

WESTERN AUSTRALIA

# LEGISLATIVE ASSEMBLY

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## VOTES AND PROCEEDINGS

No. 156

FIRST SESSION OF THE THIRTY-SEVENTH PARLIAMENT

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WEDNESDAY, 5 SEPTEMBER 2007

### 1. Meeting of Assembly

The Assembly met at 12 noon pursuant to adjournment.

The Deputy Speaker took the Chair.

Prayers were read.

### 2. Papers

The following papers were presented and ordered to lie upon the Table of the House -

By the Deputy Speaker -

Auditor General, Office of the - Management of Native Vegetation Clearing, Report No. 8, September 2007 (3079).

By the Clerk -

Official Travel - Minister for Corrective Services; Small Business; Minister Assisting the Minister for Federal-State Relations: Report on trip to New Zealand for Corrective Services Ministers' Conference and for briefings from New Zealand Department of Correction Officials, 25 to 28 June 2007 (3080).

### 3. Brief Ministerial Statements

The following Brief Ministerial Statements were made by -

The Minister for Consumer Protection on the Department of Consumer and Employment Protection's inspections of toxic content in show bags intended for sale at this year's Perth Royal Show.

The Attorney General on the Government's response to the recommendations of the Joint Standing Committee on the Corruption and Crime Commission Interim Report (No. 24) on Amendments to the *Corruption and Crime Commission Act 2003* - A Public Interest Monitor, and the appointment of Ms Gail Archer to conduct a review of the operation and effectiveness of the *Corruption and Crime Commission Act 2003*.

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*Paper*

The following paper was presented and ordered to lie upon the Table of the House -

By the Attorney General -

Joint Standing Committee on the Corruption and Crime Commission - Letter dated 4 September 2007 from the Attorney General to the Hon Ken Travers MLC, Chair of the Joint Standing Committee on the Corruption and Crime Commission: Joint Standing Committee of the Corruption and Crime Commission - Interim Report on Amendments to the Corruption and Crime Commission Act 2003 - A Public Interest Monitor (3081).

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**4. Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Bill 2006**

Message No. 166 dated 4 September 2007 from the Legislative Council was reported as follows -

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Bill 2006* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

*Schedule indicating the amendments made by the Legislative Council in the Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Bill 2006*

**No. 1**

Clause 4, page 6, after line 3 — To insert —

- “
- (6) Regulations made under subsection (4) in relation to a matter referred to in subsection (5)(a) or (c) must be made within such period as is reasonably and practicably necessary to deal with a transitional matter that arises as a result of the enactment of this Act or the BAM Act.
- ”.

**No. 2**

Clause 5, page 7, after line 4 — To insert —

- “
- (6) Regulations made under subsection (1) in relation to a matter referred to in subsection (2) must be made within such period as is reasonably and practicably necessary to deal with a transitional matter that arises as a result of the enactment of this Act or the BAM Act.
- ”.

**No. 3**

Clause 12, page 9, after line 19 — To insert —

- “
- “**Authority**” means the Western Australian Agriculture Authority established under the *Biosecurity and Agriculture Management Act 2006*;
- ”.

**No. 4**

Clause 12, page 9, lines 25 to 27 — To delete the lines.

**No. 5**

Clause 13, page 10, line 3 — To delete “Ministerial Body” and insert instead —  
“ Authority ”.

**No. 6**

Clause 14, page 10, line 8 — To delete “Ministerial Body” and insert instead —  
“ Authority ”.

**No. 7**

Clause 14, page 10, line 11 — To delete “Ministerial Body” and insert instead —  
“ Authority ”.

**No. 8**

Clause 14, page 10, line 17 — To delete “Ministerial Body” and insert instead —  
“ Authority ”.

**No. 9**

Clause 14, page 10, line 19 — To delete “Ministerial Body” and insert instead —  
“ Authority ”.

**No. 10**

Clause 15, page 10, lines 25 and 26 — To delete “performing the Ministerial Body’s functions under”.

**No. 11**

Clause 15, page 10, line 30 — To delete “Ministerial Body” and insert instead —  
“ Authority ”.

**No. 12**

Clause 16, page 11, lines 2 to 5 — To delete the lines and insert instead —

“

- (1) On the commencement day any intellectual property, or right to apply for, hold, receive, exploit or dispose of intellectual property, that the State has immediately before that day is, by operation of this section, assigned to the Authority.

- (2) In subsection (1) —

“**intellectual property**” means intellectual property created in the performance of functions under the repealed Act.

”.

**No. 13**

Clause 16, page 11, line 6 — To delete “Ministerial Body” and insert instead —  
“ Minister ”.

**No. 14**

Clause 17, page 11, line 16 — To delete “Ministerial Body” and insert instead —  
 “ Authority ”.

**No. 15**

Clause 17, page 11, line 21 — To delete “Ministerial Body” and insert instead —  
 “ Authority ”.

**No. 16**

Clause 36, page 17, line 6 — To delete “*Administration and Audit Act 1985*” and insert instead —  
 “ *Management Act 2006* ”.

**No. 17**

Clause 38, page 19, lines 9 to 16 — To delete the lines.

**No. 18**

Clause 38, page 19, line 25 — To delete “Ministerial Body” and insert instead —  
 “ Authority ”.

**No. 19**

Clause 38, page 19, line 26 — To delete “Ministerial Body” and insert instead —  
 “ Authority ”.

**No. 20**

Clause 38, page 19, after line 28 — To insert the following —

“  
 (2) In this section —  
     “**Authority**” means the Western Australian Agriculture Authority established  
         under the *Biosecurity and Agriculture Management Act 2006*.  
 ”.

**No. 21**

Clause 40, page 20, after line 11 — To insert —

“  
     “**Authority**” means the Western Australian Agriculture Authority established  
         under the *Biosecurity and Agriculture Management Act 2006*;  
 ”.

**No. 22**

Clause 40, page 20, lines 19 to 21 — To delete the lines.

**No. 23**

Clause 41, page 20, line 26 — To delete “Fund” and insert instead —  
 “ Account ”.

**No. 24**

Clause 41, page 21, line 1 — To delete “Fund” and insert instead —

“ Account ”.

**No. 25**

Clause 42, page 21, lines 7 and 8 — To delete “Ministerial Body” and insert instead —

“ Authority ”.

**No. 26**

Clause 42, page 21, line 11 — To delete “Ministerial Body” and insert instead —

“ Authority ”.

**No. 27**

Clause 42, page 21, line 17 — To delete “Ministerial Body” and insert instead —

“ Authority ”.

**No. 28**

Clause 42, page 21, lines 18 and 19 — To delete “Ministerial Body” and insert instead —

“ Authority ”.

**No. 29**

Clause 43, page 21, line 21 — To delete “Ministerial Body” and insert instead —

“ Authority ”.

**No. 30**

Clause 43, page 21, line 27 — To delete “Ministerial Body” and insert instead —

“ Authority ”.

**No. 31**

Clause 43, page 22, line 1 — To delete “Ministerial Body” and insert instead —

“ Authority ”.

**No. 32**

Clause 45, page 22, line 12 to page 23, line 13 — To delete the clause.

**No. 33**

Clause 46, page 23, line 20 — To delete “Ministerial Body” and insert instead —

“ Authority ”.

**No. 34**

Clause 46, page 23, line 24 — To delete “Ministerial Body” and insert instead —

“ Authority ”.

**No. 35**

Clause 64, page 28, after line 22 — To insert —

“

- (2) A person must not enter an orchard under subsection (1) unless —
  - (a) the person has taken reasonable steps to give the owner or occupier of the orchard notice of the intended entry; or
  - (b) the owner or occupier of the orchard consents to the entry.
- (3) The notice must specify the purpose for which the entry is required and successive entries for that purpose are to be regarded as entries to which the notice relates.
- (4) The notice must be given not less than 24 hours before the power of entry is exercised.

”.

**No. 36**

Clause 89, page 41, after line 21 —

“

“**Crown land**” means land other than —

- (a) land alienated from the Crown; or
- (b) land that the Crown has lawfully agreed to alienate; or
- (c) land held under a lease lawfully granted by the Crown;

”.

Ordered, That consideration in detail of Legislative Council message No. 166 be made an Order of the Day for the next sitting of the Assembly.

**5. Biosecurity and Agriculture Management Rates and Charges Bill 2006**

Message No. 167 dated 4 September 2007 from the Legislative Council was reported agreeing to the bill without amendment.

**6. Surrogacy Bill 2007**

The Order of the Day for the further consideration in detail of the bill was read.

*CONSIDERATION IN DETAIL*

Clause 16.

Dr E. Constable moved,

Page 7, line 8 – To delete “one year” and substitute –

“ 6 months ”.

Amendment put and passed.

Clause, as amended, agreed to.

Clause 17.

The Minister for Health moved,

Page 8, line 5 – To insert before “the child” –

“ except in circumstances identified in subsection (5), ”.

Page 8, line 25 – To insert before “If” –

“ In circumstances identified in subsection (5) or ”.

Page 9, after line 4 – To insert –

“

- (5) The circumstances this subsection identifies are that –
  - (a) the birth mother is not the child’s genetic parent; and
  - (b) at least one arranged parent is the child’s genetic parent.

”.

Amendments put and passed.

Clause, as amended, agreed to.

Clauses 18 to 40 agreed to.

New clause.

Dr E. Constable moved,

Page 22, after line 30 – To insert the following new clause –

“

#### **41. Review of Act**

- (1) The Minister shall carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiry of 4 years from its commencement.
- (2) The Minister shall prepare a report based on the review made under subsection (1) and shall, as soon as is practicable after that preparation, cause that report to be laid before each House of Parliament.

”.

Amendment put and passed.

Clauses 41 to 46 agreed to.

Title agreed to.

Consideration in detail concluded.

Ordered, That the third reading of the bill be made an Order of the Day for the next sitting of the Assembly.

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*Sitting suspended from 1.53 p.m. to 2.00 p.m.*

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#### **7. Questions**

Questions without Notice were taken.

Question on Notice No. 2668 was asked.

Question on Notice No. 2603 was answered.

## 8. Human Reproductive Technology Amendment Bill 2007

The Order of the Day for the consideration in detail of the bill was read.

### *CONSIDERATION IN DETAIL*

Clauses 1 to 7 agreed to.

Clause 8.

Mr T.G. Stephens moved,

Page 5, lines 20 to 22 – To delete the lines and substitute –

“

- (a) the creation of a single cell containing 2 pro-nuclei following the fertilisation of a human oocyte by a human sperm; or

”.

Amendment put and negatived.

Mr T.G. Stephens moved,

Page 5, line 28 – To delete “the primitive streak appears” and substitute –

“ it forms a blastocyst ”.

Amendment put and negatived.

Clause agreed to.

Clauses 9 to 30 agreed to.

Clause 31.

Mr T.G. Stephens moved,

Page 13, lines 20 to 28 – To delete the lines and substitute –

“

A person commits a crime if the person uses precursor cells taken from a human embryo or a human foetus, intending to create a human embryo, or develops an embryo so created.

”.

On the question, That the words be deleted,

Question put.

The Assembly divided.

#### Ayes (13)

Mr P.W. Andrews  
Mr T.R. Buswell  
Mr G.M. Castrilli  
Ms K. Hodson-Thomas  
Mr P.D. Omodei

Mr J.R. Quigley  
Ms M.M. Quirk  
Mrs M.H. Roberts  
Mr A.J. Simpson  
Mr G. Snook

Mr T.G. Stephens  
Mr P.B. Watson  
Dr S.C. Thomas (*Teller*)

## Noes (26)

Mr C.J. Barnett  
 Mr M.J. Birney  
 Mr A.J. Carpenter  
 Dr E. Constable  
 Mr J.H.D. Day  
 Dr J.M. Edwards  
 Mrs D.J. Guise  
 Dr K.D. Hames  
 Mrs J. Hughes

Mr J.N. Hyde  
 Mr J.C. Kobelke  
 Mr R.C. Kucera  
 Mr J.A. McGinty  
 Mr M. McGowan  
 Ms S.M. McHale  
 Mr A.D. McRae  
 Mrs C.A. Martin  
 Mr M.P. Murray

Mr A.P. O’Gorman  
 Mr P. Papalia  
 Ms J.A. Radisich  
 Mr D.T. Redman  
 Ms S.E. Walker  
 Dr J.M. Woollard  
 Mr B.S. Wyatt  
 Mr S.R. Hill (*Teller*)

Amendment thus negatived.

Clause agreed to.

Clauses 32 to 38 agreed to.

Clause 39.

Mr T.G. Stephens moved,

Page 24, lines 16 to 30 – To delete the lines.

Amendment put and negatived.

Clause agreed to.

Clause 40 agreed to.

New clause.

Mr T.G. Stephens moved,

Page 25, after line 4 – To insert the following new clause –

“

**41.** After Division 5 of Part 4B the following new division is inserted –

“

## **Division 5B—Additional requirements for research involving gametes and other cells**

### **53ZIA Definitions**

In this Division –

***dependent relationship*** means a relationship where unequal power exists between the persons in the relationship including a relationship between –

- (a) students and teachers; and
- (b) employees and their employers or supervisors; and
- (c) persons with chronic conditions or disabilities and their carers; and
- (d) patients and health care professionals;

***National Statement*** means the NHMRC National Statement on Ethical Conduct in Research Involving Humans, as in force from time to time.

### **53ZIB Obtaining a gamete for research**

- (1) A gamete may be obtained for research only in accordance with the National Statement.

- (2) If the obtaining of a gamete for research requires the person donating the gamete to undergo a medical procedure, the person carrying out the medical procedure must not be a person involved in conducting the research.
- (3) Donation of a gamete for research must be voluntary and free from exploitation and coercion.
- (4) If the donation by a person of a gamete for research involves more than low risk from non-therapeutic procedures, the person donating the gamete must not be in a dependent relationship with the person or other body conducting the research.
- (5) For the purposes of subsection (4), research involves low risk only if the only foreseeable risk is one of discomfort.

### **53ZIC Information to be given to person donating a gamete or other cell**

A person must be given the following information before consenting, or being asked to consent, to the obtaining or use of a gamete, or the obtaining or use of any other cell for the creation of a human embryo, for research –

- (a) a statement that consent to the obtaining or use of the gamete or other cell for research is voluntary;
- (b) a description of the research for which the gamete or other cell and any products derived from it will be used and any likely benefits from the research, including an estimate of when the benefits might be realised;
- (c) a statement of the potential risks of obtaining and donating the gamete or other cell, including details of any risks to the future fertility of the person;
- (d) a description of the procedures for obtaining the gamete or other cell from the person;
- (e) a statement about how the person may withdraw from the obtaining or the use of the gamete or other cell, including details of any risks that may arise or additional procedures that may be required as a result of the withdrawal;
- (f) information about counselling services available to the person;
- (g) a statement about how the person's privacy will be protected;
- (h) a statement about the potential financial interests of researchers in the outcome of the research program, including any future financial gains the researchers may receive if the research gives rise to a commercial product;
- (i) any other information the National Statement requires the person to be given.

” ”

Amendment put and negatived.

Clauses 41 to 56 agreed to.

Title agreed to.

Consideration in detail concluded.

Ordered, That the third reading of the bill be made an Order of the Day for the next sitting of the Assembly.

*Sitting suspended from 3.54 p.m. to 4.00 p.m.*

## 9. Variation to the Order of Business

The Leader of the House moved, That Private Members' Business Notices of Motion Nos 16 and 15 be next considered.

Debate ensued.

Question put and passed.

## 10. Relocation of Busselton Hospital

Mr T.R. Buswell, pursuant to notice, moved,

That this House calls on the Minister for Health to -

- (a) acknowledge the outcome of the referendum recently conducted by the Shire of Busselton, which showed overwhelming public opposition to the Government's plans to relocate the existing Busselton Hospital to Vasse;
- (b) reconsider, in light of the referendum result and the Government's own specialist reports, the decision to relocate the Busselton Hospital to Vasse; and
- (c) initiate an independent probity audit of the processes utilised and decisions made in relation to the relocation of the Busselton Hospital, with the outcome on the audit to be publicised.

Debate ensued.

Question put.

The Assembly divided.

### Ayes (17)

Mr C.J. Barnett	Mr M.J. Cowper	Mr A.J. Simpson
Mr D.F. Barron-Sullivan	Mr J.H.D. Day	Mr G. Snook
Mr M.J. Birney	Dr K.D. Hames	Dr S.C. Thomas
Mr T.R. Buswell	Ms K. Hodson-Thomas	Ms S.E. Walker
Mr G.M. Castrilli	Mr J.E. McGrath	Mr T.R. Sprigg ( <i>Teller</i> )
Dr E. Constable	Mr P.D. Omodei	

### Noes (24)

Mr P.W. Andrews	Mr J.A. McGinty	Ms M.M. Quirk
Mr A.J. Carpenter	Mr M. McGowan	Ms J.A. Radisich
Dr J.M. Edwards	Ms S.M. McHale	Mrs M.H. Roberts
Mrs D.J. Guise	Mr A.D. McRae	Mr T.G. Stephens
Mrs J. Hughes	Mrs C.A. Martin	Mr P.B. Watson
Mr J.N. Hyde	Mr M.P. Murray	Mr M.P. Whitely
Mr J.C. Kobelke	Mr P. Papalia	Mr B.S. Wyatt
Mr R.C. Kucera	Mr J.R. Quigley	Mr S.R. Hill ( <i>Teller</i> )

Question thus negatived.

## 11. Abuse in Fitzroy Crossing

Dr K.D. Hames, pursuant to notice, moved,

That the Minister for Health be required to present before the appropriate parliamentary committee to investigate his lack of response and deception of the people of Western Australia, in relation to letters received by his office, outlining allegations of sexual and alcohol abuse in Fitzroy Crossing.

Debate ensued.

Question put.

The Assembly divided.

Ayes (14)

Mr C.J. Barnett  
Mr D.F. Barron-Sullivan  
Mr M.J. Birney  
Mr G.M. Castrilli  
Mr M.J. Cowper

Mr J.H.D. Day  
Dr K.D. Hames  
Ms K. Hodson-Thomas  
Mr P.D. Omodei  
Mr A.J. Simpson

Mr G. Snook  
Dr S.C. Thomas  
Ms S.E. Walker  
Mr T.R. Sprigg (*Teller*)

Noes (23)

Mr P.W. Andrews  
Mr A.J. Carpenter  
Dr J.M. Edwards  
Mrs D.J. Guise  
Mrs J. Hughes  
Mr J.N. Hyde  
Mr J.C. Kobelke  
Mr J.A. McGinty

Mr M. McGowan  
Ms S.M. McHale  
Mr A.D. McRae  
Mrs C.A. Martin  
Mr M.P. Murray  
Mr P. Papalia  
Mr J.R. Quigley  
Ms M.M. Quirk

Ms J.A. Radisich  
Mrs M.H. Roberts  
Mr T.G. Stephens  
Mr P.B. Watson  
Mr M.P. Whitely  
Mr B.S. Wyatt  
Mr S.R. Hill (*Teller*)

Question thus negatived.

## 12. Adjournment

Mr C.J. Barnett moved, That the House do now adjourn.

Question put and passed.

The Assembly adjourned accordingly, at 6.08 p.m. until Thursday, 6 September 2007 at 9.00 a.m.

*Members present during any part of the day's proceedings* - All the members except Mr J.J.M. Bowler, Mr B.J. Grylls, Dr G.G. Jacobs, Mr F.M. Logan, Mr F. Riebeling, Mr E.S. Ripper, Mr D.A. Templeman, Mr M.W. Trenorden, Mr T.K. Waldron and Mr G.A. Woodhams.

**PETER J. McHUGH**

Clerk of the Legislative Assembly

**MS D. GUISE**

Deputy Speaker of the Legislative Assembly