

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

No. 106

THURSDAY, 19 OCTOBER 2006

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### 1. Meeting of Council

The Council assembled at 10.00am pursuant to order.

The President, Hon Nick Griffiths, took the Chair and read prayers.

### 2. Papers

The following Papers were laid on the Table by -

**Leader of the House on behalf of the Minister for Local Government and Regional Development**

*Annual Reports -*

Commission for Occupational Safety and Health (2005-2006) (Date received 18/10/2006)..... 2135

*Annual Reports - Extension of Time -*

Fire and Emergency Services Superannuation Board Annual Report (2005-2006)  
extension of time to report to 24/10/2006 ..... 2136

### 3. Joint Standing Committee on the Corruption and Crime Commission - Thirteenth Report - Ombudsman's Redress Guidelines: Information for Complainants

Hon Ray Halligan presented the Thirteenth Report of the Joint Standing Committee on the Corruption and Crime Commission in relation to the Ombudsman's Redress Guidelines - Information for Complainants. (Tabled paper 2137).

Hon Ray Halligan moved that the Report do lie upon the Table and be printed.

Question - put and passed.

### 4. Joint Standing Committee on the Corruption and Crime Commission - Fourteenth Report - Public Hearing with the Corruption and Crime Commission on 30 August 2006

Hon Ray Halligan presented the Fourteenth Report of the Joint Standing Committee on the Corruption and Crime Commission in relation to the Public Hearing with the Corruption and Crime Commission on 30 August 2006. (Tabled paper 2138).

Hon Ray Halligan moved that the Report do lie upon the Table and be printed.

Question - put and passed.

**5. Standing Committee on Uniform Legislation and Statutes Review - Special Report - Conducting an Inquiry into the Practical Implications of Clause 8.3(c) of the Committee's Terms of Reference**

Hon Simon O'Brien presented the Special Report of the Standing Committee on Uniform Legislation and Statutes Review in relation to conducting an Inquiry into the Practical Implications of Clause 8.3(c) of the Committee's Terms of Reference. (Tabled paper 2139).

Hon Simon O'Brien moved that the Report do lie upon the Table.

Question - put and passed.

**6. Contaminated Sites Regulations 2006 - Disallowance**

Hon Ray Halligan: To move on the next day of sitting -

That the *Contaminated Sites Regulations 2006* published in the *Gazette* on 8 August 2006 and tabled in the Legislative Council on 29 August 2006 under the *Contaminated Sites Act 2003*, be and is hereby disallowed.

**7. Carpenter Government - Performance and Consultation**

Hon Simon O'Brien moved, without notice -

Pursuant to Sessional Orders 7 and 8, that the House expresses its serious concern at the poor performance of the Carpenter Government, particularly the Government's failure to properly consult the public in respect of important decisions.

Debate ensued.

*Debate adjourned pursuant to Sessional Order.*

**8. Land Administration (Land Management) Regulation 2006 - Disallowance - Disallowance**

The Order of the Day having been read for the motion of Hon Ray Halligan moved *pro forma* on 27 September 2006 as follows -

That the *Land Administration (Land Management) Regulation 2006 - Disallowance* published in the *Gazette* on 14 June 2006 and tabled in the Legislative Council on 22 June 2006 under the *Land Administration Act 1997*, be and are hereby disallowed.

On the motion of the Minister for Education and Training the debate was adjourned to the next sitting.

**9. Local Government (Official Conduct) Amendment Bill 2005**

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

On the motion of Minister for Education and Training the debate was adjourned to the next sitting.

**10. Parliamentary Legislation Amendment Bill 2006**

The Order of the Day having been read for the consideration of the Committee's report upon this Bill.

The Parliamentary Secretary representing the Minister for Electoral Affairs moved -

That the Bill be recommitted for the purpose of reconsidering Clause 7.

Question - put and passed.

The President left the Chair.

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**In Committee**

(Hon George Cash in the Chair)

Recommittal Clause 7.

Debate ensued.

The Parliamentary Secretary representing the Minister for Electoral Affairs moved -

Page 4, line 25 to page 5, line 9 - To delete the lines.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

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The Acting President resumed the Chair.

Bill reported with further amendment.

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

# **11. Volunteers (Protection from Liability) Amendment Bill 2006**

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.

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

The Parliamentary Secretary representing the Minister for Housing and Works moved, That the Bill be now read a third time.

Question - put and passed.

Bill read a third time and passed.

# **12. Criminal Investigation Bill 2005 and Criminal Investigation (Consequential Provisions) Bill 2005**

The Orders of the Day for the further consideration of these Bills, in Committee, having been read.

The Acting President left the Chair.

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## **In Committee**

(Hon Ken Travers in the Chair)

### ***Criminal Investigation Bill 2005***

Clause 25.

Debate resumed on the amendments moved by the Parliamentary Secretary representing the Attorney General as follows -

Page 19, line 24 — To delete “take over the arrest and detention of” and insert instead —

“ arrest ”.

Page 19, lines 27 and 28 — To delete “take over the arrest and detention of” and insert instead —

“ arrest ”.

Amendments - put and passed.

Clause, as amended, agreed to.

Clause 26.

The Parliamentary Secretary representing the Attorney General moved -

Page 21, after line 11 — To insert —

“

- (6) Without limiting section 15, the person in charge of a vehicle may authorise another person to exercise any of the powers that the person in charge has under this section.

”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 27.

Hon Giz Watson moved -

Page 22, lines 20 to 25 — To delete the lines.

Debate ensued.

Amendment - put and negatived.

Hon Giz Watson moved -

Page 22, line 24 — To delete “an” after “commit” and insert instead —

“ a serious ”.

Debate ensued.

Amendment - put and negatived.

Hon Giz Watson moved -

Page 23, after line 14 — To insert —

“

- (6) When issuing an order the officer has to take into consideration any impact the order is likely to have on the person, including but not limited to the person’s access to school, workplace or usual domicile, their need for transport and support services.
- (7) A person is not in breach of the move on order if the person is taking reasonable steps to comply with the order and move out of the area.
- (8) The officer issuing a move on order must record the ethnicity of the person concerned.

Penalty: Fine of \$1 000.

”.

Debate ensued.

Hon Giz Watson, by leave, amended her amendment by withdrawing the following -

“

- (a) (6) When issuing an order the officer has to take into consideration any impact the order is likely to have on the person, including but not limited to the person’s access to school, workplace or usual domicile, their need for transport and support services.

”.

and

(b) “ Penalty: Fine of \$1 000. ”.

Debate ensued on the amended amendment as follows -

“

- (7) A person is not in breach of the move on order if the person is taking reasonable steps to comply with the order and move out of the area.
- (8) The officer issuing a move on order must record the ethnicity of the person concerned.

”.

The Deputy Chairman having determined that the question be divided.

Question, That the following subclause be inserted -

“

- (7) A person is not in breach of the move on order if the person is taking reasonable steps to comply with the order and move out of the area.

”.

Amendment - put.

The Committee divided.

#### Ayes (15)

Hon George Cash  
Hon Murray Criddle  
Hon Donna Faragher  
Hon Anthony Fels  
Hon Nigel Hallett  
Hon Ray Halligan  
Hon Barry House  
Hon Paul Llewellyn

Hon Robyn McSweeney  
Hon Norman Moore  
Hon Helen Morton  
Hon Simon O’Brien  
Hon Barbara Scott  
Hon Giz Watson  
Hon Bruce Donaldson (*Teller*)

#### Noes (12)

Hon Shelley Archer  
Hon Matt Benson-Lidholm  
Hon Vincent Catania  
Hon Kim Chance  
Hon Kate Doust  
Hon Sue Ellery

Hon Graham Giffard  
Hon Sheila Mills  
Hon Louise Pratt  
Hon Ljiljanna Ravlich  
Hon Sally Talbot  
Hon Ed Dermer (*Teller*)

Amendment thus passed.

Question, That the following subclause be inserted -

“

- (8) The officer issuing a move on order must record the ethnicity of the person concerned.

”.

Amendment - put and negatived.

The Parliamentary Secretary representing the Attorney General moved -

Page 23, line 1 — To insert after “a” —

“ reasonable ”.

Debate ensued.

Amendment - put and passed.

The Parliamentary Secretary representing the Attorney General moved -

“

- (3) When giving a person an order under subsection (1), a police officer must take into account the likely effect of the order on the person, including but not limited to the effect on the person's access to the places where he or she usually resides, shops and works, and to transport, health, education or other essential services.

”.

Debate ensued.

Amendment - put and passed.

Debate ensued.

Clause, as amended, agreed to.

Clauses 28 to 30 agreed to.

Clause 31.

The Leader of the House moved -

Page 26, line 12 — To delete “may” and insert instead —

“ must ”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 32 to 40 agreed to.

Clause 41.

Debate ensued.

Clause agreed to.

Clause 42.

Debate ensued.

Clause agreed to.

Clause 43.

Debate ensued.

Clause agreed to.

Clause 44.

The Parliamentary Secretary representing the Attorney General moved -

Page 37, line 17 — To insert after “place” —

“ for no longer than is reasonably necessary ”.

Debate ensued.

Amendment - put and passed.

Hon George Cash moved -

Page 38, after line 6 — To insert —

“

- (7) A person who is detained under subsection (2)(g)(iii) when he or she is not under arrest is to be taken to be in lawful custody.

”.

Debate ensued.

Hon Giz Watson moved to amend the amendment by inserting after “custody.” the following -

“

The person is to be made aware of their rights and the consequences of breaching lawful custody.

”.

Debate ensued.

Amendment to the amendment - put and negatived.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 45.

Hon Giz Watson moved -

Page 38, after line 16 — To insert —

“

- (4) The execution of a search warrant must be continuously recorded by audiovisual recording equipment.

”.

Hon Giz Watson, by leave, amended her amendment by inserting before “The” the following -

“ Where practicable, ”.

Debate ensued.

Amendment - put and negatived.

The Parliamentary Secretary representing the Attorney General moved -

Page 38, after line 9 — To insert —

“

- (2) If reasonably practicable, an audiovisual recording must be made of the execution of a search warrant.

”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

### **13. Questions Without Notice**

Questions without notice were taken.

The Leader of the House on behalf of the Minister for Local Government and Regional Development tabled, and by leave incorporated into Hansard, an answer in relation to the total authorised strength (FTE) for police officers in the Northern suburbs as at 30 June 2006, in response to a question without notice asked by Hon Ray Halligan. (Tabled paper 2140).

The Minister for Education and Training representing the Treasurer tabled a map in relation to Native Title Determinations in Western Australia in response to a question without notice asked by Hon Giz Watson. (Tabled paper 2141).

The Parliamentary Secretary representing the Minister for Housing and Works on behalf of the Parliamentary Secretary representing the Minister for Planning and Infrastructure tabled maps in relation to the metropolitan area detailing locations of 40 000 plus residential lots, in response to question on notice No. 3779 asked by Hon Simon O’Brien. (Tabled paper 2142).

**14. Criminal Investigation Bill 2005 and Criminal Investigation (Consequential Provisions) Bill 2005**

The President left the Chair.

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**In Committee**

(Hon Ray Halligan in the Chair)

Clauses 46 and 47 agreed to.

Clause 48.

The Parliamentary Secretary representing the Attorney General moved -

Page 43, line 1 — To insert after “not” —

“ give informed ”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 49 to 51 agreed to.

Clause 52.

Debate ensued.

Clause agreed to.

Clause 53.

Debate ensued.

Clause agreed to.

Clauses 54 to 58 agreed to.

Clause 59.

Debate ensued.

Clause agreed to.

Clause 60 agreed to.

Clause 61.

Debate ensued.

Clause agreed to.

Clauses 62 to 64 agreed to.

Clause 65.

Debate ensued.

Hon Giz Watson moved -

Page 53, after line 26 — To insert —

“

(5) A person who is detained under subsection (2)(a) when he or she is not under arrest is to be taken to be in lawful custody.

”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 66 and 67 agreed to.

Clause 68.

The Parliamentary Secretary representing the Attorney General moved -

Page 54, line 5 — To delete “a police” and insert instead —

“ an ”.

Page 54, lines 8 to 11 — To delete the lines.

Page 54, line 12 — To delete “police”.

Page 54, lines 14 and 15 — To delete “described in paragraph (a), (b) or (c)” and insert instead —

“ relevant to an offence ”.

Debate ensued.

Amendments - put and passed.

Clause, as amended, agreed to.

Clauses 69 to 81 agreed to.

Clause 82.

Hon Giz Watson moved -

Page 69, lines 17 to 19 — To delete the lines.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 83 to 87 agreed to.

Clause 88.

Hon Giz Watson moved -

Page 74, lines 19 to 20 — To delete “Whether or not a request has been made under section 84 for consent”.

Debate ensued.

Hon Giz Watson, by leave, withdrew her amendment.

*Interruption pursuant to Sessional Order.*

## **15. Adjournment**

The House adjourned at 6.00pm until Tuesday, 24 October 2006 at 3.00pm.

### **Members present during the day’s proceedings**

Attendance: Present all Members except Hon Adele Farina, Hon Jon Ford and Hon Margaret Rowe.

**MIA BETJEMAN**  
Clerk of the Legislative Council

**HON NICK GRIFFITHS**  
President of the Legislative Council