

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

No. 190

THURSDAY, 16 APRIL 2020

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### 1. Meeting of Council

The Council assembled at 9.00am pursuant to order.

The President, Hon Kate Doust, took the Chair.

Prayers and an Acknowledgement of Country were read.

### 2. Messages from His Excellency the Governor — Assent to Bills

The President reported the receipt of Messages from His Excellency the Governor assenting to the following Bills —

<b>3 April 2020 — Message No. 9</b>	<b>Act No.</b>
Treasurer's Advance Authorisation Bill 2020	7 of 2020
Criminal Code Amendment (COVID-19 Response) Bill 2020	8 of 2020
Transport (Road Passenger Services) Amendment (COVID-19 Response and Regional Assistance) Bill 2020	10 of 2020
Emergency Management Amendment (COVID-19 Response) Bill 2020	11 of 2020
<b>6 April 2020 — Message No. 10</b>	<b>Act No.</b>
Pay-roll Tax Assessment Amendment (Thresholds) Bill 2019	6 of 2020
Electricity Industry Amendment Bill 2019	9 of 2020
Small Business Development Corporation Amendment Bill 2019	12 of 2020
Family Violence Legislation Reform (COVID-19 Response) Bill 2020	13 of 2020
Guardianship and Administration Amendment (Medical Research) Bill 2020	14 of 2020

### 3. Statement by President — Sitting Arrangements — COVID-19

The President made the following Statement —

Pursuant to my correspondence to you dated 6 April 2020, the Order of Business today will be as follows:

- (1) Prayers and Acknowledgement of Country
- (2) Formal Business
- (3) Orders of the Day
- (4) Lunch from 1.00pm to 2.00pm
- (5) Question Time at 4.30pm

There will be no Non-Government Business, Private Members' Business, afternoon tea or dinner recess.

Following consultation with the Party Leaders, the arrangements for today's sitting are as follows:

### **Seating Arrangements**

Social distancing rules have been applied in the Chamber with Party Leaders, Ministers and Whips having allocated seats and other Members being able to sit in unallocated seats designated as "Member" on the seating plan that the Clerk emailed you last week. Unallocated seats are available on a rotational basis in accordance with directions from Party Whips.

I have again designated the President's Gallery as the Floor of the House and Members may also use this seating.

During Committee of the Whole stages of Bills, those Members given the call who are not Party Leaders or Ministers with allocated seats may speak from an unallocated seat, if one is available. To assist the audio visual technicians in the broadcast room, I ask that Members pause briefly after receiving the call to allow for microphones to be activated and the adjustment of cameras. For other proceedings the lectern should be used by those Members who do not have an allocated seat.

During question time, Parliamentary Secretaries may answer questions from where they sit. Members whose seat is unallocated may collect their papers from the Administration Office.

### **Doors and Bar of the House**

Chamber doors and the Bar of the House will remain open at all times and will be manned by Chamber staff at the usual times, for example during Divisions.

### **Hygiene and Social Distancing**

Admission to the Chamber is subject to all persons strictly adhering to hygiene requirements. Hand sanitiser is available at each of the entrances to the Chamber and all persons are required to use this on entry to the Chamber. Please also follow other health guidelines including only attending if you are well, coughing and sneezing into your elbow or a tissue and immediately discarding it in a bin, and maintaining an appropriate social distance. It would assist if Members only attend in the Chamber if they intend to speak, in cases where an absolute majority is required, or for quorum requirements.

### **Advisers**

I have authorised Government Advisers sitting behind the President's dais to attend to their relevant Minister in the Chamber unescorted for the purpose of passing notes containing advice so as to minimise Chamber staff movements. During Committee of the Whole, Advisers will continue to sit at the Table of the House along with the Minister.

### **Committee of the Whole**

The Chair of Committees and Deputy Chairs will sit in the President's Chair during Committee of the Whole House.

### **Divisions**

Divisions will be conducted without the need for Members to cross the Chamber. Those voting with the Ayes will stand and those voting with the Noes will sit. The Leader of the House intends to move a motion without notice to suspend so much of Standing Order 79 to permit this to occur.

### **Question Time**

Hard copy answers will not be distributed in the Chamber. Answers will be provided to Members by email via the Parliamentary Liaison Officer, Janice Shaw, to minimise staff movement in the Chamber and handling of papers. Should you require a hard copy, please advise Janice who can print this for you to collect after Question Time.

Parties are strongly encouraged to arrange for their Leader or other Member deputed to ask all questions on behalf of other Party Members.

**Hansard**

Hansard will be reporting remotely and will not be present on the floor of the House. For this reason it is imperative you use the microphone at the lectern if you do not have a designated seat. Please email Hansard any speech notes at the conclusion of your speech as Chamber staff will not be collecting notes.

**Afternoon Tea, Lunch, Dinner and Supper Service**

Take away lunch and afternoon tea is available in the Members' Dining Room. Members are encouraged to stagger their attendance in the Members' Dining Room to facilitate the meal service. Afternoon tea for will be available from 4.00pm. Take away dinner is available from the Staff Cafeteria from 6.00pm.

The above measures have been put in place to protect the health and safety of all those participating in the sitting.

Thank you for your cooperation in this unprecedented time.

**4. Statement by President — Standing Committee on Estimates and Financial Operations — postponement of 2020–21 Budget Estimates hearings**

The President made the following Statement —

I have received a letter from the Standing Committee on Estimates and Financial Operations, that states —

Dear Madam President

2020–21 Budget Estimates hearings

I advise that the Standing Committee on Estimates and Financial Operations (Committee) has postponed its 2020–21 Budget Estimates hearings that were scheduled for the week beginning Monday 8 June 2020. Therefore, the Committee no longer requires the use of the Legislative Council Chamber for that week.

The Committee requests you advise the Legislative Council of this postponement, in line with the Government's decision to defer the 2020–21 Budget until Thursday 8 October 2020. The Committee will reconsider its plans for 2020 and advise the Legislative Council accordingly.

The Committee has written to the Leader of the Government in the Legislative Council in similar terms.

Yours sincerely

Hon Alanna Clohesy MLC

Chair

**5. Statement by President — Joint Standing Committee on the Corruption and Crime Commission — Inquiry into public sector procurement of goods and services and its vulnerability to corrupt practice — Extension of Reporting Time**

The President made the following Statement —

I have received a letter from the Joint Standing Committee on the Corruption and Crime Commission, which states —

Dear Madam President

Inquiry report tabling date

The Joint Standing Committee on the Corruption and Crime Commission has resolved to amend the date for the tabling of a report on its inquiry into public sector procurement of goods and services and its vulnerability to corrupt practice.

The Committee will now report on the inquiry by Thursday, 14 May 2020.

Yours sincerely

Ms M.M. Quirk

Chair

**6. Statement by President — Joint Standing Committee on the Corruption and Crime Commission — Inquiry into the Western Australian Corruption and Crime Commission's oversight of police misconduct investigations, particularly allegations of excessive use of force — Extension of Reporting Time**

The President made the following Statement —

I have received a letter from the Joint Standing Committee on the Corruption and Crime Commission, which states —

Dear Madam President

Inquiry report tabling date

The Joint Standing Committee on the Corruption and Crime Commission has resolved to amend the date for the tabling of a report on its inquiry into the Western Australian Corruption and Crime Commission's oversight of police misconduct investigations, particularly allegations of excessive use of force.

The Committee will now report on the inquiry by Thursday 13 August 2020.

Yours sincerely

Ms M.M. Quirk

Chair

**7. Business of the House — Lotteries Commission Amendment (COVID-19 Response) Bill 2020, Pay-roll Tax Relief (COVID-19 Response) Bill 2020 and Local Government Amendment (COVID-19 Response) Bill 2020 — Time Limits**

The Leader of the House advised the Council that the *Lotteries Commission Amendment (COVID-19 Response) Bill 2020*, *Pay-roll Tax Relief (COVID-19 Response) Bill 2020* and *Local Government Amendment (COVID-19 Response) Bill 2020* were COVID-19 related business, and pursuant to Temporary Order (6), set maximum time limits to apply to the debates.

**8. Papers**

The following Papers were laid on the Table by —

**President**

*Auditor General's Papers —*

Information Systems Audit Report 2020 — State Government Entities (Report No. 18)

(April 2020) (Deemed tabled 6/04/2020)..... 3780

*Reports —*

Corruption and Crime Commission — Further review of the WA Police Force response

to an incident in the lock-up of a country town (Deemed tabled 9/04/2020)..... 3781

**Leader of the House**

*Addendums —*

Combat Sports Commission — Annual Report (2018–19)..... 3782

*Local Laws —*

Local Government Act 1995 (City of Mandurah Animals Environment and Nuisance Amendment

Local Law 2020 G.G. 03/04/2020) ..... 3783

*Regulations —*

Criminal Procedure Act 2004; Fines, Penalties and Infringement Notices Enforcement

Act 1994 (Justice Regulations Amendment (Emergency Management) Regulations 2020

G.G. 03/04/2020)..... 3784

Juries Act 1957 (Juries Amendment Regulations 2020 G.G. 31/03/2020)..... 3785

Local Government Act 1995 (Local Government Regulations Amendment Regulations 2020

G.G. 09/04/2020)..... 3786

*Reports —*

Report on Consultants Engaged by Government (for the six months ended 31 December 2019) .....	3787
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*Rules —*

Magistrates Court (Civil Proceedings) Act 2004 (Magistrates Court (Civil Proceedings) Amendment Rules 2020 G.G. 09/04/2020) .....	3788
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**Minister for Environment***Leases —*

CALM Lease No. 1199/97 — Between the Conservation and Land Management Executive Body and Splendour West Pty Ltd for the purpose of a dam in State Forest No. 36 near Pemberton .....	3789
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*Local Laws —*

Bush Fires Act 1954 (City of Rockingham Repeal Local Law 2019 G.G. 31/03/2020) .....	3790
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*Regulations —*

Emergency Management Act 2005 (Emergency Management Amendment Regulations (No. 2) 2020 G.G. 03/04/2020) .....	3791
Planning and Development Act 2005 (Planning and Development (Local Planning Schemes) Amendment Regulations 2020 G.G. 03/04/2020) .....	3792
Surveillance Devices Act 1998 (Surveillance Devices Amendment Regulations 2020 G.G. 09/04/2020) .....	3793
Terrorism (Preventative Detention) Act 2006 (Terrorism (Preventative Detention) Amendment Regulations 2020 G.G. 31/03/2020) .....	3794

**Minister for Regional Development***Regulations —*

Building Act 2011 (Building Amendment Regulations (No. 2) 2020 G.G. 31/03/2020) .....	3795
Petroleum Products Pricing Act 1983 (Petroleum Products Pricing Amendment Regulations (No. 2) 2020 G.G. 09/04/2020 and Petroleum Products Pricing Amendment Regulations 2020 G.G. 09/04/2020) .....	3796

*Rules —*

Liquor Control Act 1988 (Liquor Commission Amendment Rules 2020 G.G. 31/03/2020) .....	3797
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**9. Standing Committee on Uniform Legislation and Statutes Review — Report 125 — Work Health and Safety Bill 2019 and Safety Levies Amendment Bill 2019 — Extension of Time**

Hon Michael Mischin presented Report 125 of the Standing Committee on Uniform Legislation and Statutes Review, *Work Health and Safety Bill 2019* and *Safety Levies Amendment Bill 2019 — Extension of Time*. (Tabled Paper 3798).

Hon Michael Mischin moved, without notice —

That the reporting date for the Standing Committee on Uniform Legislation and Statutes Review inquiry into the *Work Health and Safety Bill 2019* be extended from 16 April 2020 to 19 May 2020 or the first sitting day thereafter.

Hon Michael Mischin sought leave to continue his remarks at a later stage of this day's sitting.

Leave granted.

Debate stands adjourned pursuant to order.

Hon Michael Mischin moved, without notice —

That the reporting date for the Standing Committee on Uniform Legislation and Statutes Review inquiry into the *Safety Levies Amendment Bill 2019* be extended from 16 April 2020 to 19 May 2020 or the first sitting day thereafter.

Hon Michael Mischin sought leave to continue his remarks at a later stage of this day's sitting.

Leave granted.

Debate stands adjourned pursuant to order.

# **10. Suspension of Standing Orders — Special Arrangements for Members Speaking and Voting**

The Leader of the House moved, without notice —

That so much of Standing Orders be suspended for this week's sitting so that:

- (a) when called to speak, a Member may speak from a place in the Chamber other than the Member's own; and
- (b) during a division Members shall gather in the Chamber, which includes the President's Gallery, and indicate an "Aye" vote by standing and a "No" vote by sitting.

The motion requiring the concurrence of an absolute majority.

Question — put.

The President having counted the Council, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

# **11. Business of the House**

The Leader of the House moved, without notice —

That pursuant to Temporary Order made by the Council on 31 March 2020, the Council shall, at this day's sitting, sit beyond 5.20pm and take Members' Statements at a time ordered by the Council.

Question — put and passed.

# **12. Special Adjournment**

The Leader of the House moved, without notice —

That the House at its rising adjourn until Friday, 17 April 2020 at 9.00am until the President calls for Members' Statements to be taken.

The motion requiring the concurrence of an absolute majority.

Question — put.

The President having counted the Council, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

# **13. Lotteries Commission Amendment (COVID-19 Response) Bill 2020**

The President reported the receipt of Message No. 176 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House representing the Premier moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Leader of the House representing the Premier moved, That the Bill be read a second time.

The Leader of the House representing the Premier tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 3799).

Debate ensued.

Question — put and passed.

Bill read a second time.

The President left the Chair.

## **In Committee**

(Hon Simon O'Brien in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 to 4 agreed to.

Clause 5.

Debate ensued.

Clause agreed to.

Clauses 6 and 7 agreed to.

Clause 8.

Debate ensued.

Hon Alison Xamon moved —

Page 8, after line 19 — To insert:

- (6) The Minister must —
  - (a) at the end of each year, present to each House of Parliament a schedule setting out the names of all eligible organizations and public authorities to which money has been distributed under subsection (3), and in respect of each eligible organization or public authority —
    - (i) the amount of money distributed; and
    - (ii) the purposes approved by the Minister under subsection (4) or (5) for application of the money; and
    - (iii) how much of the money has been expended; and
    - (iv) how the expended money has been applied,
  - and
  - (b) publish that schedule on a website maintained by, or on behalf of, the Department of the Premier and Cabinet.
- (7) An eligible organization or public authority receiving money distributed under subsection (3) must give the Minister any information the Minister requires for the purpose of performing the Minister's functions under subsection (6).
- (8) The operation of subsections (6) and (7) will cease when all money distributed under subsection (3) has been —
  - (a) expended by all recipient eligible organizations and public authorities; and
  - (b) included in a schedule presented to each House of Parliament and published on a website pursuant to subsection (6).

Debate ensued.

Amendment — put and negatived.

The Leader of the House representing the Premier moved —

Page 8, after line 19 — To insert:

- (6) The schedule presented to each House of Parliament under section 26(1) at the end of each year must include, in respect of each public authority receiving money under subsection (3) during that year, a statement of the purposes to which it has applied or is to apply that money.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Title agreed to.

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The President resumed the Chair.

Bill reported with amendment.

The Leader of the House representing the Premier moved, That the report be adopted.

Report adopted.

The Leader of the House representing the Premier moved, That the Bill be read a third time.

The President announced that the Chair of Committees had certified that this was a true copy of the Bill as agreed to in Committee of the Whole House and reported.

Question — put and passed.

Bill read a third time and passed.

#### **14. Pay-roll Tax Relief (COVID-19 Response) Bill 2020**

The President reported the receipt of Message No. 178 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Environment representing the Minister for Finance moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Minister for Environment representing the Minister for Finance moved, That the Bill be read a second time.

The Minister for Environment representing the Minister for Finance tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 3800).

Debate ensued on the second reading of this Bill.

Question — put and passed.

Bill read a second time.

Leave was granted to proceed forthwith to the third reading.

The Minister for Environment representing the Minister for Finance moved, That the Bill be read a third time.

Question — put and passed.

Bill read a third time and passed.

#### **15. Local Government Amendment (COVID-19 Response) Bill 2020**

The President reported the receipt of Message No. 177 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House representing the Minister for Local Government moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Leader of the House representing the Minister for Local Government moved, That the Bill be read a second time.

The Leader of the House representing the Minister for Local Government tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 3801).

Debate ensued.



Question — put.  
The Council divided.

**Ayes (28)**

Hon Martin Aldridge  
Hon Ken Baston  
Hon Jacqui Boydell  
Hon Jim Chown  
Hon Tim Clifford  
Hon Alanna Clohesy  
Hon Peter Collier  
Hon Stephen Dawson  
Hon Colin de Grussa  
Hon Sue Ellery  
Hon Diane Evers  
Hon Donna Faragher  
Hon Adele Farina  
Hon Nick Goiran

Hon Colin Holt  
Hon Alannah MacTiernan  
Hon Rick Mazza  
Hon Kyle McGinn  
Hon Simon O'Brien  
Hon Martin Pritchard  
Hon Samantha Rowe  
Hon Robin Scott  
Hon Matthew Swinbourn  
Hon Dr Sally Talbot  
Hon Dr Steve Thomas  
Hon Darren West  
Hon Alison Xamon  
Hon Pierre Yang (*Teller*)

**Noes (2)**

Hon Aaron Stonehouse

Hon Charles Smith (*Teller*)

Question thus passed.  
Bill read a second time.  
The President left the Chair.

**In Committee**

(Hon Dr Steve Thomas in the Chair)

Clause 1.  
Debate ensued.  
Clauses 2 and 3 agreed to.  
Clause 4.  
Debate ensued.  
Hon Aaron Stonehouse moved —

Page 5, after line 8 — To insert:

- (8) The *Interpretation Act 1984* section 42 applies to a resolution made under subsection (1) or (4) as if the resolution were local laws made under this Act.

Debate ensued.  
Amendment — put and negatived.  
Question, That the clause stand as printed — put and passed.  
Clause 5 agreed to.  
Title agreed to.

The President resumed the Chair.  
Bill reported without amendment.  
Report adopted.  
The Leader of the House representing the Minister for Local Government moved, That the Bill be read a third time.

The President announced that the Deputy Chair of Committees had certified that this was a true copy of the Bill as agreed to in Committee of the Whole House and reported.

Question — put and passed.

Bill read a third time and passed.

# **16. Order of Business**

Ordered — That the Orders of the Day relating to the Standing Committee on Uniform Legislation and Statutes Review, Report 125, be taken forthwith. (Leader of the House).

# **17. Standing Committee on Uniform Legislation and Statutes Review — Report 125 — Work Health and Safety Bill 2019 and Safety Levies Amendment Bill 2019 — Extension of Time**

The Order of the Day having been read for the adjourned debate on the motion of Hon Michael Mischin, as follows —

That the reporting date for the Committee inquiry into the *Work Health and Safety Bill 2019* be extended from 16 April 2020 to 19 May 2020.

The Minister for Regional Development moved, without notice, to delete “19 May 2020” and insert —

12 May 2020

Amendment — put and passed.

Motion, as amended, agreed to.

# **18. Standing Committee on Uniform Legislation and Statutes Review — Report 125 — Work Health and Safety Bill 2019 and Safety Levies Amendment Bill 2019 — Extension of Time**

The Order of the Day having been read for the adjourned debate on the motion of Hon Michael Mischin, as follows —

That the reporting date for the Committee inquiry into the *Safety Levies Amendment Bill 2019* be extended from 16 April 2020 to 19 May 2020.

The Minister for Regional Development moved, without notice, to delete “19 May 2020” and insert —

12 May 2020

Amendment — put and passed.

Motion, as amended, agreed to.

# **19. Lotteries Commission Amendment (COVID-19 Response) Bill 2020**

The following Message from the Legislative Assembly was reported —

Madam President

Message No. 179

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendment made by the Legislative Council in the *Lotteries Commission Amendment (COVID-19 Response) Bill 2020*.

Ms S.E. Winton

Acting Speaker

Legislative Assembly Chamber

Perth, 16 April 2020

*The President left the Chair at 3.03pm*

*The President resumed the Chair at 4.30pm*

## 20. Questions Without Notice

Questions without notice were taken.

The Leader of the House representing the Minister for Local Government tabled correspondence between the Town of Port Hedland and the Minister for Local Government in relation to the reduction and backdating of rates, in response to question on notice 2851 asked by Hon Jacqui Boydell. (Tabled Paper 3802).

The Minister for Education and Training tabled a list of schools and their number of transportable classrooms, in response to question on notice 2875 asked by Hon Donna Faragher. (Tabled Paper 3803).

The Minister for Environment tabled a report entitled *Environmental and Water Assessments relating to Mining and Mining-related Activities in the Fortescue Marsh Management Area (EPA) (July 2013)*, in response to question on notice 2834 asked by Hon Robin Chapple. (Tabled Paper 3804).

The Minister for Environment tabled a map, Kimberley CALM Act Reserves and IPA Areas, in response to question on notice 2840 asked by Hon Robin Chapple. (Tabled Paper 3805).

The Parliamentary Secretary to the Minister for Health, by leave, incorporated into *Hansard* information in relation to pathology samples requiring air freight from areas previously serviced by regular passenger transport airlines now being performed by a commercial service, in response to a question without notice asked by Hon Colin Holt.

The Parliamentary Secretary to the Minister for Health tabled documents in relation to Karratha Health Campus and Hedland Health Campus, Medical Practitioners and Nursing FTEs for 2017, 2018, 2019 and 2020 to date, in response to question on notice 2852 asked by Hon Jacqui Boydell. (Tabled Paper 3806).

## 21. Order of Business

Ordered — That Members' Statements be taken forthwith. (Leader of the House).

## 22. Members' Statements

Statements were taken.

Hon Nick Goiran sought leave to table a document.

Leave denied.

### *Point of Order*

Hon Martin Aldridge raised the following Point of Order —

I rise under Standing Order 59, "Documents Quoted in Debate". Standing Order 59(2) states —

At the conclusion of a speech in which a Member has quoted from a document, the document shall be tabled upon the request of any other Member, unless the Member states the document is a confidential document.

I understand that Hon Nick Goiran quoted from a document during the course of the debate. I ask the Member to table that document.

### *President's Statement*

The President made the following statement —

In response to Hon Martin Aldridge, I am going to seek some advice, but I think the practice in the past has been that when a Member has quoted from a document, if they have not already indicated they plan on tabling it, a Member needs to ask during that speech for them to table that document. The Member said that he planned on doing it, but then he sought leave at the end and, obviously, leave was not granted.

I am going to seek some further clarification and I will provide a decision tomorrow morning about how that document will be managed.

**23. Adjournment**

The Council adjourned at 5.38pm until Friday, 17 April 2020 at 9.00am.

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

Attendance: Present all Members except: Hon Robin Chapple (*leave*), Hon Laurie Graham and Hon Colin Tincknell.

**NIGEL PRATT**

Clerk of the Legislative Council

**HON KATE DOUST MLC**

President of the Legislative Council