

WESTERN AUSTRALIA

# LEGISLATIVE ASSEMBLY

---

## VOTES AND PROCEEDINGS

---

No. 241

FIRST SESSION OF THE THIRTY-EIGHTH PARLIAMENT

---

THURSDAY, 15 NOVEMBER 2012

### 1. Meeting of Assembly

The Assembly met at 9.00 a.m. pursuant to adjournment.

The Speaker took the Chair.

Prayers were read.

### 2. Speaker's Statement – Sustainable Energy Innovations

The Speaker advised members that a set of solar panels on top of Parliament House would be installed by the end of the year. There would be 72 panels in all, enough to provide energy to both legislative chambers. The Parliament would undertake other sustainable energy innovations with LED lighting, the use of voltage optimisers and the real time monitoring of electricity, gas and water use.

### 3. Community Development and Justice Standing Committee – Extension of Reporting Date

The Speaker advised members that he had received a letter dated 14 November 2012 from the Chairman of the Community Development and Justice Standing Committee advising that the Committee had resolved to amend the tabling date of its report into its 'Inquiry into the State's preparedness for this year's fire season' to 26 November 2012.

### 4. Petitions

Container Deposit Scheme – Mr W.J. Johnston presented a petition from 4 persons requesting that the Legislative Assembly takes full and comprehensive action to implement a Container Deposit Scheme in Western Australia (P. 697).

Perth Airport Third Runway – Mr W.J. Johnston presented a petition from 112 persons requesting that the Legislative Assembly ensures the government protects local residents in Beckenham and stops the plan by the Barnett Government for a third runway at Perth Airport (P. 698).

Electronic Speed Zone Signs – Mr J.C. Kobelke presented a petition from 179 persons requesting that the Legislative Assembly ensures the installation of flashing electronic speed signs adjacent to St Kieran Primary School and Servite College (P. 699).

Affordable Housing Shortage – Ms J.M. Freeman presented a petition from 31 persons requesting that the Legislative Assembly gives urgent attention to the housing needs of homeless Western Australians who are suffering due to a critical shortage of affordable housing properties in both the private rental and social housing sectors (P. 700).

Victims of Dennis McKenna – Mr P.B. Watson presented a petition from 32 persons requesting that serious consideration is given to significantly raising the maximum compensation of \$45,000 available to the victims of Dennis McKenna, former Warden at the state-run St Andrews Hostel in Katanning (P. 701).

Save Midland Hospital – Mr R.H. Cook presented a petition from 115 persons requesting that the Legislative Assembly urges government members to vote in favour of the No Privatisation of Midland Hospital Bill 2011 (P. 702).

Trail Bike Strategy – Mr R.H. Cook presented a petition from 104 persons requesting that the State Government ensures that off-road vehicles must be registered and have visible licence plates so that police and other members of the community can report misuse of these vehicles (P. 703).

## 5. Papers

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

By the Clerk –

Conservation and Land Management Act 1984 – Lease No. 1667/97 between the Department of Environment and Conservation and Kevin Thomas Collins for a Dam Site for commercial purposes within a portion of State Forest No. 39, near Pemberton (5578).

Conservation Commission of Western Australia – Annual Report 2011–2012 (5579).

Landcorp – Statement of Corporate Intent 2012–2013 (5580).

Landcorp – Strategic Development Plan 2012–2013 to 2016–2017 (5581).

Marine Parks and Reserves Authority – Annual Report 2011–2012 (5582).

Official Travel – Report of Interstate and Overseas Travel undertaken by Members of Parliament funded by the Imprest System for the three months ended 30 June 2012 (5583).

Western Australian Electoral Commission – Political Finance Annual Report 2011–2012 (5584).

## 6. Brief Ministerial Statements

Brief Ministerial Statements were made by –

The Premier on the removal of the \$190,000 cap on claims made under the Margaret River Bushfires Financial Assistance Scheme.

The Minister for Emergency Services on the State Emergency Management Committee's Emergency Preparedness Report 2012.

---

### *Papers*

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

By the Minister for Emergency Services –

Emergency Services, Minister for – Emergency Preparedness Report 2012 (5585).

Emergency Services, Minister for – Post Incident Analysis for Blackwood Fire 8 – Ellensbrook-Gnarabup, 23–24 November 2011 (5586).

Emergency Services, Minister for – Post Incident Analysis for Blackwood Fire 11 – Milyeannup-Sollya, 23 November to 5 December 2011 (5587).

Emergency Services, Minister for – Report on the Post Incident Analysis of the 2011 Margaret River and Nannup Bushfires (5588).

---

The Minister for Local Government on the Department of Local Government's Inquiry into the City of Canning.

---

*Paper*

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

By the Minister for Local Government –

Local Government, Department of – Report of the Inquiry into the City of Canning, Authorised Inquiry under Part 8 Division 1, *Local Government Act 1995* (5589).

---

The Minister for Local Government moved,

That this House authorises the publication of the Report of the Inquiry into the City of Canning.

Question put and passed.

**7. Economics and Industry Standing Committee**

Ms A.R. Mitchell, as Chairman, presented the following minutes which were ordered to lie upon the Table of the House –

Economics and Industry Standing Committee – Committee Minutes 24 February 2010–14 November 2012 (5590).

**8. Public Accounts Committee**

Mr J.C. Kobelke, as Chairman, presented the following report which was ordered to lie upon the Table of the House –

Public Accounts Committee – Review of the Reports of the Auditor General 2011–2012, Report No. 20 (5591).

Mr J.C. Kobelke, Mr C.J. Tallentire, Ms R. Saffioti and Mr A. Krsticevic spoke on the report.

**9. Public Accounts Committee**

Mr J.C. Kobelke, as Chairman, presented the following report which was ordered to lie upon the Table of the House –

Public Accounts Committee – Review of Selected Infrastructure Projects, Report No. 21 (5592).

Mr J.C. Kobelke, Mr C.J. Tallentire, Ms R. Saffioti and Mr A. Krsticevic spoke on the report.

**10. Education and Health Stranding Committee**

Dr J.M. Woollard, as Chairman, presented the following report which was ordered to lie upon the Table of the House –

Education and Health Standing Committee – A child who is healthy, attends school, and is able to read will have better educational outcomes, Report No. 18 (5593).

Dr J.M. Woollard, Mr P.B. Watson, Mr P. Abetz, Dr G.G. Jacobs and Ms L.L. Baker spoke on the report.

**11. Suspension of Standing Orders**

Mr R.H. Cook, without notice, moved, That so much of the Standing Orders be suspended as is necessary to enable the following motion to be moved forthwith –

That this House notes the Stokes Report, Review of the Admission or Referral to and the Discharge and Transfer Practices of Public Mental Health Facilities/Services in Western Australia, and condemns the Barnett Government for its failures in Mental Health, including:

- (a) the lack of staff and funding for mental health services;
- (b) the breakdown in clinical governance;
- (c) the lack of leadership;

- (d) the unacceptable level of deaths occurring on discharge from mental health facilities; and
- (e) the Government's failure to release the report sooner.

Debate ensued.

The Leader of the House moved, That the following words be added:

“

subject to the debate being limited to 20 minutes for government members and 20 minutes for non-government members.

”.

Amendment put and passed.

On the question, That so much of the Standing Orders, as amended, be suspended,

The Speaker having counted the House, and an absolute majority being present and there being no dissentient voice, declared the motion, as amended, to be carried with the concurrence of an absolute majority of the whole number of members of the House.

## 12. Mental Health Services

Mr R.H. Cook, pursuant to the foregoing motion, moved,

That this House notes the Stokes Report, Review of the Admission or Referral to and the Discharge and Transfer Practices of Public Mental Health Facilities/Services in Western Australia, and condemns the Barnett Government for its failures in Mental Health, including:

- (a) the lack of staff and funding for mental health services;
- (b) the breakdown in clinical governance;
- (c) the lack of leadership;
- (d) the unacceptable level of deaths occurring on discharge from mental health facilities; and
- (e) the Government's failure to release the report sooner.

Debate ensued.

Question put.

The Assembly divided.

### Ayes (24)

Ms L.L. Baker	Mrs C.A. Martin	Mrs M.H. Roberts
Dr A.D. Buti	Mr M. McGowan	Mr T.G. Stephens
Mr R.H. Cook	Mr M.P. Murray	Mr C.J. Tallentire
Ms J.M. Freeman	Mr A.P. O’Gorman	Mr P.C. Tinley
Mr J.N. Hyde	Mr P. Papalia	Mr A.J. Waddell
Mr W.J. Johnston	Mr J.R. Quigley	Mr M.P. Whitely
Mr J.C. Kobelke	Ms M.M. Quirk	Mr B.S. Wyatt
Mr F.M. Logan	Mr E.S. Ripper	Ms R. Saffioti ( <i>Teller</i> )

## Noes (28)

Mr P. Abetz  
 Mr F.A. Alban  
 Mr C.J. Barnett  
 Mr I.C. Blayney  
 Mr J.J.M. Bowler  
 Mr I.M. Britza  
 Mr T.R. Buswell  
 Mr G.M. Castrilli  
 Mr V.A. Catania  
 Dr E. Constable

Mr J.H.D. Day  
 Mr J.M. Francis  
 Mr B.J. Grylls  
 Dr K.D. Hames  
 Mrs L.M. Harvey  
 Mr A.P. Jacob  
 Dr G.G. Jacobs  
 Mr R.F. Johnson  
 Mr A. Krsticevic  
 Mr J.E. McGrath

Mr P.T. Miles  
 Ms A.R. Mitchell  
 Mr C.C. Porter  
 Mr D.T. Redman  
 Mr M.W. Sutherland  
 Mr T.K. Waldron  
 Dr J.M. Woollard  
 Mr A.J. Simpson (*Teller*)

Question thus negated.

### 13. Joint Standing Committee on the Corruption and Crime Commission

Mr J.N. Hyde, as Deputy Chairman, presented the following report which was ordered to lie upon the Table of the House –

Corruption and Crime Commission, Joint Standing Committee on the – How the Corruption and Crime Commission Handles Allegations and Notifications of Police Misconduct, Report No. 32 (5594).

Mr J.N. Hyde and Mr F.A. Alban spoke on the report.

Debate interrupted by the Chair (Mr F.A. Alban speaking) and adjourned until a later stage of the sitting.

### 14. Members' Statements

The Acting Speaker called for members' statements which were then made.

### 15. Questions

Questions without Notice were taken.

#### *Suspension of Member*

The Speaker, having called Dr A.D. Buti to order more than three times, suspended the member from the service of the Assembly for the remainder of the sitting.

#### *Paper*

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

By the Treasurer –

Treasurer – Letter from the Treasurer to the Chief Executive Officer of the Perth Airport regarding a third runway, 26 October 2012 (5595).

Questions on Notice Nos 8700, 8730, 8773, 8774, 8779 and 8845 were answered.

### 16. Additional Information

The Minister for Health provided additional information relating to series of Questions on Notice that had been withdrawn.

### 17. Variation to the Order of Business

Ordered, That Business of the Assembly Order of the Day for the continuation of the presentation of the Joint Standing Committee on the Corruption and Crime Commission Report No. 32 be next considered.

**18. Joint Standing Committee on the Corruption and Crime Commission**

The Order of the Day for the continuation of the presentation of the Joint Standing Committee on the Corruption and Crime Commission Report No. 32 was read (see paragraph 13).

Mr F.A. Alban spoke on the report.

**19. Joint Standing Committee on Delegated Legislation**

Mr P.T. Miles, as Chairman, presented the following report which was ordered to lie upon the Table of the House –

Delegated Legislation, Joint Standing Committee on – Metropolitan Region Scheme Major Amendment 1221/41 – Banjup Urban Precinct, Report 60 (5596).

Mr P.T. Miles and Ms J.M. Freeman spoke on the report.

**20. Joint Standing Committee on Delegated Legislation**

Mr P.T. Miles, as Chairman, presented the following report which was ordered to lie upon the Table of the House –

Delegated Legislation, Joint Standing Committee on – Annual Report 2012, Report 61 (5597).

Mr P.T. Miles, Mr A.J. Waddell and Ms J.M. Freeman spoke on the report.

**21. Joint Standing Committee on the Commissioner for Children and Young People**

Dr E. Constable, as Chairman, presented the following report which was ordered to lie upon the Table of the House –

Commissioner for Children and Young People, Joint Standing Committee on the – A Review of the Exercise of the Functions of the Commissioner for Children and Young People, Report No. 11 (5598).

Commissioner for Children and Young People, Joint Standing Committee on the – A Review of the Exercise of the Functions of the Commissioner for Children and Young People – Submissions (5599).

Dr E. Constable and Mr M.P. Whitely spoke on the report.

**22. Western Australian Future Fund Bill 2012**

Message No. 257 dated 15 November 2012 from the Legislative Council was reported agreeing to the bill without amendment.

**23. Variation to the Order of Business**

Ordered, That Bills – Notice of Motion No. 1 be postponed to a later stage of the sitting.

**24. Natural Gas (Canning Basin Joint Venture) Agreement Bill 2012**

The Minister for State Development, pursuant to notice, moved,

That a bill for “An Act to ratify, and authorise the implementation of, an agreement between the State and Buru Energy Limited, Diamond Resources (Fitzroy) Pty Ltd, Diamond Resources (Canning) Pty Ltd and Mitsubishi Corporation relating to the evaluation, development and exploitation of natural gas resources in the Canning Basin region of the State, and for incidental and other purposes.” be introduced and read a first time.

Question put and passed.

The Minister for State Development presented an explanatory memorandum and bill read a first time.

The Minister for State Development moved, That the bill be now read a second time.

Mr D.A. Templeman moved, That the debate be adjourned.

Question put and passed.

**25. Loan Bill 2012**

The Order of the Day for the second reading of the bill was read.

Question put and passed.

Bill read a second time.

*CONSIDERATION IN DETAIL*

Clauses 1 to 5 agreed to.

Title agreed to.

Consideration in detail concluded.

The Treasurer moved, That the bill be now read a third time.

Debate ensued.

Question put and passed.

Bill read a third time and forwarded to the Legislative Council for concurrence.

**26. Variation to the Order of Business**

Ordered, That Government Business Order of the Day No. 5 be next considered.

**27. Mining Amendment Bill 2012**

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

Debate resumed.

Question put and passed.

Bill read a second time.

Leave was granted to proceed forthwith to the third reading of the bill.

The Premier moved, That the bill be now read a third time.

Question put and passed.

Bill read a third time and passed.

**28. Mental Health Amendment (Psychiatrists) Bill 2012**

The Order of the Day for the consideration in detail of the bill was read.

*CONSIDERATION IN DETAIL*

Clauses 1 to 8 agreed to.

Title agreed to.

Consideration in detail concluded.

The Minister for Health moved, That the bill be now read a third time.

Debate ensued.

Question put and passed.

Bill read a third time and passed.

**29. Community Protection (Offender Reporting) Amendment Bill 2011**

The Order of the Day for the consideration in detail of Legislative Council Message No. 248 was read.

The Message was as follows –

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Community Protection (Offender Reporting) Amendment Bill 2011* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

*Schedule indicating the amendments made by the Legislative Council in the Community Protection (Offender Reporting) Amendment Bill 2011*

**No. 1**

Page 12, lines 27 and 28 — To delete “form of identification or other document,” and insert —

identification documents,

**No. 2**

Page 12, lines 30 and 31 — To delete the lines and insert —

required by subsection (2A);

**No. 3**

Page 13, after line 2 — To insert —

(2) Delete section 38(1)(c) and insert:

- (c) if not the reportable offender — present for inspection —
  - (i) any passport that the person holds; or
  - (ii) if the person does not hold a passport — the identification documents, relating to the identity of the person making the report, required by subsection (2A).

(3) After section 38(1) insert:

(2A) For the purposes of subsection (1)(a)(ii) and (c)(ii), the identification documents required are —

- (a) any one of the following —
  - (i) a current driver’s licence that displays a photograph or digital image of the licence holder;
  - (ii) an Australian naturalisation or citizenship document;
  - (iii) an original birth certificate or a certified copy, or certified extract, of a birth certificate;
  - (iv) a form of identification or document prescribed for the purposes of this paragraph;
- and
- (b) any one of the following —
  - (i) a current signed credit or debit card, a passbook or a statement of account issued by a bank, building society or credit union;
  - (ii) a current Medicare card;



- (iii) a gas, water, electricity or telephone account issued within 12 months before the report is made;
  - (iv) a notice of rates from a local government (however described) or a notice of water service charges or land valuation;
  - (v) a pensioner concession card, a Commonwealth seniors health card, an entitlement card issued under the *Veterans' Entitlements Act 1986* (Commonwealth) or another entitlement card issued by the Commonwealth government or a State or Territory government;
  - (vi) a lease or rental agreement;
  - (vii) a motor vehicle registration notice or certificate;
  - (viii) a renewal notice for a home building or contents, or a motor vehicle, policy of insurance;
  - (ix) a student identity card or a certificate or statement of enrolment from an educational institution;
  - (x) an electoral enrolment card or other evidence of electoral enrolment;
  - (xi) a form of identification or document prescribed for the purposes of this paragraph.
- (2B) A form of identification or other document is not valid for the purposes of subsection (2A)(b)(iv) to (xi) unless it was issued or entered into, as the case requires, within 2 years before the report is made.
- (2C) Except as stated in subsection (2A)(a)(iii), a form of identification or other document is not valid for the purposes of subsection (2A) unless it is an original.

#### *CONSIDERATION IN DETAIL*

The Minister for Police moved, That amendments Nos 1 to 3 be agreed to.

Questions put and passed.

Consideration in detail concluded and the Legislative Council acquainted accordingly.

### **30. Criminal Investigation (Covert Powers) Bill 2011**

The Order of the Day for the consideration in detail of Legislative Council Message No. 245 was read.

The Message was as follows –

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Criminal Investigation (Covert Powers) Bill 2011* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

*Schedule indicating the amendments made by the Legislative Council in the Criminal Investigation (Covert Powers) Bill 2011*

#### **No. 1**

Page 2, after line 14 — To insert —

***authorising officer***, for a law enforcement agency, means —

- (a) in relation to the Police Force or the fisheries department — the Commissioner of Police;
- (b) in relation to the Australian Crime Commission — the Chief Executive Officer of the Australian Crime Commission;

**No. 2**

Page 2, line 15 — To delete the line and insert —

*chief officer*, of a law enforcement agency, means —

**No. 3**

Page 5, after line 28 — To insert —

*Corruption and Crime Commission* means the Corruption and Crime Commission established under the *Corruption and Crime Commission Act 2003*;

**No. 4**

Page 6, lines 12 to 14 — To delete the lines.

**No. 5**

Page 6, lines 26 and 27 — To delete the lines and insert —

- (b) an offence not covered by paragraph (a) that is prescribed for the purposes of this definition, being an offence under any of the following Acts —
  - (i) the *Classification (Publications, Films and Computer Games) Enforcement Act 1996*;
  - (ii) *The Criminal Code*;
  - (iii) the *Firearms Act 1973*;
  - (iv) the *Fish Resources Management Act 1994*;
  - (v) the *Misuse of Drugs Act 1981*;
  - (vi) the *Prostitution Act 2000*;
  - (vii) the *Weapons Act 1999*;

**No. 6**

Page 8, line 19 — To delete “chief officer of” and insert —

authorising officer for

**No. 7**

Page 9, line 2 — To delete “chief” and insert —

authorising

**No. 8**

Page 9, line 14 — To delete “chief” and insert —

authorising

**No. 9**

Page 9, line 21 — To delete “chief” and insert —

authorising

**No. 10**

Page 9, line 23 — To delete “chief” and insert —

authorising

**No. 11**

Page 9, line 27 — To delete “chief” and insert —

authorising

**No. 12**

Page 10, line 4 — To delete “chief” and insert —

authorising

**No. 13**

Page 10, line 10 — To delete “chief” and insert —

authorising

**No. 14**

Page 10, line 33 — To insert after “have” —

been

**No. 15**

Page 11, line 11 — To delete “chief” and insert —

authorising

**No. 16**

Page 11, line 15 — To delete “chief” and insert —

authorising

**No. 17**

Page 11, line 20 — To delete “chief” and insert —

authorising

**No. 18**

Page 11, line 27 — To delete “chief” and insert —

authorising

**No. 19**

Page 12, line 12 — To delete “chief” and insert —

authorising

**No. 20**

Page 12, line 23 — To delete “chief” and insert —

authorising

**No. 21**

Page 12, line 27 — To delete “chief” and insert —

authorising

**No. 22**

Page 13, line 18 — To delete “be” and insert —

be, or is likely to be,

**No. 23**

Page 14, lines 28 to 30 — To delete the lines and insert —

- (8) The authorising officer must, as soon as practicable after granting an urgent authority, make a record in writing of the particulars referred to in subsection (6) relating to the authority.

**No. 24**

Page 15, line 6 — To delete “chief” and insert —

authorising

**No. 25**

Page 15, line 7 — To delete “chief” and insert —

authorising

**No. 26**

Page 15, line 11 — To delete “chief” and insert —

authorising

**No. 27**

Page 15, line 16 — To delete “chief” and insert —

authorising

**No. 28**

Page 16, line 4 — To delete “chief” and insert —

authorising

**No. 29**

Page 16, line 30 — To delete “chief” and insert —

authorising

**No. 30**

Page 17, line 5 — To delete “chief” and insert —

authorising

**No. 31**

Page 17, line 7 — To delete “chief” and insert —

authorising

**No. 32**

Page 17, line 11 — To delete “chief” and insert —

authorising

**No. 33**

Page 17, line 15 — To delete “chief” and insert —

authorising

**No. 34**

Page 17, line 24 — To delete “chief” and insert —

authorising

**No. 35**

Page 18, line 11 — To delete “chief” and insert —

authorising

**No. 36**

Page 19, lines 16 to 18 — To delete the lines and insert —

- (6) The authorising officer must, as soon as practicable after making an urgent variation of authority, make a record in writing of the particulars referred to in subsection (5) relating to the variation of authority.

**No. 37**

Page 19, line 20 — To delete “chief” and insert —

authorising

**No. 38**

Page 19, line 23 — To delete “chief” and insert —

authorising

**No. 39**

Page 20, line 17 — To delete “jurisdictions specified in the authority; or” and insert —

jurisdictions; or

**No. 40**

Page 20, lines 18 and 19 — To delete “jurisdictions specified in the authority,” and insert —

jurisdictions,

**No. 41**

Page 21, line 7 — To insert after “hours” —

(or any longer period that the authorising officer may, in exceptional circumstances, allow)

**No. 42**

Page 21, line 8 — To delete “chief” and insert —

authorising

**No. 43**

Page 21, line 11 — To delete “chief” and insert —

authorising

**No. 44**

Page 21, line 12 — To delete “chief” and insert —

authorising

**No. 45**

Page 21, line 14 — To delete “chief” and insert —

authorising

**No. 46**

Page 21, line 17 — To delete “chief” and insert —

authorising

**No. 47**

Page 21, line 22 — To delete “chief” and insert —

authorising

**No. 48**

Page 22, line 30 — To delete “chief” and insert —

authorising



**No. 49**

Page 23, line 3 — To delete “A chief” and insert —

An authorising

**No. 50**

Page 23, line 4 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

**No. 51**

Page 23, line 10 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

**No. 52**

Page 23, line 10 — To delete “chief” and insert —

authorising

**No. 53**

Page 23, line 12 — To delete “Parliamentary Commissioner’s” and insert —

Corruption and Crime Commission’s

**No. 54**

Page 26, line 1 — To delete “chief officer of” and insert —

authorising officer for

**No. 55**

Page 26, line 8 — To delete “chief” and insert —

authorising

**No. 56**

Page 28, lines 26 and 27 — To delete “an authorised operation” and insert —

a controlled operation for which an authority is or was in force

**No. 57**

Page 29, after line 11 — To insert —

- (ca) for the purpose of seeking legal advice; or
- (cb) to a government agency for the purposes of a law enforcement operation conducted by that agency or for intelligence-gathering purposes; or

**No. 58**

Page 30, after line 8 — To insert —

- (g) details (to the extent known) of any loss of or serious damage to property, or any personal injuries, occurring as an indirect result of the operation;
- (h) information as to whether —
  - (i) in the course of the operation, any participant engaged in unlawful conduct (other than controlled conduct that the participant was authorised to engage in for the purposes of the operation); and
  - (ii) any unlawful conduct (other than controlled conduct) was engaged in during the operation; and
  - (iii) any person is, because of section 31, not criminally responsible for ancillary conduct (as defined in that section); and
  - (iv) any variations were made to an authority for the operation; and
  - (v) any of those variations were to extend the period of validity of the authority; and
  - (vi) any retrospective authority was granted in respect of the operation; and
  - (vii) any urgent authority was granted in respect of the operation; and
  - (viii) any conditions of an authority for the operation were breached.

**No. 59**

Page 30, line 12 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

**No. 60**

Page 30, line 18 — To delete “chief officer,” and insert —

authorising officer for the agency,

**No. 61**

Page 30, line 20 — To delete “chief officer,” and insert —

authorising officer for the agency,

**No. 62**

Page 30, line 24 — To delete “chief officer; and” and insert —

authorising officer for the agency; and

**No. 63**

Page 30, lines 25 and 26 — To delete “chief officer; and” and insert —

authorising officer for the agency; and

**No. 64**

Page 30, line 29 — To delete “chief officer,” and insert —

authorising officer for the agency,

**No. 65**

Page 31, line 11 — To delete “chief officer” and insert —

authorising officer for the agency

**No. 66**

Page 31, line 16 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

**No. 67**

Page 31, line 31 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

**No. 68**

Page 32, lines 14 to 16 — To delete the lines and insert —

- (3) The Minister must —
  - (a) exclude information from the report if satisfied on the advice of the chief officer of any of the grounds set out in subsection (2); and
  - (b) insert a statement to the effect that information has been excluded from the report under paragraph (a).

**No. 69**

Page 32, lines 22 and 23 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

**No. 70**

Page 33, lines 10 and 11 — To delete “chief officer;” and insert —

authorising officer for the agency;

**No. 71**

Page 35, line 20 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

**No. 72**

Page 35, lines 25 to 28 — To delete the lines and insert —

- (2) For the purposes of an inspection under this section, the Corruption and Crime Commission —
  - (a) after notifying the chief officer of the law enforcement agency, may enter at any reasonable time premises occupied by the agency; and
  - (b) is entitled to have full and free access at all reasonable times to all records of the law enforcement agency that are relevant to the inspection; and

- (c) may require a person employed or engaged in the law enforcement agency to give the Corruption and Crime Commission any information that the Corruption and Crime Commission considers necessary, being information that is in the person's possession, or to which the person has access, and that is relevant to the inspection.
- (2A) The Corruption and Crime Commission may delegate to an officer of the Commission (as defined in the *Corruption and Crime Commission Act 2003* section 3(1)) a power or duty of the Corruption and Crime Commission under this section and, for that purpose, the *Corruption and Crime Commission Act 2003* section 185(3) to (6) apply as if the delegation were a delegation under section 185.

**No. 73**

Page 35, lines 30 and 31 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

**No. 74**

Page 35, line 31 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

**No. 75**

Page 36, line 1 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

**No. 76**

Page 37, lines 3 to 12 — To delete the lines and insert —

*senior officer* means —

- (a) in relation to an authorising officer or chief officer who is the Commissioner of Police — a police officer of or above the rank of Commander; or
- (b) in relation to an authorising officer or chief officer who is the Chief Executive Officer of the Australian Crime Commission —
  - (i) an SES employee as defined in the *Australian Crime Commission Act 2002* (Commonwealth) section 4(1); or
  - (ii) a person holding a prescribed office in the Australian Crime Commission;
- or
- (c) in relation to a chief officer who is the chief executive officer of the fisheries department — a fisheries officer holding a prescribed office in the department.

**No. 77**

Page 37, line 14 — To delete “of a” and insert —

of an authorising officer or

**No. 78**

Page 37, line 16 — To delete “chief officer of” and insert —

authorising officer for, or chief officer of,

**No. 79**

Page 37, lines 17 and 18 — To delete “of the agency any of the chief officer’s” and insert —

any of his or her

**No. 80**

Page 40, line 14 — To delete “chief officer of” and insert —

authorising officer for

**No. 81**

Page 41, line 2 — To delete “chief” and insert —

authorising

**No. 82**

Page 41, line 30 — To delete “chief” and insert —

authorising

**No. 83**

Page 42, line 1 — To delete “chief” and insert —

authorising

**No. 84**

Page 42, line 5 — To delete “chief” and insert —

authorising

**No. 85**

Page 42, line 9 — To delete “chief” and insert —

authorising

**No. 86**

Page 42, line 15 — To delete “chief” and insert —

authorising

**No. 87**

Page 43, line 27 — To delete “chief” and insert —

authorising

**No. 88**

Page 44, line 2 — To delete “chief” and insert —

authorising

**No. 89**

Page 45, lines 13 to 15 — To delete the lines and insert —

- (7) The authorising officer must, as soon as practicable after granting an urgent authority, make a record in writing of the particulars referred to in subsection (5) relating to the authority.

**No. 90**

Page 45, line 30 — To delete “chief” and insert —

authorising

**No. 91**

Page 46, line 5 — To delete “chief” and insert —

authorising

**No. 92**

Page 46, line 11 — To delete “chief” and insert —

authorising

**No. 93**

Page 46, line 17 — To delete “chief” and insert —

authorising

**No. 94**

Page 47, lines 12 to 14 — To delete the lines and insert —

- (10) The authorising officer must, as soon as practicable after making an urgent variation of authority, make a record in writing of the particulars referred to in subsection (9) relating to the variation of authority.

**No. 95**

Page 47, line 16 — To delete “chief” and insert —

authorising

**No. 96**

Page 47, line 17 — To delete “chief” and insert —

authorising

**No. 97**

Page 47, line 20 — To delete “chief” and insert —

authorising



**No. 98**

Page 47, line 26 — To delete “chief” and insert —

authorising

**No. 99**

Page 48, line 2 — To delete “chief” and insert —

authorising

**No. 100**

Page 48, lines 25 to 27 — To delete the lines and insert —

- (9) The authorising officer must, as soon as practicable after making an urgent cancellation of authority, make a record in writing of the particulars referred to in subsection (8) relating to the cancellation of authority.

**No. 101**

Page 48, line 29 — To delete “chief” and insert —

authorising

**No. 102**

Page 48, line 30 — To delete “chief officer or a delegate of the chief” and insert —

authorising officer or a delegate of the authorising

**No. 103**

Page 49, line 5 — To delete “chief” and insert —

authorising

**No. 104**

Page 49, line 8 — To delete “chief” and insert —

authorising

**No. 105**

Page 50, line 18 — To delete “chief officer” and insert —

authorising officer for a law enforcement agency

**No. 106**

Page 50, line 26 — To insert after “officer” —

of the law enforcement agency

**No. 107**

Page 50, line 29 — To insert after “officer” —

of the law enforcement agency

**No. 108**

Page 51, lines 23 and 24 — To delete “an authority granted under section 48 authorises” and insert —

the authorising officer for a law enforcement agency grants an authority under section 48 authorising

**No. 109**

Page 51, line 25 — To delete “who grants the authority” and insert —

of the law enforcement agency

**No. 110**

Page 55, line 8 — To delete “chief officer of” and insert —

authorising officer for

**No. 111**

Page 55, line 10 — To insert after “officer” —

of the law enforcement agency

**No. 112**

Page 56, lines 22 and 23 — To delete “an authority granted under section 48 authorises” and insert —

the authorising officer for a law enforcement agency grants an authority under section 48 authorising

**No. 113**

Page 56, line 24 — To delete “who grants the authority” and insert —

of the law enforcement agency

**No. 114**

Page 61, line 11 — To delete “both Houses” and insert —

each House

**No. 115**

Page 61, lines 18 to 20 — To delete the lines and insert —

- (3) The Minister must —
  - (a) exclude information from the report if satisfied on the advice of the chief officer of any of the grounds set out in subsection (2); and
  - (b) insert a statement to the effect that information has been excluded from the report under paragraph (a).

**No. 116**

Page 63, lines 15 to 22 — To delete the lines and insert —

- (a) in relation to an authorising officer or chief officer who is the Commissioner of Police — a police officer of or above the rank of superintendent; or
- (b) in relation to an authorising officer or chief officer who is the Chief Executive Officer of the Australian Crime Commission —
  - (i) an SES employee as defined in the *Australian Crime Commission Act 2002* (Commonwealth) section 4(1); or
  - (ii) a person holding a prescribed office in the Australian Crime Commission;
- or
- (c) in relation to a chief officer who is the chief executive officer of the fisheries department — a fisheries officer holding a prescribed office in the department; or

**No. 117**

Page 63, line 28 — To delete “of a” and insert —

of an authorising officer or

**No. 118**

Page 64, line 1 — To delete “A chief officer of” and insert —

An authorising officer for, or chief officer of,

**No. 119**

Page 64, line 2 — To delete “of the agency any of the chief officer’s” and insert —

any of his or her

**No. 120**

Page 65, lines 22 and 23 — To delete “or by either or both Houses of Parliament”.

**No. 121**

Page 65, after line 27 — To insert —

***court proceeding means*** any criminal, civil or other proceeding before, or inquiry, reference or examination by, a court, and includes an arbitration;

**No. 122**

Page 66, after line 8 — To insert —

***parliamentary committee*** means a committee or other body established by either or both Houses of Parliament to inquire into any matter;

***parliamentary proceeding*** means any proceeding before, or inquiry, reference or examination by, a parliamentary committee;

**No. 123**

Page 66, lines 16 to 18 — To delete the lines and insert —

***proceeding*** means a court proceeding or a parliamentary proceeding;

**No. 124**

Page 67, lines 12 to 18 — To delete the clause.

**No. 125****New Clause 84A**

Page 70, after line 14 — To insert —

**Division 2A — Provisions applicable to court proceeding**

**84A. Application of Division**

- (1) This Division applies in relation to a court proceeding in which an operative is, or may be, required to give evidence obtained as an operative.
- (2) To remove any doubt, this Division does not affect the operation of the common law in relation to the protection of the identity of a person who is not an operative who gives or intends to give evidence in a court proceeding.

**No. 126**

Page 70, line 17 — To insert after “to a” —

court

**No. 127**

Page 72, lines 17 to 19 — To delete “(including any applications relating to the proceeding, such as those referred to in sections 86, 88 and 90)” and insert —

(including any application relating to the proceeding, such as an application for an order under paragraph (b) or an application under section 86 or 90)

**No. 128**

Page 77, after line 8 — To insert —

**Division 2B — Provisions applicable to parliamentary proceeding**

**93A. Application of Division**

This Division applies in relation to a parliamentary proceeding in which an operative is, or may be, required to give evidence obtained as an operative.

**93B. Witness identity protection certificate to be given to Parliament**

- (1) A witness identity protection certificate for an operative in relation to a parliamentary proceeding must be given —

- (a) to the Clerk of the House of Parliament that established the parliamentary committee concerned; or
- (b) if the parliamentary committee concerned was established by both Houses of Parliament, to the Clerk of each House of Parliament,

before the operative gives evidence in the proceeding.

- (2) The certificate must be given at least 14 days before the day on which the operative is to give evidence, unless in the circumstances it is not reasonably practicable to do so.
- (3) The person who gives the certificate must give a copy of it to the operative before the day on which the operative is to give evidence.

### **93C. Effect of witness identity protection certificate**

- (1) This section applies if a witness identity protection certificate for an operative is given in accordance with section 93B in relation to a parliamentary proceeding.
- (2) If this section applies —
  - (a) the operative may give evidence in the proceeding under the assumed name, or court name, stated in the certificate; and
  - (b) subject to any resolution passed under section 93D(4) —
    - (i) a question must not be asked of a witness, including the operative, that may lead to the disclosure of the operative's true identity or where the operative lives; and
    - (ii) a witness, including the operative, cannot be required to (and must not) answer a question, give evidence or provide information that discloses, or may lead to the disclosure of, the operative's true identity or where the operative lives; and
    - (iii) a person involved in the proceeding must not make a statement that discloses, or may lead to the disclosure of, the operative's true identity or where the operative lives.
- (3) For the purposes of subsection (2)(b)(iii), a person involved in a proceeding includes —
  - (a) a member of the parliamentary committee; and
  - (b) a party to the proceeding; and
  - (c) a person given leave to be heard or make submissions in the proceeding; and
  - (d) a lawyer representing a person referred to in paragraph (b) or (c) or a lawyer assisting the parliamentary committee in the proceeding; and
  - (e) any other person assisting the parliamentary committee in the proceeding; and
  - (f) a person acting in the execution of any process or the enforcement of any order in the proceeding.
- (4) If this section applies, any evidence given by the operative in the proceeding must be given in private.

### **93D. Disclosure of operative's true identity or location despite certificate**

- (1) In this section —

**relevant House**, in relation to a parliamentary committee, means —

- (a) if the parliamentary committee was established by a House of Parliament — that House; or
  - (b) if the parliamentary committee was established by both Houses of Parliament — each House.
- (2) This section applies if a witness identity protection certificate for an operative is given in accordance with section 93B in relation to a parliamentary proceeding.
- (3) The parliamentary committee may seek the authorisation of the relevant House —
- (a) to ask a question of a witness, including the operative, that may lead to the disclosure of the operative's true identity or where the operative lives; or
  - (b) to require a witness, including the operative, to answer a question, give evidence or provide information that discloses, or may lead to the disclosure of, the operative's true identity or where the operative lives; or
  - (c) for a person involved in the proceeding to make a statement that discloses, or may lead to the disclosure of, the operative's true identity or where the operative lives.
- (4) The relevant House may pass a resolution authorising the doing of anything mentioned in subsection (3)(a), (b) or (c).
- (5) However, the relevant House must not pass a resolution unless satisfied about each of the following —
- (a) there is evidence that, if accepted, would substantially call into question the operative's credibility;
  - (b) it would be impracticable to test properly the credibility of the operative without allowing the risk of disclosure of, or disclosing, the operative's true identity or where the operative lives.

#### **93E. Restrictions on content of reports to Parliament**

If a witness identity protection certificate for an operative is given in accordance with section 93B in relation to a parliamentary proceeding, the parliamentary committee must not disclose in a report to a House of Parliament —

- (a) the operative's true identity or where the operative lives; or
- (b) information that may lead to the disclosure of the operative's identity or where the operative lives.

### **Division 2C — Other matters**

#### **No. 129**

Page 77, lines 17 to 21 — To delete the lines and insert —

- (3) If the chief officer cancels the certificate —
- (a) after it has been filed in a court and before the matter has been finalised by the court, the chief officer must immediately give written notice to the court and each party to the proceeding that the certificate has been cancelled; or
  - (b) after it has been given to the Clerk of a House of Parliament and before the matter has been finalised by the parliamentary committee concerned, the chief officer must immediately give written notice to the Clerk that the certificate has been cancelled.

**No. 130**

Page 78, after line 23 — To insert —

- (3) Nothing in this section limits or otherwise affects the operation of the *Parliamentary Privileges Act 1891*.

**No. 131**

Page 81, line 8 — To delete the line and insert —

- (i) an SES employee as defined in the *Australian Crime Commission Act 2002* (Commonwealth) section 4(1); or

**No. 132**

Page 82, after line 6 — To insert —

**101A. Review of Parts 2 and 3**

- (1) The Minister must carry out a review of the operation and effectiveness of Parts 2 and 3 as soon as is practicable after the end of the period of 5 years beginning on the day on which this Act receives the Royal Assent.
- (2) The Minister must prepare a report based on the review and must cause the report to be laid before each House of Parliament as soon as is practicable after it is prepared and, in any event, not later than 18 months after the end of the period referred to in subsection (1).

**No. 133**

Page 84, after line 10 — To insert —

**Part 7A — *Criminal Injuries Compensation Act 2003* amended**

**106A. Act amended**

This Part amends the *Criminal Injuries Compensation Act 2003*.

**106B. Section 13 amended**

In section 13(5) delete “section 27.” and insert:

section 27 or the *Criminal Investigation (Covert Powers) Act 2012* section 27, 31 or 34.

**106C. Section 16 amended**

In section 16(5) delete “section 27.” and insert:



section 27 or the *Criminal Investigation (Covert Powers) Act 2012* section 27, 31 or 34.

**106D. Section 17 amended**

In section 17(5) delete “section 27.” and insert:

section 27 or the *Criminal Investigation (Covert Powers) Act 2012* section 27, 31 or 34.

**No. 134**

Page 89, line 16 — To delete “34D” and insert —

34D or 34K

**No. 135**

Page 89, after line 21 — To insert —

**Subdivision 1 — Terms used**

**No. 136**

Page 90, after line 13 — To insert —

*court* includes —

- (a) a tribunal or other body established or continued under a written law and having a power to obtain evidence or information;
- (b) a Royal Commission established under the *Royal Commissions Act 1968*;
- (c) a commission, board, committee or other body established by the Governor or by the Government of the State to inquire into any matter;

*court proceedings* means any proceedings in a court;

**No. 137**

Page 90, after line 17 — To insert —

*parliamentary committee* means a committee or other body established by either or both Houses of Parliament to inquire into any matter;

*parliamentary proceedings* means any proceedings before a parliamentary committee;

**No. 138**

Page 90, after line 25 — To insert —

*proceedings means court proceedings or parliamentary proceedings;*

**No. 139**

Page 91, after line 17 — To insert —

**Subdivision 2 — Non-disclosure certificates for protected persons**

**No. 140**

Page 91, line 23 — To delete “court,” and insert —

court or in parliamentary proceedings,

**No. 141**

Page 91, lines 27 to 29 — To delete the lines and insert —

- (3) The Commissioner may give a certificate for the protected person in relation to the proceedings and —
  - (a) file a copy with the court; or
  - (b) give a copy to the Clerk of the House of Parliament that established the parliamentary committee concerned or, if the parliamentary committee concerned was established by both Houses of Parliament, to the Clerk of each House of Parliament,
 as the case requires.

**No. 142**

Page 92, after line 17 — To insert —

**Subdivision 3 — Provisions applicable to court proceedings**

**34CA. Application of Subdivision**

This Subdivision applies in relation to court proceedings in which a protected person is, or may be, required to give evidence.

**No. 143**

Page 98, after line 6 — To insert —

#### **Subdivision 4 — Provisions applicable to parliamentary proceedings**

##### **34I. Application of Subdivision**

This Subdivision applies in relation to parliamentary proceedings in which a protected person is, or may be, required to give evidence.

##### **34J. Effect of non-disclosure certificate**

- (1) In this section —  
*person involved*, in proceedings, includes —
  - (a) a member of the parliamentary committee; and
  - (b) a party to the proceedings; and
  - (c) a person given leave to be heard or make submissions in the proceedings; and
  - (d) a lawyer representing a person referred to in paragraph (b) or (c) or a lawyer assisting the parliamentary committee in the proceedings; and
  - (e) any other person assisting the parliamentary committee in the proceedings; and
  - (f) a person acting in the execution of any process or the enforcement of any order in the proceedings.
- (2) This section applies if a non-disclosure certificate for a protected person is given under section 34A(3)(b) in relation to parliamentary proceedings.
- (3) If this section applies, in the proceedings —
  - (a) a question must not be asked of a witness, including the protected person, that may lead to the disclosure of the protected person's protected identity or protected address or both; and
  - (b) a witness, including the protected person, cannot be required to (and must not) answer a question, give evidence or provide information that discloses, or may lead to the disclosure of, the protected person's protected identity or protected address or both; and
  - (c) a person involved in the proceedings must not make a statement that discloses, or may lead to the disclosure of, the protected person's protected identity or protected address or both.
- (4) The parliamentary committee may disclose to each party to the proceedings —
  - (a) that a non-disclosure certificate for a person who may be required to give evidence in the proceedings has been given; and
  - (b) what the certificate states.
- (5) If the parliamentary committee makes a disclosure about the non-disclosure certificate under subsection (4), the committee must also inform the parties of the effect of the certificate.
- (6) This section applies despite any other Act, but subject to section 34K.

##### **34K. Disclosure of protected person's identity despite certificate**

- (1) In this section —

**relevant House**, in relation to a parliamentary committee, means —

- (a) if the parliamentary committee was established by a House of Parliament — that House; or
  - (b) if the parliamentary committee was established by both Houses of Parliament — each House.
- (2) This section applies if a non-disclosure certificate for a protected person is given under section 34A(3)(b) in relation to parliamentary proceedings.
- (3) The parliamentary committee may seek the authorisation of the relevant House —
- (a) to ask a question of a witness, including the protected person, that may lead to the disclosure of the protected person's protected identity or protected address or both; or
  - (b) to require a witness, including the protected person, to answer a question, give evidence or provide information that discloses, or may lead to the disclosure of, the protected person's protected identity or protected address or both; or
  - (c) for a person involved in the proceedings to make a statement that discloses, or may lead to the disclosure of, the protected person's protected identity or protected address or both.
- (4) The relevant House may pass a resolution authorising the doing of anything mentioned in subsection (3)(a), (b) or (c).
- (5) However, the relevant House must not pass a resolution unless satisfied about each of the following —
- (a) there is evidence that, if accepted, would substantially call into question the protected person's credibility;
  - (b) it would be impracticable to test properly the credibility of the protected person without allowing the risk of disclosure of, or disclosing, the protected person's protected identity or protected address or both.

#### **34L. Restrictions on content of reports to Parliament**

If a non-disclosure certificate for a protected person is given under section 34A(3)(b) in relation to parliamentary proceedings, the parliamentary committee must not disclose in a report to a House of Parliament —

- (a) the protected person's protected identity or protected address; or
- (b) information that may lead to the disclosure of the protected person's protected identity or protected address.

#### *CONSIDERATION IN DETAIL*

The Minister for Police moved, That amendment No. 1 be agreed to.

The Leader of the House moved, That the debate be adjourned until a later stage of the sitting.

Question put and passed.

#### **31. Classification (Publications, Films and Computer Games) Enforcement Amendment Bill 2012**

The Order of the Day for the resumption of the debate upon the second reading of the bill was read.  
Debate resumed.

Question put and passed.  
Bill read a second time.

*CONSIDERATION IN DETAIL*

Clauses 1 to 15 agreed to.  
Title agreed to.  
Consideration in detail concluded.  
The Minister for Planning moved, That the bill be now read a third time.  
Debate ensued.  
Question put and passed.  
Bill read a third time and passed.

**32. Variation to the Order of Business**

Ordered, That consideration of Government Business Order of the Day No. 4 be resumed.

**33. Criminal Investigation (Covert Powers) Bill 2011**

The Order of the Day for the further consideration in detail of Legislative Council Message No. 245 was read (see paragraph 29).

*CONSIDERATION IN DETAIL*

The Minister for Police had moved, That amendment No. 1 be agreed to.  
Question put and passed.  
The Minister for Police moved, That amendments Nos 2 to 143 be agreed to.  
Questions put and passed.  
Consideration in detail concluded and the Legislative Council acquainted accordingly.

**34. Special Adjournment**

The Premier moved, That the House at its rising adjourn until a date and time to be fixed by the Speaker.  
Debate ensued.  
Question put and passed.

**35. Adjournment**

The Premier moved, That the House do now adjourn.  
Question put and passed.  
The Assembly adjourned accordingly at 12.19 a.m. on Friday, 16 November 2012 until a date and time to be fixed by the Speaker.  
*Members present during any part of the day's proceedings* – All the members except Mr M.J. Cowper, Mr W.R. Marmion and Dr M.D. Nahan.

**PETER J. McHUGH**  
Clerk of the Legislative Assembly

**HON. GRANT WOODHAMS**  
Speaker of the Legislative Assembly