



## LEGISLATIVE COUNCIL

**WEDNESDAY, 19 OCTOBER 2022**

**1.00pm**

### 1. Meeting of Council

The Council assembled at 1.00pm pursuant to order.

The President, Hon Alanna Clohesy, took the Chair.

Prayers and an Acknowledgement of Country were read.

### 2. Papers

The following Papers were laid on the Table by —

#### President

*Auditor General's Papers —*

Limited Assurance Review — Compliance Frameworks for Anti-Money Laundering  
and Counter-Terrorism Financing Obligations (Report No. 6)  
(October 2022) .....1733

#### Minister for Emergency Services on behalf of the Leader of the House

*Annual Reports —*

Mental Health Advocacy Service (2021-22) (Date received 18/10/2022) .....1734

#### Minister for Emergency Services

*Annual Reports —*

Closing the Gap (2021-22) (Date received 19/10/2022) .....1735

#### Minister for Regional Development

*Annual Reports —*

Mid-West Development Commission (2021-22) (Date received 19/10/2022) .....1736

### 3. Mining Royalties

Hon Wilson Tucker: To move on the next day of sitting —

That this House —

(1) Notes that:

- (a) due to high commodity prices, resource companies are making windfall profits;
- (b) despite the super-profits made by private interests, the royalty paid to Western Australia is comparatively low; and

- (c) the immense wealth generated through the extraction of Western Australia's finite natural resources should be shared equitably with the people of this State.
- (2) Calls on the Government to increase the royalty rate of commodities, ensuring a more equitable royalty is paid during periods of higher commodity prices.

#### **4. Accountability and Transparency**

Motion No. 10 having been called, Hon Dr Steve Thomas, pursuant to notice, moved —

That this House notes —

- (a) the Premier's 2017 commitment in Opposition of a "gold standard of transparency" which he has failed to deliver;
- (b) the concerns raised by the Annual Report of the Office of the Auditor General which highlights multiple qualified audit opinions;
- (c) the declining standard of Parliamentary accountability under the McGowan Government;
- (d) the contempt that has crept into the Government in relation to accountability, resulting in a loss of community confidence;

and calls on the Government to try to make a genuine attempt to live up to its 2017 election commitment.

Debate ensued.

Question — put.

The Council divided.

#### **Ayes (10)**

Hon Peter Collier  
Hon Donna Faragher  
Hon James Hayward  
Hon Sophia Moermond  
Hon Tjorn Sibma

Hon Dr Steve Thomas  
Hon Neil Thomson  
Hon Wilson Tucker  
Hon Dr Brian Walker  
Hon Nick Goiran (*Teller*)

#### **Noes (18)**

Hon Klara Andric  
Hon Dan Caddy  
Hon Sandra Carr  
Hon Stephen Dawson  
Hon Kate Doust  
Hon Peter Foster  
Hon Lorna Harper  
Hon Jackie Jarvis  
Hon Alannah MacTiernan

Hon Kyle McGinn  
Hon Shelley Payne  
Hon Stephen Pratt  
Hon Martin Pritchard  
Hon Samantha Rowe  
Hon Rosie Sahanna  
Hon Matthew Swinbourn  
Hon Darren West  
Hon Pierre Yang (*Teller*)

Motion thus negatived.

## 5. Consideration of Committee Reports

Pursuant to order for the consideration of Committee Reports.

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### In Committee

(Hon Jackie Jarvis in the Chair)

#### **Standing Committee on Environment and Public Affairs — Report 58 — Overview of Petitions (2 June 2021 to 2 December 2021)**

Debate resumed on the motion of Hon Peter Foster, That the Report be noted.

Debate interrupted and postponed pursuant to SO 110(2A).

#### **Standing Committee on Estimates and Financial Operations — Report 85 — Consideration of the 2021-22 Budget Estimates**

Debate resumed on the motion of Hon Peter Collier, That the Report be noted.

*Interruption pursuant to order.*

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The Acting President resumed the Chair.

The Deputy Chair of Committees reported that the Committee of the Whole House had considered the —

- (1) Standing Committee on Environment and Public Affairs — Report 58 — *Overview of Petitions (2 June 2021 to 2 December 2021)*, made progress, and postponed further consideration until the next sitting.
- (2) Standing Committee on Estimates and Financial Operations — Report 85 — *Consideration of the 2021-2022 Budget Estimates*, made progress, and seeks to sit again.

Report adopted.

## 6. Order of Business

Ordered — That Order of the Day No. 3, *Health and Disability Services (Complaints) Amendment Bill 2021*, be taken after Order of the Day No. 7, *Emergency Management Amendment (Temporary COVID-19 Provisions) Bill 2022*. (Minister for Emergency Services).

## 7. Emergency Management Amendment (Temporary COVID-19 Provisions) Bill 2022

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

The Acting President left the Chair.

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### In Committee

(Hon Dr Brian Walker in the Chair)

Clause 1.

Debate resumed.

## 8. Questions Without Notice

Questions without notice were taken.

The Minister for Emergency Services representing the Treasurer tabled the *Review of the Public Trustee's Fees and Charges, Final Report (July 2020)*, in response to a question without notice asked by Hon Nick Goiran. (Tabled Paper 1737).

The Parliamentary Secretary to the Minister for Culture and the Arts on behalf of the Minister for Education and Training, by leave, incorporated into *Hansard* a table of total number of enrolment applications to the five language development centres for the 2022 school year for kindergarten to year 3, in response to a question without notice asked by Hon Donna Faragher.

The Minister for Regional Development representing the Minister for Forestry, by leave, incorporated into *Hansard* a table of total expenditure by the Forest Products Commission on maintaining roads in State forests, in response to a question without notice asked by Hon Steve Martin.

The Minister for Emergency Services representing the Minister for Environment, by leave, incorporated into *Hansard* information in relation to the answer regarding the workforce profile of the environment agencies, in response to a question without notice asked by Hon Tjorn Sibma.

The Minister for Emergency Services, by leave, incorporated into *Hansard* information in relation to After Action Reviews conducted by the Department of Fire and Emergency Services, in response to a question without notice asked by Hon Martin Aldridge.

The Minister for Emergency Services representing the Minister for Police, by leave, incorporated into *Hansard* information in relation to incidents at Halls Head Community College attended to by police, in response to a question without notice asked by Hon Peter Collier.

The Parliamentary Secretary to the Minister for Culture and the Arts on behalf of the Leader of the House representing the Minister for Health, by leave, incorporated into *Hansard* information in relation to number of children currently on the waiting list to access a clinical psychologist via the Western Australia Country Health Service, in response to a question without notice asked by Hon Donna Faragher.

The Parliamentary Secretary to the Minister for Culture and the Arts on behalf of the Leader of the House representing the Minister for Child Protection tabled the Department of Communities caseload management reporting summary, in response to a question without notice asked by Hon Nick Goiran. (Tabled Paper 1738).

## **9. Emergency Management Amendment (Temporary COVID-19 Provisions) Bill 2022**

Resumption of consideration of this urgent Bill in Committee of the Whole House (*see item 7 above*).  
The President left the Chair.

### **In Committee**

(Hon Steve Martin in the Chair)

Clause 1.

Debate resumed.

Clause agreed to.

Clause 2.

Debate ensued.

Hon Tjorn Sibma moved —

Page 2, line 11 — To delete “2 years” and insert:

1 year

Amendment — put.

The Committee divided.

**Ayes (9)**

Hon Donna Faragher  
 Hon Nick Goiran  
 Hon James Hayward  
 Hon Steve Martin  
 Hon Tjorn Sibma

Hon Dr Steve Thomas  
 Hon Neil Thomson  
 Hon Dr Brian Walker  
 Hon Colin de Grussa (*Teller*)

**Noes (18)**

Hon Klara Andric  
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 Hon Stephen Dawson  
 Hon Kate Doust  
 Hon Peter Foster  
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 Hon Alannah MacTiernan

Hon Kyle McGinn  
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 Hon Stephen Pratt  
 Hon Martin Pritchard  
 Hon Samantha Rowe  
 Hon Matthew Swinbourn  
 Hon Dr Sally Talbot  
 Hon Darren West  
 Hon Pierre Yang (*Teller*)

Amendment thus negated.

Debate resumed.

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

Clauses 3 to 5 agreed to.

Clause 6.

Debate ensued.

Clause agreed to.

Clause 7.

Debate ensued.

Hon Tjorn Sibma moved —

Page 4, line 23 — To delete “State Emergency Coordinator” and insert:

Minister

Debate ensued.

Amendment — put.

The Committee divided.

**Ayes (9)**

Hon Donna Faragher  
 Hon Nick Goiran  
 Hon James Hayward  
 Hon Steve Martin  
 Hon Tjorn Sibma

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 Hon Rosie Sahanna  
 Hon Matthew Swinbourn  
 Hon Dr Sally Talbot  
 Hon Darren West  
 Hon Pierre Yang (*Teller*)

Amendment thus negatived.

Debate resumed.

Hon Tjorn Sibma moved —

Page 9, line 22 to page 10, line 19 — To delete the lines and insert:

**77H. Publication of notice of declaration and related documents**

- (1) Notice of a COVID-19 declaration, or a declaration made under section 77E or 77F, must be —
  - (a) published for general information on a website maintained by, or on behalf of, the Government as soon as practicable, but in any case no later than 7 days, after the declaration is made; and
  - (b) published in the Gazette as soon as practicable, but in any case no later than 14 days, after the declaration is made.
- (2) The following documents relating to a declaration referred to in subsection (1) must also be published on a website maintained by, or on behalf of, the Government —
  - (a) a written statement setting out detailed reasons for making the declaration;
  - (b) the advice provided under section 77G(1)(b);
  - (c) any further statement of reasons provided under section 77G(4).
- (3) The documents referred to in subsection (2)(a) and (b) must be published as soon as practicable, but in any case no later than 7 days, after the declaration is made.
- (4) Any document referred to in subsection (2)(c) must be published as soon as practicable, but in any case no later than 7 days, after it is provided under section 77G(4).
- (5) A failure to publish a document in accordance with this section does not affect the validity of the declaration.

Amendment — put.

The Committee divided.

**Ayes (9)**

Hon Donna Faragher  
 Hon Nick Goiran  
 Hon James Hayward  
 Hon Steve Martin  
 Hon Tjorn Sibma

Hon Dr Steve Thomas  
 Hon Wilson Tucker  
 Hon Dr Brian Walker  
 Hon Colin de Grussa (*Teller*)

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 Hon Samantha Rowe  
 Hon Rosie Sahanna  
 Hon Matthew Swinbourn  
 Hon Dr Sally Talbot  
 Hon Darren West  
 Hon Pierre Yang (*Teller*)

Amendment thus negated.

Debate resumed.

The time under Standing Order 125(3) having elapsed the Deputy Chair put all questions *seriatim* —  
 Hon Tjorn Sibma moved —

Page 19, after line 25 — To insert:

**Division 4A — Parliamentary scrutiny****77RA. Term used: class direction**

In this Division —

***class direction*** means a direction given under section 77L, 77N, 77O or 77Q(2) in relation to a class of person, place or thing.

**77RB. Laying documents before Houses of Parliament**

- (1) If a COVID-19 declaration, or a declaration under section 77E or 77F, is made, the Minister must cause the following documents to be laid before each House of Parliament, or dealt with under section 77RC, within the period specified in subsection (2) —
  - (a) a copy of the declaration;
  - (b) a copy of the statement of reasons for making the declaration required to be published under section 77H(2)(a);
  - (c) a copy of the advice provided under section 77G(1)(b) in relation to the declaration;
  - (d) a copy of any statement of reasons provided under section 77G(4) in relation to the declaration.
- (2) For the purposes of subsection (1), the period is —

- (a) for a document referred to in subsection (1)(a), (b) or (c) — 7 days after the declaration is made; or
  - (b) for a document referred to in subsection (1)(d) — 7 days after the document is provided under section 77G(4).
- (3) If a class direction is given, the Minister must cause the following documents to be laid before each House of Parliament, or dealt with under section 77RC, within 7 days after the document is provided under section 77T(3A) —
  - (a) a copy of the direction;
  - (b) a copy of the statement of reasons for giving the direction.
- (4) If a report is provided under section 77U(5A)(c), the Minister must cause a copy of the report to be laid before each House of Parliament, or dealt with under section 77RC, within 7 days after the report is provided.

**77RC. Laying documents before House of Parliament not sitting**

- (1) This section applies if —
  - (a) a provision of this Act requires the Minister to cause a document to be laid before each House of Parliament, or dealt with under this section, within a period; and
  - (b) at the beginning of the period, a House of Parliament is not sitting; and
  - (c) in the Minister's opinion, the House will not sit before the end of the period.
- (2) The Minister must send the document to the Clerk of the House before the end of the period.
- (3) When the document is sent to the Clerk of the House it is taken to have been laid before the House.
- (4) The laying of the document that is taken to have occurred under subsection (3) must be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk receives the document.

**77RD. Class directions subject to disallowance**

- (1) The Interpretation Act 1984 section 42(2) to (8) apply to a class direction as if —
  - (a) the direction were a regulation; and
  - (b) a reference to subsection (1) of that section were a reference to section 77RB(3).
- (2) For the purposes of subsection (1), the Interpretation Act 1984 section 42(2) to (8) apply to a class direction that is taken to be laid before a House of Parliament under section 77RC as if it were laid before that House on the day referred to in section 77RC(4).

**77RE. Standing committee of Houses of Parliament**

- (1) The Houses of Parliament must establish a joint standing committee comprising an equal number of members appointed by each House.



- (2) The standing committee may —
- (a) review COVID-19 declarations, declarations made under section 77E or 77F and class directions; and
  - (b) report to each House the results of its review.
- (3) A report under subsection (2)(b) may include a recommendation that a class direction be disallowed in whole or in part or amended as suggested in the report.
- (4) The functions and powers of the standing committee are otherwise determined by agreement between the Houses and are not justiciable.

Amendment — put.

The Committee divided.

**Ayes (9)**

Hon Donna Faragher  
Hon Nick Goiran  
Hon James Hayward  
Hon Steve Martin  
Hon Tjorn Sibma

Hon Dr Steve Thomas  
Hon Wilson Tucker  
Hon Dr Brian Walker  
Hon Colin de Grussa (*Teller*)

**Noes (18)**

Hon Klara Andric  
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Hon Lorna Harper  
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Hon Kyle McGinn  
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Hon Martin Pritchard  
Hon Samantha Rowe  
Hon Rosie Sahanna  
Hon Matthew Swinbourn  
Hon Dr Sally Talbot  
Hon Darren West  
Hon Pierre Yang (*Teller*)

Amendment thus negated.

Hon Tjorn Sibma moved —

Page 20, lines 26 to 28 — To delete the lines and insert:

- (c) must be published on a website maintained by, or on behalf of, the Government as soon as practicable, but in any case no later than 7 days, after the direction is given.

Amendment — put and negated.

Hon Tjorn Sibma moved —

Page 20, after line 28 — To insert:

- (3A) A copy of a direction referred to in subsection (3), and a written statement setting out detailed reasons for giving the direction, must be provided to the Minister within 7 days after the direction is given.

Amendment — put and negatived.

Hon Tjorn Sibma moved —

Page 21, line 4 — To delete “may” and insert:

must

Amendment — put.

The Committee divided.

#### Ayes (9)

Hon Donna Faragher  
Hon Nick Goiran  
Hon James Hayward  
Hon Steve Martin  
Hon Tjorn Sibma

Hon Dr Steve Thomas  
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Hon Martin Pritchard  
Hon Samantha Rowe  
Hon Rosie Sahanna  
Hon Matthew Swinbourn  
Hon Dr Sally Talbot  
Hon Darren West  
Hon Pierre Yang (*Teller*)

Amendment thus negatived.

Hon Tjorn Sibma moved —

Page 26, after line 9 — To insert:

#### **77Y. Protection of information**

(1) In this section —

**relevant information** has the meaning given in section 77Q(1).

(2) Relevant information acquired in the exercise of a power under this Part must not be used or disclosed except —

- (a) for the purpose of COVID-19 management while a COVID-19 declaration is in force; or
- (b) for the purpose of, or in connection with, performing functions under this Act; or
- (c) as required or allowed under this Act; or
- (d) subject to section 77Q(5), for the purpose of investigating or prosecuting an offence relating to compliance with an obligation under this Act.

- (3) A person who uses or discloses relevant information contrary to subsection (2) commits a crime.

Penalty for this subsection:

- (a) for an individual, imprisonment for 3 years;
- (b) for a body corporate, a fine of \$250 000.

Summary conviction penalty for this subsection:

- (a) for an individual, imprisonment for 12 months and a fine of \$20 000;
- (b) for a body corporate, a fine of \$100 000.

- (4) Section 95 does not apply to relevant information acquired in the exercise of a power under this Part.
- (5) To the extent that there is an inconsistency between this section and a provision of the Criminal Investigation Act 2006 or any other written law, this section prevails.

Amendment — put.

The Committee divided.

#### **Ayes (9)**

Hon Donna Faragher  
Hon Nick Goiran  
Hon James Hayward  
Hon Steve Martin  
Hon Tjorn Sibma

Hon Dr Steve Thomas  
Hon Wilson Tucker  
Hon Dr Brian Walker  
Hon Colin de Grussa (*Teller*)

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Hon Matthew Swinbourn  
Hon Dr Sally Talbot  
Hon Darren West  
Hon Pierre Yang (*Teller*)

Amendment thus negatived.

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

The Minister for Emergency Services sought leave to put a number of clauses as one question (SO 125(3)).

Leave granted.

Clauses 8 to 46 agreed to.

Title agreed to.

The Acting President resumed the Chair.

Bill reported without amendment.

Report adopted.

The Minister for Emergency Services moved, That the Bill be read a third time.

The Acting President announced that the Deputy Chair of Committees had certified that this was a true copy of the Bill as agreed to in Committee of the Whole House and reported.

Debate ensued on the third reading of this urgent Bill.

Question — put.

The Council divided.

#### **Ayes (18)**

Hon Klara Andric  
Hon Dan Caddy  
Hon Sandra Carr  
Hon Stephen Dawson  
Hon Kate Doust  
Hon Peter Foster  
Hon Lorna Harper  
Hon Jackie Jarvis  
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Hon Steve Martin  
Hon Tjorn Sibma

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Hon Wilson Tucker  
Hon Dr Brian Walker  
Hon Colin de Grussa (*Teller*)

Question thus passed.

Bill read a third time and passed.

### **10. Order of Business**

Ordered — That Members' Statements be taken forthwith. (Minister for Emergency Services).

### **11. Adjournment**

There being no Members' Statements the Council adjourned at 11.03pm until Thursday, 20 October 2022 at 10.00am.

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

Attendance: Present all Members except Hon Martin Aldridge, Hon Sue Ellery and Hon Ayor Makur Chuot.

**SAM HASTINGS**

Clerk of the Legislative Council

**HON ALANNA CLOHESY MLC**

President of the Legislative Council