

**MEDICINES, POISONS AND THERAPEUTIC GOODS BILL 2013**

*Council's Amendments — Consideration in Detail*

The following amendments made by the Council now considered —

No. 1

Clause 1, page 2, lines 3 and 4 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013.*” and insert —

*Medicines and Poisons Act 2014.*

No. 2

Clause 3, page 5, lines 15 and 16 — To delete the lines.

No. 3

Clause 12, page 14, lines 14 and 15 — To delete the lines.

No. 4

Clause 77, page 56, lines 4 to 24 — To delete the clause.

No. 5

Clause 78, page 57, lines 3 to 23 — To delete the clause.

No. 6

Clause 79, page 57, line 24 to page 58, line 4 — To delete the clause.

No. 7

Clause 80, page 58, lines 5 to 16 — To delete the clause.

No. 8

Clause 81, page 58, lines 17 to 26 — To delete the clause.

No. 9

Clause 82, page 59, lines 3 to 16 — To delete the clause.

No. 10

Clause 83, page 59, lines 17 to 28 — To delete the clause.

No. 11

Clause 84, page 60, lines 1 to 6 — To delete the clause.

No. 12

Clause 85, page 60, lines 7 to 14 — To delete the clause.

No. 13

Clause 86, page 60, lines 16 to 21 — To delete the clause.

No. 14

Clause 87, page 60, line 22 to page 61, line 2 — To delete the clause.

No. 15

Clause 88, page 61, lines 3 to 11 — To delete the clause.

No. 16

Clause 89, page 61, lines 12 to 18 — To delete the clause.

No. 17

Clause 90, page 61, lines 19 to 25 — To delete the clause

No. 18

Clause 91, page 62, lines 2 to 6 — To delete the clause.

No. 19

Clause 92, page 62, line 9 to page 63, line 3 — To delete the clause.

No. 20

Clause 93, page 63, lines 5 to 31 — To delete the clause.

- No. 21  
Clause 163, page 103, lines 3 to 21 — To delete the clause.
- No. 22  
Clause 173, page 107, line 13 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013.*” and insert —  
*Medicines and Poisons Act 2014.*
- No. 23  
Clause 173, page 107, lines 17 and 18 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 24  
Clause 179, page 109, lines 3 and 4 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 25  
Clause 181, page 110, lines 5 and 6 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 26  
Clause 182, page 110, line 23 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013,*” and insert —  
*Medicines and Poisons Act 2014,*
- No. 27  
Clause 182, page 111, line 1 4 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 28  
Clause 182, page 111, line 23 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 29  
Clause 182, page 112, lines 2 and 3 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 30  
Clause 182, page 112, line 7 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 31  
Clause 182, page 112, lines 13 and 14 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 32  
Clause 184, page 113, line 9 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 33  
Clause 184, page 113, lines 13 and 14 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 34  
Clause 184, page 113, lines 16 and 17 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —

*Medicines and Poisons Act 2014*

- No. 35  
Clause 185, page 114, lines 7 and 8 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*,” and insert —  
*Medicines and Poisons Act 2014*,
- No. 36  
Clause 187, page 115, lines 4 and 5 — To delete “***Medicines, Poisons and Therapeutic Goods Act 2013***” and insert —  
***Medicines and Poisons Act 2014***
- No. 37  
Clause 187, page 115, line 8 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 38  
Clause 187, page 115, line 11 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 39  
Clause 187, page 115, line 14 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 40  
Clause 187, page 115, line 18 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 41  
Clause 187, page 115, lines 25 and 26 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 42  
Clause 187, page 116, lines 2 and 3 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 43  
Clause 187, page 116, lines 18 and 19 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 44  
Clause 187, page 116, lines 21 and 22 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 45  
Clause 187, page 116, lines 24 and 25 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 46  
Clause 187, page 116, lines 27 and 28 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 47  
Clause 187, page 116, lines 30 and 31 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —
-

*Medicines and Poisons Act 2014*

No. 48

Clause 187, page 116, lines 33 and 34 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —

*Medicines and Poisons Act 2014*

No. 49

Clause 187, page 117, line 3 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —

*Medicines and Poisons Act 2014*

No. 50

Clause 187, page 117, lines 7 and 8 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —

*Medicines and Poisons Act 2014*

No. 51

Clause 188, page 117, lines 26 and 27 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013;*” and insert —

*Medicines and Poisons Act 2014;*

No. 52

Clause 188, page 117, lines 29 and 30 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —

*Medicines and Poisons Act 2014*

No. 53

Clause 189, page 118, lines 18 and 19 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —

*Medicines and Poisons Act 2014*

No. 54

Clause 189, page 118, lines 23 and 24 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —

*Medicines and Poisons Act 2014*

No. 55

Clause 189, page 119, lines 3 and 4 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013.*” and insert —

*Medicines and Poisons Act 2014.*

No. 56

Clause 189, page 119, lines 8 and 9 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013.*” and insert —

*Medicines and Poisons Act 2014.*

No. 57

Clause 189, page 119, lines 26 and 27 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —

*Medicines and Poisons Act 2014*

No. 58

Clause 189, page 119, line 33 to page 120, line 1 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —

*Medicines and Poisons Act 2014*

No. 59

Clause 190, page 120, line 13 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —

*Medicines and Poisons Act 2014*

No. 60

- Clause 192, page 120, line 20 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 61  
Clause 192, page 120, line 30 to page 121, line 1 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 62  
Clause 192, page 121, lines 7 and 8 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 63  
Clause 193, page 121, lines 22 to 24 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 64  
Clause 193, page 121, lines 32 and 33 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 65  
Clause 194, page 122, lines 5 and 6 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 66  
Clause 195, page 122, line 17— To delete “*Medicines, Poisons and Therapeutic Goods Act 2013,*” and insert —  
*Medicines and Poisons Act 2014,*
- No. 67  
Clause 195, page 122, line 21 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —  
*Medicines and Poisons Act 2014*
- No. 68  
Clause 196, page 122, line 27 — To delete “***Medicines, Poisons and Therapeutic Goods Act 2013***” and insert —  
***Medicines and Poisons Act 2014***
- No. 69  
Clause 198, page 123, between lines 8 and 9 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013,*” and insert —  
*Medicines and Poisons Act 2014,*
- No. 70  
Clause 198, page 123, between lines 11 and 12 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013,*” and insert —  
*Medicines and Poisons Act 2014,*
- No.71  
Clause 198, page 123, between lines 14 and 15 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013,*” and insert —  
*Medicines and Poisons Act 2014,*
- No. 72  
Clause 198, page 123, between lines 17 and 18 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013,*” and insert —  
*Medicines and Poisons Act 2014,*
-

No. 73

Clause 198, page 124, item 96, between lines 2 and 3 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*,” and insert —  
*Medicines and Poisons Act 2014*,

No. 74

Clause 198, page 124, item 97, between lines 2 and 3 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*,” and insert —  
*Medicines and Poisons Act 2014*,

No. 75

Clause 198, page 124, between lines 5 and 6 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*,” and insert —  
*Medicines and Poisons Act 2014*,

No. 76

Clause 198, page 124, between lines 8 and 9 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*,” and insert —  
*Medicines and Poisons Act 2014*,

No. 77

Clause 199, page 124, between lines 12 and 13 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*,” and insert —  
*Medicines and Poisons Act 2014*,

No. 78

Clause 199, page 124, between lines 15 and 16 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*,” and insert —  
*Medicines and Poisons Act 2014*

No. 79

Clause 199, page 125, between lines 2 and 3 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*,” and insert —  
*Medicines and Poisons Act 2014*,

No. 80

Clause 199, page 125, between lines 5 and 6 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*,” and insert —  
*Medicines and Poisons Act 2014*,

No.81

Clause 199, page 125, item 98, between lines 8 and 9 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*,” and insert —  
*Medicines and Poisons Act 2014*,

No. 82

Clause 199, page 125, item 99, between lines 8 and 9 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*,” and insert —  
*Medicines and Poisons Act 2014*,

No.83

Clause 199, page 125, between lines 11 and 12 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*,” and insert —  
*Medicines and Poisons Act 2014*,

No. 84

Clause 199, page 125, between lines 14 and 15 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*,” and insert —  
*Medicines and Poisons Act 2014*,

No. 85

Clause 200, page 126, lines 7 and 8 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*,” and insert —

*Medicines and Poisons Act 2014;*

No. 86

Clause 200, page 126, line 12 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013.*” and insert —

*Medicines and Poisons Act 2014.*

No. 87

Clause 202, page 126, lines 24 and 25 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —

*Medicines and Poisons Act 2014*

No. 88

Clause 202, page 128, line 2 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —

*Medicines and Poisons Act 2014*

No. 89

Clause 203, page 128, line 11 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —

*Medicines and Poisons Act 2014*

No. 90

Clause 204, page 128, line 27 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —

*Medicines and Poisons Act 2014*

No. 91

Clause 204, page 129, line 4 —To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —

*Medicines and Poisons Act 2014*

No. 92

Clause 204, page 129, lines 11 and 12 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —

*Medicines and Poisons Act 2014*

No. 93

Clause 205, page 129, line 24 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —

*Medicines and Poisons Act 2014*

No. 94

Clause 206, page 130, lines 5 and 6 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —

*Medicines and Poisons Act 2014*

No. 95

Clause 207, page 130, lines 15 and 16— To delete “*Medicines, Poisons and Therapeutic Goods Act 2013*” and insert —

*Medicines and Poisons Act 2014*

No. 96

Clause 208, page 130, line 25 — To delete “*Medicines, Poisons and Therapeutic Goods Act 2013,*” and insert —

*Medicines and Poisons Act 2014,*

No. 97

Long Title, page 1, the 1<sup>st</sup> bullet point — To delete “**medicines, poisons and therapeutic goods; and**” and insert —

**medicines and poisons; and**

**The SPEAKER:** Member for West Swan, I never heard anything; I am trying to listen to the clock—the clock is speaking.

**Dr K.D. HAMES:** I would like to consider amendment 1, which will change the name of the act, and then consider the rest en bloc. I move —

That amendment 1 made by the Council be agreed to.

**Mr R.H. COOK:** I would like an explanation from the minister about why we are amending the bill by removing “Therapeutic Goods Act” from the title. I know the Standing Committee on Uniform Legislation and Statutes Review has considered this bill and recommended a swathe of amendments, finally concluding that this whole bill should be withdrawn. Surely changing the name of the bill is a large change for which the minister should provide some explanation.

**Dr K.D. HAMES:** The member is correct. The Medicines, Poisons and Therapeutic Goods Bill 2013 was referred to the bipartisan Standing Committee on Uniform Legislation and Statutes Review, which recommended that certain amendments be made and, at the end, reached the conclusion that the bill should be withdrawn. The committee reached that conclusion because it did not agree with part 6 of the bill. Part 6 recognises the federal legislation around the Therapeutic Goods Law in this jurisdiction. As members know, that provides the oversight of the management of drugs in this country, particularly things that should be on a list that are acceptable for use in the community, for which the government should provide funding. The reason the committee did not want to accept the bill was not because it disagreed with the federal legislation; it was the issue of states’ rights and whether the state accepts federal legislation. The Liberal Party has not been willing to do that in the past. WA passes mirror legislation for all federal legislation, as we did with the Health Practitioner Regulation National Law (WA) Bill, and rather than accept the Queensland legislation, we passed mirror legislation. The view of the committee was that the same should apply with this bill. The difficulty with that is that we have the Therapeutics Goods Law (WA), the commonwealth Therapeutic Goods Act 1989 and a body that oversees that, and WA would have had to create a whole swathe of new legislation to do that and as well set up our own body to mirror what was in the commonwealth body. I had a look at why that was included in the bill in the first place, and the advice from the department was that there were producers of a single product, such as the naltrexone implant and an oestrogen-based cream that a chemist in Mt Lawley produces—I think they are the only two in the state. But there are options for other people to make other stuff and claim medical benefits from those things, such as a cream that claims to kill prostate cancer that people rub on their ear! How will we address the issue of someone who manufactures that product, claiming that it gets rid of prostate cancer? At present the only option is to do it either through the process we were going to do it through, and that is through state recognition of the national Therapeutic Goods Act, or to bring in state legislation that would mirror the national therapeutic goods legislation. In fact, a commitment was made by Dr Gallop in previous years, as part of a COAG agreement, that the states would do that. I have to say that the former Labor government clearly did not find it necessary and nor has this government—it is happy to let the national therapeutic body take precedence in this area. If the government finds out about a product that is being sold as a special product, the only legislation that the government can use is the consumer protection legislation. Once someone has made it and they are out there making claims for its use, we can then prosecute them under the consumer protection legislation. It was far easier to just delete part 6, which contained that reference. That means that we will continue to rely on the commonwealth to administer that area. The state does not have to worry about those things. It can use consumer legislation for a product, if it needs to. Deleting part 6 addressed all the concerns of the committee, but because it has been taken out, the name has to be changed and the therapeutic goods section of it has to be taken out. The bill went back to the Council, as members know. All the committee members clearly agreed with it because they supported it through the other place and passed that legislation; so they accepted what I have said.

**Mr R.H. Cook:** Much to the Attorney General’s annoyance.

**Dr K.D. HAMES:** Nevertheless, the committee agreed, and I think everybody is happy, except perhaps the Attorney General.

**Mr R.H. COOK:** The Attorney General was indeed not very happy. I think he had words with the Liberal members of that committee. That is rather unfortunate, because the committee has come up with a good set of recommendations, albeit they are pretty inconvenient for us at the moment.

There are two aspects that I want to talk about, which will perhaps expedite the other amendments. In relation to the development of therapeutic goods, one of the key aspects of this legislation allows for the administration of what are termed “sole traders” in the first passage of the bill. At that point that was considered to be a gap in the legislation per se in the regulation of therapeutic goods. Is the minister saying that those smaller traders developing those products will now not be captured?

**Dr K.D. HAMES:** There are two categories, and two small traders are producing products with which we have no problem. One of those is Dr George O’Neil and his naltrexone. He is still working through the Therapeutic Goods Administration to get approval for that, but, as the member for Kwinana knows, we allow



those people to continue working. This legislation will not change that and both of those producers will be able to continue.

**Mr R.H. Cook:** If I may, by way of interjection: George's outfit is a company; it is not a sole trader. I guess I am asking about that smaller element. It might be someone in the south west producing an ointment, or something like that, from an organic product.

**Dr K.D. HAMES:** George O'Neil produces that as a sole trader only and works within the confines of only this state in Australia. I know he does some work overseas, but not in Australia. Because he is a sole trader, we cannot get him under the Corporations Act, but both of those products are, in the view of the government, reasonable products. We have been helping George through that long, long, long, long, long process—I am not sure I put in enough “longs” there, because it has been ongoing throughout six years of the Liberal government and seven years of the previous Labor government; it has been a protracted process. We on both sides of the house continue to support George and his program, and that will continue.

The issue was what would happen if someone came up with a new product. As I said, someone may decide to make a cream tomorrow that purports to cure prostate cancer by rubbing it on the ear. Previously the government could have anticipated it, come in early and shut it down; but now it is more difficult. That is the price that I pay to get the legislation through, because the legislation contains lots of other things that are worthwhile, not just significantly updating the act and all those things, including modern language, but particularly addressing issues relating to the sale and registering of drugs and so on. The bill is sufficiently important for me that that other aspect, which is only a minor one, can be considered under consumer protection legislation. That is enough for me to make sure that this bill goes through.

**Mr R.H. COOK:** In fact, George O'Neil would not have been picked up by this legislation because he would have been covered in the grandfather provisions under clause 163.

As the minister described it before, the benefit of this particular legislation is that it empowers regulators to intervene in the release of a product, and consumer law, by its very nature, protects consumers after the product has come onto the market. Therefore, I am interested to ask: is the minister saying that as a result of the amendments being made today, the capacity to protect the community from sole traders wanting to bring a therapeutic good onto the market will be lost?

**Dr K.D. HAMES:** My understanding is that it removes the capacity of the state to make the first strike, if you like, to get in early, but the federal Therapeutic Goods Act still has the capacity to do that. We were adopting the federal Therapeutic Goods Act, which would have given us the option to do that. The commonwealth can still do that, but the state cannot. However, the state can always refer it to the commonwealth if it is concerned about a product. Alternatively, the state can use the consumer protection legislation if someone puts out a product and the state can prove that that person is saying things about that product that go far beyond its capacity. That is retrospective—it goes back to the production of the substance itself—but the state has to wait for the assessment. It is not as quick, but the state can refer them to the federal government instead, which achieves the purpose.

**Mr R.H. COOK:** In bringing these amendments into play, obviously the minister is saying that we are lowering our ambitions for the scope of the legislation. I am still not clear why the minister wants to take out the concept of therapeutic goods. The minister is saying that the state still has some powers to involve itself in the regulation of therapeutic goods, albeit through consumer protection processes. Why is the government relinquishing that particular aspect in the bill?

**Dr K.D. HAMES:** The answer is easy: because the upper house would not approve it unless that was done. The committee's recommendation was that we take the bill back, and we would have had to spend probably another year to either draft new legislation or completely redraft the existing legislation to achieve that. In my view, the balance between delaying what has been such a long process already for such a small benefit was not worth it; so I accepted the ruling of the committee, which, after all, is a bipartisan committee, chaired by the member for Kwinana's side, and changed the legislation to address that. I do not think I really had much option.

**Dr A.D. BUTI:** I will refer to this later in the debate, but I am confused about some of the minister's dialogue with the member for Kwinana. Is the minister saying that the bill does not conform in totality with the federal Therapeutic Goods Act? Does it conform to the commonwealth act?

**Dr K.D. HAMES:** I am not saying that, member. When the Labor Party was last in government, there was a Council of Australian Governments agreement that the states would enact supporting legislation to the Therapeutic Goods Act 1989, which was not done by the previous Labor government under Dr Gallop and has not been done by us. We are trying to do that as part of this bill and we recognise that, in effect, the commonwealth legislation has supremacy. The Medicines, Poisons and Therapeutic Goods Bill 2013 does not interfere at all with the commonwealth act. Part 6 of the earlier version of our legislation was supportive of the commonwealth act and now the legislation is just accepting of the commonwealth act. In the future, either this

government or a future Labor government could bring in legislation to do that if it was thought necessary but, to be honest, we have not really found it necessary to do so at this stage.

**Dr A.D. BUTI:** Are there any inconsistencies between the state bill before us and the commonwealth act?

**Dr K.D. HAMES:** No.

**Dr A.D. BUTI:** Can the minister enlighten the house about the international instruments which the commonwealth act complies with and with which he says this bill is consistent?

**Dr K.D. HAMES:** There is no longer a reference in the legislation to the commonwealth act. It is good that the member raised that point, because we have taken out the reference. We have removed the section in the legislation that relates to the commonwealth act. The commonwealth act exists, as it has for some time, and nothing at all in this bill either reflects or affects the commonwealth legislation.

**Dr A.D. BUTI:** The act does include reference to the commonwealth act. The minister said that this bill is not contrary to the commonwealth act and that the commonwealth act has supremacy. If there was an inconsistency between state and commonwealth legislation, the minister knows that the Western Australian sections would be invalid under section 109 of the Australian Constitution. When this legislation was drafted, the minister would have been mindful of the commonwealth's international obligations, to ensure that this bill is consistent with the commonwealth act. The minister, as a legislator in Western Australia, would have to be comfortable that the bill meets those international obligations. What international instruments must the commonwealth legislation comply with? If the minister is saying that the Western Australian legislation is consistent with the commonwealth legislation, what international obligations are we therefore complying with?

**Dr K.D. HAMES:** We are not aware of any international obligations relating to this legislation and I am unsure whether there are any international obligations relating to the commonwealth legislation. My adviser is not aware of any of those either. This legislation deals with the management of poisons and therapeutic goods in Western Australia.

**Dr A.D. BUTI:** What about the Australia and European Community mutual recognition agreement, which I am sure this legislation would have to comply with?

**Dr K.D. HAMES:** I imagine the commonwealth legislation complies with it, but this is about managing therapeutic drugs in Australia. The management of therapeutic goods, medicines and poisons in Europe is quite different from how they are managed in Australia. Even if there are international obligations, my answer remains that I am not aware of them and nor have we considered them when drafting this bill. It may well be that the commonwealth had regard for the agreement when it drafted its own bill. I am fairly sure that it was the previous Labor government that did that. If there were any international obligations, it would have been a requirement for the government to do that. Whatever it was, we have now removed that section from this bill, and this bill relates to the management of medicines and poisons within this state. Whatever those obligations are, they do not affect me.

**Dr A.D. BUTI:** That dismissive response is quite alarming. As the minister would know, and his adviser definitely knows because I taught her at law school—another one!—we are a Federation. I did not teach her constitutional law. As a part of the Federation, Western Australia has obligations under the federal scheme. Australia has international law obligations, and it is incorrect to say that this legislation deals only with therapeutic goods in Western Australia and that it does not matter what happens internationally. It matters, because if we do not comply with international obligations, it means that the commonwealth is not complying with them either. I find it quite rude that the minister is having a nice little conversation with the member for Kwinana as I am trying to address him.

**Mr R.H. Cook:** We are workshopping an answer.

**Dr A.D. BUTI:** Workshopping the answer. Okay; sorry about that.

It is alarming that the minister responsible for this bill is unaware of any international obligations that the Australian government, and therefore the Western Australian government, has under the federal scheme. If we are not complying with the international obligations, it means that the commonwealth government is not complying with the international obligations. I am sure that either the minister or his adviser is well aware of the Toonen case in Tasmania that led to Australia being in contravention of international obligations in another area. The government has to comply with the European Community and Australian mutual recognition agreement relating to therapeutic goods. The agreement states that Australian legislation has to be the same as the European Union legislation and vice versa. It is not good enough to say that we will not worry about that and have our own little laws and that it does not matter what happens internationally. Under that agreement signed by the Australian government, we have that obligation. I think my question is very legitimate because the minister is

asking this Parliament to pass legislation and I am seeking clarification that it complies with our international mutual recognition obligations. If the minister is unaware of those obligations, maybe he could seek clarification. I am sure this debate will not conclude today.

**Dr K.D. HAMES:** I am sure that my adviser has reflected well on the member for Armadale's teachings and the response is that the member is correct. What student would not say that about a former teacher? Yes, we do have international obligations and we must meet those obligations under the Therapeutic Goods Act 1989, which covers the management of therapeutic goods for all of Australia. However, this legislation is state-based legislation that does not include any of the commonwealth legislation and deals only with the management of poisons and medicines within Western Australia. It does not contain anything contrary to those international obligations.

**Mr R.H. COOK:** In the minister's second reading speech he said that the bill was subject to consultations with a range of stakeholders, including the health professional registration boards, health professional organisations, consumer groups, other government departments and so on. Did he have any consultations with the commonwealth government about how this legislation would interact with both the Therapeutic Goods Act and also the Australia New Zealand Therapeutic Products Agency treaty? The committee talked about that a lot during its investigation, and in 2016 the Therapeutic Goods Act will be subsumed under those treaty obligations. Obviously, that was a very real issue when we went through this legislation, and it relied very heavily upon the Therapeutic Goods Act. Did the commonwealth government provide the minister with any advice at the time about that treaty and, also, about the amendments to the act that it was introducing in December 2013?

**The DEPUTY SPEAKER:** Minister, before you answer, I remind members that we are not dealing with the whole bill; we are looking at amendments to the bill. Questions to the minister need to be directed to the amendment before us.

**Dr K.D. HAMES:** The loose arrangement we had reached is that because we are dealing with the rest of the amendments en bloc—all those amendments just deal with the total concept of getting rid of the “therapeutic goods” part of the bill—we were going to just talk about —

**Mr R.H. Cook:** We're trying to tease out the issues, Madam Deputy Speaker.

**Dr K.D. HAMES:** Yes, we were going to tease out issues in the first amendment, which seeks to change the name of the act, removing “therapeutic goods” from the title. Hopefully, looking at a member in a certain direction, we will do what we agreed to do and move the rest en bloc.

**Mr R.H. Cook:** To clarify that, we are going to deal with all the amendments in part 6 en bloc, so that is down to clause 93. I have a couple of questions after that.

**Dr K.D. HAMES:** The answer to the member's question is yes, the commonwealth was consulted during that process. The treaty that was created with New Zealand was created while we were doing all the negotiation around the section of the bill relating to therapeutic goods, which we have now left out. It is mooted that by 2016, there will be this national legislation. The Therapeutic Goods Act, which incorporates this national thing, is proposed to be amended. Because we have left that out and because we are still reliant on it, when that legislation comes in, if it ever does—it is mooted to be 2016—that may be the time to do what Dr Gallop committed to, which was to introduce state legislation that mirrors or matches or whatever we decide to do in the future. That does not affect our day-to-day management. Members should remember that when we look through the contents of the bill, a lot of the stuff in the bill is what was in the bill before; it just changes it to modern language and modern techniques and particularly looks at closing the gap on people who are over-users of certain substances. They are the main changes to the bill. We are not preparing a brand-new bill that is totally divorced from anything that has occurred before.

**Mr R.H. COOK:** Has the minister received any advice about those changes that will come into effect in 2016? I was going to make the observation that the committee referred to changes to the Therapeutic Goods Act that were part of a December 2013 bill as well. There are changes happening now and there are anticipated changes in 2016. When those changes take effect, how will they impact on this legislation?

**Dr K.D. HAMES:** I do not think there is much chance of them impacting on the legislation. This is state legislation that deals with the state management of poisons and medicines in Western Australia. We do not know what is proposed and, frankly, I doubt that the federal government knows. It is a new government; I do not think it has spent much time considering this yet. We do not even know whether it will do it.

**Mr R.H. Cook:** They did write to the committee, so they are obviously across the issue.

**Dr K.D. HAMES:** Is that the new government?

**Mr R.H. Cook:** Yes. Fiona Nash, the Assistant Minister for Health, wrote to the committee.

**Dr K.D. HAMES:** The response was just that it is looking at it but we have not been advised of the direction it might take.

**Mr R.H. COOK:** In the correspondence from Senator Fiona Nash, she talks about the COAG agreement that the minister just mentioned. In addition, the upper house committee found that there was no signed COAG agreement as such, but the governments came to an agreement offline through an exchange of letters rather than a formal agreement of COAG. Does that impact on how the minister would anticipate other state governments responding and does it impact upon the status of the agreement that the commonwealth government clearly thinks has been established formally?

**Dr K.D. HAMES:** The advice is that the agreement to do it not by a formal COAG agreement but via exchange of letters was made during the term of the former federal Labor government. Judging by the letters from Senator Nash, it would seem that the federal government is looking at and considering what it will do. My view is that it is still a good idea. It was discussed in COAG and it was agreed that we would have a trans-Tasman agreement on therapeutic goods. Personally, I think that it should do that, although I am not aware of exactly what it is proposing needs to be changed. We are quite comfortable with the way the Therapeutic Goods Act operates in Australia. I am sure that when the federal government gets to that stage, it will bring it to the ministerial committee and talk to each of the states about what it is proposing.

**Mr R.H. COOK:** I just had a thought.

**Dr K.D. Hames:** Here's 10c.

**Mr R.H. COOK:** It is probably not worth that much. A short time ago the minister was talking about the fact that Dr George O'Neil practises as a sole trader and also that sole traders are not captured under the national legislation. Is that correct? He must be, surely.

**Dr K.D. HAMES:** As a sole trader, he does not have to comply but because he wants to use his product across Australia, he needs to comply. He is trying to comply so it is not just used here in WA.

**Mr R.H. COOK:** I do not have any questions but it seems that the upper house committee had an extraordinary number of questions.

**Dr K.D. Hames:** That was before I removed that section of the bill.

**Mr R.H. COOK:** That is true. I guess the minister clearly satisfied the upper house committee on this because we are dealing with the bill that has come from the upper house, but it raises a substantial number of issues and makes a number of observations about the bill. I am keen to come to an understanding about how this works and how it fits in in the scheme of things. From that perspective, I am curious to know whether this is the legislation that we have passed as part of our participation in that COAG agreement, which, as the minister said, Hon Geoff Gallop was part of. Can the minister provide us with details of what is currently happening in other states and how they have dealt with their state-based legislation dealing with therapeutic goods?

**Dr K.D. HAMES:** Their upper house committees were not anywhere near as harsh as ours. Their poisons and medicines bills have a part 6, which contains the power to refer. Remember that in the past Western Australia, with a whole pile of legislation, has been fairly strong in the view that we should not simply comply with commonwealth legislation but that we should have our own legislation, and we have consistently done that, whereas other states have been happy to adopt commonwealth bills as their own. Hence, the national registration bill was passed in Queensland, because that was the quickest and easiest process with no upper house, and then it was simple legislation that all the other states adopted. We did not do that, as the member will recall. We put in some amendments that were fairly significant and are still strongly supported in this state. That is how the other states worked. We are not complying with that Council of Australian Governments' agreement, clearly, because we will not have either a part 6 or separate mirror legislation, and I have explained to the member why that is the case.

**Mr R.H. COOK:** One of the recommendations of the Standing Committee on Uniform Legislation and Statutes Review that looked into this bill was that the minister confirm with the commonwealth government the policy position of the current government on the Therapeutic Goods Amendment (2013 Measures No. 1) Bill 2013 and, indeed, of the committee. Did the minister do that; and, if so, what did the commonwealth report?

**Dr K.D. HAMES:** We did not do that. The committee recommended that we should consult with the commonwealth to ensure that it was satisfied with the relationship between part 6 and the commonwealth legislation. As we are removing part 6, there is no need to do that.

**Ms J.M. FREEMAN:** The minister talked about the sole trader in terms of naltrexone. If a sole trader wants to operate over the borders, he will have to comply with the federal Therapeutic Goods Act because of the Constitution, I assume, and the fact that it relates to corporations power. How do we know that that oestrogen cream—we all know about naltrexone and how people may have views either way on its use—meets safety guidelines that are obviously outlined in the Therapeutic Goods Act, which protects consumers of that product? The member for Kwinana alluded to a concern that I also have; that is, if we deal with consumer law, it happens after the fact. This is about the consumption of a product for a medical benefit. If a sole trader sells that product, which they obviously can in Western Australia because they are not covered by the Therapeutic Goods Act

unless they are a corporation, how will we know that that product is safe for personal use if we do not adopt the Therapeutic Goods Act by either enacting it in this state or adopting it, as other states do, through an enabling piece of legislation? I am concerned about how we go about protecting the health of consumers—as the member for Kwinana so eloquently put it—before they start using a product so that they do not end up putting their health at risk. To protect the health of people, our policymakers and Parliament must set the bar higher than they normally would for legislation that covers someone who buys a fridge, for example. We have a greater expectation that those products used for treatment and therapy will meet a high standard. How do we ensure that that happens without adopting the Therapeutic Goods Act, given that they are sole traders?

**Dr K.D. HAMES:** Hence, that is the reason we wanted the Therapeutic Goods Act in the legislation, so we are disappointed with this decision. The cream that we spoke about has been in use for a long period. It is an oestrogen-based cream used for hormone replacement therapy. People already take oestrogen medication for hormone replacement, so this is using an existing, approved product in an alternative way. The issue is that if somebody then decides to use an alternative product—say, cow dung—to make medicine and say that it cures cancer, we are somewhat restricted as individuals from doing that. We can use the consumer protection law but in doing that, we cannot make the sole trader take the product off the shelf. The consumer has to decide whether he is keen on this cow dung treatment, but people can still use it. A good example is a parent who wrote to me and said that their child had cancer. They went to the United States for treatment at a very respectable, high-level cancer treatment centre, and one of the products they were given as part of the treatment was rat’s urine. The child was given chemotherapy and had to take rat’s urine. The argument is that there is a product in rat’s urine that potentiates the effects of the chemotherapy. However, they wanted to come back to Australia, so how were we going to deal with that? We were not about to provide them with rat’s urine, so we got around it by having the St John of God hospital specialist treating the child agree to provide the chemotherapy products, which are a legitimate treatment for cancer, and the parent had to access the rat’s urine from the United States to use on her child.

**Ms J.M. Freeman:** Not from her own personal rats?

**Dr K.D. HAMES:** No, not from her own rat collection.

**Mr R.H. Cook:** What is the distinction between the urine from US rats and that from Australian rats?

**Dr K.D. HAMES:** Perhaps the products in the urine are different depending on what the rats consume. If we had had the therapeutic goods legislation back then, we could have initiated pre-emptive action on the product ourselves, but without it, we did not have that capacity. Over a long period in WA, we have seen only two products like this: George’s product and the other. The consumers pretty well know what they are doing, but how many consumers take vitamin therapy for cancer?

**Ms J.M. Freeman:** But they were corporations.

**Dr K.D. HAMES:** Yes, but some people produce individual products that are made out of things such as the kernels of apricots that contain arsenic and are used in the treatment of certain conditions.

**Ms J.M. Freeman:** Again, is the minister talking about corporations?

**Dr K.D. HAMES:** I guess they buy the stuff from corporations, but individuals were selling it. It was almost like an Amway product. Some people use Aboriginal medicines that are unproven—in fact, my wife is one of those people. For someone who has a low-level cancer such as a lymphoma, using a tea product made from Aboriginal bushes supposedly reduces the risk of cancer or helps in the resolution. It might be doing nothing other than giving her a nice cup of tea. Nevertheless, she chooses to take that product. Sometimes those things are based on consumer choice. People can take a range of things for different conditions. We need to make sure that in the Medicines, Poisons and Therapeutic Goods Bill 2013 we have absolute control over medicines that are prescribed to people to take.

**Ms J.M. FREEMAN:** I want to continue on that line of questioning. The minister is saying, “Buyer beware if it is a sole trader”. The minister said that really there are only two products, but then he said that he has a personal experience of someone drinking a third product. He also mentioned an almond product. One assumes that the almond substance, even though it was sold through an Amway-style situation, was being sold by a corporation. One assumes that the Aboriginal medicine that the minister’s wife is on is probably also a corporation —

**Dr K.D. Hames:** Maroon bush. No, it is harvested from a bush.

**Ms J.M. FREEMAN:** Is it from a sole trader?

**Dr K.D. Hames:** We are not buying it.

**Ms J.M. FREEMAN:** That is not a good example. Two things came out of what the Minister for Health said and I want to explore them. First of all, I want to talk about rat piss. If a highly respected organisation in America treats cancer and says that using rat piss or urine helps—it is naughty to say “piss” in Parliament—

could someone find out the methodology and start up as a sole trader in Western Australia? Someone might sell it and tell the buyer that its therapeutical qualities have been proven in other places. Is there nothing to stop someone from producing and selling that as a sole trader, other than that they may not have the technique to make it? If someone is given the technique and can make it to the same level, can that person sell it as a sole trader without worrying because they are not part of a corporation?

The second question is: When does it click over and become a poison? When can we use the poison part of the act to say that it is unhealthy and dangerous? The minister keeps saying it is a case of buyer beware. For example, someone might buy cow dung because they think it will give them therapeutic benefits. The minister used the cow dung example. We are using lots of defecating analogies here. They are better than the minister's usual analogies, so I am up for that. If cow dung is used as a therapeutic good—I am not suggesting it is used as a beauty product or anything like that—and it does not work, the state government cannot do anything; it has to rely on the consumer taking the sole trader to the Magistrates Court to make a claim against the sole trader, the producer of the stuff. When does it become serious enough that the Department of Health, or whoever, acts on it? Those are my two questions. I have a third one, but I might wait.

**Dr K.D. HAMES:** If the product contains something in the poisons schedule—a medicine—and someone prepares it, we can take action under the Poisons Act. If it is an alternative product, such as cow dung, and people are claiming it has therapeutic benefits, we have to rely on a complaint from a consumer under the consumer protection laws. If we get a complaint from a consumer, we can investigate the product. If the sole trader purports outcomes that we can show are not true, we can take action. They are the two options available to us.

**Ms J.M. FREEMAN:** The minister gave the example of using almond kernels that contain arsenic; how did that not fall under the Poisons Act? That is my first question.

The minister talked about oestrogen cream. As I understand it, each cream is different; not only one cream is given to consumers. I have had this all explained to me; an analysis of the consumer is done and somehow this cream is specifically for that consumer. This also happens elsewhere; it does not happen only in Western Australia. I cannot remember what the group calls itself, but it has a certain name under which it produces this product. People have recommended that I use it, so that is why I am aware of it.

**Dr K.D. Hames:** I was going to suggest that you're nowhere near old enough to need it!

**Ms J.M. FREEMAN:** I am five years after it, so it is well and truly gone—done. Why was arsenic not included so that people could not sell it? Secondly, if this cream had prior approval, where did it get prior approval from?

**Dr K.D. HAMES:** The answer is that we could prosecute the producers of the oestrogen cream if we wanted to because it is a product —

**Ms J.M. Freeman:** Don't—lots of women would be very grumpy at me.

**Dr K.D. HAMES:** We are not planning to do that.

The arsenic would have to be at a level that was not above the suitable therapeutic level. Obviously, arsenic is a pretty potent substance. I have to say that I do not know much about it. This is a 20-year-old memory of someone talking to me and promoting this product that was made from the kernels of almonds. People use lots of alternative things. People use digitalis for treating their heart; that will kill people quickly if they have the wrong dose; it is a dose-related product.

**Ms J.M. FREEMAN:** Arsenic occurs naturally in our groundwater. The member for Balcatta may be able to expand on this, but when development was done along the side of the freeway, lots of arsenic went into the gardens and lots of those old Italian home gardeners were not allowed to do that any longer; they suddenly had high levels of arsenic instead of low levels, because it is in peat. Anyway, I digress.

The minister said that we could prosecute the producers of the oestrogen cream. We do not have a therapeutic goods aspect of our legislation. How could we prosecute them? Could we prosecute them under consumer law? Before, the minister was telling us that that is the only way in which we could prosecute and that we would need a consumer to complain first. How could we prosecute?

**Dr K.D. Hames:** I will have to stop giving the member answers because after every time I give her one, she asks another question.

**Mr R.H. Cook:** They are good questions too.

**Dr K.D. Hames:** Yes, I know—much better than ours.

**Ms J.M. FREEMAN:** I will sit down. The minister can answer that question. I still have two more questions.

**Dr K.D. HAMES:** While I am getting the answer, I will mention that the other house is supposed to be the house of review; it does the serious and in-depth review of legislation. These two pages I am holding up are the *Hansard* from the upper house. I think we have passed that by multitudes already.

**Ms J.M. Freeman:** I'm happy to do a cross-party alliance piece of legislation to abolish the other house. If you're up for that—anytime!

**Dr K.D. HAMES:** The member saying that will upset a few people.

**Ms J.M. Freeman:** I am happy to upset them. I won't upset those women who are post-menopausal, but those people up there, I am happy to.

**Dr K.D. HAMES:** But the member has already upset the Deputy Speaker, who has lots of friends in the upper house.

**Ms J.M. Freeman:** Clearly she knew it was better down here! She has come down here.

**The DEPUTY SPEAKER:** Please do not bring the Deputy Speaker into the debate, thank you.

**Dr K.D. HAMES:** What was the question?

**Ms J.M. FREEMAN:** How can the minister say he could have prosecuted, but he cannot, when he has told us before that he can only prosecute under consumer law, and no consumer has come out against—I wish I could remember what it is called; it has a funny name—this particular cream? The minister said he could prosecute, but I do not get how he could prosecute when the previous answer was that he could only prosecute through consumer law if a consumer made a complaint?

**Dr K.D. HAMES:** These other substances that we are talking about, like cow dung or whatever, are not substances under the Poisons Act; oestrogen is. Because it is a substance that is listed under the medicines and poisons legislation, it is something that, if it was in an inappropriate dose or the inappropriate presentation, like naltrexone for example, then it could be. As the member knows, we grandfathered those, and are not taking action. If there was a new version out, then perhaps we could or would.

**Ms J.M. Freeman:** By way of interjection: how is oestrogen ever a poison? Even water can be a poison if you take a dosage large enough—I get that.

**Dr K.D. HAMES:** This is the Medicines, Poisons and Therapeutic Goods Bill 2013. Lots of medications are in fact called poisons; it is just the way the act works. Just because it is called a poison, it does not mean it will poison people in the correct dose. I refer back to digitalis, which comes from digitalis leaf—a plant discovered in the old days to help prevent atrial fibrillation and increase the capacity of the heart or constriction of the heart. It saved lots of people, but in very high doses it is extremely toxic and will kill people very quickly.

**The DEPUTY SPEAKER:** I am aware that there is an agreement, but we really are not talking about amendments. I know that —

**Ms J.M. FREEMAN:** We are talking about the amendment to take “therapeutic” out of it, and the operation of the therapeutic act. That is the whole point to this, and so this is about the operation of the Therapeutic Goods Act. The minister has made a statement around how sole traders can still operate in Western Australia under therapeutics. Are we the only state without anything that covers therapeutic goods for sole traders? Are we the only state where if a therapeutic good is given to a consumer it is buyer beware, and the only way they can be prosecuted—other than if they are in the Poisons Act—is if a consumer wants to take a prosecution? Are we the only state? Are all the rest of the states signed up to the Therapeutic Goods Act? Why does that not concern the minister, because that could open the gates to people coming into Western Australia and setting up a rat-piss production or something?

**Dr K.D. Hames:** Urine.

**Ms J.M. FREEMAN:** Urine; yes, I know, but I like being able to say that in Parliament.

**Dr K.D. HAMES:** The first answer is that my adviser is not positive about this. She is fairly certain that Queensland does not either, but otherwise we would be the only other state. The member is correct in that. As to why it does not concern me; it did concern me and I tried to get it into the bill. If I had had my way and the other place had passed this legislation, I would be happy. In fact, I have had lots of very angry and critical letters from people, thinking it was not going to get passed; thinking it was going to be withdrawn. I particularly had letters from nurses thinking that was the case, and I wrote back saying that was not the case and that we have found an alternative, so, presumably, they are all now very happy.

**Ms J.M. FREEMAN:** The minister did not answer my second question.

**Dr K.D. Hames:** It was why wasn't I concerned—I am concerned.

**Ms J.M. FREEMAN:** The minister is concerned? But does it open the gates? Is it a potential risk?

**Dr K.D. HAMES:** Yes, it is.

**Ms J.M. Freeman:** A risk to the health of our community?

**Dr K.D. HAMES:** Yes, it is. We have two options to address that: one is to bring back other legislation to deal with those sole traders, which is what we have left out of this bill; there would need to be a whole bill with a whole pile of things on its own, including costing and administration things —

**Ms J.M. Freeman:** Or adopt the therapeutic —

**Dr K.D. HAMES:** I would suggest to the member that given that we have been this length of time in the history of the act—the last one was in 1964—and we have only, in effect, had two that are the obvious ones, it is not an area for immediate concern. But there is an opportunity, I think, if the trans-Tasman agreement bill goes ahead before then, for legislation modelled on that to be brought into WA to address those areas of legitimate concern.

**Mr R.H. COOK:** The minister probably knew this question was going to come: in relation to the media that Hon Phil Edman has attracted to himself this week, would an artificial cannabinoid be captured under this legislation? I assume it would be considered a poison, and therefore it could be headed off at the pass; or is this another one of those substances that will be vulnerable to relying upon consumer law?

**Dr K.D. HAMES:** The problem is that it would be covered if it is on our schedule, and that is why I keep moving changes to the regulations, to put them on. We have seen that as the quickest and easiest way to deal with that. What happened is that that list of 22 was identified by us, and so through regulations I add those products that are then covered by the poisons bill. We were told of a list of potentials, and some of those we can anticipate. We do not have to wait for the commonwealth to change its lists for us to change ours; we can do that independently. We pre-empted other states and the commonwealth with quite a few of those on the list of 22. All the people who make the product have to do is change the additive at the end of the formula to make a new product, and then it does not comply. We were given that list of 33 from the commonwealth that I have now signed off on, and it takes about two to three weeks to add them to the poisons bill. But the member is right: there needs to be an overarching responsibility for hallucinogenic products. I gather that the difficulty is in defining them because they can change so easily and so quickly.

**Mr R.H. COOK:** The minister may have responded in part to my next question to the member for Mirrabooka. The minister's second reading speech stated —

Part 6 of the bill seeks to adopt as Western Australian law the commonwealth legislation in this area. This will ensure that Western Australian consumers will have protection from substandard therapeutic goods equal to that anywhere else in Australia.

I guess the minister is confirming now that that is not case.

**Dr K.D. Hames:** That is true.

**Question put and passed; the Council's amendment agreed to.**

**Dr K.D. HAMES** — by leave: I move —

That amendments 2 to 20 made by the Council be agreed to.

**Question put and passed; the Council's amendments agreed to.**

**Dr K.D. HAMES:** I move —

That amendment 21 made by the Council be agreed to.

**Mr R.H. COOK:** This clause deals with the grandfathering provisions, to which there was quite an objection in the other place in Committee of the Whole, and its recommendation was that it be removed. I am not familiar with why the committee wanted it to be removed and why the minister is therefore bringing forward this amendment. I wonder whether he can provide us with the reasoning for removing it from the bill and what the impact of removing it will be.

**Dr K.D. HAMES:** That legislation required the grandfathering clause that allowed those to continue—that is under the Therapeutic Goods Law (WA). The heading is “Minister may exempt certain therapeutic goods from requirements of *Therapeutic Goods Law (WA)*”, and because we are adopting that law, if we had just done that, both of those would have to stop their product. Therefore, we needed a clause to exempt them. Now that we are not adopting the Therapeutic Goods Law, they continue as they were. An exemption is not needed.

**Question put and passed; the Council's amendment agreed to.**

**Dr K.D. HAMES** — by leave: I move —

That amendments 22 to 97 made by the Council be agreed to.



**Question put and passed; the Council's amendments agreed to.**

**The Council acquainted accordingly.**