

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

No. 168

TUESDAY, 30 AUGUST 2011

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### 1. Meeting of Council

The Council assembled at 3.00pm pursuant to Temporary Orders.

The President, Hon Barry House, took the Chair and read prayers.

### 2. Petition

Hon Sue Ellery presented a petition from 11 petitioners requesting the Legislative Council to support the *Skilled Local Jobs Bill 2011*. (Tabled paper 3634).

### 3. Papers

The following Papers were laid on the Table by -

#### President

#### *Joint Standing Committee on Treaties (Commonwealth of Australia) -*

Treaties tabled on 16 August 2011 - Agreements between the Government of Australia and the Government of the Republic of the Marshall Islands on the Exchange of Information with Respect to Taxes, done at Majuro on 12 May 2010; the Government of Australia and the Government of the Republic of Mauritius on the Exchange of Information with Respect to Taxes (Port Louis, 8 December 2010); the Government of Australia and the Government of Montserrat (as authorised by the Government of the United Kingdom of Great Britain and Northern Ireland) on the Exchange of Information with Respect to Taxes (London, 23 November 2010; Agreements between the Government of Australia and the Government of the Republic of the Marshall Islands for the Allocation of Taxing Rights with Respect to Certain Income of Individuals and to Establish a Mutual Agreement Procedure in Respect of Transfer Pricing Adjustments, done at Majuro on 12 May 2010; the Government of Australia and the Government of the Republic of Mauritius for the Allocation of Taxing Rights with Respect to Certain Income of Individuals and to Establish a Mutual Agreement Procedure in Respect of Transfer Pricing Adjustments (Port Louis, 8 December 2010); Agreement between the Government of Australia and the Government of the United States of America Relating to the Operation of and Access to an Australian Naval Communication Station at North West Cape in Western Australia, done at Washington on 16 July 2008; and Agreement between Australia and the Republic of Hungary on Social Security (done at Godollo on 7 June 2011) ..... 3625

Treaties tabled on 23 August 2011 - Agreement for the Establishment of the International Anti-Corruption Academy as an International Organization (done at Vienna on 2 September 2010); Agreement between the Government of Australia and the European Atomic Energy Community (Euratom) for Co-Operation in the Peaceful Uses of Nuclear Energy; International Convention for the Suppression of Acts of Nuclear Terrorism (New York, 14 April 2005) ..... 3626

**Leader of the House***Annual Reports -*

Burswood Park Board (2010-2011) (Date received 25/08/2011) ..... 3627

**Minister for Energy***Annual Reports -*

State Witness Protection Program - (2010-2011) (Date received 30/08/2011) ..... 3628

Surveillance Devices Act 1998 - Western Australia Police (2010-2011) (Date received 25/08/2011) ..... 3629

**Minister for Mental Health***Directions -*

Planning and Development Act 2005 - Ministerial Direction - between Hanson Construction Materials Pty Ltd and The City of Vincent (Date received 24/08/2011) ..... 3630

*Response to Reports -*

Standing Committee on Public Administration - Recreation Activities within Public Drinking Water Source Areas (Report No. 11) (Minister for Water) ..... 3631

Standing Committee on Environment and Public Affairs - Shack Sites in Western Australia (Report No. 21) (Minister for Environment) ..... 3632

**Parliamentary Secretary representing the Attorney General***Response to Reports -*

Joint Standing Committee on the Corruption and Crime Commission - Death of a Witness (Report No. 14) (Attorney General) ..... 3633

**4. Order of Business**

Ordered - That Order of the Day No. 2, *Planning and Development Amendment Regulations (No. 4) 2011 - Disallowance*, be taken after Order of the Day No. 26, *Joint Standing Committee on Audit*. (Leader of the House).

**5. City of Mandurah Jetties, Waterways and Marina Local Law 2010 - Disallowance - Discharge from Notice Paper**

Hon Sally Talbot moved, without notice -

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 1, *City of Mandurah Jetties, Waterways and Marina Local Law 2010 - Disallowance*, be discharged from the Notice Paper.

Question - put and passed.

**6. Family Court Amendment Regulations 2011 - Disallowance - Discharge from Notice Paper**

Hon Sally Talbot moved, without notice -

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 3, *Family Court Amendment Regulations 2011 - Disallowance*, be discharged from the Notice Paper.

Question - put and passed.

**7. Trustee Companies (Commonwealth Regulation) Amendment Bill 2010**

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.

The President left the Chair.

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**In Committee**

(Hon Matt Benson-Lidholm in the Chair)

Clause 1 agreed to.

Clauses 2 to 8 agreed to.

Clause 9.

Debate ensued.

Clause agreed to.

Clause 10 agreed to.

Clause 11.

Debate ensued.

Hon Adele Farina moved the following Committee recommendation -

Page 8, after line 8 — To insert —

- (k) provide for and give effect to the transfer of duties, obligations, immunities, rights and privileges of the transferring company from the transferring company to the receiving company.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 12 to 18 agreed to.

Title agreed to.

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The President resumed the Chair.

Bill reported with amendment.

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

**8. Inheritance (Family and Dependants Provision) Amendment Bill 2011**

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 Attorney General moved, That the Bill be now read a third time.

Question - put and passed.

Bill read a third time and passed.

## **9. Restraining Orders Amendment Bill 2011**

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

Debate resumed.

## **10. Questions Without Notice**

Questions without notice were taken.

The Minister for Energy representing the Minister for Education tabled documents in relation to a memorandum of understanding for the delivery of transport services to selected aboriginal schools, in response to question on notice No. 4336 asked by Hon Alison Xamon. (Tabled paper 3635).

The Minister for Indigenous Affairs tabled documents in relation to Department of Indigenous Affairs funding allocations from 2006-07 to 2009-10 used to develop a management regime for the future protection of the Dampier Archipelago, in response to question on notice No. 4239 asked by Hon Robin Chapple. (Tabled paper 3636).

The Minister for Mental Health representing the Minister for Health tabled, and by leave incorporated into Hansard, a corrected answer in relation to privatisation of health services at the future Fiona Stanley Hospital, in response to a question without notice asked by Hon Helen Bullock. (Tabled paper 3637).

The Minister for Mental Health representing the Minister for Environment tabled a document detailing the amount of jarrah firewood used at the Department of Environment and Conservation's campsites in 2010-11, in response to question on notice No. 4342 asked by Hon Giz Watson. (Tabled paper 3638).

## **11. Restraining Orders Amendment Bill 2011**

Debate resumed on the second reading of this Bill (cf item 9 above).

Question - put and passed.

Bill read a second time.

The Deputy President left the Chair.

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## **In Committee**

(Hon Brian Ellis in the Chair)

Clause 1 agreed to.

Clauses 2 and 3 agreed to.

Clause 4.

Debate ensued.

Clause agreed to.

Clauses 5 and 6 agreed to.

Clause 7.

Debate ensued.

Hon Giz Watson moved -

Page 4, after line 5 — To insert —

After section 25(3) insert —

- (4) Nothing in subsection (3) shall be taken to prevent an application for a violence restraining order from being made in person by a parent or guardian of a child on behalf of that child to the Magistrates Court, unless the respondent is a child, in which case the application is to be made to the Children's Court.

Debate ensued.

Hon Giz Watson, by leave, withdrew her amendment.

Question - That the clause stand as printed - put and passed.

Clause 8.

Hon Giz Watson moved -

Page 4, after line 9 — To insert —

- (1) In this section —

*family and domestic relationship* means a relationship between 2 persons —

- (a) who are, or were, married to each other; or
- (b) who are, or were, in a de facto relationship with each other.

Debate ensued.

Amendment - put and negatived.

Question - That the clause stand as printed - put and passed.

Clause 9.

Hon Giz Watson moved -

Page 4, line 26 — To insert after “subsection (2)” —

or (3)

Page 5, after line 8 — To insert —

- (3) A police order shorter than 72 hours may be specified in the police order if, in the opinion of the police officer who makes the order, it is very likely that the person for whose benefit the order is made will, before the expiration of 72 hours —
  - (a) do or omit to do any act for the purpose of enabling or aiding the person bound by the order to breach the order; or
  - (b) aid the person bound by the order to breach the order; or
  - (c) counsel or procure the person bound by the order to breach the order.

Debate ensued.

Amendments - put and negatived.

Question - That the clause stand as printed - put and passed.

Clauses 10 to 14 agreed to.

Clause 15.

Hon Giz Watson moved -

Page 8, line 13 to page 9, line 23 — To delete the lines.

Debate ensued.

Amendment - put and negatived.

Question - That the clause stand as printed - put and passed.

Clauses 16 and 17 agreed to.

New Clause 16A.

Hon Giz Watson moved -

Page 10, after line 22 — To insert —

#### **16A. Review of Act**

- (1) The Minister is to carry out a review of the operation and effectiveness of sections 12, 25, 30D, 30F, 32, 61A and 61B of the *Restraining Orders Act 1997* as soon as is practicable after the expiration of 24 months from the commencement of the *Restraining Orders Amendment Act 2011* and in the course of that review the Minister is to consider and have regard to —
  - (a) the effectiveness of those sections;
  - (b) the need for the retention of those sections; and
  - (c) any other matters that appear to the Minister to be relevant to the operation and effectiveness of those sections.
- (2) Without limiting subsection (1), in carrying out a review under that subsection, the Minister is to consult with and have regard to the views of the Commissioner of Police, the Commissioner for Children and Young People and of organisations representing the views of Aboriginal peoples.

- (3) The Minister is to prepare a report based on the review and, as soon as is practicable after the report is prepared, is to cause it to be laid before each House of Parliament.

Debate ensued.

*The Deputy President left the Chair at 8.35pm*

*The Deputy President resumed the Chair at 8.49pm*

Debate resumed.

New Clause - put.

The Committee divided.

**Ayes (13)**

Hon Matt Benson-Lidholm  
Hon Robin Chapple  
Hon Kate Doust  
Hon Sue Ellery  
Hon Adele Farina  
Hon Lynn MacLaren  
Hon Ljiljanna Ravlich

Hon Linda Savage  
Hon Sally Talbot  
Hon Ken Travers  
Hon Giz Watson  
Hon Alison Xamon  
Hon Ed Dermer (*Teller*)

**Noes (18)**

Hon Liz Behjat  
Hon Jim Chown  
Hon Peter Collier  
Hon Mia Davies  
Hon Wendy Duncan  
Hon Brian Ellis  
Hon Donna Faragher  
Hon Philip Gardiner  
Hon Nick Goiran

Hon Nigel Hallett  
Hon Alyssa Hayden  
Hon Col Holt  
Hon Robyn McSweeney  
Hon Michael Mischin  
Hon Helen Morton  
Hon Simon O'Brien  
Hon Max Trenorden  
Hon Ken Baston (*Teller*)

New Clause thus negatived.

Title agreed to.

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The President resumed the Chair.

Bill reported without amendment.

Report adopted.

The Parliamentary Secretary representing the Attorney General moved, That the Bill be now read a third time.

The President having reported that the Deputy 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.

**12. Curriculum Council Amendment Bill 2011**

The President reported the receipt of Message No. 199 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Energy representing the Minister for Education moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Energy representing the Minister for Education moved, That the Bill be now read a second time.

Debate stands adjourned.

**13. Order of Business**

Ordered - That Members' Statements be taken forthwith. (Minister for Finance).

**14. Members' Statements**

Statements were taken.

**15. Adjournment**

The House adjourned at 9.29pm until Wednesday, 31 August 2011 at 2.00pm.

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

Attendance: Present all Members except Hon Phil Edman and Hon Jon Ford.

**MALCOLM PEACOCK**  
Clerk of the Legislative Council

**HON BARRY HOUSE**  
President of the Legislative Council