

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

NOTICES AND ORDERS OF THE DAY

No. 63

THURSDAY, 27 FEBRUARY 2014, 9.00 a.m.

Prayers *

Petitions

Papers

Giving Notice of Motion

Brief Ministerial Statements *

Questions Without Notice – approximately 2.00 p.m. each day

Matter of Public Interest – one per week on any day

Private Members' Business – 4.00 p.m. to 7.00 p.m. Wednesdays

Grievances – approximately 9.00 a.m. Thursdays

Private Members' Statements – 12.50 p.m. Thursdays

** Note: On days when the Assembly meets at 2.00 p.m. Brief Ministerial Statements and Questions Without Notice will follow immediately after Prayers.*

Memorandum: *An electronic version of the Assembly's Questions on Notice booklet is available on the Parliament's Internet site at www.parliament.wa.gov.au.*

GOVERNMENT BUSINESS – ORDERS OF THE DAY

1. ***Mental Health Bill 2013** (Parliamentary Secretary to the Minister for Mental Health) (No. 41, 2r. – 23/10/13)

‡***Mental Health Legislation Amendment Bill 2013** (Parliamentary Secretary to the Minister for Mental Health) (No. 54, 2r. – 4/12/13)

Second reading. Adjourned debate (Leader of the House).

2. ***Custodial Legislation (Officers Discipline) Amendment Bill 2013** (Minister for Corrective Services) (No. 47, 2r. – 20/11/13)

Second reading. Adjourned debate (Minister for Corrective Services – continuation of remarks in reply).

3. **Pilbara Energy Project Agreement (Termination) Bill 2013** (Premier) (No. 50, 2r. – 27/11/13)

Second reading. Adjourned debate (Mr D.A. Templeman).

4. **Declared Places (Mentally Impaired Accused) Bill 2013** (Parliamentary Secretary to the Minister for Disability Services) (No. 37, 2r. – 17/10/13)

Second reading. Adjourned debate (Ms S. McGurk).

5. **Statutes (Repeals) Bill 2013** (Premier) (No. 38, 2r. – 20/11/13)

Second reading. Adjourned debate (Mr D.A. Templeman).

6. **Sunset Reserve Transformation Bill 2013** (Minister for Heritage) (No. 39, 2r. – 31/10/13)

Second reading. Adjourned debate (Mr D.A. Templeman).

7. **Statutes (Repeals and Minor Amendments) Bill 2013** (Parliamentary Secretary to the Minister for Mental Health; Disability Services; Child Protection) (LC No. 08, 2r. – 17/9/13)

Second reading. Adjourned debate (Ms S. McGurk).

8. **Premier's Statement**

Adjourned debate (Leader of the House) on the question, That the Premier's Statement be noted.

9. **Succession to the Crown Bill 2014** (Premier) (No. 60, 2r. – 25/2/14)

Second reading. Adjourned debate (Mr D.A. Templeman).

10. **Electronic Conveyancing Bill 2013** (Minister for Lands) (LC No. 55, 2r. – 26/2/14)

Second reading. Adjourned debate (Mr D.A. Templeman).

PRIVATE MEMBERS' BUSINESS – NOTICES OF MOTION

1. **Browse and Oakajee Projects** (Notice given – 7/5/13, renewed – 24/9/13)

Mr M. McGowan: To move –

That this House condemns the Premier for his loss of the Browse and Oakajee Projects.

2. **Offer of Assistance to Western Australian Farmers** (Notice given – 7/5/13, renewed – 24/9/13)

Mr D.A. Templeman: To move –

That this House condemns the Premier and the Liberal National Government for its totally inadequate offer of assistance to Western Australian farmers.

3. **Review of the *Forest Products Act 2000*** (Notice given – 7/5/13, renewed – 24/9/13)

Mr M.P. Murray: To move –

That this House urges the Government to review as a matter of priority the implications of section 67 of the *Forest Products Act 2000* which is being deployed to evade the payment of compensation to plantation owners in Nannup who in March 2012 suffered a loss as a result of a Forest Products Commission contractor igniting a fire.

4. **Appointment of a Select Committee into the Increases of State Debt** (Notice given – 9/5/13, renewed – 26/9/13)

Mr B.S. Wyatt: To move –

That this House appoints a Select Committee to inquire into and report on the level of increases to the State debt since 2000, particularly borrowings which are growing State debt to extraordinary levels, and the effects that these and other borrowings may have on the future financial management of Western Australia, and in particular, to –

- (a) ascertain the overall of the debt of the State, its agencies and business enterprises, and the amount of its increase since 2000;
- (b) estimate the level of likely borrowings over the next six years which will be needed to cover existing or foreseeable liabilities;

- (c) identify any contingent liabilities which may require borrowings during the next six years;
- (d) identify the contributions of individual Government departments, agencies and business enterprises to this level of debt and future or contingent liabilities;
- (e) ascertain whether the debt of individual Government departments, agencies or business enterprises is fully, partially or not matched by realistically valued assets;
- (f) assess the impact of the debt on the revenue and expenditure of the State over the next six years;
- (g) recommend strategies for management of the debt over the next six years which will minimise the adverse effect of the debt on the revenues and expenditures of the State, and on the taxpayers of the State; and
- (h) recommend a long-term policy approach to the management and reporting of Government debt.

5. Ethnic Assistants, 457 Families and Government Schools (Notice given – 15/10/13)

Ms M.M. Quirk: To move –

That this House condemns the Barnett Government for:

- (a) its failure to acknowledge and meet the needs of culturally and linguistically diverse Western Australians by discontinuing the use of ethnic assistants from schools; and
- (b) abolishing the Substantive Equality Unit at the Equal Opportunity Commission; and
- (c) its implementation of the ill-considered plan to charge 457 families \$4000 for a child's schooling at government schools.

6. Restoration and Preservation of the Guildford Hotel (Notice given – 15/10/13)

Ms M.M. Quirk: To move –

That this House:

- (a) condemns the Barnett Government for its lengthy inaction on the heritage listed Guildford Hotel thereby prejudicing the prospects for its restoration and preservation; and
- (b) requests that the Minister direct the Heritage Council to commission an independent structural report on the current condition of the hotel and table the same on its completion.

7. Additional Crew Protection for Firefighters (Notice given – 15/10/13)

Ms M.M. Quirk: To move –

That this House:

- (a) notes with concern that the Barnett Government has been dilatory in providing additional crew protection for firefighters prior to this fire season; and
- (b) requests that the Ministers for Department of Parks and Wildlife and Department of Fire and Emergency Services report to this Parliament forthwith on the extent of crew protection roll out to date and the schedule for future installation and provision of such equipment.

8. Pregnancy and Infant Loss Remembrance Day (Notice given – 15/10/13)

Mr R.H. Cook: To move –

That the Assembly acknowledges the 15 October as Pregnancy and Infant Loss Remembrance Day as the loss of a child in pregnancy or in the early days of life is very difficult and this day recognises their grief and pays special tribute to lives lost too soon.

9. Implementation of Significant Taxation Reform (Notice given – 18/6/13, renewed – 12/11/13)

Mr B.S. Wyatt: To move –

That this House condemns the Barnett Government for its comprehensive failure to implement any significant taxation reform and to deliver on its taxation election commitments.

10. Basic Standards of Transparency (Notice given – 18/6/13, renewed – 12/11/13)

Ms R. Saffioti: To move –

That this House condemns the Barnett Government for its lack of accountability and openness, and disregard of basic standards of transparency to the Parliament, Auditor General and through the Freedom of Information Act and to the people of Western Australia.

11. Financial Management (Notice given – 20/6/13, renewed – 14/11/13)

Mr B.S. Wyatt: To move –

That the House condemns the Barnett Government for its woeful financial management since 2008 and for being unable to meet the standards of financial management it demanded when in Opposition.

12. Typhoon Haiyan (Notice given – 19/11/13)

Ms M.M. Quirk: To move –

That this House conveys its sympathy and condolences to the people of the Philippines through the Ambassador to the Philippines in Australia and to the many Filipino Western Australians following the devastating loss of life and destruction caused by Typhoon Haiyan and urges the Commonwealth to provide all possible assistance in the long road to recovery and reconstruction.

13. Federal Liberal Member for Tangney (Notice given – 19/11/13)

Mr W.J. Johnston: To move –

That this House:

- (1) notes that the Federal Liberal Member for Tangney has made an unwarranted and unnecessary political attack on a Western Australian Independent Public School Principal through the social networking site, Twitter;
- (2) believes that Mr Jensen should not politicise the operations of one of our Independent Public Schools in this way; and
- (3) calls on Mr Jensen to remove his offensive posts and calls on him to apologise to the Independent Public School Principal, the Bannister Creek school community and all Western Australians for his actions.

14. Appointment of a Select Committee into the *Freedom of Information Act 1992* (Notice given – 6/8/13, renewed – 26/11/13)

Ms M.M. Quirk: To move –

- (1) That this House appoints a select committee to inquire into and report on the effectiveness of the operation of the *Freedom of Information Act 1992* and, in particular to consider:
 - (a) the purposes and principles of freedom of information and whether the Freedom of Information Act satisfies those purposes and principles namely:
 - (i) the objects clauses in the Freedom of Information Act;

- (ii) the ambit of the application of the Act, including the appropriateness of the definition of “document” (Glossary – Freedom of Information Act) and the operation of Schedule 2 (bodies to which the Freedom of Information Act does not apply); and
 - (iii) the exemption provisions in Schedule 1 of the Freedom of Information Act.
 - (b) the effectiveness of processes under the Freedom of Information Act (including application and review processes) and ways in which those processes can be streamlined and made more efficient and user-friendly, including the utilisation of current and future technologies;
 - (c) the time and costs involved in providing access to government documents, having regard to the need to achieve a balance between facilitating legitimate and timely access to government documents and ensuring proper and efficient government administration. In considering this issue, the committee is to specifically consider:
 - (i) the appropriateness of the existing fees regime;
 - (ii) the appropriateness of current time limits contained in the Act; and
 - (iii) dealing with voluminous and/or vexatious requests; and
 - (d) the effectiveness and adequacy of current reporting and data collection requirements, to inform public understanding about the operation and administration of the Freedom of Information Act.
- (2) In identifying ways to improve and modernise the freedom of information regime, the committee is to consider (but not limit itself to):
- (a) relevant existing and proposed Commonwealth, State and Territory laws and practices;
 - (b) other recent reviews of freedom of information legislation, nationally and internationally;
 - (c) information or data from agencies that will assist in the identification of issues relating to the administration of the Freedom of Information Act;
 - (d) the operation of the freedom of information regime in an evolving technological environment;
 - (e) specific issues relating to access by individuals to personal information, including the interaction between Western Australia’s freedom of information regime and the protection of privacy interests;
 - (f) balancing the public interest in access to information with the need to preserve the integrity and confidentiality of deliberative processes for Ministers and other decision makers; and
 - (g) the interaction of the Freedom of Information Act with other mechanisms (including non-legislative mechanisms) for assessing information held by government.

15. Environmental Protection (Clearing of Native Vegetation) Amendment Regulations (No. 2) 2013 (Notice given – 3/12/13)

Mr C.J. Tallentire: To move –

That the Environmental Protection (Clearing of Native Vegetation) Amendment Regulations (No. 2) 2013 under the *Environmental Protection Act 1986*, which were published in *Government Gazette* No. 213 on Tuesday, 3 December 2013, are hereby disallowed.

16. Insurance Commission of Western Australia (Notice given – 11/9/13, renewed – 19/2/14)

Mr B.S. Wyatt: To move –

That the House condemns the Premier for misleading the Parliament and the people of Western Australia in respect of:

- (1) The Government's decision to require the Insurance Commission of Western Australia to pay a dividend; and
- (2) Failing to disclose the Government's decision to require the Insurance Commission of Western Australia to pay a dividend in the 2012-13 Mid-Year Financial Projections Statement.

17. Local Government Reform Process (Notice given – 25/2/14)

Mr F.M. Logan: To move –

That this House condemns the Barnett Government for introducing a deceitful local government reform process that has created confusion across metropolitan Councils and despair for Mayors, Councillors, their staff and tens of thousands of ratepayers.

PRIVATE MEMBERS' BUSINESS – ORDERS OF THE DAY
1. Land Supply and Land Approvals (Moved – 15/5/13)

Adjourned debate (Mr D.A. Templeman – continuation of remarks) on the motion moved by Ms R. Saffioti –

That this House condemns the Barnett Government on its failure to provide adequate land supply and land approvals in Western Australia to meet increasing housing demand.

2. Amalgamation of Verve and Synergy (Moved – 19/6/13)

Adjourned debate (Minister for Energy – continuation of remarks) on the motion moved by Mr W.J. Johnston –

That this House condemns the Premier and the Liberal State Government for deciding to amalgamate Verve and Synergy without having a plan for any of the consequences of this decision.

3. Closing the Gap COAG Agreement on Indigenous Health (Moved – 19/6/13)

Adjourned debate (Mr D.A. Templeman – continuation of remarks) on the motion moved by Mr R.H. Cook –

That this House calls on the Barnett Government to re-commit to the Closing the Gap COAG agreement on indigenous health to provide certainty and continuity of the indigenous health services who will cease being funded when the current agreement expires.

4. Gonski Reform Package (Moved – 26/6/13)

Adjourned debate (Mr P. Papalia – continuation of remarks) on the motion moved by Dr A.D. Buti –

That this House calls on the Government to resolve issues with the Federal Government so that public schools can benefit from the Gonski reform package.

5. Council Amalgamations in the Metropolitan Area (Moved – 7/8/13)

Adjourned debate (Mr R.H. Cook – continuation of remarks) on the motion moved by Mr D.A. Templeman –

That this House condemns the Barnett Government for breaking another promise and totally misleading the people of Western Australia with regard to forced council amalgamations in the metropolitan area.

6. Public Education (Moved – 11/9/13)

Adjourned debate (Mr C.D. Hatton – continuation of remarks) on the motion moved by Dr A.D. Buti –
That this House condemns the Barnett Government for its attacks on public education, in particular:

- (a) cuts to school support program resource allocation;
- (b) cuts to teaching and education staff;
- (c) loss of Gonski Better Schools funding; and
- (d) a failure to adequately fund the moving of Year 7s to high school.

7. Vocational and Career training in Western Australia (Moved – 25/9/13)

Adjourned debate (Mr W.J. Johnston – continuation of remarks) on the motion moved by Mr F.M. Logan –

That this House condemns the Barnett Government for its unwarranted attack on vocational and career training in Western Australia through budget cuts, job losses, a massive increase in student fees and the eradication of equity based training courses for the most disadvantaged in our community.

8. Government Action in the Kimberley (Moved – 23/10/13)

Adjourned debate (Minister for Housing – continuation of remarks) on the motion moved by Mr F.M. Logan –

That this House condemns the Barnett Government for its failure to support the people in the Kimberley, including but not limited to:

- (a) a failure to comply with their own ‘Buy Local’ and Regional Business Preference policies;
- (b) a failure to act on Department of Housing commitments;
- (c) not supporting local employment in administering the National Indigenous Housing Stage 1 funding rollout;
- (d) cuts to schools; and
- (e) a failure to adequately address mental health issues in the Kimberley.

9. Council Amalgamation Process (Moved – 13/11/13) (last debated 20/11/13)

Adjourned debate (Ms E. Evangel – continuation of remarks) on the motion moved by Mr D.A. Templeman –

That this House condemns the Barnett Government for creating chaos and confusion amongst Local Governments with its shambolic and dysfunctional Council amalgamation process.

10. Bushfire Season in Western Australia (Moved – 27/11/13)

Adjourned debate (Minister for Emergency Services – continuation of remarks) on the motion moved by Ms M.M. Quirk –

That, given predictions of a longer bushfire season and the increasingly complex and volatile nature of bushfires in Western Australia, this House asks the Barnett Government to disclose:

- (a) those zones and areas considered to be of high risk;
- (b) outline to Parliament how many appliances will have all crew protection safety features promised at the last election;
- (c) details of all joint operations conducted with local government brigades and the Department of Parks and Wildlife over the past year; and
- (d) whether enhanced weather prediction and computer modelling tools will be deployed.

11. Economic Management (Moved – 4/12/13)

Adjourned debate (Mr D.J. Kelly – continuation of remarks) on the motion moved by Mr M. McGowan –

That the House condemns the Barnett Government for its poor economic management and appalling failures across a multitude of portfolios in 2013.

12. Perth Transport Services (Moved – 26/2/14)

Adjourned debate (Leader of the House) on the motion moved by Mr R.H. Cook –

That this House condemns the Government for its mismanagement of transport services including the cancellation of bus routes, and requests the introduction of new services in Perth's growing communities.

13. Apprenticeship and Vocational Training (Moved – 26/2/14)

Adjourned debate (Leader of the House) on the motion moved by Mr F.M. Logan –

That this House condemns the Barnett Government for its abject failure to support apprenticeship training numbers in Western Australia, for the massive increases in student fees over the next four years and the undermining of accessible vocational based training for all Western Australians.

* Denotes amendments appearing in the Notices and Amendments section of the Notice Paper.

† Denotes time allocated for Bill appears in the Notices and Amendments section of the Notice Paper.

‡ Denotes second reading debate on the Bill is being undertaken cognately with a principal Bill, and no further second reading debate will occur.

COMMITTEES TO REPORT***Committee******Date Due******Joint Committee on Audit:***

Inquiry into the Budget, Organisational Structure and Resourcing Needs of the Office of the Auditor General

Joint Committee on Audit:

Review of the *Auditor General Act 2006*

Education and Health Standing Committee:

10 April 2014

Inquiry into the Organisational Response within the Department of Health to Challenges associated with Commissioning the Fiona Stanley Hospital

Joint Standing Committee on the Corruption and Crime Commission:

30 April 2014

Role of the Corruption and Crime Commission within the State's Integrity Coordinating Group

Community Development and Justice Standing Committee:

8 May 2014

Inquiry into Current Processes for Determining Funding Support for People with Disabilities

Joint Standing Committee on the Corruption and Crime Commission:

15 May 2014

Inquiry into the use of Part 4 powers under the *Corruption and Crime Commission Act 2003*

<i>Procedure and Privileges Committee:</i>	15 May 2014
Inquiry into the <i>Evidence and Public Interest Disclosure Legislation Amendment Act 2012</i>	
<i>Economics and Industry Standing Committee:</i>	29 May 2014
Inquiry into the Economic Implications of Floating Liquefied Natural Gas Operations	
<i>Public Accounts Committee:</i>	26 June 2014
Inquiry into Amendments to the <i>Public Sector Management Act 1994</i>	
<i>Joint Standing Committee on the Corruption and Crime Commission:</i>	4 December 2014
Inquiry into Improving the Working Relationship Between the Corruption and Crime Commission and Western Australia Police	

GOVERNMENT RESPONSES TO COMMITTEE RECOMMENDATIONS

<i>Committee</i>	<i>Ministers to Respond</i>	<i>Date Due</i>
Community Development and Justice Standing Committee – In Safe Custody: Inquiry into Custodial Arrangements in Police Lock-ups	Premier, Minister representing the Attorney General, Minister for Police, Minister for Corrective Services, Parliamentary Secretary representing the Minister for Mental Health	28 February 2014
Public Accounts Committee – Review of Auditor General Reports No. 2: Selected Reports 2011 and 2012	Minister representing the Minister for Education, Minister for Finance, Parliamentary Secretary representing the Minister for Child Protection, Treasurer	5 March 2014

NOTICES AND AMENDMENTS

Custodial Legislation (Officers Discipline) Amendment Bill 2013 (No. 47–1)

Motion to Suspend Standing Orders (Notice given – 25/2/14)

Mr P. Papalia: To move –

That so much of the Standing Orders be suspended as is necessary to allow the following motion to be moved:

That Part 3 of the Custodial Legislation (Officers Discipline) Amendment Bill 2013 be deleted, and that if the motion is negatived, that Part 3 is not taken to have been adopted by the House, and that consideration of the bill proceed as if the motion had not been put and negatived.

Clause 7.

Mr P. Papalia: To move –

Page 5, lines 30 to 33 – To delete the lines.

Mr P. Papalia: To move –

Page 6, lines 7 to 9 – To delete the lines and substitute:

“

- (a) the chief executive officer has formed the opinion on reasonable grounds that the officer:
 - (i) has engaged in corrupt conduct (or any other conduct constituting an indictable offence); and
 - (ii) is no longer a fit and proper person to hold a position as a prison officer; and

”.

Mr P. Papalia: To move –

Page 6, lines 25 and 26 - To delete the words “does not have confidence in a prison officer’s suitability to continue” and substitute:

“

has formed the opinion on reasonable grounds that the officer has engaged in corrupt conduct and is no longer a fit and proper person to hold a position

”.

Mr P. Papalia: To move –
Page 7, lines 8 to 10 – To delete the lines and substitute:

“

- (3) The chief executive officer shall conduct any investigation to determine that a prison officer:
 - (a) has engaged in corrupt conduct (or any other conduct constituting an indictable offence); and
 - (b) is no longer a fit and proper person to hold a position as a prison officer.

”.

Mr P. Papalia: To move –
Page 7, lines 24 to 28 – To delete the lines and substitute:

“

document might incriminate the prison officer.

”.

Mr P. Papalia: To move –
Page 7, line 31 – To insert before “proceedings” where it first occurs:

“

or disciplinary

”.

Mr P. Papalia: To move –
Page 8, lines 19 and 20 – To delete “or 12 months’ imprisonment, or both”.

Mr P. Papalia: To move –
Page 8, line 21 - To delete “**Notice of loss of confidence**” and substitute:

“

Written notice of CEO’s determination

”.

Mr P. Papalia: To move –
Page 8, lines 24 and 25 – To delete “does not have confidence in the prison officer’s suitability” and substitute:

“

has determined that the prison officer is not a fit and proper person

”.

Mr P. Papalia: To move –
Page 9, lines 13 and 14 – To delete “does not have confidence in a prison officer’s suitability to continue as” and substitute:

“

determines that the person is not a fit and proper person to be

”.

Mr P. Papalia: To move –
Page 10, lines 7 to 10 – To delete the lines and substitute:

“

- (2) Where a prison officer has commenced an appeal under section 106, the Minister shall direct that a maintenance payment must be paid to the prison officer for a specified period after the maintenance period unless there are exceptional circumstances justifying that the prison officer should not be paid a maintenance payment.

”

Mr P. Papalia: To move –
Page 10, after line 14 – To insert:

“

- (4A) At the end of the specified period, the Minister shall review the progress of the appeal and renew the maintenance period for a further specified period not exceeding 6 months unless:
- (a) the appeal has been determined by the WAIRC; or
 - (b) there are exceptional circumstances justifying why the prison officer should not be paid a maintenance payment.

”

Mr P. Papalia: To move –
Page 10, after line 17 – To insert:

“

- (5) A prison officer who has commenced an appeal under section 106 and is aggrieved by:
- (a) a period of suspension; or
 - (b) the exercise of the Minister’s discretion to not make a maintenance payment that results in undue hardship to the prison officer,
- may apply to a commissioner in the WAIRC who may either substitute or vary or affirm the decision of the chief executive officer, or the Minister, as the case may be.

”

Mr P. Papalia: To move –
Page 12, line 14 – To delete “section” and substitute:

“

subdivision

”

Mr P. Papalia: To move –
Page 12, after line 25 – To insert:

“

- (d) fourth, it must consider the validity and cogency of the facts on which the chief executive officer has determined that the officer has engaged in corrupt conduct and is no longer a fit and proper person to hold a position as a prison officer.

”

Mr P. Papalia: To move –
Page 12, lines 26 to 30 – To delete the lines.

Mr P. Papalia: To move –
Page 13, after line 13 – To insert:

“

- (c) the validity and cogency of the facts on which the chief executive officer has determined that the officer has engaged in corrupt conduct (or any other conduct constituting an indictable offence), and is no longer a fit and proper person to hold a position as a prison officer.

“

Mr P. Papalia: To move –
Page 14, lines 5 to 13 – To delete the lines.

Mr P. Papalia: To move –
Page 15, after line 30 – To insert:

“

- (c) the WAIRC must allow the appellant to amend any reasons why the dismissal was harsh, oppressive or unfair.

“

Mr P. Papalia: To move –
Page 19, line 12 – To delete “(not exceeding 12 months)”.

Mr P. Papalia: To move –
Page 21, lines 13 and 14 – To delete the lines.

Mr P. Papalia: To move –
Page 22, lines 2 to 6 – To delete the lines and substitute:

“

element of an offence of which the prison officer has been convicted.

“

Mr P. Papalia: To move –
Page 22, after line 30 – To insert:

“

- (3A) A prison officer aggrieved by the period of suspension may appeal the chief executive officer's decision under section 103(5).

“

Clause 16.
Mr P. Papalia: To move –
Page 28, lines 4 and 5 – To delete “**due to loss of confidence**”.

Mr P. Papalia: To move –
Page 29, lines 11 to 14 – To delete the lines.

Mr P. Papalia: To move –
Page 29, lines 21 to 23 – To delete the lines and insert:

“

- (a) the chief executive officer has formed the opinion on reasonable grounds that the custodial officer:
 - (i) has engaged in corrupt conduct (or any other conduct constituting an indictable offence); and
 - (ii) is no longer a fit and proper person to hold a position as a custodial officer; and

”.

Mr P. Papalia: To move –
Page 30, lines 5 to 8 – To delete the lines and insert:

“

- (1) If the chief executive officer has formed the opinion on reasonable grounds that the officer has engaged in corrupt conduct and is no longer a fit and proper person to hold a position as a custodial officer, the chief executive officer may remove the custodial officer.

”.

Mr P. Papalia: To move –
Page 30, lines 12 to 14 – To delete the lines and insert:

“

- (3) The chief executive officer shall conduct any necessary investigation to determine if a custodial officer is a fit and proper person to be a custodial officer.

”.

Mr P. Papalia: To move –
Page 30, lines 28 to 32 – To delete the lines and substitute:

“

document might incriminate the custodial officer.

”.

Mr P. Papalia: To move –
Page 31, line 3 – To insert before “proceedings” where it first occurs:

“

or disciplinary

”.

Mr P. Papalia: To move –
Page 31, lines 23 and 24 – To delete “and imprisonment for 12 months”.

Mr P. Papalia: To move –

Page 31, line 25 – To delete “**Notice of loss of confidence**” and substitute:

“

Written notice of CEO’s determination

”

Mr P. Papalia: To move –

Page 31, lines 28 to 30 – To delete the lines and substitute:

“

which the chief executive officer has formed the view that the custodial officer has engaged in corrupt conduct or is no longer a fit and proper person to hold a position as a custodial officer.

”

Mr P. Papalia: To move –

Page 33, lines 9 to 12 – To delete the lines and substitute:

“

- (2) Where a custodial officer has commenced an appeal under section 11CH, the Minister shall direct a maintenance payment must be paid to the custodial officer for a specified period after the maintenance period unless there are exceptional circumstances justifying that the custodial officer should not be paid a maintenance payment.

”

Mr P. Papalia: To move –

Page 33, after line 16 – To insert:

“

- (4A) At the end of the specified period referred to in subsection (3), the Minister shall review the progress of the appeal and renew the maintenance period for a further specified period not exceeding 6 months unless:
- (a) the appeal has been determined by the WAIRC; or
 - (b) there are exceptional circumstances justifying why the custodial officer should not be paid a maintenance payment.

”

Mr P. Papalia: To move –

Page 33, after line 19 – To insert:

“

- (5) A custodial officer who has commenced an appeal under section 11CH and is aggrieved by:
- (a) a period of any suspension; or
 - (b) the exercise of the Minister’s discretion to not make a maintenance payment that results in undue hardship to the custodial officer,
- may apply to a commissioner in the WAIRC who may either substitute or vary or affirm the decision of the chief executive officer, or the Minister, as the case may be.

”

Mr P. Papalia: To move –
Page 35, after line 25 – To insert:

“

- (d) fourth, it must consider the validity and cogency of the facts on which the chief executive officer has determined that the officer has engaged in corrupt conduct and is no longer a fit and proper person to hold a position as a custodial officer.

”

Mr P. Papalia: To move –
Page 35, lines 26 to 30 – To delete the lines.

Mr P. Papalia: To move –
Page 36, after line 13 – To insert:

“

- (c) ; and
the validity and cogency of the facts on which the chief executive officer has determined that the officer has engaged in corrupt conduct (or any other conduct constituting an indictable offence), and is no longer a fit and proper person to hold a position as a custodial officer.

”

Mr P. Papalia: To move –
Page 38, after line 30 – To insert:

“

- (c) ; and
the WAIRC must allow the appellant to amend any reasons why the dismissal was harsh, oppressive or unfair.

”

Mr P. Papalia: To move –
Page 42, line 19 – To delete “(not exceeding 12 months)”.

Mr P. Papalia: To move –
Page 45, lines 1 and 2 – To delete the lines.

Mr P. Papalia: To move –
Page 45, lines 21 to 25 – To delete the lines and substitute:

“

element of an offence of which the custodial officer has been convicted.

”

Mr P. Papalia: To move –
Page 46, after line 31 – To insert:

“

- (4) A custodial officer aggrieved by the period of suspension may appeal the chief executive officer’s decision under section 11CE(5).

”

Mental Health Bill 2013 (No. 41-I)

New Clause 8A.

Dr A.D. Buti: To move –

Page 14, after line 2 – To insert:

“

8A. Advance health directive

- (1) Notwithstanding anything in this Act to the contrary, the scheme of the *Guardianship and Administration Act 1990* relating to advance health directives must be followed in its entirety in order to give them full force and effect.
- (2) A psychiatrist must not act contrary to an advance health directive unless the State Administrative Tribunal has determined that the psychiatrist can do so.
- (3) The State Administrative Tribunal shall have jurisdiction to make a determination in subsection (2) and shall, in exercising this jurisdiction, follow the provisions of the *Guardianship and Administration Act 1990*.

”.

Clause 15.

The Parliamentary Secretary representing the Minister for Mental Health: To move –

Page 17, line 22 – To insert after “if”:

“

another person who is performing a function under this Act that requires that other person to determine that capacity is satisfied that

”.

The Parliamentary Secretary representing the Minister for Mental Health: To move –

Page 17, after line 28 – To insert:

“

- (ca) weigh up the factors referred to in paragraphs (a), (b) and (c) for the purpose of making the decision; and

”.

Clause 18.

The Parliamentary Secretary representing the Minister for Mental Health: To move –

Page 19, line 2 – To delete “does not have” and substitute:

“ has ”.

The Parliamentary Secretary representing the Minister for Mental Health: To move –
Page 19, line 3 – To delete “unless” and substitute:

“

if another person who is performing a function under this Act that requires that
other person to determine that capacity is satisfied that

”.

The Parliamentary Secretary representing the Minister for Mental Health: To move –
Page 19, after line 10 – To insert:

“

(ca) weigh up the factors referred to in paragraphs (a), (b) and (c) for the purpose
of making the treatment decision; and

”.

Clause 19.

Dr A.D. Buti: To move –

Page 19, after line 23 – To insert:

“

- and
- (d) advising that the person may refuse to consent to the admission or treatment and that,
if the person does give consent, the person can withdraw consent at any time; and
- (e) advising that the person may obtain independent legal and medical advice about the
admission or treatment before consent is given and that the person may request
assistance to obtain that advice.

”.

Dr A.D. Buti: To move –

Page 19, after line 23 – To insert:

“

- and
- (d) informing the person about any financial advantage that may be
gained by any medical practitioner or mental health service in
respect of the admission or treatment, except information about the
fees and charges payable by or on behalf of the person for the
admission or treatment; and
- (e) informing the person about any research relationship between any
medical practitioner and any mental health service that may be
relevant to the admission or treatment.

”.

Clause 25.

Dr A.D. Buti: To move –

Page 23, lines 1 and 2 – To delete “harm to the person or to another person” and substitute:

“

financial harm to the person

”.

The Parliamentary Secretary representing the Minister for Mental Health: To move –

Page 23, lines 3 to 8 – To delete the lines and substitute:

“

- (c) that the person does not demonstrate the capacity required by section 18 to make a treatment decision about the provision of the treatment to himself or herself;

”.

Dr A.D. Buti: To move –

Page 23, line 8 – To insert after “treatment”:

“ as determined by the Mental Health Tribunal ”.

Dr A.D. Buti: To move –

Page 23, lines 22 to 25 – To delete the lines and insert:

“

- (ii) a significant risk of serious financial harm to the person;

”.

The Parliamentary Secretary representing the Minister for Mental Health: To move –

Page 23, lines 26 to 31 – To delete the lines and substitute:

“

- (c) that the person does not demonstrate the capacity required by section 18 to make a treatment decision about the provision of the treatment to himself or herself;

”.

Clause 28.

Dr A.D. Buti: To move –

Page 26, line 6 – To delete “or physical”.

Clause 28.

Dr A.D. Buti: To move –

Page 27, line 14 – To insert after “Advocate”:

“ and the current treating psychiatrist ”.

Clause 42.

Dr A.D. Buti: To move –

Page 36, after line 21 – To insert:

“

(2A) Any information provided to the practitioner under subsection (2) must be notified to the Chief Mental Health Advocate.

”.

Clause 145.

Dr A.D. Buti: To move –

Page 108, after line 30 – To insert:

“

(aa) the Chief Psychiatrist;

”.

Clause 148.

Dr A.D. Buti: To move –

Page 111, after line 29 – To insert:

“

(ba) give a copy to the Chief Psychiatrist and the Chief Mental Health Advocate; and

”.

Clause 154.

Dr A.D. Buti: To move –

Page 115, after line 22 – To insert:

“

(ba) give a copy to the Chief Mental Health Advocate; and

”.

Clause 155.

The Parliamentary Secretary representing the Minister for Mental Health: To move –

Page 115, line 27 – To delete “under section 154(1),” and substitute:

“ because of section 153(1), ”.

New Clause 155A.

Dr A.D. Buti: To move –

Page 116, after line 9 – To insert:

“

155A. Person not to be detained for more than 96 hours

Notwithstanding anything in this Act to the contrary, the sum of:

- (a) the periods a person is detained pursuant to all orders made under section 28; and
 - (b) the periods a person is detained pursuant to all transport orders made under this Act (including any extensions thereto),
- must not exceed 96 hours.

”.

Clause 156.

Dr A.D. Buti: To move –

Page 117, after line 24 – To insert:

“

- (ba) must, as soon as practicable after apprehending a person under subsection (1), notify the Chief Mental Health Advocate of such action; and

”.

Clause 162.

Dr A.D. Buti: To move –

Page 121, after line 19 – To insert:

“

- (3) A police officer or authorised person who searches a person under subsection (2)(a), or seizes any article under subsection (2)(b), must, as soon as practicable after such search or seizure, notify the Chief Mental Health Advocate of such action.

”.

Clause 194.

Dr A.D. Buti: To move –

Page 145, line 15 – To delete “14” and substitute:

“ 16 ”.

Clause 195.

Dr A.D. Buti: To move –

Page 145, line 18 – To delete “14” and substitute:

“ 16 ”.

Clause 207.

Dr A.D. Buti: To move –

Page 153, lines 17 and 18 – To delete “child under 16 years of age” and substitute:

“

person under 18 years of age

”.

Clause 208.

Dr A.D. Buti: To move –

Page 153, lines 20 to 23 – To delete the lines and substitute:

“

- (1) This section applies in relation to a patient who is an adult.

”.

Clause 224.

Dr A.D. Buti: To move –

Page 164, after line 6 – To insert:

“

- (ba) the Chief Mental Health Advocate; and

”.

Clause 240.

Dr A.D. Buti: To move –

Page 176, after line 31 – To insert:

“

- (ba) the Chief Mental Health Advocate; and

”.

Clause 262.

Dr A.D. Buti: To move –

Page 190, lines 25 to 27 – To delete the lines.

New Clause 303A.

Dr A.D. Buti: To move –

Page 215, after line 5 – To insert:

“

303A. Off-label treatment of a child

- (1) For the purposes of this section, “off-label treatment” means treatment contrary to the manufacturer’s prescribing information as approved by the Therapeutic Goods Authority.
- (2) A parent has a right to veto the use of off-label treatment of his or her child, unless it has been determined by the Mental Health Tribunal that the parent is unfit to have the primary responsibility for the care and welfare of the child.
- (3) Any determination under subsection (2) must be reported to the Mental Health Advocate.
- (4) Any off-label treatment of a child must be reported to the Chief Psychiatrist.
- (5) This section applies notwithstanding anything to the contrary in this Act.

”.

Clause 353.

Dr A.D. Buti: To move –

Page 255, lines 3 to 7 – To delete the lines.

Dr A.D. Buti: To move –

Page 255, lines 9 and 10 – To delete “or the CEO to issue a direction under subsection (2)”.

Clause 449.

Dr A.D. Buti: To move –

Page 308, lines 16 and 17 – To delete “may make arrangements for a party to be represented” and substitute:

“

must make arrangements for a party to be represented by a legal practitioner

”.

Mental Health Legislation Amendment Bill 2013 (No. 54–1)

Clause 9.

The Parliamentary Secretary representing the Minister for Mental Health: To move –

Page 51, line 10 – To delete “specific” and substitute:

“ specified ”.

The Parliamentary Secretary representing the Minister for Mental Health: To move –

Page 51, line 11 – To insert before “matter”:

“ specified ”.

The Parliamentary Secretary representing the Minister for Mental Health: To move –

Page 51, line 24 – To insert after “State”:

“ or an authority of the State ”.

Clause 12.

The Parliamentary Secretary representing the Minister for Mental Health: To move –

Page 54, lines 16 to 20 – To delete the lines and substitute:

“

(c) that the accused does not have the capacity to consent to treatment.

”.

PETER J. McHUGH

Clerk of the Legislative Assembly