



FIRST SESSION OF THE THIRTY-SIXTH PARLIAMENT

**REPORT OF THE
STANDING COMMITTEE ON LEGISLATION
IN RELATION TO THE
STATUTES (REPEALS AND
MINOR AMENDMENTS) BILL 2001**

Presented by Hon Jon Ford MLC (Chairman)

Report 11
March 2002

STANDING COMMITTEE ON LEGISLATION

Date first appointed:

May 24 2001

Terms of Reference:

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

“1. Legislation Committee

- 1.1 A *Legislation Committee* is established.
- 1.2 The Committee consists of 7 members.
- 1.3 The functions of the Committee are -
 - (a) to consider and report on any bill referred by the House;
 - (b) to review the form and content of the statute book;
 - (c) to inquire into and report on any proposal to reform an existing law;
 - (d) to consider and report on a bill referred under SO 230A.
- 1.4 Unless otherwise ordered, the policy of a bill referred under subclause 1.3(a) at the second reading or any subsequent stage is excluded from the Committee’s consideration.
- 1.5 The Committee of its own motion, or on a reference from a Minister, may inquire into and report to the House on any or all aspects, including policy, of a proposal for an agreement or arrangement that, to have effect, would necessitate the enactment of legislation of a type described in SO 230A.”

Members as at the time of this inquiry:

Hon Jon Ford MLC (Chairman)	Hon Adele Farina MLC
Hon Giz Watson MLC (Deputy Chair)	Hon Peter Foss MLC
Hon Kate Doust MLC	Hon Bill Stretch MLC
Hon Paddy Embry MLC	

Staff as at the time of this inquiry:

Louis Gargan, Committee Clerk	Lisa Hanna, Research Officer
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EXECUTIVE SUMMARY AND RECOMMENDATIONS FOR THE
REPORT OF THE STANDING COMMITTEE ON LEGISLATION
IN RELATION TO THE
STATUTES (REPEALS AND MINOR AMENDMENTS) BILL 2001

EXECUTIVE SUMMARY

- 1 The Statutes (Repeals and Minor Amendments) Bill 2001 (Bill) was referred to the Standing Committee on Legislation (Committee) on August 1 2001 for inquiry on a motion by Hon Kim Chance MLC.
- 2 The purpose of the Bill is to revise statute law by repealing spent, unnecessary or superseded Acts, and by making miscellaneous minor amendments to various Acts.
- 3 Clause 117 of the Bill amends clause 2 of the Schedule to the *Tobacco Control Act 1990*, by inserting two additional subclauses. The Committee is of the view that the amendment is not a minor amendment. The insertion of new subclause (6) and (7) is a substantive change to the decision making process of the Western Australian Health Promotion Foundation.
- 4 The Committee has been informed of a number of amendments to the Bill which the Government plans to move. The Committee has reviewed these amendments and endorses the proposed amendments to the Bill.

RECOMMENDATIONS

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Recommendation 1: The Committee recommends that proposed subclause (6) in clause 117 of the Statutes (Repeals and Minor Amendments) Bill 2001 (which amends clause 2 of the Schedule to the *Tobacco Control Act 1990*) be amended in the following manner:

delete (6) and insert the following:

“(6) A decision in writing signed and assented to by all members by letter, facsimile or other written means is as effectual as if it had been passed at a meeting of the Foundation.”

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Recommendation 2: In the event that Recommendation 1 is not agreed to then the Committee recommends that proposed subclause (6) in clause 117 of the Statutes (Repeals and Minor Amendments) Bill 2001 (which amends clause 2 of the Schedule to the *Tobacco Control Act 1990*) be deleted.

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Recommendation 3: The Committee recommends that the Statutes (Repeals and Minor Amendments) Bill 2001 be amended in accordance with the amendments contained in Supplementary Notice Paper No 31, Issue 1, October 8 2001 which is attached as Appendix 2 to this report.

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Recommendation 4: The Committee recommends that the Statutes (Repeals and Minor Amendments) Bill 2001 be passed, subject to Recommendations 1, 2 and 3.

REPORT OF THE STANDING COMMITTEE ON LEGISLATION

IN RELATION TO THE

STATUTES (REPEALS AND MINOR AMENDMENTS) BILL 2001

1 REFERENCE AND PROCEDURE

- 1.1 The Statutes (Repeals and Minor Amendments) Bill 2001 (Bill) was referred to the Standing Committee on Legislation (Committee) on August 1 2001 for inquiry on a motion by Hon Kim Chance MLC.
- 1.2 The Committee is to report back to the House by March 14 2002.
- 1.3 The Committee appointed a subcommittee comprising Hon Jon Ford MLC (Convenor), Hon Giz Watson MLC and Hon Kate Doust MLC to assist in the inquiry.

2 CONTENTS AND PURPOSE OF THE BILL

- 2.1 The purpose of the Bill is to revise statute law by repealing spent, unnecessary or superseded Acts, and by making miscellaneous minor amendments to various Acts.¹ In his Second Reading Speech in the Legislative Council, Hon Kim Chance MLC stated:

This is the fifth Statutes (Repeals and Minor Amendments) Bill, more commonly known as an Omnibus Bill, to be introduced into Parliament. In essence, an Omnibus Bill is an avenue for making general housekeeping amendments to legislation. For this reason it is designed to make only short, non-controversial amendments to various Acts and to repeal Acts that are no longer required. ... The amendments contained in the Bill do not impose or increase any obligations or adversely affect any existing rights.

- 2.2 The Bill contains 155 clauses in three Parts and deals with three main categories of amendments:
 - i) Acts repealed: Part 2 of the Bill (Clauses 3 to 20) repeals Acts or sections of Acts which are obsolete, redundant, spent, or inoperative and also repeals unproclaimed Acts or sections of Acts which are no longer required;

¹ Hon Kim Chance MLC, Second Reading Speech, Western Australia, *Parliamentary Debates (Hansard)*, Legislative Council, June 28 2001, p. 1537.

- ii) Acts amended: Part 3 Division 1 of the Bill (Clauses 21 to 135) contains clauses amending various Acts. The majority of these clauses provide for amendments correcting minor textual, numbering and formatting errors, and changes to names of organisations, positions and titles, cross-reference errors or changes in terminology. Other clauses provide for amendments which add clarity, improve administrative efficiency, correct inadvertent omissions and delete references to redundant, repealed or unproclaimed Acts or sections of Acts; and
- iii) amendments to the short titles of various Acts.

3 THE BILL

- 3.1 The Committee considers that it would be an unnecessary duplication of the materials provided in the clause notes to the Bill to individually comment on each proposed amendment. The Committee, therefore, provides comment on selected clauses of the Bill only.

Acts Repealed

Timber Industry Regulation Act 1926

- 3.2 Clause 20 of the Bill repeals the *Timber Industry Regulation Act 1926* (TIR Act). The TIR Act provides for the inspection and regulation of the timber industry.
- 3.3 The TIR Act was once the primary occupational safety and health legislation applying to the timber industry, but it is now viewed as being superfluous given that the industry is more appropriately covered by the *Occupational Safety and Health Act 1984*.² The clause notes state that the TIR Act should be repealed as:

The TIR Act is outdated and does not take a modern, general duty of care style approach. It is confusing to retain the statute and it detracts from the more suitable provisions of the Occupational Safety and Health Act 1984. Further, there exists an industry code of practice developed by the Forest Industries Federation (WA) Inc, dealing with occupational safety and health matters relevant to the industry. With the Occupational Safety and Health Act 1984 and the industry code in place, occupational safety and health matters in the industry are now well covered.

- 3.4 The WorkSafe Western Australia Commission formally endorsed the repeal of the TIR Act in May 1998.³

² Clause Notes.

³ Clause Notes.

- 3.5 Comment was sought from the Forest Industry Federation (WA) Inc (FIFWA), WorkSafe WA, Australian Workers Union, Timber Workers Union, Sotico and Colli Brothers seeking their views on the proposed repeal of the Act. The subcommittee received only one response, this being from FIFWA, who advised that they support the repeal of the Act.
- 3.6 Comment was also sought from FIFWA seeking confirmation as to when or if the industry code of practice had been finalised and put in place. FIFWA informed the subcommittee that an industry code of practice for logging was in place, but only a draft had been produced of the industry code of practice for milling.
- 3.7 The Committee notes that the industry code of practice for milling has not been finalised. FIFWA have indicated that it is hoped that this code will be finalised within the next three months.⁴ The Committee has not been provided with a copy of the draft and is unaware as to its content.

Effect of the repeal of the TIR

- 3.8 As stated above, an objective of an omnibus bill is to repeal spent, unnecessary or superseded Acts. The Committee was concerned that the effect of the repeal of the TIR Act is such that it does not meet these criteria and thus may not be appropriate for inclusion in this Bill. Two issues form the basis of this concern:
- 3.8.1 In relation to the health and safety of the timber industry, given that the industry code of practice for milling developed by FIFWA is still in draft form and has not been finalised, are the provisions of the *Occupational Safety and Health Act 1984* without the industry code in place adequate coverage of the occupational safety and health matters in the industry?
- 3.8.2 In relation to the regulation of the timber industry, which is provided for by the TIR Act, repeal of the Act may have an effect on parties that have an interest in such things as the registration of sawmills, records that are required under the TIR Act, and any other such matters. Does repeal of the TIR Act remove a regulatory scheme without replacing it?
- 3.9 Clarification on these issues was sought from Hon John Kobelke MLA, Minister for Consumer Protection and Employment. A copy of the response from the Minister is attached at Appendix 1.

⁴ Letter from Bob Pearce, Executive Director, FIFWA, February 8 2002.

- 3.10 The Committee notes that the Minister is satisfied that the provisions of the *Occupational Safety and Health Act 1984* provide effective coverage of occupational safety and health in the timber industry.
- 3.11 The Committee further notes that the repeal of the TIR Act will remove certain aspects of a regulatory regime without replacing them; for example, the existing requirement to register sawmills will be removed. However, the Committee recognises that the TIR Act is outdated and that reporting and recording requirements are addressed by the requirements set by the WorkSafe Western Australia Commission.

Note

- 3.12 The Committee, whilst endorsing the repeal of the TIR Act, notes that it was difficult in this instance to ascertain whether the amendment completely satisfied the criteria for inclusion in this Bill. The Committee asks the Government to be mindful of the fact that the Bill should deal with relatively minor legislative amendments and repeals.

Acts Amended

Clause 62 – Health Act 1911

- 3.13 Clause 62(3) of the Bill amends the *Health Act 1911* by deleting “246E” from Schedule 5 Part IV.
- 3.14 Section 246E of the *Health Act 1911* makes it an offence for a person to expose for sale, sell or supply any meat or product containing meat which has not been marked or branded in accordance with the *Health (Meat Inspection, Branding and Processing) Regulations 1950*.
- 3.15 The offence created by s. 264E appears twice in Schedule 5 to the Act – under Part IV and Part VII. This could cause some confusion about the applicable penalty levels.
- 3.16 The clause notes state that this amendment was an oversight in the *Health Amendment Act 1987*. It was the policy intention that an offence created by s. 246E of the *Health Act 1911* should attract the penalties which are applicable to other offences identified in Part VII. Health Department of Western Australia officers have established that instructions were provided to Parliamentary Counsel to remove reference to s. 246E from Part IV of Schedule 5 to the *Health Act 1911*, and include it in Part VII of the same schedule in the context of preparing the *Health Amendment Act 1987*. However, while Part VII was amended to include reference to s. 246E, the instruction to remove the same reference from Part IV was not given effect, hence two references. On that basis, the reference to s. 246E in Part IV of that Schedule should be deleted.

- 3.17 This amendment has the effect of changing the range of penalties that are applicable for an offence under s. 246E from Part IV and Part VII to Part VII only. The penalty under Part IV is for a maximum \$2 500. The penalty under Part VII is for a maximum of \$10 000 or imprisonment for a period of 12 months.

Extract from Act

- (d) *Part IV of Schedule 5 is liable to —*
- (i) *a penalty which is not more than \$2 500 and not less than —*
 - (A) *in the case of a first such offence, \$250;*
 - (B) *in the case of a second such offence, \$500;*
and
 - (C) *in the case of a third or subsequent such offence, \$1 250; and*
 - (ii) *if that offence is a continuing offence, a daily penalty which is not more than \$250 and not less than \$125;*
- ...
- (g) *Part VII of Schedule 5 is liable to —*
- (i) *a penalty which is not more than \$10 000 or imprisonment for a period of 12 months and not less than —*
 - (A) *in the case of a first such offence, \$1 000;*
 - (B) *in the case of a second such offence, \$2 000;*
and
 - (C) *in the case of a third or subsequent such offence, \$5 000; and*
 - (ii) *if that offence is a continuing offence, a daily penalty which is not more than \$1 000 and not less than \$500; ...*

- 3.18 The amendment whilst administrative in nature, removes an option of penalty for an offence created by s. 264E, leaving the maximum penalty to apply.

Clause 89 – Parks and Reserves Act 1985

- 3.19 Clause 89 amends s. 12 of the *Parks and Reserves Act 1985* by inserting after the word ‘operations’ the words ‘if the Board is listed in Schedule 1 to that Act’. Section 12 currently states that:

12. The provisions of the Financial Administration and Audit Act 1985 regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of a Board and its operations.

- 3.20 A statutory authority is defined in the *Financial Administration and Audit Act 1985* (FAAA):

“statutory authority”, except in sections 37 and 38(3)(e), means a person or body specified in Schedule 1.

- 3.21 Schedule 1 of the FAAA provides a list of statutory authorities. The Governor may by regulation amend Schedule 1.

- 3.22 Division 14 is an example of a provision of the FAAA⁵ that is referred to in s. 12 of the *Parks and Reserves Act 1985*. This Division outlines the reporting requirements for a statutory authority:

Division 14 — Statutory authority’s reports

66. Accountable authority to report to Minister

(1) The accountable authority of a statutory authority shall cause to be prepared and submitted to the Minister, within 2 months after the end of the financial year of the statutory authority, an annual report containing —

- (a) financial statements for the financial year;*
- (b) performance indicators and such other information as may be directed by the Treasurer’s Instructions;*
- (c) a report on the operations of the statutory authority during the financial year; and*
- (d) such other information as the Minister may direct in writing.*

⁵ Other applicable provisions include Division 9 (s. 42 to 44), Part III (s. 78(2) and s. 93), s. 54 and s. 55.

- 3.23 The Explanatory Memorandum to the Bill states that this amendment clarifies the position that the FAAA applies to Boards listed in Schedule 1 of the FAAA. This means that a Board created under the *Parks and Reserves Act 1895* is only subject to the provisions of the FAAA if it is specified in Schedule 1 of the FAAA.
- 3.24 If a Board is listed in Schedule 1 of the FAAA it has to comply with the provisions of that Act. In view of this, in a legal sense the amendment to s. 12 seems unnecessary, as the section is not required to be included in the Act at all. However, it does provide the reader with a reference to another Act, and draws the reader's attention to the fact that only Boards listed in Schedule 1 of the FAAA are required to comply with the financial administration, audit and reporting requirements of a statutory authority and that Boards may exist which are not.
- 3.25 In order to seek clarification on the issue, the subcommittee wrote a letter to the Minister on September 27 2001 seeking a response to the following questions:
- a) which boards are currently appointed under the Act;
 - b) what is the intention of the amendment; and
 - c) if the FAAA provides for the reporting requirement of a statutory authority (being a person or body specified in Schedule 1), why then, is s. 12 of the Act not just repealed?
- 3.26 To date, a response to the subcommittee's letter has not been received.

Clause 117 – Tobacco Control Act 1990 (TCA Act)

- 3.27 Clause 117 of the Bill amends the *Tobacco Control Act 1990* (TCA Act). The TCA Act establishes the Western Australian Health Promotion Foundation (WAHPF), and contains provisions relating to its Constitution, membership, objectives, powers, staff and funds. The WAHPF consists of 11 members, is a body corporate and an agency of the Crown. The functions of the WAHPF include the provision of funds and provision of grants in relation to health promotion, programs and research.
- 3.28 The Schedule to the TCA Act contains further provisions relating to the WAHPF, including provisions relating to Meetings and procedure (clause 2). Currently, clause 2 of the Schedule states:

2. Meetings and procedure:

(1) Five members constitute a quorum of the Foundation.

(2) A decision carried by the votes of a majority of the members present at a meeting of the Foundation is a decision of the Foundation.

(3) Each member present at a meeting of the Foundation is entitled to one vote on a matter arising for determination at that meeting and the presiding member has, in the event of an equality of votes, a second or casting vote.

(4) The Foundation shall cause accurate minutes to be kept of its proceedings.

(5) Subject to this Act, the business of the Foundation may be conducted in a manner determined by the Foundation.

3.29 Clause 117 of the Bill amends clause 2 of the Schedule to the TCA Act, by inserting two additional subclauses:

(6) A decision in writing signed or assented to by at least 5 members by letter, facsimile or other written means is as effectual as if it had been passed at a meeting of the Foundation.

(7) A communication between a majority of the members by telephone, audio-visual or other electronic means is a valid meeting of the Foundation if each participating member is capable of communicating with every other participating member instantaneously at all times during the proceedings.

3.30 The amendment provides that the WAHPF may make decisions in writing if it is signed or assented to by at least five members, and conduct valid meetings using electronic/audio means, such that a participating member's physical presence in a meeting room is not required. That is, the amendments enable decisions to be made other than in face-to-face meetings of the WAHPF.

3.31 The Committee is of the view that the amendment is not a minor amendment. The insertion of new subclauses (6) and (7), is a substantive change to the decision making process of the WAHPF. The Committee is not opposed to the idea, in principle, that decisions of the WAHPF may be validated through means other than in a face to face meeting, that is, by way of a signed and assented to written form. The Committee is of the view, however, that if a decision of the WAHPF is to be validated in this manner, then the decision should be assented to in writing by all members not just by a quorum.

Recommendation 1: The Committee recommends that proposed subclause (6) in clause 117 of the Statutes (Repeals and Minor Amendments) Bill 2001 (which amends clause 2 of the Schedule to the *Tobacco Control Act 1990*) be amended in the following manner:

delete (6) and insert the following:

“(6) A decision in writing signed and assented to by all members by letter, facsimile or other written means is as effectual as if it had been passed at a meeting of the Foundation.”

Recommendation 2: In the event that Recommendation 1 is not agreed to then the Committee recommends that proposed subclause (6) in clause 117 of the Statutes (Repeals and Minor Amendments) Bill 2001 (which amends clause 2 of the Schedule to the *Tobacco Control Act 1990*) be deleted.

Delegation of powers and functions

- 3.32 The Committee notes that clauses 31, 39 and 112 of the Bill insert provisions which provide for the delegation of the powers and functions of either a Minister or Commissioner. The Committee has considered these amendments and is of the view that they are appropriate delegations of functions and powers.

Amendments to the short titles of various acts

- 3.33 Part 3 Division 2 of the Bill (clauses 136 to 155) proposes amending a number of Acts by deleting the word ‘The’ from the short title to bring the Acts into line with modern drafting practice.

General

- 3.34 In some instances, the Committee found that the information provided in the clause notes lacked sufficient explanation and detail, thus making it difficult for the Committee to ascertain the need and intention of some of the proposed amendments. The Committee has subsequently written to the Office of the Director General in this regard.

4 PROPOSED AMENDMENTS

4.1 The Committee has been informed of a number of amendments to the Bill which the Government plans to move.⁶ These are to:

- i) amend the *Land Administration Act 1997* to enable application of s. 23A of the FAAA;
- ii) delete the clauses relating to changes of the name “Trades and Labour Council”;
- iii) amend the *Gender Reassignment Act 2000* to refer to the Registrar under the *Births, Deaths and Marriages Registration Act 1998*; and
- iv) repeal the *Wild Cattle Nuisance Act 1871*, the *Wild Cattle Nuisance Act 1871 Amendment Act 1878* and the *Wild Cattle Nuisance Act 1871 Amendment Act 1883*.

Land Administration Act 1997

4.2 The proposed amendment to the *Land Administration Act 1997* is to provide that proceeds of dealings in Crown land under the Act received by the Minister be taken to be received by the Department for the purposes of the FAAA and, subject to s. 23A of the FAAA, be credited to the Consolidated Fund. Currently proceeds received by the Minister are credited directly to the Consolidated Fund.

4.3 The amendment allows the Treasurer to make a determination providing for revenue received by a department to be retained for services provided by that agency.

Deletion of the clauses relating to changes of the name “Trades and Labor Council of Western Australia”

4.4 The Bill amends a number of Acts by replacing reference to the ‘Trades and Labor Council of Western Australia’ with reference to ‘Unions Western Australia’. The Committee has been informed that although the Trades and Labor Council of Western Australia has changed its name to Unions Western Australia, the rules of the organisation have not been updated to reflect this change and that it would be preferable to delay the proposed amendments until the rules have been updated.

⁶ Letter from Hon Dr Geoff Gallop MLA, Premier, to the Committee, September 27 2001. Notice of these amendments has also been given to the Legislative Council, see Supplementary Notice Paper No 31, Issue No 1, October 8 2001, attached as Appendix 2 to this report.

Gender Reassignment Act 2000

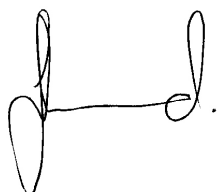
- 4.5 The Committee has been informed that the amendment proposed to the *Gender Reassignment Act 2000* is to delete reference to the *Births, Deaths and Marriages Registration Act 1961* and the term 'Registrar General' as it is defined under the *Registration of Birth, Deaths and Marriages Act 1961*, which is now repealed, and replace it with reference to the *Births, Deaths and Marriages Registration Act 1998* and the term 'Registrar' as it is defined by that Act.
- 4.6 The explanation provided is that the *Gender Reassignment Act 2000* was originally drafted before the *Births, Deaths and Marriages Registration Act 1998* came into operation and as a result it refers to the 'Register General' under the now repealed *Births, Deaths and Marriages Registration Act 1961*.

Repeal of the *Wild Cattle Nuisance Act 1871*, the *Wild Cattle Nuisance Act 1871 Amendment Act 1878* and the *Wild Cattle Nuisance Act 1871 Amendment Act 1883*

- 4.7 The Committee has been informed that the *Wild Cattle Nuisance Act 1871*, the *Wild Cattle Nuisance Act 1871 Amendment Act 1878* and the *Wild Cattle Nuisance Act 1871 Amendment Act 1883*, are not required. They have been superseded by the *Local Government (Miscellaneous Provisions) Act 1960* and the *Stock (Identification and Movement) Act 1970*. Further that there is no record of the legislation ever being used or likelihood that it will be used in the future.
- 4.8 The Committee has reviewed these amendments and endorses the proposed amendments to the Bill.

Recommendation 3: The Committee recommends that the Statutes (Repeals and Minor Amendments) Bill 2001 be amended in accordance with the amendments contained in Supplementary Notice Paper No 31, Issue 1, October 8 2001 which is attached as Appendix 2 to this report.

Recommendation 4: The Committee recommends that the Statutes (Repeals and Minor Amendments) Bill 2001 be passed, subject to Recommendations 1, 2 and 3.



Hon Jon Ford MLC
Chairman

Date: 12.3.02

APPENDIX 1
LETTER FROM THE MINISTER DATED FEBRUARY 20
2002



Minister for Consumer and Employment Protection
Minister for Training
Leader of the House in the Legislative Assembly

Our Ref: 0208315

Hon Jon Ford MLC
Convenor (Subcommittee)
Standing Committee on Legislation
Legislative Council
Parliament House
PERTH WA 6000

Dear Mr Ford

TIMBER INDUSTRY REGULATION ACT 1926

I refer to your request of 7 February 2002, seeking comment on two issues relating to the proposed repeal of the *Timber Industry Regulation Act 1926* (TIR Act) by way of the Statutes (Repeals and Minor Amendments) Bill 2001.

My comments on your specific queries follow:

- i) The clause notes refer to the Safety and Health Code for Native Forest/Hardwood Logging and Plantation Logging developed by the Forest Industries Federation (WA) Inc (FIFWA). This is a published document and is not a draft.

FIFWA is also in the process of developing a Timber Milling and Processing Occupational Safety and Health Code. This document has not been finalised and is no doubt the document to which you refer.

I am satisfied that the provisions of the *Occupational Safety and Health Act 1984* (OSH Act) provide effective coverage of occupational safety and health in the industry. The new style OSH Act is couched in terms of general, wide ranging duties, designed to provide protection to employees from hazards, in relation to any industry. Its flexible nature enables it to provide protection in the face of technological change, changed work practices and varying circumstances. The prescriptive nature of the TIR Act is not suitable for today's working conditions, and its retention creates confusion and detracts from the more appropriate focus of the OSH Act.

In the logging sector, the requirements of the OSH Act and the *Occupational Safety and Health Regulations 1996* (OSH Regulations) are supported by the first mentioned industry code. The code provides practical information on addressing many of the hazards associated with logging activities. In considering the question of the repeal of TIR Act, the tripartite WorkSafe Western Australia Commission was concerned that the logging code of practice should first be in place. The Commission was satisfied on this point in May 1998, after the release of the then interim code, and the Commission formally agreed the repeal of the TIR Act.

While a finalised code does not yet exist in relation to the saw milling sector, arguably the major hazards are well covered by the OSH Regulations. In particular, the OSH Regulations include requirements relating to plant, many of which are relevant to the plant used in sawmills. WorkSafe inspectors have undertaken considerable enforcement activity, using the OSH legislation, in sawmills. The OSH Act and the OSH Regulations combined provide effective coverage in relation to the safety and health issues identified by inspectors.

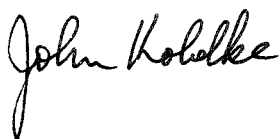
- ii) In relation to the requirement to register sawmills, repeal of the TIR Act will remove an existing requirement. This will restore parity with the rest of industry, where workplace registration requirements under the *Factories and Shops Act* were removed when the general duty provisions of the OSH Act were introduced in 1988.

The collection of the data associated with the registration of sawmills was a function of the "old style" approach and does not fit well with the modern approach to occupational safety and health. Further, the registration requirements don't take account of the prevalence of mobile operators within the sector. In other words, changes to the structure of the work are not reflected in the old style requirements.

The OSH legislation itself contains various reporting and recording requirements, for example the requirement to report certain injuries to the WorkSafe Western Australia Commissioner, and the requirement to keep records of maintenance of certain types of plant, such as forklifts. While some of these requirements are different to those in the TIR Act, they have been developed through the tripartite WorkSafe Western Australia Commission as being appropriate for all industry. It is inappropriate and confusing to have a dual set of requirements applying in the timber industry. Repeal of the TIR Act will remove the duplicity of requirements in this regard.

I trust this information will assist you in your examination of the Bill.

Yours sincerely



**JOHN KOBELKE MLA
MINISTER FOR CONSUMER
AND EMPLOYMENT PROTECTION**

20 FEB 2002

APPENDIX 2
PROPOSED AMENDMENTS

WESTERN AUSTRALIA
LEGISLATIVE COUNCIL

AMENDMENTS AND SCHEDULES

Supplementary Notice Paper No. 31
Issue No. 1

MONDAY, OCTOBER 8 2001

STATUTES (REPEALS AND MINOR AMENDMENTS) BILL 2001
[31-1]

When in committee on the *(Repeals and Minor Amendments) Bill 2001*:

Clause 38

The Leader of the House: To move -

2/38 Page 15, lines 23 to 29 - To delete the clause.

Clause 66

The Leader of the House: To move -

3/66 Page 28, lines 13 to 16 - To delete subclause (2).

Clause 70

The Leader of the House: To move -

4/70 Page 30, after line 7 - To insert the following subclause -

“

(2) Section 10(5) is deleted and the following subsection is inserted instead —

“

(5) Subject to this Act, any proceeds received by the Minister from exercising powers or performing duties in relation to land, or providing land administration expertise and services, under subsection (1) are —

- (a) for the purposes of the *Financial Administration and Audit Act 1985*, to be taken to be moneys lawfully received by the Department; and
- (b) subject to section 23A of that Act, to be credited to the Consolidated Fund.

”
.”

Clause 77

The Leader of the House: To move -

5/77 Page 33, lines 5 to 12 - To delete the clause.

Clause 86

The Leader of the House: To move -

6/86 Page 37, lines 3 to 5 - To delete subclause (7).

Clause 134

The Leader of the House: To move -

7/134 Page 59, lines 1 to 4 - To delete subclause (3).

Clause 153

The Leader of the House: To move -

8/153 Page 67, line 17 to page 68, line 18 - To delete the clause.

Clause 154

The Leader of the House: To move -

9/154 Page 68, lines 19 to 30 - To delete the clause.

Clause 155

The Leader of the House: To move -

10/155 Page 69, lines 1 to 10 - To delete the clause.

New Clause 20

The Leader of the House: To move -

11/NC Page 6, after line 19 - To insert the following new clause -

“

20. *The Wild Cattle Nuisance Act 1871 and amending Acts repealed*

- (1) *The Wild Cattle Nuisance Act 1871* is repealed.
- (2) *The Wild Cattle Nuisance Act 1871 Amendment Act 1878* is repealed.
- (3) *The Wild Cattle Nuisance Act 1871 Amendment Act 1883* is repealed.

”.

New Clause 60

The Leader of the House: To move -

12/NC Page 26, after line 11 - To insert the following new clause -

“

60. *Gender Reassignment Act 2000* amended

- (1) The amendments in this section are to the *Gender Reassignment Act 2000**.

[Act No. 2 of 2000.]*

- (2) The long title is amended by deleting “*Registration of Births, Deaths and Marriages Act 1961*” and inserting instead —

“ *Births, Deaths and Marriages Registration Act 1998* ”.

- (3) Section 3 is amended by deleting the definition of “Registrar General” and inserting the following definition instead —

“

“**Registrar**” means the Registrar of Births, Deaths and Marriages, referred to in section 5 of the *Births, Deaths and Marriages Registration Act 1998*.

”.

- (4) Sections 17 and 18 are amended by deleting “General” in each place where it occurs.

- (5) Section 29(1) is repealed.

”.

Long Title

The Leader of the House: To move -

1/LT Page 2, after line 2 - To insert the following -

“

- *The Wild Cattle Nuisance Act 1871*;
- *The Wild Cattle Nuisance Act 1871 Amendment Act 1878*;
- *The Wild Cattle Nuisance Act 1871 Amendment Act 1883*; and

”.