



LEGISLATIVE COUNCIL

THURSDAY, 14 MARCH 2024

10.00am

1. Meeting of Council

The Council assembled at 10.00am pursuant to order.

The President, Hon Alanna Clohesy, took the Chair.

Prayers and an Acknowledgement of Country were read.

2. Standing Committee on Environment and Public Affairs — Report 65 — Overview of Petitions 1 July 2023 to 31 December 2023

Hon Peter Foster presented Report 65 of the Standing Committee on Environment and Public Affairs, *Overview of Petitions 1 July 2023 to 31 December 2023*. (Tabled Paper 3011).

3. Unplanned outages of critical infrastructure

Non-Government Business No. 1 having been called, Hon Colin de Grussa moved, without notice —

That the Legislative Council notes the frustration of Western Australians in relation to ongoing unplanned outages and unreliability of critical communications, energy and water infrastructure and calls on the Government to address the redundancy, reliability and resilience of these services.

Debate ensued.

Point of Order

Hon Stephen Dawson raised the following Point of Order —

The honourable Member just called me incompetent. I would ask him to withdraw that immediately.

President's Ruling

The President ruled as follows —

I do agree that it could be considered unparliamentary, at the very least. I invite the honourable Member to withdraw the comment and continue with his remarks.

Hon Neil Thomson withdrew his remark.

Debate resumed.

Point of Order

Hon Tjorn Sibma raised the following Point of Order —

I understand that the Member previously claimed to be drawing his material from an aide-memoir. An aide-memoir is a prompt to the memory. It is very clear that the Member is completely reliant on, and reading word for word, the document in front of him.

Acting President's Ruling

The Acting President ruled as follows —

Standing Order 36 advises that you are not to read from a prepared speech, so I will just remind you that if it is an aide-memoir, please use it accordingly

Debate resumed.

The Minister for Emergency Services tabled correspondence, dated 8 March 2024, from the Chief Executive Officer of Telstra in relation to storm event power outages. (Tabled Paper 3012).

Debate resumed.

Motion lapsed.

4. Securing energy security

Private Members' Business No. 1 having been called, Hon Dan Caddy moved, without notice —

That this House commends the Cook Government's commitment to securing energy security for Western Australia, as demonstrated by the construction of the Kwinana Big Batteries and the Collie Big Battery.

Debate ensued.

Motion lapsed.

5. Order of Business

Ordered — That Order of the Day No. 1, *Shire of Kondinin Amendment Local Law 2023 — Disallowance*, be taken after Order of the Day No. 9, *Land Tax Assessment Amendment (Residential Construction Exemptions) Bill 2023*. (Leader of the House).

6. Residential Tenancies Amendment Bill 2023

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

The Acting President left the Chair.

In Committee

(Hon Steve Martin in the Chair)

Clause 2.

Debate resumed.

The Minister for Commerce tabled supporting regulations in relation to the Bill. (Tabled Paper 3013).

Debate resumed.

Clause agreed to.

Clause 3 agreed to.

Clause 4.

Debate ensued.

Hon Dr Brad Pettitt, by leave, moved —

Page 4, after line 7 — To insert:

exempt, from complying with a minimum housing standard, means exempt from complying with the standard under a regulation under section 27D(3)(b);

Page 4, after line 15 — To insert:

minimum housing standard has the meaning given in section 27D(1);

Page 23, after line 21 — To insert:

20A. Part IV Division 1B inserted

After Part IV Division 1A insert:

Division 1B — Minimum housing standards

27D. Meaning of minimum housing standards

- (1) Each standard set out in subsection (2) or prescribed under subsection (3)(a) is a ***minimum housing standard*** for residential premises under a residential tenancy agreement.
- (2) Each of the following is a minimum standard —
 - (a) the premises must be free from mould;
 - (b) the premises must have privacy coverings for windows in all rooms in which tenants or residents are reasonably likely to expect privacy;
 - (c) the premises must have adequate ceiling insulation.
- (3) The regulations may —
 - (a) prescribe other minimum standards for premises under a residential tenancy agreement, including in relation to physical accessibility, energy efficiency, safety and security, sanitation and amenity; and
 - (b) provide for exemptions for premises from complying with a minimum standard.

27E. Lessor's obligations about minimum housing standards

- (1) In this section —
compliance day, in relation to residential premises that do not comply with a minimum housing standard, means —
 - (a) if a period in which the premises must comply is prescribed — the end of the prescribed period; or
 - (b) in any other case — the day that is 1 month after the day on which a residential tenancy agreement for the premises is entered into.
- (2) A lessor must ensure that residential premises offered for a tenancy under a residential tenancy agreement comply with the minimum housing standards or, if the premises do not comply with a minimum housing standard, that the premises comply with the standard by the compliance day.
- (3) Before a residential tenancy agreement is entered into for the residential premises, the lessor or lessor's agent must give each prospective tenant a written statement that contains the following information —

- (a) a statement about whether the premises comply with the minimum housing standards;
 - (b) if the premises do not comply with a minimum housing standard and are not exempt from complying with the standard —
 - (i) the reason why the premises do not comply with the standard; and
 - (ii) the compliance day by which the premises are required to comply with the standard;
 - (c) if the premises do not comply with a minimum housing standard and are exempt from complying with the standard — the reason for the exemption.
- (4) If, after entering into a residential tenancy agreement, the lessor becomes aware that the premises do not, or no longer, comply with a minimum housing standard, the lessor must ensure the premises comply with the standard as soon as practicable after becoming aware of the noncompliance.
- (5) For paragraph (b) of the definition of **compliance day** in subsection (1), if a residential tenancy agreement that creates a tenancy for a fixed term has been renewed or extended, or continues as a periodic tenancy under section 76C, the day on which the agreement was entered into is the day on which the agreement that created the initial fixed term was entered into.

27F. Lessor must keep records about minimum housing standards

A lessor must keep the following records for residential premises let under a residential tenancy agreement —

- (a) if the premises are required to comply with a minimum housing standard — evidence that the premises comply;
- (b) if the premises are exempt from complying with a minimum housing standard — evidence supporting the exemption;
- (c) any other prescribed record.

Page 71, after line 5 — To insert:

98A. Phase-in period for minimum housing standards

Part IV Division 1B does not apply to a residential tenancy agreement until the day that is 1 year after the day on which the *Residential Tenancies Amendment Act 2023* section 20A comes into operation.

Debate ensued.

Amendments — put.

The Committee divided.

Ayes (3)

Hon Sophia Moermond
Hon Wilson Tucker

Hon Dr Brian Walker (*Teller*)

Noes (26)

Hon Martin Aldridge
 Hon Dan Caddy
 Hon Sandra Carr
 Hon Peter Collier
 Hon Stephen Dawson
 Hon Colin de Grussa
 Hon Kate Doust
 Hon Sue Ellery
 Hon Donna Faragher
 Hon Lorna Harper
 Hon Jackie Jarvis
 Hon Ayor Makur Chuot
 Hon Steve Martin

Hon Kyle McGinn
 Hon Shelley Payne
 Hon Stephen Pratt
 Hon Martin Pritchard
 Hon Samantha Rowe
 Hon Rosie Sahanna
 Hon Tjorn Sibma
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Dr Steve Thomas
 Hon Neil Thomson
 Hon Pierre Yang
 Hon Peter Foster (*Teller*)

Amendments thus negatived.

Question, That the clause stand as printed — put and passed.

Clause 5.

Debate ensued.

Clause agreed to.

Clauses 6 and 7 agreed to.

Clause 8.

Debate ensued.

Clause agreed to.

Clause 9.

Debate ensued.

Clause agreed to.

Clause 10 agreed to.

Clause 11.

Debate ensued.

Clause agreed to.

Clause 12 agreed to.

Clause 13.

Debate ensued.

Clause agreed to.

Clause 14.

Debate ensued.

Clause agreed to.

Clauses 15 and 16 agreed to.

Clause 17.

Debate ensued.

Clause agreed to.

Clause 18.

Debate ensued.

Clause agreed to.

Clause 19.

Debate ensued.

Clause agreed to.

Clauses 20 and 21 agreed to.

Clause 22.

Debate ensued.

Hon Wilson Tucker moved —

Page 24, after line 23 — To insert:

- (4) A person must not accept an offer from another person for the other person to become a tenant of residential premises at a rent higher than the amount advertised as the rent for the premises.
Penalty for this subsection: a fine of \$10 000.

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (4)

Hon Sophia Moermond
Hon Dr Brad Pettitt

Hon Dr Brian Walker
Hon Wilson Tucker (*Teller*)

Noes (30)

Hon Martin Aldridge
Hon Klara Andric
Hon Dan Caddy
Hon Sandra Carr
Hon Peter Collier
Hon Stephen Dawson
Hon Colin de Grussa
Hon Kate Doust
Hon Sue Ellery
Hon Donna Faragher
Hon Nick Goiran
Hon Lorna Harper
Hon Jackie Jarvis
Hon Louise Kingston
Hon Ayor Makur Chuot

Hon Steve Martin
Hon Kyle McGinn
Hon Shelley Payne
Hon Stephen Pratt
Hon Martin Pritchard
Hon Samantha Rowe
Hon Rosie Sahanna
Hon Tjorn Sibma
Hon Matthew Swinbourn
Hon Dr Sally Talbot
Hon Dr Steve Thomas
Hon Neil Thomson
Hon Darren West
Hon Pierre Yang
Hon Peter Foster (*Teller*)

Amendment thus negatived.

Debate resumed.

Question, That the clause stand as printed — put and passed.

Clause 23 agreed to.

Clause 24

Debate ensued.

Clause agreed to.

Clause 25.

Debate ensued.

Hon Dr Brad Pettitt, by leave, moved —

Page 26, after line 20 — To insert:

(2) After section 30(3) insert:

(4) This section applies subject to section 31AA.

Page 26, after line 30 — To insert:

(2) After section 31A(2) insert:

(3) This section applies subject to section 31AA.

Page 27, before line 1 — To insert:

26A. Sections 31AA and 31AB inserted

After section 31A insert:

31AA. Limit on increase in rent

- (1) A lessor cannot increase the rent payable under a residential tenancy agreement under section 30 or 31A by an amount greater than the increase limit.
- (2) Despite subsection (1), the lessor may increase the rent payable by an amount greater than the increase limit only if —
 - (a) the residential tenancy agreement sets out the amount of the increase or the method of calculating the amount of the increase; or
 - (b) after the lessor gives the tenant notice of the increase of rent, the tenant agrees to the increase in writing; or
 - (c) a competent court approves the amount of the increase.
- (3) The notice of increase of rent a lessor gives a tenant under section 30 or 31A must state —
 - (a) the amount of the proposed increase; and
 - (b) whether the amount of the proposed increase is more than the increase limit; and
 - (c) if the proposed increase is more than the increase limit — that if the tenant does not agree to the proposed increase, the lessor may only make the increase with the approval of a competent court.

- (4) The **increase limit**, in relation to an increase in the rent payable under a residential tenancy agreement, is the amount calculated using the following formula —

$$R \times \frac{\text{current CPI} - \text{initial CPI}}{\text{initial CPI}} \times 1.1$$

where —

R is the current rent payable;

current CPI is —

- (a) the CPI published most recently before the lessor gives the tenant the notice mentioned in subsection (3); or
- (b) if the CPI mentioned in paragraph (a) is less than the initial CPI — the initial CPI;

initial CPI is the CPI published most recently before —

- (a) the day the residential tenancy agreement commenced; or
- (b) if the rent payable has been increased previously — the day on which the lessor gave the tenant notice about the previous increase of rent under section 30 or 31A;

CPI is the quarterly index number for the rents subgroup of the housing group of the Consumer Price Index for Perth published by the Australian Bureau of Statistics.

31AB. Lessor's application to increase rent above increase limit

- (1) In this section —
increase limit, in relation to an increase in the rent payable under a residential tenancy agreement, has the meaning given in section 31AA(4).
- (2) A lessor under a residential tenancy agreement may apply to a competent court for an order approving an increase in the rent payable under the agreement by an amount greater than the increase limit.
- (3) In deciding the application, the court must have regard to the following matters —
 - (a) the general level of rents for comparable premises in the locality or a similar locality;
 - (b) the estimated capital value of the premises;
 - (c) the amount of the outgoings in respect of the premises required to be met by the lessor under the agreement;
 - (d) the estimated cost of any services provided by the lessor or tenant under the agreement;
 - (e) the value and nature of the chattels provided with the premises for use by the tenant;
 - (f) the accommodation and amenities provided in the premises and their state of repair and general condition.

- (4) Subsection (3) does not limit the matters the court may have regard to in deciding the application.
- (5) If the court decides not to approve the increase in rent by the amount requested, the court may, having regard to the justice and merits of the case, order that the rent payable under the residential tenancy agreement from a specified day not exceed a specified amount.
- (6) An order made under subsection (5) has effect for the period of 1 year starting on the day specified in the order as the day on which it takes effect.
- (7) A court may, on the application of the tenant, vary or revoke an order made under subsection (5) if satisfied it is just to do so, having regard to the matters set out in subsection (3).
- (8) A person must not demand or receive rent for the residential premises that exceeds the amount ordered by the court under subsection (5).
Penalty for this subsection: a fine of \$5 000.

Page 71, after line 25 — To insert:

- (4) Section 31AA, as in force from the commencement —
 - (a) does not apply to an increase in rent under the residential tenancy agreement if a notice of the increase in rent was given under section 30 or 31A before the commencement; and
 - (b) otherwise, applies to the residential tenancy agreement.

Debate ensued.

Amendments — put and negatived.

Question, That the clause stand as printed — put and passed.

Clauses 26 to 30 agreed to.

Clause 31.

Debate ensued.

Clause agreed to.

Clause 32 agreed to.

Clause 33.

Debate ensued.

7. Questions Without Notice

Questions without notice were taken.

The Minister for Emergency Services representing the Minister for Corrective Services, by leave, incorporated into *Hansard* a response to a question without notice asked by Hon Tjorn Sibma.

The Minister for Emergency Services representing the Minister for Transport tabled a response to a question without notice asked by Hon Nick Goiran. (Tabled Paper 3014).

The Minister for Emergency Services representing the Minister for Police, by leave, incorporated into *Hansard* a response to a question without notice asked by Hon Louise Kingston.

The Minister for Emergency Services representing the Minister for Police tabled a response to a question without notice asked by Hon Nick Goiran. (Tabled Paper 3015).

The Parliamentary Secretary to the Minister for Environment, by leave, incorporated into *Hansard* a response to a question without notice asked by Hon Neil Thomson.

The Parliamentary Secretary to the Minister for Health, by leave, incorporated into *Hansard* a response to a question without notice asked by Hon Steve Martin.

8. Residential Tenancies Amendment Bill 2023

Resumption of consideration of this Bill in Committee of the Whole House (*see item 6 above*).

The President left the Chair.

In Committee

(Hon Sandra Carr in the Chair)

Clause 33.

Debate resumed.

Interruption pursuant to order.

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.

9. Adjournment

There being no Members' Statements the Council adjourned at 5.20pm until Tuesday, 19 March 2024 at 1.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Ben Dawkins.

SAM HASTINGS

Clerk of the Legislative Council

HON ALANNA CLOHESY MLC

President of the Legislative Council