

WESTERN AUSTRALIA

# LEGISLATIVE ASSEMBLY

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## VOTES AND PROCEEDINGS

No. 144

SECOND SESSION OF THE THIRTY-SIXTH PARLIAMENT

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TUESDAY, 14 SEPTEMBER 2004

**1. Meeting of Assembly**

The Assembly met at 2.00 p.m. pursuant to adjournment.

The Speaker took the Chair.

Prayers were read.

**2. Death of Sir Francis Burt - a former Governor of Western Australia**

The Premier, without notice, moved,

That the House records its sincere regret of the death of Sir Francis Burt and tenders its deep sympathy to his family.

The motion was supported by Mr C.J. Barnett, the Attorney General and the Minister for Planning and Infrastructure.

Question put and passed unanimously with members and officers of the Assembly standing in their places as a mark of respect.

**3. Speaker's Statement - State Funeral of Sir Francis Burt**

The Speaker advised members that with regard to the state funeral for the former Governor of Western Australia, Sir Francis Burt, he intended to leave the Chair at approximately 2.30 pm, after question time, on Wednesday, 15 September 2004, until the ringing of the bells, which will occur not before 5.00 p.m.

**4. Speaker's Statement - Jakarta Terrorist Attack**

The Speaker drew members' attention to the recent event that occurred outside the Australian Embassy in Jakarta. Under no circumstances should this type of outrage be tolerated by any civilised society.

Members and officers of the Assembly stood in their places as a mark of respect.

## **5. Speaker's Statement - Death of Marion Emily Woods**

The Speaker advised members that a loyal and valued member of staff, Marion Woods, a stewardess in the Parliamentary Dining Room, passed away suddenly last Sunday, 12 September 2004, after becoming ill on Saturday. Other than Marion's visiting her doctor last Friday morning for tests, there was no indication that Marion had any health problems. Members and staff were shocked by the news of her passing. Marion was born in 1940 and came to Western Australia from Queensland, which is where her family resides. Marion commenced work in the dining room on 24 August 1987 and gave dedicated service to members, their guests and staff alike. She was regarded as one of the most conscientious, hardworking and dedicated staff members and was always willing to help. Marion's generosity was best demonstrated by her enthusiastic fundraising for various charities such as the Cancer Support Association of Western Australia. She will continue to be held in high esteem and will be sorely missed by all. It is my understanding that Marion's funeral will be held early next week.

## **6. Brief Ministerial Statements**

The following brief Ministerial Statements were made by -

The Premier on the Western Australian Citizenship Strategy.

The Treasurer on the Financial Results for Government for 2003/4.

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### *Paper*

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

By the Treasurer -

Government Financial Results - Report 2003/4 (2761).

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The Minister for Consumer and Employment Protection on the Home Indemnity Insurance Scheme in Western Australia.

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### *Paper*

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

By the Minister for Consumer and Employment Protection -

Home Indemnity Insurance Scheme in Western Australia - Report on the Statutory Review, June 2004 (2762).

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The Minister for State Development on the Greenfields Exploration Inquiry recommendations.

The Minister for the Environment on the Millennium Seed Bank project.

The Minister for Planning and Infrastructure on the Queen's Birthday Honours List, Kerry Sanderson and John Morris.

The Minister for Education and Training on the Training Excellence Awards 2004.

The Deputy Premier on the Karajarri Consent Determination.

## **7. Questions**

Questions without notice were taken.

Questions on notice Nos 3183 to 3210 were asked.

Questions on notice Nos 2918, 2929 to 2931, 2934, 2937 to 2954, 2962, 2968, 2970, 2988, 2994, 3020, 3036, 3040, 3042 to 3044, 3046, 3048, 3052 to 3054, 3056 to 3058, 3062, 3065, 3070, 3079, 3081, 3085, 3096, 3165, 3168 and 3174 were answered.

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Paper tabled by the Minister representing the Minister for Government Enterprises -

Question on Notice No. 3057 - Water Quality - average quantity of chemicals used to maintain water quality for each month in 2002, 2003 and 2004 (2760).

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## **8. Messages from the Governor**

Message No. 39 from the Lieutenant Governor was reported assenting to the following Bills -

Treasurer's Advance Authorisation Bill 2004, Act No. 19 of 2004.

Marketing of Eggs Amendment Bill 2004, Act No. 20 of 2004.

Message No. 44 from His Excellency the Governor was reported assenting to the following Bills -

Director of Public Prosecutions Amendment Bill 2004, Act No. 21 of 2004.

Coroners Amendment Bill 2004, Act No. 22 of 2004.

Messages from His Excellency the Governor were reported recommending that appropriations be made for the following Bills -

Mines Safety and Inspection Amendment Bill 2004 (Message No. 40).

Criminal Procedure Bill 2004 (Message No. 41).

Criminal Appeals Bill 2004 (Message No. 42).

## **9. Petitions**

Kimberley Jet Services - Ms K. Hodson-Thomas presented a petition from 50 persons requesting that regular jet services be provided into Derby and Kununurra airports with affordable linkages from Halls Creek, Wyndham and Fitzroy Crossing airports and communities (P. 398).

Western Power - Mr J.P.D. Edwards presented a petition from 1377 persons requesting that Western Power compensate the residents of Spalding in Geraldton for the power surge in May 2004 (P. 399).

Attadale Primary School - Dr J.M. Woollard presented a petition from 88 persons requesting that the Attadale Primary School covered assembly area be built (P. 400).

Claremont Primary School - Mr C.J. Barnett presented a petition from 284 persons requesting that a traffic warden be employed at the Princess Road School crossing (P. 401).

## **10. 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 [OAG] - Annual Report 2003-2004 (Received by the Clerk of the Legislative Assembly on the 31 August 2004) (2710).

Inspector of Custodial Services, Office of the - Report on Cognitive Skills Training in the Western Australian Prison System, Report No. 23 August 2004 (Received by the Clerk of the Legislative Assembly on the 10 August 2004 and held for a period of thirty days as directed by section 109(4) of the Prisons Act) (2711).

State Records Commission - Annual Report 2003-2004 (2712).

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

Aboriginal Affairs Planning Authority Act 1972 - Deproclamation of Reserves 24952, 25404 and 26329, Esperance (2713).

Anti-Corruption Commission - Final Report 1 July 2003-26 May 2004 (2714).

Casino Control Act 1984 - Regulations (Casino Control (Burswood Island) (Licensing of Employees) Amendment Regulations 2004 G.G. 07/09/2004) (2715).

Casino Control Act 1984 - Regulations (Casino Control Amendment Regulations 2004 G.G. 07/09/2004) (2716).

Corruption and Crime Commission of Western Australia - Annual Report 2003-2004 pursuant to the Surveillance Devices Act 1998 (2717).

Corruption and Crime Commission of Western Australia - Annual Report 2003-2004 pursuant to the Telecommunications Interception Act 1979 (2718).

Dog Act 1976 - Local Laws (Shire of Cuballing Dogs Local Law 2004 G.G. 10/09/2004) (2719).

Dog Act 1976 - Local Laws (Town of East Fremantle Dogs Local Law G.G. 25/08/2004) (2720).

Electoral Commission, Western Australia - Political Finance Annual Report 2002-2003 (2721).

Fish Resources Management Act 1994 - Management Plans (West Coast Purse Seine Fishery Management Plan Amendment 2004 G.G. 31/08/2004) (2722).

Fish Resources Management Act 1994 - Orders (Houtman Abrolhos Reef Observation Areas Amendment Order 2004 G.G. 03/09/2004) (2723).

Fish Resources Management Act 1994 - Orders (Prohibition on Fishing (Busselton Jetty) Order 2004 G.G. 10/09/2004) (2724).

Health Act 1911 - Local Laws (City of Geraldton Health Local Laws 2004 G.G. 10/09/2004) (2725).

Health Act 1911 - Regulations (Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Amendment Regulations (No. 4) 2004 G.G. 24/08/2004) (2726).

Industrial Relations Commission, Department of the Registrar, Western Australian - Annual Report 2003-2004 (2727).

Iron Ore (Hope Downs) Agreement Act 1992 - Variation Agreement, 9 September 2004 (2728).

Jetties Act 1926 - Regulations (Jetties Amendment Regulations (No. 3) 2004 G.G. 24/08/2004) (2729).

Law Reform Commission of Western Australia, The - Annual Report 2003-2004 (2730).

Legal Aid Western Australia - Annual Report 2003-2004 (2731).

Legal Costs Committee - Annual Report 2002-2003 (2732).

Local Government Act 1995 - Local Laws (City of Nedlands - Amendment to Standing Orders Local Law (2004) G.G. 03/09/2004) (2733).

Local Government Act 1995 - Local Laws (Shire of Bridgetown-Greenbushes - Local Laws Relating to Fencing (2004) G.G. 31/08/2004) (2734).

Local Government Act 1995 - Local Laws (Shire of Serpentine-Jarrahdale Local Law - Fences (2004) G.G. 07/09/2004) (2735).

Local Government Act 1995 - Local Laws (Town of East Fremantle - Amendment to Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law G.G. 25/08/2004) (2736).

Local Government Act 1995 - Local Laws (Town of East Fremantle - Amendment to Local Laws Relating to Safety, Decency, Convenience and Comfort of Persons in Respect of Bathing G.G. 25/08/2004) (2737).

Local Government Act 1995 - Local Laws (Town of East Fremantle Bee Keeping Local Law G.G. 25/08/2004) (2738).

Local Government Act 1995 - Local Laws (Town of East Fremantle Local Laws Relating to Fencing G.G. 25/08/2004) (2739).

Local Government Act 1995 - Local Laws (Town of Vincent - Parking Facilities Local Law Amendment (2004) G.G. 24/08/2004) (2740).

Lotteries Commission - Annual Report 2003-2004 (2741).

Midland Redevelopment Act 1999 - Ministerial approval under Section 21(2) of the Act for final approval to the land exchange located within the Helena precinct, and endorses the attached Deposited Plan 41364 (2742).

Murdoch University Act 1973 - Statutes (Murdoch University - Statutes Nos. 1 and 4 - Amendment No. 3 of 2004 G.G. 07/09/2004) (2743).

Occupational Therapists' Registration Board of Western Australia - Annual Report 2003 (2744).

Pay-roll Tax Assessment Act 2002 - Regulations (Pay-roll Tax Assessment Amendment Regulations (No. 2) 2004 G.G. 07/09/2004) (2745).

Peel Development Commission - Annual Report 2003-2004 (2746).

Physiotherapists Registration Board of Western Australia - Annual Report 2003 (2747).

Registrar of Housing Societies - Annual Report 2003-2004 (2748).

Registration of Deeds Act 1856 - Regulations (Registration of Deeds Regulations 2004 G.G. 02/09/2004) (2749).

Shipping and Pilotage Act 1967 - Regulations (Navigable Waters Amendment Regulations (No. 2) 2004 G.G. 24/08/2004) (2750).

Shipping and Pilotage Act 1967 - Regulations (Navigation of Port of Perth Repeal Regulations 2004 G.G. 24/08/2004) (2751).

State Housing Commission - Annual Report 2003-2004 (2752).

Strata Titles Act 1985 - Regulations (Strata Titles General Amendment Regulations 2004 G.G. 02/09/2004) (2753).

Taxi Act 1994 - Regulations (Taxi Amendment Regulations (No. 4) 2004 G.G. 10/09/2004) (2754).

Transfer of Land Act 1893 - Regulations (Transfer of Land Regulations 2004 G.G. 02/09/2004) (2755).

Treasury Corporation, Western Australia - Annual Report 2003-2004 (2756).

War Service Land Settlement Scheme Act 1954 - Regulations (War Service Land Settlement Scheme Amendment Regulations 2004 G.G. 24/08/2004) (2757).

Western Australian College of Teaching Act 2004 - Regulations (Western Australian College of Teaching Regulations 2004 G.G. 03/09/2004) (2758).

Western Australian Marine Act 1982 - Regulations (W.A. Marine (Certificates of Competency and Safety Manning) Amendment Regulations (No. 2) 2004 G.G. 24/08/2004) (2759).

## **11. Notice of Motion**

## **12. Matter of Public Interest - Government Advertising**

The Speaker informed the Assembly that he was in receipt of a notice from Mr C.J. Barnett that he intended to move a motion on a matter of public interest.

At least five members having risen in support,

Mr C.J. Barnett moved,

That this House calls on the Gallop Labor Government to honour its election commitment and stop wasting taxpayer funds on political and partisan advertising in the media.

Debate ensued.

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*Paper*

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

By the Deputy Premier -

Government Advertising - Advertising Campaigns, October 1996 (2763).

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Debate resumed.

Question put.

The Assembly divided.

**Ayes (22)**

Mr C.J. Barnett  
Mr D.F. Barron-Sullivan  
Mr M.J. Birney  
Mr M.F. Board  
Dr E. Constable  
Mr J.H.D. Day  
Mrs C.L. Edwardes  
Mr J.P.D. Edwards

Mr B.J. Grylls  
Ms K. Hodson-Thomas  
Mr M.G. House  
Mr R.F. Johnson  
Mr A.D. Marshall  
Mr B.K. Masters  
Mr P.D. Omodei  
Mr P.G. Pandal

Mr R.N. Sweetman  
Mr M.W. Trenorden  
Mr T.K. Waldron  
Ms S.E. Walker  
Dr J.M. Woollard  
Mr J.L. Bradshaw (*Teller*)

**Noes (28)**

Mr P.W. Andrews  
Mr J.J.M. Bowler  
Mr C.M. Brown  
Mr A.J. Carpenter  
Mr J.B. D'Orazio  
Dr J.M. Edwards  
Mrs D.J. Guise  
Mr S.R. Hill  
Mr J.N. Hyde  
Mr J.C. Kobelke

Mr R.C. Kucera  
Mr F.M. Logan  
Ms A.J. MacTiernan  
Mr J.A. McGinty  
Mr M. McGowan  
Ms S.M. McHale  
Mr A.D. McRae  
Mr N.R. Marlborough  
Mrs C.A. Martin  
Mr A.P. O'Gorman

Mr J.R. Quigley  
Ms J.A. Radisich  
Mr E.S. Ripper  
Mrs M.H. Roberts  
Mr D.A. Templeman  
Mr P.B. Watson  
Mr M.P. Whitely  
Ms M.M. Quirk (*Teller*)

Question thus negatived.

**13. Messages from the Legislative Council**

Messages from the Legislative Council were reported returning the following Bills without amendment -

27 August 2004

Director of Public Prosecutions Amendment Bill 2004 (message No. 156) .

Coroners Amendment Bill 2004 (message No. 157) .

**14. Children and Community Services Bill 2003**

Message No. 155 dated 26 August 2004 from the Legislative Council was reported as follows -

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Children and Community Services Bill 2003* 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 Children and Community Services Bill 2003*

**No. 1**

Clause 8, page 9, line 14 - To delete “permanency” and insert instead -  
“ continuity and stability ”.

**No. 2**

Clause 9, page 10, line 24 - To delete “only be taken in respect of a child” and insert instead -  
“ be taken only ”.

**No. 3**

Clause 26, page 22, line 16 - To delete “produce” and insert instead -  
“ display ”.

**No. 4**

Clause 26, page 22, line 17 - To delete “asked to do so by” and insert instead -  
“ dealing with ”.

**No. 5**

Clause 28, page 24, after line 4 - To insert -

“  
“harm”, in relation to a child, means any detrimental effect of a significant nature  
on the child’s wellbeing;

”.

**No. 6**

Clause 28, page 24, lines 22 to 25 - To delete the lines.

**No. 7**

Clause 28, page 24, line 26 - To delete “significant”.

**No. 8**

Clause 28, page 24, after line 28 - To insert -

“ (ii) sexual abuse; ”.

**No. 9**

Clause 28, page 25, line 5 - To delete “significant”.

**No. 10**

Clause 37, page 31, line 15 - To delete “(1)” and insert instead -

“ (2) ”.

**No. 11**

Clause 44, page 37, line 26 - To delete “only”.

**No. 12**

Clause 44, page 37, line 26 - To insert after “made” -

“ only ”.

**No. 13**

Clause 90, page 59, after line 5 - To insert -

“  
(d) any other person considered by the CEO to have a direct and significant  
interest in the wellbeing of the child.

”.



**No. 14**

Clause 93, page 60, after line 25 - To insert -

“

(c) any carer of the child; or

”.

**No. 15**

Clause 101, page 64, line 24 - To delete “significant”.

**No. 16**

Clause 101, page 64, after line 26 - To insert -

“ (ii) sexual abuse; ”.

**No. 17**

Clause 101, page 65, lines 5 to 10 - To delete the lines.

**No. 18**

Clause 101, page 65, line 11 - To delete “this section” and insert instead -

“ subsection (1) ”.

**No. 19**

Clause 101, page 65, after line 14 - To insert -

“

“harm” has the meaning given to that term in section 28(1).

”.

**No. 20**

Clause 140, page 87, line 16 - To delete “unless it makes an order” and insert instead -

“ subject to the terms of any order made ”.

**No. 21**

Clause 140, page 87, line 21 - To insert after “report” -

“ , or a specified part of the report, ”.

**No. 22**

Clause 140, page 87, line 23 - To insert after “report” -

“ , or the specified part, ”.

**No. 23**

Clause 161, page 102, line 8 - To insert after “21” -

“ working ”.

**No. 24**

Clause 199, page 125, after line 31 - To insert -

“

(ii) reflects best practice in the care, education and recreation of young children; and

”.

**No. 25**

Clause 204, page 127, lines 14 to 16 - To delete “may ask the applicant or nominated supervising officer to do any or all of the following”.



**No. 26**

Clause 204, page 127, line 17 - To insert before “undergo” -  
“ must ask the applicant or nominated supervising officer to ”.

**No. 27**

Clause 204, page 127, line 21 - To insert before “undergo” -  
“ may ask the applicant or nominated supervising officer to ”.

**No. 28**

Clause 204, page 127, line 23 - To insert before “provide” -  
“ must ask the applicant or nominated supervising officer to ”.

**No. 29**

Clause 204, page 127, after line 23 - To insert -

- “
- (d) must ask the applicant or nominated supervising officer to provide evidence that the person holds the qualifications prescribed in relation to the type of child care service to which the application relates.

”.

**No. 30**

Clause 225, page 136, line 13 - To delete “who is”.

**No. 31**

Clause 229, page 138, line 6 - To delete “(2)” and insert instead -  
“ (3) ”.

**No. 32**

Schedule 2, page 174, after line 5 - To delete “and (2)”.

**No. 33**

Schedule 2, page 174, after line 5 - To delete “significant”.

Ordered, That consideration in detail of Legislative Council message No. 155 be made an Order of the Day for the next sitting of the Assembly.

**15. Electricity Legislation (Amendments and Transitional Provisions) Bill 2003**

Message No. 154 dated 26 August 2004 from the Legislative Council was reported as follows -

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Electricity Legislation (Amendments and Transitional Provisions) Bill 2003* 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 Electricity Legislation (Amendments and Transitional Provisions) Bill 2003*

**No. 1**

Clause 1, page 2, line 4 - To delete “(Amendments and Transitional Provisions)” and insert instead -  
“ Amendment ”.

**No. 2**

Clause 2, page 2, lines 6 and 7 - To delete the lines.

**No. 3**

Clause 2, page 2, line 8 - To insert after “of” -  
“ this Act ”.

**No. 4**

Clause 2, page 2, lines 9 to 13 - To delete the lines.

**No. 5**

Clause 2, page 2, line 16 - To delete “but”.

**No. 6**

Clause 2, page 2, lines 17 to 22 - To delete the lines.

**No. 7**

Clause 3, page 3, lines 2 to 7 - To delete the clause.

**No. 8**

Clause 4, page 3, lines 8 to 15 - To delete the clause.

**No. 9**

Clause 5, page 3, lines 16 to 19 - To delete the clause.

**No. 10**

Clause 6, page 3, line 20 to page 4, line 20 - To delete the clause.

**No. 11**

Clause 7, page 4, lines 21 and 22 - To delete the clause.

**No. 12**

Clause 8, page 4, lines 23 to 29 - To delete the clause.

**No. 13**

Clause 9, page 5, line 1 to page 6, line 17 - To delete the clause.

**No. 14**

Clause 10, page 6, lines 18 and 19 - To delete the clause.

**No. 15**

Clause 11, page 6, line 20 to page 7, line 3 - To delete the clause.

**No. 16**

Clause 12, page 7, lines 4 to 7 - To delete the clause.

**No. 17**

Clause 13, page 7, lines 8 to 16 - To delete the clause.

**No. 18**

Clause 14, page 7, lines 17 and 18 - To delete the clause.

**No. 19**

Clause 15, page 7, line 19 to page 12, line 14 - To delete the clause.

**No. 20**

Clause 16, page 12, line 15 to page 16, line 10 - To delete the clause.

**No. 21**

Clause 17, page 16, lines 11 to 26 - To delete the clause.

**No. 22**

Clause 18, page 17, lines 4 to 11 - To delete the lines.

**No. 23**

Clause 19, page 17, line 12 to page 19, line 6 - To delete the clause.

**No. 24**

Clause 20, page 19, lines 7 to 22 - To delete the clause.

**No. 25**

Clause 21, page 19, line 24 to page 20, line 18 - To delete the clause.

**No. 26**

Clause 22, page 20, line 19 to page 21, line 4 - To delete the clause.

**No. 27**

Clause 23, page 21, lines 5 to 11 - To delete the clause.

**No. 28**

Clause 24, page 21, line 15 to page 22, line 28 - To delete the clause.

**No. 29**

Clause 25, page 23, lines 1 to 12 - To delete the clause.

**No. 30**

Clause 26, page 23, lines 13 to 19 - To delete the clause.

**No. 31**

Clause 27, page 23, line 20 to page 24, line 2 - To delete the clause.

**No. 32**

Clause 28, page 24, lines 3 to 17 - To delete the clause.

**No. 33**

Clause 29, page 24, line 18 to page 25, line 5 - To delete the clause.

**No. 34**

Clause 30, page 25, lines 6 to 25 - To delete the clause.

**No. 35**

Clause 31, page 25, line 27 to page 27, line 13 - To delete the clause.

**No. 36**

Clause 32, page 27, line 14 to page 28, line 4 - To delete the clause.

**No. 37**

Clause 33, page 28, line 5 to page 29, line 28 - To delete the clause.

**No. 38**

Clause 34, page 30, lines 1 to 19 - To delete the clause.

**No. 39**

Clause 35, page 30, line 20 to page 31, line 4 - To delete the clause.

**No. 40**

Clause 36, page 31, lines 5 to 14 - To delete the clause.

**No. 41**

Clause 37, page 31, line 16 to page 32, line 15 - To delete the clause.

**No. 42**

Clause 38, page 32, line 16 to page 33, line 27 - To delete the clause.

**No. 43**

Clause 39, page 34, lines 1 to 9 - To delete the clause.

**No. 44**

Clause 40, page 34, line 12 to page 35, line 2 - To delete the clause.

**No. 45**

Clause 41, page 35, line 3 to page 36, line 9 - To delete the clause.

**No. 46**

Clause 42, page 36, lines 10 to 14 - To delete the clause.

**No. 47**

Clause 43, page 36, lines 16 to 28 - To delete the clause.

**No. 48**

Clause 44, page 37, lines 1 to 14 - To delete the clause.

**No. 49**

Clause 45, page 37, lines 15 to 21 - To delete the clause.

**No. 50**

Clause 46, page 37, line 24 to page 38, line 22 - To delete the clause.

**No. 51**

Clause 47, page 38, line 23 to page 39, line 25 - To delete the clause.

**No. 52**

Clause 48, page 39, line 26 to page 40, line 15 - To delete the clause.

**No. 53**

Clause 49, page 40, lines 16 to 22 - To delete the clause.

**No. 54**

Clause 50, page 40, line 25 to page 42, line 4 - To delete the clause.

**No. 55**

Clause 51, page 42, lines 5 to 18 - To delete the clause.

**No. 56**

Clause 52, page 42, lines 19 to 31 - To delete the clause.

**No. 57**

Clause 53, page 43, lines 1 to 23 - To delete the clause.

**No. 58**

Clause 54, page 43, line 24 to page 44, line 19 - To delete the clause.

**No. 59**

Clause 55, page 44, line 20 to page 45, line 17 - To delete the clause.

**No. 60**

Clause 56, page 45, line 19 to page 46, line 6 - To delete the clause.

**No. 61**

Clause 57, page 46, lines 7 to 14 - To delete the clause.

**No. 62**

Clause 58, page 46, line 16 to page 47, line 9 - To delete the clause.

**No. 63**

Clause 59, page 47, lines 11 to 27 - To delete the clause.

**No. 64**

Clause 60, page 47, line 28 to page 48, line 5 - To delete the clause.

**No. 65**

Clause 61, page 48, lines 6 to 15 - To delete the clause.

**No. 66**

Clause 62, page 48, lines 16 to 21 - To delete the clause.

**No. 67**

Clause 63, page 48, line 22 to page 49, line 12 - To delete the clause.

**No. 68**

Clause 64, page 49, line 13 to page 50, line 10 - To delete the clause.

**No. 69**

Clause 65, page 50, line 12 to page 51, line 2 - To delete the clause.

**No. 70**

Clause 66, page 51, lines 3 to 16 - To delete the clause.

**No. 71**

Clause 67, page 51, lines 17 to 28 - To delete the clause.

**No. 72**

Clause 68, page 52, lines 2 to 24 - To delete the clause.

**No. 73**

Clause 69, page 53, lines 3 to 7 - To delete the clause.

**No. 74**

Clause 70, page 53, lines 8 to 14 - To delete the clause.

**No. 75**

Clause 71, page 53, line 15 to page 54, line 28 - To delete the clause.

**No. 76**

Clause 72, page 55, lines 1 to 11 - To delete the clause.

**No. 77**

Clause 73, page 55, lines 12 to 17 - To delete the clause.

**No. 78**

Clause 74, page 55, line 18 to page 56, line 14 - To delete the clause.

**No. 79**

Clause 75, page 56, line 16 to page 57, line 10 - To delete the clause.

**No. 80**

Clause 76, page 57, lines 11 to 15 - To delete the clause.

**No. 81**

Clause 77, page 57, line 16 to page 58, line 8 - To delete the clause.

**No. 82**

Clause 78, page 58, lines 9 to 25 - To delete the clause.

**No. 83**

Clause 79, page 59, lines 1 to 16 - To delete the clause.

**No. 84**

Clause 80, page 59, line 17 to page 60, line 27 - To delete the clause.

**No. 85**

Clause 81, page 61, lines 1 to 19 - To delete the clause.

**No. 86**

Clause 82, page 61, lines 20 to 29 - To delete the clause.

**No. 87**

Clause 83, page 62, lines 1 to 18 - To delete the clause.

**No. 88**

Clause 84, page 62, line 19 to page 63, line 13 - To delete the clause.

**No. 89**

Clause 85, page 63, lines 14 to 27 - To delete the clause.

**No. 90**

Clause 86, page 64, lines 1 to 18 - To delete the clause.

**No. 91**

Clause 89, page 65, line 14 - To delete “deleting” and insert instead -  
“ inserting after ”.

**No. 92**

Clause 89, page 65, line 15 - To delete “and inserting instead”.

**No. 93**

Clause 89, page 65, line 16 - To insert before “network” -  
“ or ”.

**No. 94**

Clause 89, page 65, lines 17 to 19 - To delete the lines.

**No. 95**

Clause 89, page 65, after line 19 - To insert -

- “
- (2) Section 5(1) is amended in the definition of “electric installation” by deleting “electric” and by relocating the definition in the appropriate alphabetical position.
  - (3) Section 5(1) is amended by deleting the definition of “supply authority” and inserting instead —
- “

“**supply authority**” means an entity that, immediately before the coming into operation of section 89 of the *Electricity Legislation Amendment Act 2004*, was a supply authority as defined in this section, but does not include the Western Power Corporation;

”  
.”  
”.

**No. 96**

Clause 89, page 65, line 25 - To delete “2003” and insert instead -  
“ 2004 ”.

**No. 97**

Clause 89, page 65, line 27 - To delete “2003” and insert instead -  
“ 2004 ”.

**No. 98**

Clause 89, page 66, line 7 - To delete “2003” and insert instead -  
“ 2004 ”.

**No. 99**

Clause 89, page 66, line 21 - To delete “2003” and insert instead -  
“ 2004 ”.

**No. 100**

Clause 89, page 66, line 23 - To delete “2003” and insert instead -  
“ 2004 ”.

**No. 101**

Clause 89, page 66, line 28 - To delete ““Coordinator””.

**No. 102**

Clause 89, page 66, line 29 - To delete “, “electric installation”,” and insert instead -  
“ and ”.

**No. 103**

Clause 89, page 66, line 29 - To delete “, “public authority” and “supply authority””.

**No. 104**

Clause 90, page 66, line 32 - To insert after “repealed” -  
“

and the following section is inserted instead —

“  
**6. Application of Act to supply authorities**

- (1) The Minister may, by instrument published in the *Government Gazette*, declare that on and after a specified day a specified relevant provision does not apply to a specified supply authority, and a declaration so made has effect accordingly.
- (2) A declaration is not to be made in respect of a relevant provision unless the Minister is of the opinion that on and after the specified day the specified supply authority will have powers, rights and obligations under the *Electricity Industry Act 2004* that are substantially equivalent to those conferred or imposed by the relevant provision.
- (3) A declaration is not to be made after the expiration of the period of 2 years beginning on the day of the insertion of subsection (1) into this Act by the *Electricity Legislation Act 2004*.
- (4) In this section —  
“**declaration**” means a declaration made under subsection (1);  
“**relevant provision**” means any of sections 11 to 24, 34 to 41 or 43 to 51,  
or any portion of any of those sections, or section 32 (a), (b), (d)  
or (l);  
“**specified**” means specified in the declaration.

”  
”.



**No. 105**

Clause 91, page 67, line 5 - To delete “**Network operators**” and insert instead -  
“ **Powers, rights and** ”.

**No. 106**

Clause 92, page 67, lines 6 and 7 - To delete the clause and insert the following new clauses instead -  
“

**92. Part II Division 1 heading deleted**

The heading to Part II Division 1 is deleted.

**93. Sections 7, 8, 9 and 10 repealed**

Sections 7 to 10 are repealed.

**94. Section 13 repealed**

Section 13 is repealed.

**95. Sections 15, 16 and 17 repealed**

Sections 15 to 17 are repealed.

**96. Part II Division 2 heading deleted**

The heading to Part II Division 2 is deleted.

”.

**No. 107**

Clause 95, page 68, line 4 - To delete “(a), (b), (d),”

**No. 108**

Clause 95, page 68, line 4 - To delete “and (l)”.

**No. 109**

Clause 96, page 68, lines 11 and 12 - To delete the clause.

**No. 110**

Clause 97, page 68, line 19 - To delete “or electric”.

**No. 111**

Clause 97, page 68, lines 22 and 23 - To delete “or electric”.

**No. 112**

Clause 98, page 69, lines 1 and 2 - To delete the clause.

**No. 113**

Clause 100, page 69, line 8 - To delete “to 51 are” and insert instead -  
“ is ”.

**No. 114**

Clause 103, page 69, lines 19 to 21 - To delete the clause.

**No. 115**

Clause 109, page 76, line 24 - To delete “2003” and insert instead -  
“ 2004 ”.

“

## **Division 2 — *Electricity Corporation Act 1994* amended**

### **101A. The Act amended**

The amendments in this Division are to the *Electricity Corporation Act 1994*\*.

[\* *Reprint 2 as at 3 January 2003.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2003, Table 1, p. 118. ]*

### **101B. Section 3 amended**

(1) Section 3 is amended as follows:

- (a) by inserting before “In this Act” the subsection designation “(1)”;  
(b) in the definition of “subsidiary” by deleting paragraph (a) and “and” after it and inserting instead —

“

- (a) a body determined to be a subsidiary of the corporation under subsection (2); or

”.

(2) At the end of section 3 the following subsection is inserted —

“

- (2) Part 1.2 Division 6 of the Corporations Act applies for the purpose of determining whether a body is a subsidiary of the corporation.

”.

### **101C. Section 28 amended**

(1) Section 28(3) is amended by deleting “The” and inserting instead —

“ Subject to subsection (3a), the ”.

(2) After section 28(3) the following subsections are inserted —

“

(3a) Without limiting section 66, the Minister may under that section direct the corporation —

- (a) not to perform a function specified in the direction;
- (b) not to perform a function specified in the direction to an extent, or except to an extent, specified in the direction; or
- (c) not to perform a function specified in the direction in or in relation to an area, or except in or in relation to an area, specified in the direction.

(3b) Subsection (3a) does not authorise a direction of a kind mentioned in section 38A(1).

”.

**101D. Section 31A inserted**

After section 31 the following section is inserted —

“

**31A. Segregation of functions**

- (1) Regulations under section 100 may provide for, and in relation to —
  - (a) the segregation of any segment of the corporation’s operations mentioned in section 62(2) from the other functions or operations of the corporation; or
  - (b) the segregation from the corporation of any subsidiary of the corporation that has any functions or operations of a specified kind.
- (2) Regulations referred to in subsection (1) may make provision for, or in relation to —
  - (a) the keeping of accounts and records;
  - (b) financial reporting;
  - (c) the apportionment of income, expenditure, assets and liabilities;
  - (d) the protection of information;
  - (e) the conduct of officers of the corporation; and
  - (f) controls and procedures, and the conferral of functions on a specified person, to ensure that any required segregation is effective.

”.

**101E. Section 62 amended**

- (1) Section 62(2)(a) is amended as follows:
  - (a) in subparagraph (i) by inserting after “electricity” —

“ within the South West interconnected system ”.
  - (b) by deleting subparagraphs (ii) and (iii) and inserting instead —

“

    - (ii) the transmission and distribution of electricity within the South West interconnected system;
    - (iii) the sale of electricity within the South West interconnected system;

”.

- (2) After section 62(2) the following subsection is inserted —

“

- (2a) In subsection (2) —

“**South West interconnected system**” has the meaning given to that term in section 3 of the *Electricity Industry Act 2004*.

”.

**101F. Section 66 amended**

Section 66(1) is amended as follows:

- (a) by deleting “generally”;

- (b) by inserting after “functions” —  
“ , either generally or in relation to a particular matter, ”.

**101G. Section 95A inserted**

After section 95 the following section is inserted —

“

**95A. Phasing-out of operation of access and procurement provisions**

- (1) The Minister may, by instrument published in the *Government Gazette*, declare that a specified relevant provision does not have effect on and after a specified day, and a declaration so made has effect accordingly.
- (2) A declaration is not to be made in respect of a relevant provision unless the Minister is of the opinion that the matters to which the relevant provision relates are adequately dealt with, or will be adequately dealt with on and after the specified day, under —
  - (a) Part 8 of the *Electricity Industry Act 2004* and the Code established under that Part; or
  - (b) Part 9 of the *Electricity Industry Act 2004* and the regulations made and market rules established under that Part.
- (3) A declaration is not to be made after the expiration of the period of 2 years beginning on the day of the insertion of subsection (1) into this Act by the *Electricity Legislation Amendment Act 2004*.
- (4) Regulations made under section 100 may —
  - (a) repeal any specified provision that has ceased to have effect because of a declaration;
  - (b) effect any repeal of or amendment to any other provision of this Part or Schedule 5, 6 or 7 that is consequential on a repeal referred to in paragraph (a); and
  - (c) prescribe any matter that it is necessary or convenient to prescribe for transitional or savings purposes in relation to a declaration or in relation to a repeal or amendment referred to in paragraph (a) or (b).
- (5) In this section —

“**declaration**” means a declaration made under subsection (1);

“**relevant provision**” means any of section 90, 91, 92 or 93 or Schedule 5, 6 or 7, or any portion of any of those sections or Schedules;

“**specified**” means specified in the declaration.

”.

**Division 3 — *Electricity Industry Act 2004* amended**

**101H. The Act amended**

The amendments in this Division are to the *Electricity Industry Act 2004*\*.

[\* *Act No. 5 of 2004.*]

**101I. Part 2 Division 7 heading amended**

- (1) The heading to Part 2 Division 7 is amended by deleting “Other functions of the Authority” and inserting instead —

“

**Administration and monitoring of licensing scheme and issue of codes**

”.

**101J. Section 39 amended**

- (1) Section 39(1) is amended by deleting “The” and inserting instead —

“ Subject to subsection (2b), the ”.

- (2) After section 39(2) the following subsections are inserted —

“

- (2a) If the Authority has not prepared and issued a code in respect of a code matter the Minister may —

- (a) prepare and issue a code in respect of that code matter; or
- (b) by notice published in the *Government Gazette*, declare that the Minister proposes to prepare and issue a code in respect of that code matter.

- (2b) If —

- (a) a code prepared and issued by the Minister; or
- (b) a declaration under subsection (2a)(b),

is in force in respect of a code matter, the Authority cannot issue a code in respect of that code matter.

- (2c) In subsections (2a) and (2b) —

“**code matter**” means —

- (a) the matter mentioned in subsection (2)(a);
- (b) the matter mentioned in subsection (2)(b);
- (c) the matter mentioned in subsection (2)(d); or
- (d) a matter referred to in subsection (2)(e).

”.

**101JA. Section 79 amended**

Section 79(2)(c) is amended by deleting “customers; and” and inserting instead —

“

customers and providing for compensation payments to be made to customers when standards of conduct are not met; and

”.

**101JB. Section 89A inserted**

After section 89 the following section is inserted —

“

**89A. Regulations may modify application or operation of enactments to facilitate operation of code**

The regulations may provide that a prescribed enactment —

- (a) does not apply in relation to the supply and marketing of electricity to customers;
- (b) does not apply in relation to the supply and marketing of electricity to customers to the extent prescribed;
- (c) does not apply in relation to the supply and marketing of electricity to customers to the extent that the enactment is inconsistent with the code; or
- (d) applies in relation to the supply and marketing of electricity to customers with such modifications as are prescribed.

”.

**101K. Section 103 amended**

Section 103 is amended by deleting the definition of “access” and inserting instead —

“

“access”, in relation to services, has a meaning corresponding with the meaning that it has when used in that context in the *Trade Practices Act 1974* of the Commonwealth;

”.

**101L. Section 104 amended**

Section 104(2) is amended as follows:

- (a) in paragraph (l), by deleting “metering and other”;
- (b) by deleting paragraph (m).

**101M. Section 106 amended**

Section 106(2) is amended by inserting after “agreement” —

“ or an enactment ”.

**101N. Section 115 amended**

(1) Section 115(1) is amended as follows:

- (a) by inserting before “must” —  
“ , or an associate of the network service provider, ”.
- (b) by deleting “aimed at” and inserting instead —  
“ for the purpose of ”.

(c) after paragraph (c), by inserting —

“

Penalty: \$100 000.

Daily penalty: \$20 000.

”.

(2) Section 115(2) is amended as follows:

(a) by inserting before “must” —

“ , or an associate of the person, ”.

(b) by deleting “aimed at” and inserting instead —

“ for the purpose of ”.

(3) Section 115(3) is repealed (but not the penalties after it).

(4) At the end of section 115 the following subsections are inserted —

“

(3) Without limiting subsection (1) or (2) —

(a) a person is taken to engage in conduct for a particular purpose if —

(i) the conduct is or was engaged in for purposes that include, or included, that purpose; and

(ii) that purpose is or was a substantial purpose;

(b) a person may be taken to have engaged in conduct for a particular purpose even though, after all the evidence has been considered, the existence of that purpose is ascertainable only by inference from the conduct of the person or of any other person or from other relevant circumstances.

(4) In this section —

(a) a reference to engaging in conduct is a reference to doing or refusing to do any act and includes a reference to —

(i) making a contract or arrangement or giving effect to a provision of a contract or arrangement;

(ii) arriving at an understanding or giving effect to a provision of an understanding; or

(iii) requiring a covenant to be given or giving a covenant;

(b) a reference to refusing to do an act includes a reference to —

(i) refraining (otherwise than inadvertently) from doing the act; or

(ii) making it known that the act will not be done.

(5) Subsection (1) or (2) does not apply to conduct in which a person engaged in accordance with an agreement, if the agreement was in force on 30 March 1995.

(6) In this section —

“**associate**”, in relation to a person, has the meaning it would have under Part 1.2 Division 2 of the *Corporations Act 2001* of the Commonwealth if sections 13, 14, 16(2) and 17 of that Act were repealed.

”.



**101O. Schedule 1 amended**

Schedule 1 item (k) is amended as follows:

- (a) by inserting before “under” —  
“ or the Minister ”.
- (b) by deleting “Authority;” and inserting instead —  
“ Authority or the Minister, as the case may be; ”.

”  
.”

**No. 117**

New Clause 102A, page 69, after line 18 - To insert the following new clause -

“

**102A. Long title amended**

The long title is amended by deleting “the Western Power Corporation and certain other” and inserting instead —

“ **energy** ”.

”.

**No. 118**

New Clause 102B, page 69, after line 18 - To insert the following new clause -

“

**102B. Section 4 amended**

- (1) In section 4(1) the following definitions are inserted in the appropriate alphabetical positions —

“

**“electricity corporation”** means Western Power Corporation or a body corporate that is a subsidiary, as defined in section 3 of the *Electricity Corporation Act 1994*, of Western Power Corporation;

”.

- (2) In section 4(1) the definition of “energy operator” is deleted and the following definition is inserted instead —

“

**“energy operator”** means an electricity corporation or —

- (a) in a prescribed provision as defined in section 45(1) of the *Electricity Industry Act 2004*, a person referred to in that section includes in a reference in that prescribed provision to an energy operator;
- (b) in a provision of this Act referred to in Schedule 2 Part 1 or 2 of the *Energy Coordination Act 1994*, a person referred to in section 11ZO of that Act includes in a reference in that provision to an energy operator; and
- (c) in a provision to which paragraphs (a) and (b) both apply, a person referred to in either of those paragraphs;

”.

- (3) In section 4(1) the definitions of “concessionaire” and “linking-up scheme” are deleted.

”.

**No. 119**

New Clause 106A, page 70, after line 28 - To insert the following new clause -

“

**106A. Section 46 amended**

Section 46(12) is amended as follows:

- (a) by inserting after “energy operator” where it first occurs —  
“ responsible for the operation of existing distribution works ”;
- (b) by deleting “existing distribution” and inserting instead —  
“ those ”.

”.

**No. 120**

New Clause 107A, page 75, after line 27 - To insert the following new clause -

“

**107A. Section 123 amended**

- (1) Section 123(1) is amended by deleting “or to facilitate the operation of the Electricity Corporation”.
- (2) Section 123(3)(a) is amended by deleting “the Electricity Corporation” and inserting instead —  
“ an electricity corporation ”.

”.

**No. 121**

New Clause 107B, page 75, after line 27 - To insert the following new clause -

“

**107B. Section 124 amended**

- (1) Section 124(1) is amended as follows:
  - (a) by deleting “Electricity” and inserting instead —  
“ Western Power ”.
  - (b) by deleting “its functions” and inserting instead —  
“ the functions of an electricity corporation ”.
- (2) Section 124(1a) is amended by deleting “energy, or the supply of energy, of a kind which is within the corporation’s functions” and inserting instead —  
“ electricity ”.
- (3) Section 124(4) is amended:
  - (a) by deleting “the corporation” in paragraphs (a), (b), (d)(i), (d)(ia), (d)(vii), (d)(xi), (e), (k), (n) and (p) and in the first place where it occurs in paragraphs (d)(iaa), (h), (j) and (o) and inserting instead —  
“ an electricity corporation ”.

- (b) in paragraph (d)(iaa) by deleting “the corporation” in the second and third places where it occurs and inserting instead —  
“ the electricity corporation ”.
- (c) in paragraphs (h), (j) and (o) by deleting “the corporation” in the second place where it occurs and inserting instead —  
“ the electricity corporation ”.
- (4) Section 124(5) is amended by deleting “corporation” in both places where it occurs and inserting instead —  
“ Western Power Corporation ”.

## No. 122

Long Title, page 1 - To delete all words after “An Act” and insert instead -

“

to amend the —

- *Electricity Act 1945;*
- *Electricity Corporation Act 1994;*
- *Electricity Industry Act 2004;*
- *Energy Operators (Powers) Act 1979; and*
- *Parliamentary Commissioner Act 1971.*

”.

Ordered, That consideration in detail of Legislative Council message No. 154 be made an Order of the Day for the next sitting of the Assembly.

## 16. Planning and Development Bill 2004

### Planning and Development (Consequential and Transitional Provisions) Bill 2004

### Metropolitan Region Improvement Tax Amendment Bill 2004

The Order of the Day for the resumption of the debate upon the second reading of the Bill was read.

#### *Cognate Debate*

Leave was granted to debate the Planning and Development (Consequential and Transitional Provisions) Bill 2004 and the Metropolitan Region Improvement Tax Amendment Bill 2004 in conjunction with the Planning and Development Bill 2004.

Debate resumed.

The Leader of the House moved, That the debate be adjourned.

**17. Adjournment**

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

Question put and passed.

The Assembly adjourned accordingly, at 10.20 p.m. until Wednesday, 15 September 2004 at 12 noon.

*Members present during any part of the day's proceedings* - All the members except Mr L. Graham.

**PETER J. McHUGH**

Clerk of the Legislative Assembly

**HON. FRED RIEBELING**

Speaker of the Legislative Assembly

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