

## LEGISLATIVE COUNCIL

### MINUTES OF PROCEEDINGS

No. 191

WEDNESDAY, 19 MARCH 2008

---

#### 1. Meeting of Council

The Council assembled at 4.00pm pursuant to order.

The President, Hon Nick Griffiths, took the Chair and read prayers.

#### 2. Condolence Motion - Hon Fred McKenzie

The Leader of the House moved, without notice -

This House expresses its deep regret at the death of Hon Fred McKenzie, a former Member of the Legislative Council for the East Metropolitan Region; and places on record its appreciation for his long public service, and tenders its profound sympathy to his wife and members of his family in their bereavement.

Debate ensued.

Question - put and passed.

#### 3. Petitions

Hon George Cash presented a petition from 542 residents of Western Australia, requesting that the Legislative Council oppose showrooms being constructed on Lots 1, 2, 3, 4, 13 and 15 Ewen Street, Woodlands, Western Australia. (Tabled paper 3791).

Hon Helen Morton, by leave, presented a non-conforming petition from 283 residents of Western Australia, requesting the Legislative Council to oppose the *Prostitution Amendment Bill 2007*. (Tabled paper 3792).

#### 4. Ministerial Statement - Inaugural Sir Ronald Wilson Leadership Award

The Minister for Local Government made a Ministerial Statement with respect to the inaugural Sir Ronald Wilson Leadership Award.

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

#### 5. Papers

The following Papers were laid on the Table by -

##### President

*Auditor General's Papers -*

Public Sector Performance Report 2008 (Report No. 1) (19 March 2008)

(Deemed tabled 19/03/2008) ..... 3784

**Leader of the House***Orders -*

Genetically Modified Crops Free Areas Act 2003 (Genetically Modified Crops Free Areas Exemption Order (No. 1) 2008 G.G. 07/03/2008).....	3785
---------------------------------------------------------------------------------------------------------------------------------------------	------

**Minister for Local Government***Local Laws -*

Local Government Act 1995 (Correction - Shire of Tammin - Parking And Parking Facilities Amendment Local Law 2007 G.G. 07/03/2008, Shire of Dowerin Refuse Disposal Facilities Amendment Local Law 2008 G.G. 07/03/2008 and Shire of Goomalling Refuse Disposal Facilities Amendment Local Law 2008 G.G. 07/03/2008).....	3786
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------

*Regulations -*

Local Government (Miscellaneous Provisions) Act 1960 (Building Amendment Regulations 2008 G.G. 04/03/2008) .....	3787
---------------------------------------------------------------------------------------------------------------------	------

**Minister for Child Protection***Notices -*

Health Act 1911 (City of Swan - Resolution - Health Act Fees and Charges G.G. 07/03/2008).....	3788
------------------------------------------------------------------------------------------------	------

**Parliamentary Secretary representing the Minister for Planning and Infrastructure***Leases -*

CALM Lease No. 1891/100 - Between CALM and the Western Power Corporation - Portion of Reserve 18987, Porongurup National Park for a radio communication base.....	3789
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------

*Regulations -*

Taxi Act 1994 (Taxi Amendment Regulations 2008 G.G. 07/03/2008) .....	3790
-----------------------------------------------------------------------	------

**6. Daylight Saving Amendment Bill 2008**

Hon Wendy Duncan: To move on the next day of sitting -

That a Bill for “An Act to amend the *Daylight Saving Act 2006* by providing for a referendum to be held not later than 4 October 2008” be introduced and read a first time.

**7. Standing Committee on Uniform Legislation and Statutes Review**

Hon Simon O’Brien: To move on the next day of sitting -

That Recommendation 3 of the Nineteenth Report of the Standing Committee on Uniform Legislation and Statutes Review in relation to the *Administrative Practices and Procedures and Parliamentary Processes involving Treaties entered into, or proposed to be entered into, by the Commonwealth*, be adopted and agreed to.

**8. Health, Education and Law and Order - Crises**

Motion No. 63 having been called, Hon Ray Halligan continued his introductory remarks in moving the following motion -

That this House condemns the Government for refusing to acknowledge that over its terms in office it has contributed to the crises continuing to plague our communities in the areas of health, education and law and order.

## 9. Questions Without Notice

Questions without notice were taken.

The Minister for Child Protection representing the Minister for Health tabled, and by leave incorporated into Hansard, documents in relation to a table of the number of hours of ambulance diversions in 2007, in response to a question without notice asked by Hon Ray Halligan. (Tabled paper 3793).

The Parliamentary Secretary representing the Minister for Planning and Infrastructure tabled, and by leave incorporated into Hansard, documents in relation to details of funds spent by the Government on upgrading the Fremantle Port Passenger Terminal since 2001, in response to a question without notice asked by Hon Norman Moore. (Tabled paper 3794).

The Leader of the House, in accordance with Standing Order No 138(d), advised that answers to questions on notice Nos 5745 to 5748, 5756 to 5758, 5772, 5775 to 5783, 5808, 5831 to 5833, 5835, 5838, 5839, 5844, 5886 to 5888, 5890, 5893, 5899, 5904 and 5905, asked by Hon Ray Halligan will be provided when they become available. (Tabled paper 3795).

The Minister for Local Government representing the Minister for Indigenous Affairs, in accordance with Standing Order No 138(d), advised that answers to questions on notice Nos 5916, 5917, 5919 and 5920 asked by Hon Giz Watson will be provided by 3 April 2008.

## 10. Health, Education and Law and Order - Crises

Continuation of introductory remarks by Hon Ray Halligan in moving the motion (cf item 8 above).

### *Want of Quorum*

There not being a quorum present, the President gave instructions for the ringing of the Bells.

A quorum being formed, the debate continued.

Hon Helen Morton sought leave of the House for Hon Ray Halligan to continue his introductory remarks at the next sitting of the House.

Leave granted.

Debate resumed.

*Interruption of Debate* [SO 195].

## 11. Order of Business

Ordered - That Orders of the Day Nos 568, *Rights in Water and Irrigation Amendment Regulations (No. 3) 2007 - Disallowance*, and 571, *Shire of Harvey Local Law Relating to Signs and Other Advertising Devices 2007 - Disallowance*, be taken after Order of the Day No. 469, *Eastern Goldfields Transport Board Repeal Bill 2007*. (Leader of the House).

## 12. Prostitution Amendment Bill 2007

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

The Deputy President left the Chair.

### **In Committee**

(Hon George Cash in the Chair)

Clause 20.

Section 21C agreed to.

Section 21D.

Debate ensued.

Section agreed to.

Sections 21E and 21F agreed to.

Section 21G.

Debate ensued.

Section agreed to.

Sections 21H to 21O agreed to.

Section 21P.

Debate ensued.

Section agreed to.

Sections 21Q and 21R agreed to.

Section 21S.

Debate ensued.

Hon Helen Morton moved -

Page 26, after line 14 — To insert —

“

- (g) take all reasonable steps to provide emergency and regular strategies by which sex workers can exit the sex worker industry; and
- (h) ensure that a sex worker is made aware of these strategies prior to commencing as a sex worker.

”

Debate ensued.

Amendment - put and negatived.

Section stands as printed.

Section 21T agreed to.

Section 21U.

Debate ensued.

Section agreed to.

Section 21V.

Debate ensued.

Section agreed to.

Section 21W agreed to.

Section 21X.

Debate ensued.

Section agreed to.

Section 21Y.

Debate ensued.

Section agreed to.

Section 21Z agreed to.

Section 21ZA agreed to.

Section 21ZB.

Debate ensued.

Section agreed to.

Section 21ZC agreed to.

Section 21ZD agreed to.

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

Clause 21 agreed to.

Clause 22.

Debate ensued.

Question - put.

The Committee divided.

#### **Ayes (12)**

Hon Kim Chance  
Hon Kate Doust  
Hon Sue Ellery  
Hon Adele Farina  
Hon Jon Ford  
Hon Paul Llewellyn

Hon Sheila Mills  
Hon Ljiljanna Ravlich  
Hon Sally Talbot  
Hon Ken Travers  
Hon Giz Watson  
Hon Matt Benson-Lidholm (*Teller*)

#### **Noes (12)**

Hon George Cash  
Hon Peter Collier  
Hon Wendy Duncan  
Hon Brian Ellis  
Hon Donna Faragher  
Hon Nigel Hallett

Hon Ray Halligan  
Hon Barry House  
Hon Robyn McSweeney  
Hon Helen Morton  
Hon Simon O'Brien  
Hon Bruce Donaldson (*Teller*)

The votes being equal, the question was resolved in the negative.

Clause 23 agreed to.

Clauses 24 to 37 agreed to.

Title agreed to.

---

The Acting President resumed the Chair.

Bill reported with amendment.

*The Acting President left the Chair at 9.38pm*

*The Deputy President resumed the Chair at 9.42pm*

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

### 13. 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 George Cash 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

Upon consideration of Message No. 243.

The Deputy President left the Chair.

---

**In Committee**

(Hon George Cash in the Chair)

Debate resumed on the motion of the Minister for Child Protection as follows -

**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.

”.



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.

Question - put and passed.

Question, That the following words be agreed to -

**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.

”.

Debate ensued.

Question - put and passed.

Question, That the following words be agreed to -

**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, by leave, withdrew her amendment.

The Minister for Child Protection moved -

That the Legislative Council proposes the following new amendment as an alternative to Amendment No. 39 -

To delete the proposed Amendment No. 39 and substitute the following —

“

Clause 35, page 23, lines 21 to 30 — To delete the lines and insert instead —

“

- (4) A warrant of execution under section 45 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* cannot be issued in respect of the person.
- (5) Section 47A of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* applies as if all of subsection (1) from and including “if the Registrar is satisfied” were deleted.

”  
.”  
”  
.

Debate ensued.

Question - put and passed.

---

The Acting President resumed the Chair.

The Chairman reported, That the Committee had considered Message No. 243 from the Legislative Assembly, and had agreed to not insist on its amendments Nos 6 to 8, 10 to 12, 18, 19, 24 to 36, 40 to 45, 49 and 50 made in the *Parental Support and Responsibility Bill 2005*; agreed to the amendments proposed by the Legislative Assembly in substitution for the Legislative Council Amendments Nos 15, 17, 20 and 22; agreed to the further amendment to Amendment No. 48; does not insist on Amendment Nos 4, 14, 16, 23 and 39 but substitutes alternative amendments; and agrees to the Legislative Assembly substituted Amendment No. 21 subject to a further amendment.

Report adopted.

Legislative Assembly acquainted accordingly.

#### **14. Treasurer's Advance Authorisation Bill 2008**

The Acting President reported the receipt of Message No. 298 from the Legislative Assembly forwarding the Bill for concurrence.

The Parliamentary Secretary representing the Treasurer moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Parliamentary Secretary representing the Treasurer moved, That the Bill be now read a second time.

Debate stands adjourned.

**15. Consumer Credit (Bill Facilities) Amendment Regulation (No. 1) 2007**

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 300

The Legislative Assembly acquaints the Legislative Council that it has agreed to the following resolution -

That this House approves the draft *Consumer Credit (Bill Facilities) Amendment Regulation (No. 1) 2007*, a copy of which was deemed tabled in this House on 17 January 2008.

Ms D.J. Guise

Deputy Speaker

Legislative Assembly Chamber

Perth, 19 March 2008

Ordered - That consideration of Message No. 300 be made an Order of the Day for the next sitting.

**16. Adjournment**

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

Debate ensued.

Question - put and passed.

The House adjourned at 10.22pm until Thursday, 20 March 2008 at 11.00am.

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

Attendance: Present all Members except Hon Shelley Archer, Hon Vincent Catania, Hon Graham Giffard and Hon Batong Pham.

Member granted leave: Hon Barbara Scott.

**MALCOLM PEACOCK**  
Clerk of the Legislative Council

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