

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 51

WEDNESDAY, 16 SEPTEMBER 2009

1. Meeting of Council

The Council assembled at 4.00pm pursuant to order.

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

2. Petitions

Hon Matt Benson-Lidholm presented a petition from 477 petitioners requesting the Legislative Council oppose the introduction of new recreational licences and fees. (Tabled paper 1163).

Hon Giz Watson presented a petition from 4 940 petitioners requesting the Legislative Council to support fundamental changes to the system of transportation of detained persons. (Tabled paper 1164).

Hon Alyssa Hayden presented a petition from 32 petitioners requesting the Legislative Council to support an enhanced Route 344 bus service to the South Ballajura Community Centre. (Tabled paper 1166).

3. Ministerial Statement - Pay Equity Unit within the Department of Commerce

The Parliamentary Secretary representing the Minister for Commerce made a Ministerial Statement with respect to Question without Notice No. 878 asked by Hon Alison Xamon about the work of the Pay Equity Unit within the Department of Commerce.

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

4. Paper

The following Paper was laid on the Table by -

Parliamentary Secretary representing the Treasurer

Reports -

Economic Regulation Authority - Final Report - Inquiry into Tariffs of the Water Corporation, Aqwest and Busselton Water (11 August 2009) 1165

5. Uniform Legislation and Statutes Review Committee - Thirty-ninth Report - Statutes (Repeals and Minor Amendments) Bill 2009

Hon Adele Farina presented the Thirty-ninth Report of the Uniform Legislation and Statutes Review Committee in relation to the *Statutes (Repeals and Minor Amendments) Bill 2009*. (Tabled paper 1167).

Hon Adele Farina moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

6. Uniform Legislation and Statutes Review Committee - Child Exploitation Material and Classification Legislation Amendment Bill 2009 - Extension of Reporting Time

Hon Adele Farina presented a Report of the Uniform Legislation and Statutes Review Committee in relation to the *Child Exploitation Material and Classification Legislation Amendment Bill 2009*, seeking an extension of time for the Committee to report to the House from 17 September 2009 to 22 October 2009. (Tabled paper 1168).

Hon Adele Farina moved, That the Report do lie upon the Table and be adopted and agreed to.

Question - put and passed.

7. Uniform Legislation and Statutes Review Committee - Professional Standards Amendment Bill 2009 - Extension of Reporting Time

Hon Adele Farina presented a Report of the Uniform Legislation and Statutes Review Committee in relation to the *Professional Standards Amendment Bill 2009*, seeking an extension of time for the Committee to report to the House from 10 October 2009 to 12 November 2009. (Tabled paper 1169).

Hon Adele Farina moved, That the Report do lie upon the Table and be adopted and agreed to.

Question - put and passed.

8. Child Death Review Committee - Recommendations

Motion No. 1 having been called, debate resumed on the motion of Hon Sue Ellery as follows -

That this House notes the recommendations of the *Group Analysis of Aboriginal Child Death Review Cases in which Chronic Neglect is Present* report of the Child Death Review Committee and calls on the Minister for Child Protection to provide quarterly reports to the House on the implementation of those recommendations.

9. Questions Without Notice

Questions without notice were taken.

Point of Order

Hon Jon Ford raised the following Point of Order -

We have rules in this House. The Standing Committee on Procedure and Privileges has been asked to review the rules, and one of the rules of this place is about the way we relate to each other. The comment that the Minister made to Hon Ljiljanna Ravlich in describing her is completely inappropriate, and I would ask that he withdraw it, because this is not the other House.

President's Ruling

The President ruled as follows -

A point of order has been raised. As I said before, when Members are referring to other Members of this chamber, or even outside this House, there is a point at which they breach the Standing Orders. However, there is also a point before that when they go beyond what is said in jest or in a good-natured way and they breach that gap when it becomes personal. That is the distinction I make in judging whether comments made to other Members are said in jest and a good-natured way or in a personal and vindictive way. My interpretation of the Minister's comment was that it was not meant in a personal and vindictive way. However, he needs to be aware, as do all Members, that the very same words said in a different context would be unparliamentary.

The Leader of the House representing the Premier tabled documents in relation to the Premier's record of contact with lobbyists since 23 September 2008, in response to question on notice No. 1107 asked by Hon Ljiljanna Ravlich. (Tabled paper 1170).

The Minister for Transport tabled documents in relation to details of parking bays for the Perth to Midland, Perth to Armadale and Perth to Fremantle railway lines, in response to question on notice No. 1088 asked by Hon Alison Xamon. (Tabled paper 1171).

The Minister for Child Protection on behalf of the Minister for Environment in accordance with Standing Order No 138(d), advised that an answer to questions on notice Nos 991 and 1076 asked by Hon Ljiljana Ravlich will be provided in due course.

The Minister for Child Protection on behalf of the Minister for Environment in accordance with Standing Order No 138(d), advised that an answer to questions on notice Nos 1086 and 1087 asked by Hon Alison Xamon will be provided in due course.

The Parliamentary Secretary representing the Attorney General in accordance with Standing Order No 138(d), advised that an answer to questions on notice Nos 1062 and 1063 asked by Hon Ljiljana Ravlich will be provided on 22 September 2009.

10. Child Death Review Committee - Recommendations

Debate resumed on the motion of Hon Sue Ellery (cf item 8 above).

Interruption of Debate [SO 195].

11. Order of Business

Ordered - That Order of the Day No. 1, *Genetically Modified Crops Free Areas Exemption Order (No. 3) 2009 - Disallowance*, be taken after Order of the Day No. 2, *First Home Owner Grant Amendment Bill 2009*. (Leader of the House).

12. Road Traffic Amendment (Hoons) Bill 2009

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 Deputy President left the Chair.

In Committee

(Hon Jon Ford in the Chair)

Clause 1.

Clause agreed to.

Clauses 2 to 10 agreed to.

Clause 11.

Hon Kate Doust moved -

Page 8, lines 8 and 9 — To delete the lines.

Debate ensued.

Amendment - put and negatived.

Clause agreed to.

Clauses 12 to 15 agreed to.

Clause 16.

Debate ensued.

Clause - put and negatived.

New Clause 16.

The Minister for Training representing the Minister for Police moved -

Page 20, after line 12 — To insert —

16. Section 79E replaced

Delete section 79E and insert:

79E. Liability for expenses of police impounding

If a vehicle is impounded under this Subdivision and a person is convicted of the offence for which the vehicle was impounded, that person is liable to pay to the Commissioner an amount specified by the Commissioner as being equivalent to all expenses reasonably incurred by the Commissioner in impounding the vehicle less —

- (a) any amount received by the Commissioner under section 80IB(1); and
- (b) any amount received by the Commissioner under section 80JA(8)(b),

in relation to impounding the vehicle.

Debate ensued.

New Clause - put and passed.

Clauses 17 to 24 agreed to.

Clauses 25 to 27 agreed to.

New Clause 24A.

The Minister for Training representing the Minister for Police moved -

Page 23, after line 11 — To insert —

24A. Section 80JA inserted

After section 80I insert:

80JA. Commissioner may sell vehicle impounded under s. 79A at any time with consent of owner etc.

- (1) In this section —
impounded vehicle means a vehicle that is impounded under section 79A;
interest, in relation to a vehicle, means a legal or equitable interest, right or title in or to the ownership or possession of the vehicle.
- (2) If the Commissioner is satisfied that each person who has an interest in an impounded vehicle has, in accordance with subsection (4), consented to the Commissioner doing so, the Commissioner, on behalf of those persons, may sell or otherwise dispose of the vehicle.

- (3) The Commissioner may sell or otherwise dispose of a vehicle under subsection (2) —
 - (a) even if the impounding period has not elapsed; and
 - (b) even if the Commissioner may sell the vehicle under section 80J; and
 - (c) whether or not a charge of an offence for which the vehicle was impounded has been heard or determined by a court; and
 - (d) whether or not any appeal against the conviction for an offence for which the vehicle was impounded or confiscated has been concluded.
- (4) The consent of a person who has an interest in an impounded vehicle to the Commissioner selling or otherwise disposing of the vehicle has no effect unless —
 - (a) the person has been informed in accordance with subsection (5); and
 - (b) the consent is in writing and signed by the person; and
 - (c) the consent is given at least 48 hours after the vehicle is impounded.
- (5) The Commissioner must ensure a person who has an interest in an impounded vehicle is informed —
 - (a) of the effect of this Division in relation to impounding and selling vehicles; and
 - (b) of the liabilities that this Division imposes on persons for the costs and expenses incurred by the Commissioner.
- (6) The Commissioner may require a person who has an interest in an impounded vehicle to provide information to the Commissioner for the purposes of this section in a statutory declaration.
- (7) If the Commissioner sells or otherwise disposes of an impounded vehicle under subsection (2) —
 - (a) the Commissioner must release the vehicle to the buyer; and
 - (b) the buyer obtains a good title to the vehicle if the person acquires it in good faith and without notice of any failure to comply with this section in relation to the sale or disposal; and
 - (c) the proceeds of the sale are to be paid in the order of priority provided by subsection (8).
- (8) The proceeds of the sale or disposal of a vehicle under subsection (2) are to be paid in the following order of priority —
 - (a) for expenses incurred in selling the vehicle;
 - (b) for the expenses specified by the Commissioner as being equivalent to all expenses reasonably incurred by the Commissioner in impounding the vehicle;
 - (c) if the sale or disposal occurs after the impounding period ends, for expenses (if any) incurred in storing the vehicle after that period ends;

- (d) the balance —
 - (i) if only one person has an interest in the vehicle, to that person;
 - (ii) if there are 2 or more persons who each have an interest in the vehicle, to each such person according to the proportion that the value of the person's interest bears to the value of the vehicle.
- (9) If an impounded vehicle is sold or otherwise disposed of under subsection (2) and —
 - (a) no charge is laid for the offence for which the vehicle was impounded within 3 months after the date of the offence; or
 - (b) the charge for that offence is withdrawn or dismissed for want of prosecution; or
 - (c) the person charged with that offence is acquitted,

the Commissioner must pay to the person or persons referred to in subsection (8)(d) in accordance with that paragraph an amount equal to the amounts paid under subsection (8)(a), (b) and (c).

Debate ensued.

New Clause - put and passed.

New Clause 25A.

The Minister for Training representing the Minister for Police moved -

Page 24, after line 8 — To insert —

25A. Section 80K amended

- (1) At the beginning of section 80K insert:
 - (1) If a vehicle is sold under section 80JA(2) but the proceeds of the sale are insufficient to pay the expenses incurred in selling it, the person because of whose conviction the vehicle was impounded is liable to pay to the Commissioner the difference between the amount of those expenses and the proceeds of the sale.
- (2) In section 80K delete "If" and insert:
 - (2) If

New Clause - put and passed.

Title agreed to.

The Deputy President resumed the Chair.

Bill reported with amendments.

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

13. First Home Owner Grant Amendment Bill 2009

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

Debate ensued.

On the motion of the Leader of the House the debate was adjourned to a later stage of this day's sitting.

14. Order of Business

Ordered - That Order of the Day No. 1, *Genetically Modified Crops Free Areas Exemption Order (No. 3) 2009 - Disallowance*, be taken forthwith. (Leader of the House).

15. Genetically Modified Crops Free Areas Exemption Order (No. 3) 2009 - Disallowance

Pursuant to SO 152(b) the following motion was moved *pro forma* by Hon Lynn MacLaren -

That the *Genetically Modified Crops Free Areas Exemption Order (No. 3) 2009* published in the *Gazette* on 22 May 2009 and tabled in the Legislative Council on 2 June 2009 under the *Genetically Modified Crops Free Areas Act 2003*, be and is hereby disallowed.

Debate ensued.

Question - put.

The House divided.

Ayes (12)

Hon Matt Benson-Lidholm
Hon Helen Bullock
Hon Robin Chapple
Hon Kate Doust
Hon Jock Ferguson
Hon Jon Ford

Hon Lynn MacLaren
Hon Ljiljanna Ravlich
Hon Sally Talbot
Hon Ken Travers
Hon Giz Watson
Hon Ed Dermer (*Teller*)

Noes (17)

Hon Jim Chown
Hon Peter Collier
Hon Mia Davies
Hon Wendy Duncan
Hon Phil Edman
Hon Brian Ellis
Hon Philip Gardiner
Hon Nick Goiran
Hon Nigel Hallett

Hon Alyssa Hayden
Hon Col Holt
Hon Robyn McSweeney
Hon Michael Mischin
Hon Norman Moore
Hon Simon O'Brien
Hon Max Trenorden
Hon Ken Baston (*Teller*)

Question thus negated.

16. Order of Business

Ordered - That Order of the Day No. 2, *First Home Owner Grant Amendment Bill 2009*, be taken forthwith. (Leader of the House).

17. First Home Owner Grant Amendment Bill 2009

Debate resumed on the second reading of this Bill (cf item 13 above).

On the motion of the Leader of the House the debate was adjourned to a later stage of this day's sitting.

18. House to sit beyond 10.00pm

The Leader of the House moved, without notice -

That the House sit beyond 10.00pm for the purpose of completing the committee stage of the *First Home Owner Grant Amendment Bill 2009*.

Question - put and passed.

19. Order of Business

Ordered - That Order of the Day No. 2, *First Home Owner Grant Amendment Bill 2009*, be taken forthwith. (Leader of the House).

20. First Home Owner Grant Amendment Bill 2009

Debate resumed on the second reading of this Bill (cf items 13 and 17 above).

Question - put and passed.

Bill read a second time.

The President left the Chair.

In Committee

(Hon Jon Ford in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 to 4 agreed to.

Clause 5.

The Parliamentary Secretary representing the Treasurer moved -

Page 5, after line 7 — To insert —

- (4A) A ***class 6 eligible transaction*** is an eligible transaction the commencement date of which is not before 1 October 2009 and not after the cut-off date that is a contract for the purchase of an established home.
- (4B) A ***class 7 eligible transaction*** is an eligible transaction the commencement date of which is not before 1 October 2009 and not after the cut-off date that is —
- (a) a contract for the purchase of a new home or a substantially renovated home; or
 - (b) a comprehensive home building contract for a new home if —
 - (i) the building work begins within 26 weeks after the commencement date; and
 - (ii) the contract provides to the effect that the building work must be completed within 18 months after it begins or, if the contract does not provide for a completion date for the building work, it is completed within 18 months after it begins;
- or
- (c) the building of a new home by an owner builder if the eligible transaction is completed before the relevant date.

Point of Order

Hon Ken Travers raised the following Point of Order -

I do not want to delay the committee, so I would be happy if you, Mr Deputy Chairman, would give a verbal ruling very quickly to the chamber this evening and perhaps give some written comments to support the ruling at a later stage. In light of the comments the Parliamentary Secretary made in her closing remarks on the second reading debate, I am keen to get a better understanding of the purpose of these amendments and for you to give a ruling on whether they conform to the *Constitution Act 1889* and the *Constitution Acts Amendment Act 1899* and whether they are in order for the purposes of an appropriation.

Deputy President's Ruling

The Deputy President ruled as follows -

Hon Ken Travers has asked me to give some guidance to the committee or make a ruling as per the relevance of the proposed amendments to the Bill and how they stand with regard to the Standing Orders and the Constitution. Paragraph (a) of Standing Order 237, headed "Amendments in Committee", states —

Subject to Standing Orders, an amendment, otherwise relevant to the subject matter of the Bill, may be made to any part of the Bill.

"Subject matter of Bill" is defined within the Standing Orders as —

... means the provisions of the Bill as printed, read a second time, and referred to the Committee.

Clause 5 relates to two new clauses that seek to extend the Bill to cover two new classes. Therefore, the amendments are relevant to the Bill.

Debate resumed.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 6 to 9 agreed to.

Clause 10.

The Parliamentary Secretary representing the Treasurer moved -

Page 13, lines 1 to 4 — To delete the lines and insert —

(b) in relation to a home north of the 26th parallel of South Latitude,
\$1 000 000,

except that the regulations may prescribe another amount as the cap amount for the purposes of paragraph (a) or (b).

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 11 to 19 agreed to.

Title agreed to.

The President resumed the Chair.

Bill reported with amendments.

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

21. Gas Supply (Gas Quality Specifications) Bill 2009

The President reported the receipt of Message No. 46 from the Legislative Assembly forwarding the Bill for concurrence.

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

Question - put and passed.

Bill read a first time.

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

Debate stands adjourned.

22. Tobacco Products Control Amendment Bill 2008

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 47

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council to the *Tobacco Products Control Amendment Bill 2008*.

Mrs L.M. Harvey

Acting Speaker

Legislative Assembly Chamber

Perth, 16 September 2009

23. Special Adjournment

The Leader of the House moved, without notice -

That the House at its rising adjourn until Tuesday, 22 September 2009 at 3.30pm.

Debate ensued.

Question - put and passed.

24. Adjournment

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

Debate ensued.

Question - put and passed.

The House adjourned at 11.33pm until Tuesday, 22 September 2009 at 3.30pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Donna Faragher.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council