determination under section 22, the Planning Appeal Panel is to determine the questions set out in section 30(1) of that Act. ”.

Clause 33

The Minister for Planning: To move -

Page 23, lines 1 to 23 - To oppose the clause with a view to substituting the following -

“ **33. Referral under section 37 of the *Heritage of Western Australia Act 1990***

- (1) A referral under section 37(3) of the *Heritage of Western Australia Act 1990* is to be dealt with as if it were an appeal by the aggrieved person against the Minister’s decision to make the recommendation under section 37(1) of that Act.
- (2) When dealing with a matter under subsection (1), instead of making a determination under section 22, the Planning Appeal Panel is to determine the questions referred to in accordance with section 37(3) of that Act. ”.

Clause 34

The Minister for Planning: To move -

Page 23, line 24 to page 24, line 9 - To oppose the clause with a view to substituting the following -

“ **34. Referral under section 60A of the *Heritage of Western Australia Act 1990***

- (1) A referral under section 60A(1) of the *Heritage of Western Australia Act 1990* is to be dealt with as if it were an appeal by the person subject to the Stop Work Order against a decision of the Minister to extend the Order to continue to have effect for more than 42 days after the Order was made.
- (2) When dealing with a matter under subsection (1), instead of making a determination under section 22, the Planning Appeal Panel is to determine that the Stop Work Order -
 - (a) is not to continue to have effect for more than 42 days after it was made;
 - (b) is to continue to have effect for a specified period;
 - (c) is to continue to have effect unless and until a notice is published pursuant to section 53 of that Act notifying persons that the place, or any portion of the place, concerned will not be entered in the Register; or
 - (d) is to continue to have effect permanently,
on such terms as the Panel determines.

35. Referral under section 73 of the *Heritage of Western Australia Act 1990*

- (1) A referral under section 73(4) of the *Heritage of Western Australia Act 1990* is to be dealt with as if it were an appeal by the aggrieved person against the Minister’s decision under that section.
- (2) When dealing with a matter under subsection (1), instead of making a determination under section 22, the Planning Appeal Panel is to determine the questions referred to it in accordance with sections 73(4) and (7) of that Act.

36. Referral under section 76 of the *Heritage of Western Australia Act 1990*

- (1) A referral under section 76(1) of the *Heritage of Western Australia Act 1990* is to be dealt with as if it were an appeal by the owner against the Council’s decision under that section.
- (2) When dealing with a matter under subsection (1), instead of making a determination under section 22, the Planning Appeal Panel is to determine the questions set out in section 76(1) of that Act.

”.

Clause 35

The Minister for Planning: To move -

Page 24, line 11 - To delete “33 or 34” and substitute the following -

“ 32 to 36 ”.

Clause 39

The Minister for Planning: To move -

Page 27, lines 7 to 10 - To delete the lines and substitute the following -

- “ (5) An Assessor who is not employed under Part 3 of the *Public Sector Management Act 1994* -
- (a) is to be appointed for a term not exceeding 3 years specified in the instrument of appointment and is eligible for reappointment; and
 - (b) is to be paid the remuneration and allowances determined by the Minister on the recommendation of the Minister for Public Sector Management. ”.

Clause 44

The Minister for Planning: To move -

Page 30, line 4 - To insert after “under this Act” the following -

“ and the decisions made on those appeals ”.

Ms MacTiernan: To move -

Page 30, lines 10 and 11 - To delete the lines and substitute the following -

- “ (3) The Registrar must ensure that the register of appeals available to the public contains a copy of the Panel’s written decision together with its reasons. ”.

Schedule 1

The Minister for Planning: To move -

Page 36, line 10 - To delete “*Heritage Act 1999*” and substitute the following -

“ *Heritage of Western Australia Act 1990* ”.

The Minister for Planning: To move -

Page 36, after line 18 - To insert the following -

- “ *Midland Redevelopment Act 1999* Midland Redevelopment
- land in redevelopment area Authority ”.

Planning Appeals (Transitional and Consequential Provisions) Bill 1999

New Part 5

The Minister for Planning: To move -

Page 5, after line 7 - To insert the following -

“ **Part 5 - *Heritage of Western Australia Act 1990***

8. The Act amended

The amendments in this Part are to the *Heritage of Western Australia Act 1990**.

[* *Act No. 103 of 1990.*

For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, 115.]

9. Section 3 amended

Section 3(1) is amended as follows:

(a) by inserting in the appropriate alphabetical position the following definition -

“ **“Planning Appeal Panel”** means a Planning Appeal Panel under the *Planning Appeals Act 2000*; ”;

(b) after the definition on “this Act” by deleting the semicolon and inserting a full stop instead;

(c) by deleting the definition of “Town Planning Appeal Tribunal” and “Tribunal”.

10. Section 30 amended

(1) Section 30(1) is amended as follows:

(a) by deleting “to the Town Planning Appeal Tribunal”;

(b) by inserting after “be reasonable” -

“ , to be dealt with under section 32 of the *Planning Appeals Act 2000* ”.

(2) Section 30(2) is amended by deleting “to the Tribunal” and inserting instead -

“ under subsection (1) ”.

(3) Section 30(4) is amended as follows:

(a) by deleting “The Tribunal shall determine a question referred under this section and in so doing -” and inserting instead -

“ When determining a matter referred under subsection (1) a Planning Appeal Panel - ”;

(b) in paragraphs (c)(ii) and (d) by deleting “Tribunal” and inserting instead -

“ Planning Appeal Panel ”;

(c) in paragraph (e) by deleting “proceed by way of review of relevant decisions taking” and inserting instead -

“ take ”;

(d) in paragraph (g) by deleting “Tribunal” and inserting instead -

“ Planning Appeal Panel ”;

(e) by deleting “Tribunal” in the last 2 places where it appears and inserting instead -

“ a Planning Appeal Panel ”.

(4) Section 30(5) is amended as follows:

(a) by deleting “the Tribunal” in the first place it appears and inserting instead -

“ a Planning Appeal Panel ”.

(b) in paragraph (c) -

(i) by deleting “Tribunal” and inserting instead -

“ Planning Appeal Panel ”;

(ii) by deleting “of the Tribunal.” and inserting instead -

“ under the *Planning Appeals Act 2000*. ”.

11. Section 37 amended

(1) Section 37(3) is amended as follows:

- (a) by deleting “to the Town Planning Appeal Tribunal”;
- (b) by deleting “and the Tribunal may determine any such question.” and inserting instead -

“ to be dealt with under section 33 of the *Planning Appeals Act 2000*. ”.

(2) Section 37(4) is amended by deleting “the Town Planning Appeal Tribunal” and inserting instead -

“ a Planning Appeal Panel ”.

(3) Section 37(5) is amended as follows:

- (a) by deleting “The Tribunal” and inserting instead -

“ A Planning Appeal Panel ”;

- (b) in paragraph (d) by deleting “Tribunal” and inserting instead -

“ Panel ”;

12. Section 59 amended

(1) Section 59(7)(d) is deleted and the following paragraph is inserted instead -

“ (d) in the case of a Stop Work Order -

- (i) subject to subparagraph (ii), on the expiry of 42 days from the making of the Order; or
- (ii) if a Planning Appeal Panel has determined a referral under section 60A, at the time specified in that determination. ”.

(2) Section 59(10) is amended as follows:

- (a) by deleting “Town Planning Appeals Tribunal” and inserting instead -

“ a Planning Appeal Panel ”;

- (b) by deleting “the Tribunal.” and inserting instead -

“ that Panel ”.

- (3) Section 59(19) is repealed.

13. Section 60 replaced

Section 60 is repealed and the following sections are inserted instead -

“ **60. Appeals in relation to Conservation Orders**

- (1) A person aggrieved by a Conservation Order, other than a Consent Order, may appeal against the Order under the *Planning Appeals Act 2000*.

- (2) An appeal under subsection (1) shall not be made while -

- (a) an application for review of the Order can still be made under section 59(16); or
- (b) the Order is being reviewed under section 59(17).

60A. Order for continuation of Stop Work Order

- (1) If the Minister wishes a Stop Work Order to continue to have effect for more than 42 days after the Order was made the Minister may refer the question of the duration of the Order to be dealt with under section 34 of the *Planning Appeals Act 2000*.

- (2) A Stop Work Order that is the subject of a referral under subsection (1) remains in force until the matter is dealt with and determined under the *Planning Appeals Act 2000*. ”.

14. Section 73 amended

- (1) Section 73(4) is amended as follows:

- (a) by deleting “to the Town Planning Appeal Tribunal”;

- (b) by inserting after “or revoked” -

“ to be dealt with under section 35 of the *Planning Appeals Act 2000* ”;

- (c) by deleting “the Tribunal may determine any such question,”;

- (d) by deleting “any such determination.” and inserting instead -

“ the determination of a Planning Appeals Panel on a referral. ”;

- (2) Section 73(5) is amended by deleting “finding by the Tribunal” and inserting instead -

“ referral ”.

- (3) Section 73(7) is amended as follows:

- (a) by deleting “For the purposes of subsection (4) the questions that may be referred to the Tribunal shall be taken to be -” and inserting instead -

“ The questions that may be referred under subsection (4) are - ”;

- (b) by deleting “to be determined by the Tribunal” and inserting instead -

“ referred under subsection (4) ”.

15. Section 76 amended

Section 76(1) is amended as follows:

- (a) by deleting “to the Tribunal”;
- (b) by deleting “, and the Tribunal may determine that question and in so doing -” and inserting instead -

“ to be dealt with under section 36 of the *Planning Appeals Act 2000*, and in determining the matter a Planning Appeal Panel - ”;

- (c) in paragraph (b) by deleting “Tribunal” and inserting instead -

“ Planning Appeal Panel ”;

- (d) by deleting “the Tribunal by” and inserting instead -

“ the Panel by ”;

- (e) by deleting “Registrar of the Tribunal” and inserting instead -

“ Registrar under the *Planning Appeals Act 2000* ”.

New Part 5

The Minister for Planning: To move -

Page 5, after line 7 - To insert the following -

“ **Part 5 - *Land Tax Assessment Act 1976***

8. Section 15A amended

Section 15 A(1)(b)(iii) of the *Land Tax Assessment Act 1976** is deleted and the following paragraph is inserted instead -

“ (iii) an appeal against a decision by the Commission not to grant an approval referred to in subparagraph (i) or (ii) is upheld; ”.

[* *Reprinted as at 30 July 1996.*
For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, pp. 137-8.]

”.

Clause 9

The Minister for Planning: To move -

Page 6, line 18 - To delete “29” and substitute the following -

“ 30 ”.

Clause 11

The Minister for Planning: To move -

Page 7, after line 16 - To insert the following -

“ (3) Section 43(5)(a) is amended by deleting “the time specified in the notice;” and inserting instead -

“ the 60 days referred to in subsection (3); ”. ”.

New Part 6

The Minister for Planning: To move -

Page 7, after line 20 - To insert the following -

“ **Part 6 - *Midland Redevelopment Act 1999***

12. The Act amended

The amendments in this Part are to the *Midland Redevelopment Act 1999**.

[*Act No. 38 of 1999.]

13. Section 52 replaced

Section 52 is repealed and the following section is inserted instead -

“ **52. Appeal**

An applicant aggrieved by a decision of the Authority under section 50 may appeal against that decision under the *Planning Appeals Act 1999*. ”.

14. Section 54 amended

- (1) Section 54(2) is amended by deleting “to the Minister against the direction, and on the appeal the Minister may confirm, vary or cancel the direction.” and inserting instead -

“ against the direction under the *Planning Appeals Act 1999*. ”.

- (2) Section 54(4) is repealed. ”.

Clause 21

The Minister for Planning: To move -

Page 13, lines 6 to 10 - To delete the lines.

Clause 26

The Minister for Planning: To move -

Page 15, line 13 - To delete “be dealt with under section 30” and substitute the following -

“ the Minister who may, if the Minister considers it appropriate to do so, refer the matter to be dealt with under section 31 ”.

The Minister for Planning: To move -

Page 15, lines 15 to 21 - To delete those lines and substitute the following -

“ (2a) If, after receiving a report and recommendations under the *Planning Appeals Act 1999*, the Minister is satisfied that a local government has failed -

- (a) to enforce effectively the observance of a scheme or a provision of a scheme; or
- (b) to execute any works which the local government is required under a scheme or this Act to execute,

the Minister may order the local government to do all things necessary to enforce the observance of the scheme or provision or to execute the works. ”.

Clause 27

The Minister for Planning: To move -

Page 15, lines 23 to 28 - To delete the lines.

Clause 35

The Minister for Planning: To move -

Page 19, lines 13 and 14 - To delete “to the Director of Planning Appeals”.

Clause 36

The Minister for Planning: To move -

Page 19, line 26 - To delete “to the Director of Planning Appeals”.

Road Traffic Amendment (Vehicle Licensing) Bill 2000

Clause 23

The Deputy Premier: To move -

Page 12, after line 5 - To insert the following -

“ s.51 (5) ”.

Clause 24

The Deputy Premier: To move -

Page 12, line 13 - To delete “subsection” and substitute the following -

“ section ”.

The Deputy Premier: To move -

Page 12, after line 16 - To insert the following -

“ s.19(1) (second place) ”.

PETER J. McHUGH

Clerk of the Legislative Assembly
