

**LEGISLATIVE COUNCIL**

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**MINUTES OF PROCEEDINGS**

**No. 187**

**TUESDAY, 11 MARCH 2008**

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**1. Meeting of Council**

The Council assembled at 3.30pm pursuant to order.

The President, Hon Nick Griffiths, 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 -

<b>5 March 2008 - Message No. 5</b>	<b>Act No.</b>
Terrorism (Preventative Detention) Amendment Bill 2007	1 of 2008

**3. Petition**

Hon Helen Morton presented a petition from 2 082 residents of Western Australia requesting the Legislative Council oppose the closure of the Royal Perth Hospital. (Tabled paper 3749).

**4. Ministerial Statement - Fair Employment Advocate - Helen Creed**

The Minister for Employment Protection made a Ministerial Statement with respect to an audit of the selection process of the Fair Employment Advocate.

The Minister for Employment Protection, by leave, tabled a copy of a letter dated 5 March 2008 from Mr Brian Bradley to Dr Ruth Sheen, 'Fair Employment Advocate - Appointment of Ms Helen Creed'. (Tabled paper 3751).

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

**5. Papers**

The following Papers were laid on the Table by -

**President**

*Documents -*

Fair Employment Advocate - Order of the House as per Motion on Notice passed in the Legislative Council on Wednesday 27 February 2008 - Parts A and B (Deemed tabled 4/03/2008). ..... 3739

*Reports -*

Parliamentary Inspector of the Corruption and Crime Commission - Report on the  
Corruption and Crime Commission's Investigation and Finding of  
"Misconduct" by Mr Michael Allen (Deemed tabled 07/03/2008) ..... 3736

**Minister for Local Government***Reports -*

Landgate - Statement of Corporate Intent 2008/09 (Deemed tabled 07/03/2008)..... 3737

*Response to Reports -*

Standing Committee on Environment and Public Affairs - In relation to Overview of  
Petitions (Report No. 10) (Minister for Local Government) ..... 3738

**Minister for Child Protection***Annual Reports -*

Local Health Authorities Analytical Committee 2006-2007 (Date received 29/02/2008)..... 3740

Professional Standards Council 2003-2004 (Date received 06/03/2008)..... 3741

Professional Standards Council 2004-2005 (Date received 06/03/2008)..... 3742

Professional Standards Council 2005-2006 (Date received 06/03/2008)..... 3743

**Minister for Child Protection on behalf of the Parliamentary Secretary representing the Deputy Premier***Agreements -*

Alumina Refinery (Wagerup) Agreement 1978 - Between the State of Western  
Australia and Alcoa of Australia Limited ..... 3744

*Budget Papers and Related Papers -*

Quarterly Financial Report 2006-2007 (December 2007)..... 3745

*Reports -*

Economic Regulation Authority - Inquiry into Tariffs of Bunbury and Busselton  
Water Boards (8 February 2008) (Deemed tabled 07/03/2008) ..... 3746

**Minister for Child Protection on behalf of the Parliamentary Secretary representing the Minister for Planning and Infrastructure***Determinations -*

Planning and Development Act 2005 - Ministerial Determination to Westfield  
Management Ltd and City of Stirling..... 3747

**Clerk***Letters -*

Letter from Freehills on behalf of Hon Julian Grill - Information related to the  
requirement to provide an unreserved written apology to the Legislative  
Council pursuant to the resolution of the House on 4 December 2007 ..... 3748

**6. Standing Committee on Uniform Legislation and Statutes Review - Twenty-Seventh Report - Consumer Credit (Bill Facilities) Amendment Regulation (No. 1) 2007 (Qld)**

Hon Simon O'Brien presented the Twenty-Seventh Report of the Standing Committee on Uniform Legislation and Statutes Review in relation to the *Consumer Credit (Bill Facilities) Amendment Regulation (No. 1) 2007 (Qld)*. (Tabled paper 3750).

Hon Simon O'Brien moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

**7. Standing Committee on Procedure and Privileges - Amendment to Terms of Reference Regarding Letters of Apology to the Legislative Council**

The Leader of the House: To move on the next day of sitting -

That the Terms of Reference referred to the Standing Committee on Procedure and Privileges on 20 February 2008 be amended as follows -

(1) To insert after "determine" in paragraph 1(a) the following -

“

matters not addressed in the report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations or information tabled in the House by the President prior to 4 December 2007 as to

”.

(2) To insert after paragraph (2) the following -

“

(3) The Standing Committee on Procedure and Privileges consider and report on whether Mr Grill has provided an “unreserved written apology” in accordance with the resolution of the House on 4 December 2007 and what further action may be taken by the House.

(4) The Standing Committee on Procedure and Privileges consider and report on whether the letter from Hon Brian Burke dated 19 February 2008 and attachments -

(a) constitutes a qualification of the purported “unreserved apology” provided in his letter of 11 December 2007 and therefore whether Hon Brian Burke has provided an “unreserved written apology” in accordance with the resolution of the House on 4 December 2007 and what further action may be taken by the House; and

(b) constitutes a breach of Parliamentary Privilege.

(5) The documents referred to in paragraph (2) are confined to all correspondence between Hon Brian Burke and the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations.

”.

**8. Matter of Urgency - Public Sector Job Selection - Concerns of the Commissioner for Public Sector Standards**

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, ongoing bias and favouritism in job selection in the public sector, raised by the Public Sector Standards Commissioner in her 2007 Annual Compliance Report.

Yours sincerely

Hon Helen Morton

Member for East Metropolitan Region

Four members having risen in support.

Hon Helen Morton moved the motion.

Debate ensued.

Motion lapsed.

### **9. Order of Business**

Ordered - That Orders of the Day be now taken. (Leader of the House).

Ordered - That Orders of the Day Nos 547, *Prohibition on Commercial Fishing (Metropolitan Waters) Order 2007 - Disallowance* and 568, *Rights in Water and Irrigation Amendment Regulations (No. 3) 2007 - Disallowance*, be taken after Order of the Day No. 532, *Nuclear Facilities Prohibition Bill 2007*. (Leader of the House).

### **10. Cross-border Justice Bill 2007**

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

The Leader of the House on behalf of the Minister for Child Protection representing the Attorney General moved, That the Bill be now read a third time.

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

Question - put and passed.

Bill read a third time and passed.

### **11. State Supply Commission Amendment Bill 2007**

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

Debate resumed.

Hon Simon O'Brien was granted leave to continue his remarks at a later stage of this day's sitting.

### **12. Questions Without Notice**

Questions without notice were taken.

The Leader of the House representing the Minister for Sport and Recreation tabled letters from the Minister for Sport and Recreation to Senators George Brandis, Kate Lundy and Kate Ellis, in response to a question without notice asked by Hon Barry House. (Tabled paper 3752).

The Minister for Local Government representing the Minister for Education and Training tabled, and by leave incorporated into Hansard, details in relation to Primary and Secondary teachers on Level 2.3 and 2.4 eligible for Senior Teacher 1 status in 2009, in response to a question without notice asked by Hon Peter Collier. (Tabled paper 3753).

### **13. State Supply Commission Amendment Bill 2007**

Debate resumed on the second reading of this Bill (cf item 11 above).

On the motion of the Leader of the House the debate was adjourned to the next sitting.

### **14. Prostitution Amendment Bill 2007**

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

Debate resumed.

On the motion of the Leader of the House the debate was adjourned to the next sitting.

### **15. Parental Support and Responsibility Bill 2005**

The Order of the Day having been read for the consideration, in Committee, of Message No. 243 from the Legislative Assembly.

The Acting President left the Chair.

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**In Committee**

(Hon Ray Halligan in the Chair)

The Message was as follows -

Mr President

The Legislative Assembly acquaints the Legislative Council that it has considered the amendments made by the Legislative Council in the *Parental Support and Responsibility Bill 2005*, has agreed to Amendments Nos 1 to 3, 5, 9, 13, 37, 38, 46 and 47; has disagreed to Amendments Nos 4, 6 to 8, 10 to 12, 14, 16, 18, 19, 23 to 36, 39 to 45, 49 and 50; has disagreed to Amendments Nos 15, 17 and 20 to 22 and substituted new amendments in their place, and has agreed to Amendment No. 48 subject to further amendments, as set forth in the Schedule annexed, in which the Legislative Assembly desires the Legislative Council's concurrence.

*Schedule showing the amendments substituted by the Legislative Assembly for the amendments made by the Legislative Council and the amendments made to the amendment by the Legislative Council in the Parental Support and Responsibility Bill 2005.*

**Amendment No. 15**

Amendment disagreed to and the following amendments substituted –

Clause 12.

Page 10, line 5 – To delete “(Community Development)” and substitute –

“ (Child Protection) ”.

Page 10, line 6 – To delete “(Justice)” and substitute –

“ (Corrective Services) ”.

**Amendment No. 17**

Amendment disagreed to and the following amendment substituted –

Clause 14.

Page 12, lines 9 and 10 – To delete “an order under section 30 of the *Child Welfare Act 1947*” and substitute –

“ a protection order under the *Children and Community Services Act 2004* ”.

**Amendment No. 20**

Amendment disagreed to and the following amendment substituted –

Clause 17.

Page 13, line 23 – To delete “Disciplinary” and substitute –

“ Discipline ”.

**Amendment No. 21**

Amendment disagreed to and the following amendment substituted –

Clause 18.

Page 14, lines 5 to 9 – To delete the lines and substitute –

“

(c) no protection order under the *Children and Community Services Act 2004* is in force in respect of the child;

(d) no protection proceedings under the *Children and Community Services Act 2004* are pending in respect of the child;

”.

**Amendment No. 22**

Amendment disagreed to and the following amendment substituted –  
 Clause 19.

Page 16, lines 1 and 2 – To delete “an order under section 30 of the *Child Welfare Act 1947*” and substitute –

“ a protection under the *Children and Community Services Act 2004* ”.

**Amendment No. 48**

Amendment disagreed to and the following amendments substituted –

New clause 37(1) is amended after paragraph (b) by deleting “or” and inserting –

“

- (c) a person who is or was a parent to whom a responsible parenting order is or was directed or in respect of whom an application for such an order has been made;
- (d) a person who is or was a child in respect of whom a responsible parenting order was made or an application for such an order has been made; or

”.

New clause 37(1)(c) is amended by inserting after “agreement” –

“ , interim responsible parenting order or responsible parenting order ”.

After new clause 37(3) the following subclause is inserted –

“

- (4) Subsection (1) does not apply to information or material contained in a report of proceedings to which section 35(1) of the *Children’s Court of Western Australia Act 1988* applies.

”.

Mrs J. Hughes  
 Acting Speaker

Legislative Assembly Chamber  
 Perth, 6 September 2007

The Minister for Child Protection moved -

That the Legislative Council not insist on its Amendments Nos 6 to 8, 10 to 12, 18, 19, 24 to 36, 40 to 45, 49 and 50; agrees to the amendments proposed by the Legislative Assembly in substitution for the Legislative Council Amendments Nos 15, 17, 20 and 22; agrees to the further amendment to Amendment No. 48; does not insist on Amendments Nos 4, 14, 16, 23 and 39 but substitutes the following alternatives; and agrees to the Legislative Assembly substituted Amendment No. 21 subject to a further amendment.

**Amendment No. 4**

New amendment as an alternative to Amendment No. 4:

Clause 3, page 3, after line 3 — To insert —

“

“**income support**” means financial assistance provided under a law of the State or the Commonwealth;

”.

**Amendment No. 14**

New amendment as an alternative to Amendment No. 14:

Clause 9, page 6, line 6 — To delete the full stop and insert instead —

- “
- ; or
- (c) a prescribed agency of the Commonwealth.
- ”

**Amendment No. 16**

New amendment as an alternative to Amendment No. 16:

Clause 13, page 11, after line 12 — To insert —

- “
- (5) The Court cannot make an order after the fifth anniversary of the day on which this section came into operation and an order in force on or after that anniversary ceases to have effect at the end of the 6 months immediately following that anniversary, if it does not otherwise cease before that time.
- ”

**Amendment No. 21**

Agrees to the Legislative Assembly’s substituted amendment subject to the following further amendment:

Clause 18, page 14, after line 28 — To insert —

- “
- (b) if relevant — the income of the child’s family, the extent to which that income is derived from income support and any restrictions on the use, or reduction or suspension, of that income under a law of the State or the Commonwealth;
- ”

**Amendment No. 23**

New amendments as alternatives to Amendment No. 23:

Clause 20, page 16, line 8 — To delete “\$2 000” and insert instead —

“ \$200 ”.

Clause 20, page 16, lines 12 to 14 — To delete the lines and insert instead —

- “
- (3) The CEO cannot give approval under subsection (2) unless the CEO —
- (a) is satisfied that all reasonable efforts to assist and encourage the parent to comply with the order have failed; and
- (b) has taken into account the income of the child’s family, the extent to which that income is derived from income support and any restrictions on the use, or reduction or suspension, of that income under a law of the State or the Commonwealth.
- ”

**Amendment No. 39**

New amendment as an alternative to Amendment No. 39:

Clause 35, page 23, after line 27 — To insert —

- “
- (5) The warrant of execution may not be executed so as to seize or sell any property unless the Sheriff is satisfied that —
- (a) the property is wholly owned by the person in respect of whom the warrant is issued; and
- ”

- (b) it would not be detrimental to the welfare of a child of the person to seize or sell the property.

”.

Debate ensued.

The Minister for Child Protection 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 reported, That the Committee had considered Message No. 243 from the Legislative Assembly, 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.

*The Deputy President left the Chair at 8.46pm*

*The Deputy President resumed the Chair at 9.09pm*

## 16. Order of Business

Ordered - That Order of the Day No. 477, *Parental Support and Responsibility Bill 2005* be now taken. (Leader of the House).

## 17. Parental Support and Responsibility Bill 2005

The Order of the Day having been read for the further consideration, in Committee, of Message No. 243 from the Legislative Assembly.

The Deputy President left the Chair.

### In Committee

(Hon Ray Halligan in the Chair)

The Message was as follows -

Mr President

The Legislative Assembly acquaints the Legislative Council that it has considered the amendments made by the Legislative Council in the *Parental Support and Responsibility Bill 2005*, has agreed to Amendments Nos 1 to 3, 5, 9, 13, 37, 38, 46 and 47; has disagreed to Amendments Nos 4, 6 to 8, 10 to 12, 14, 16, 18, 19, 23 to 36, 39 to 45, 49 and 50; has disagreed to Amendments Nos 15, 17 and 20 to 22 and substituted new amendments in their place, and has agreed to Amendment No. 48 subject to further amendments, as set forth in the Schedule annexed, in which the Legislative Assembly desires the Legislative Council’s concurrence.

*Schedule showing the amendments substituted by the Legislative Assembly for the amendments made by the Legislative Council and the amendments made to the amendment by the Legislative Council in the Parental Support and Responsibility Bill 2005.*

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Amendment disagreed to and the following amendments substituted –

Clause 12.

Page 10, line 5 – To delete “(Community Development)” and substitute –

“ (Child Protection) ”.

Page 10, line 6 – To delete “(Justice)” and substitute –

“ (Corrective Services) ”.



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Clause 14.

Page 12, lines 9 and 10 – To delete “an order under section 30 of the *Child Welfare Act 1947*” and substitute –

“ a protection order under the *Children and Community Services Act 2004* ”.

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Amendment disagreed to and the following amendment substituted –

Clause 17.

Page 13, line 23 – To delete “Disciplinary” and substitute –

“ Discipline ”.

**Amendment No. 21**

Amendment disagreed to and the following amendment substituted –

Clause 18.

Page 14, lines 5 to 9 – To delete the lines and substitute –

“

(c) no protection order under the *Children and Community Services Act 2004* is in force in respect of the child;

(d) no protection proceedings under the *Children and Community Services Act 2004* are pending in respect of the child;

”.

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Amendment disagreed to and the following amendment substituted –

Clause 19.

Page 16, lines 1 and 2 – To delete “an order under section 30 of the *Child Welfare Act 1947*” and substitute –

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Amendment disagreed to and the following amendments substituted –

New clause 37(1) is amended after paragraph (b) by deleting “or” and inserting –

“

(c) a person who is or was a parent to whom a responsible parenting order is or was directed or in respect of whom an application for such an order has been made;

(d) a person who is or was a child in respect of whom a responsible parenting order was made or an application for such an order has been made; or

”.

New clause 37(1)(c) is amended by inserting after “agreement” –

“ , interim responsible parenting order or responsible parenting order ”.

After new clause 37(3) the following subclause is inserted –

“

- (4) Subsection (1) does not apply to information or material contained in a report of proceedings to which section 35(1) of the *Children's Court of Western Australia Act 1988* applies.

”.

Mrs J. Hughes  
Acting Speaker

Legislative Assembly Chamber  
Perth, 6 September 2007

The Minister for Child Protection moved -

That the Legislative Council not insist on its Amendments Nos 6 to 8, 10 to 12, 18, 19, 24 to 36, 40 to 45, 49 and 50; agrees to the amendments proposed by the Legislative Assembly in substitution for the Legislative Council Amendments Nos 15, 17, 20 and 22; agrees to the further amendment to Amendment No. 48; does not insist on Amendments Nos 4, 14, 16, 23 and 39 but substitutes the following alternatives; and agrees to the Legislative Assembly substituted Amendment No. 21 subject to a further amendment.

**Amendment No. 4**

New amendment as an alternative to Amendment No. 4:

Clause 3, page 3, after line 3 — To insert —

“

“**income support**” means financial assistance provided under a law of the State or the Commonwealth;

”.

**Amendment No. 14**

New amendment as an alternative to Amendment No. 14:

Clause 9, page 6, line 6 — To delete the full stop and insert instead —

“

; or

- (c) a prescribed agency of the Commonwealth.

”.

**Amendment No. 16**

New amendment as an alternative to Amendment No. 16:

Clause 13, page 11, after line 12 — To insert —

“

- (5) The Court cannot make an order after the fifth anniversary of the day on which this section came into operation and an order in force on or after that anniversary ceases to have effect at the end of the 6 months immediately following that anniversary, if it does not otherwise cease before that time.

”.

**Amendment No. 21**

Agrees to the Legislative Assembly's substituted amendment subject to the following further amendment:

Clause 18, page 14, after line 28 — To insert —

“

- (b) if relevant — the income of the child’s family, the extent to which that income is derived from income support and any restrictions on the use, or reduction or suspension, of that income under a law of the State or the Commonwealth;

”.

**Amendment No. 23**

New amendments as alternatives to Amendment No. 23:

Clause 20, page 16, line 8 — To delete “\$2 000” and insert instead —

“ \$200 ”.

Clause 20, page 16, lines 12 to 14 — To delete the lines and insert instead —

“

- (3) The CEO cannot give approval under subsection (2) unless the CEO —
- (a) is satisfied that all reasonable efforts to assist and encourage the parent to comply with the order have failed; and
- (b) has taken into account the income of the child’s family, the extent to which that income is derived from income support and any restrictions on the use, or reduction or suspension, of that income under a law of the State or the Commonwealth.

”.

**Amendment No. 39**

New amendment as an alternative to Amendment No. 39:

Clause 35, page 23, after line 27 — To insert —

“

- (5) The warrant of execution may not be executed so as to seize or sell any property unless the Sheriff is satisfied that —
- (a) the property is wholly owned by the person in respect of whom the warrant is issued; and
- (b) it would not be detrimental to the welfare of a child of the person to seize or sell the property.

”.

The Deputy Chairman of Committees advised the Committee that the first paragraph of the motion would be divided into four parts and the alternative Amendments be put as separate questions.

Question, That the following words be agreed to -

“That the Legislative Council not insist on its Amendments Nos 6 to 8, 10 to 12, 18, 19, 24 to 36, 40 to 45, 49 and 50.”.

Question - put and passed.

Question, That the following words be agreed to -

“That the Legislative Council agrees to the amendments proposed by the Legislative Assembly in substitution for the Legislative Council Amendments Nos 15, 17, 20 and 22; agrees to the further amendment to Amendment No. 48.”.

Question - put and passed.

Question, That the following words be agreed to -

“That the Legislative Council does not insist on Amendments Nos 4, 14, 16, 23 and 39 but substitutes the following alternatives.”.

Question - put and passed.

Question, That the following words be agreed to -

“That the Legislative Council agrees to the Legislative Assembly substituted Amendment No. 21 subject to a further amendment.”.

Question - put and passed.

Question, That the following words be agreed to -

**Amendment No. 4**

New amendment as an alternative to Amendment No. 4:

Clause 3, page 3, after line 3 — To insert —

“

“**income support**” means financial assistance provided under a law of the State or the Commonwealth;

”.

Debate ensued.

Question - put and passed.

Question, That the following words be agreed to -

**Amendment No. 14**

New amendment as an alternative to Amendment No. 14:

Clause 9, page 6, line 6 — To delete the full stop and insert instead —

“

; or

(c) a prescribed agency of the Commonwealth.

”.

Question - put and passed.

Question, That the following words be agreed to -

**Amendment No. 16**

New amendment as an alternative to Amendment No. 16:

Clause 13, page 11, after line 12 — To insert —

“

(5) The Court cannot make an order after the fifth anniversary of the day on which this section came into operation and an order in force on or after that anniversary ceases to have effect at the end of the 6 months immediately following that anniversary, if it does not otherwise cease before that time.

”.

Debate ensued.

Question - put and passed.

Question, That the following words be agreed to -

**Amendment No. 21**

Agrees to the Legislative Assembly’s substituted amendment subject to the following further amendment:

Clause 18, page 14, after line 28 — To insert —

“

(b) if relevant — the income of the child’s family, the extent to which that income is derived from income support and any restrictions on the use, or reduction or suspension, of that income under a law of the State or the Commonwealth;

”.

Debate ensued.

*Interruption of Debate* [SO 61(c)].

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The Deputy President resumed the Chair.

The Deputy Chairman reported, That the Committee had considered Message No. 243 from the Legislative Assembly, made progress, and asked leave to sit again.

Ordered - That the Committee have leave to sit again.

**18. Adjournment**

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

Debate ensued.

Question - put and passed.

The House adjourned at 10.27pm until Wednesday, 12 March 2008 at 4.00pm.

**Members present during the day's proceedings**

Attendance: Present all Members except Hon Ed Dermer and Hon Sheila Mills.

Member granted leave: Hon Barbara Scott.

**MALCOLM PEACOCK**  
Clerk of the Legislative Council

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