



LEGISLATIVE COUNCIL

MINUTES OF THE PROCEEDINGS

Nos. 113, 114 and 115

No. 113 — Tuesday, 3 August 2021

- 1 The President took the Chair at 11.35 a.m., read the Prayer and made an Acknowledgement of Country.
- 2 **THE LATE JOHN FRANCIS MCGRATH AM** — The President advised the House of the death, on 4 July 2021, of Mr John Francis McGrath AM, Member of the Legislative Assembly for the Electoral District of Warrnambool from 1985 to 1999.

* * * * *

THE LATE HONOURABLE RICHARD JOHN LONG — The President advised the House of the death, on 28 July 2021, of the Honourable Richard John Long, Member of the Legislative Council for Gippsland Province from 1973 to 1992.

Members stood in their places as a mark of respect to the memory of the late Mr John McGrath AM, and the late Honourable Richard Long.

- 3 **ASSENT TO ACTS** — The President read a Message from the Governor informing the Council that she had, on 28 June 2021, given the Royal Assent to the following Acts presented to her by the Clerk of the Parliaments:

Child Wellbeing and Safety (Child Safe Standards Compliance and Enforcement) Amendment Act 2021

Education and Training Reform Amendment (Protection of School Communities) Act 2021

Mutual Recognition (Victoria) Amendment Act 2021

Offshore Petroleum and Greenhouse Gas Storage (Cross-boundary Greenhouse Gas Titles and Other Matters) Amendment Act 2021.

- 4 **QUESTIONS AND MINISTERS' STATEMENTS** — Questions without notice were taken and Ministers' Statements were made pursuant to Sessional Order 13.

* * * * *

QUESTIONS DIRECTED FOR WRITTEN RESPONSE — The President directed written responses be provided to questions without notice pursuant to Standing Order 8.07 as follows:

- **Emergency Housing** — substantive and supplementary questions asked by Mr Bourman — response from Ms Stitt due Thursday, 5 August 2021.
- **Western Highway upgrade** — substantive and supplementary questions asked by Dr Cumming — response from Ms Pulford due Thursday, 5 August 2021.

- 5 **CONSTITUENCY QUESTIONS** — Constituency questions were taken pursuant to Standing Order 8.08.

- 6 **PETITIONS** —

BAN THE USE OF 1080 POISON — Mr Meddick presented a Petition bearing 2,491 signatures from certain citizens of Victoria requesting that the Legislative Council call on the Government

to amend the *Wildlife Act 1975*, the *Prevention of Cruelty to Animals Act 1986* and any relevant subordinate legislation to ban the use of 1080 poison in Victoria on public or private land, and protect dingoes from baiting, trapping, shooting or any other form of lethal control.

Ordered to lie on the Table.

* * * * *

ADDRESS THE FINANCIAL SUSTAINABILITY OF RURAL COUNCILS — Ms Patten presented a Petition bearing 1,255 signatures from certain citizens of Victoria requesting that the Legislative Council call on the Government to take action to address the imbalance in the capacity of rural councils to service the needs of their communities, thereby lessening the difference in sustainable capacity between rural and metropolitan councils.

Ordered to lie on the Table.

* * * * *

FUNDING TO DIGITISE MORE VICTORIAN NEWSPAPERS TO TROVE — Ms Terpstra presented a Petition bearing 1,266 signatures from certain citizens of Victoria requesting that the Legislative Council call on the Government to prioritise funding for Trove digitisation of historical newspapers to ensure that more of Victoria's heritage and community information can be searchable and accessible online.

Ordered to lie on the Table.

* * * * *

BREAST SCREENING PROGRAM — Mr Davis presented a Petition bearing 977 signatures from certain citizens of Victoria requesting that the Legislative Council call on the Government to reverse the cuts to women's health protection services and fully fund the breast screening program so all women, at all times, have access to this essential program.

Ordered to lie on the Table.

- 7 MEMBERS OF PARLIAMENT (STANDARDS) AMENDMENT BILL 2021** — Dr Cumming introduced *A Bill for an Act to amend the Members of Parliament (Standards) Act 1978 to prevent Members of Parliament from employing family members and other persons in certain positions, to require Members of Parliament to reimburse the State for such employment and for other purposes.*

On the motion of Dr Cumming, the Bill was read a first time and ordered to be read a second time on the next day of meeting.

8 PAPERS —

ECONOMY AND INFRASTRUCTURE COMMITTEE — INQUIRY INTO THE IMPACT OF THE COVID-19 PANDEMIC ON THE TOURISM AND EVENTS SECTORS — Pursuant to Standing Order 23.29, Mr Erdogan laid on the Table a Report from the Economy and Infrastructure Committee on the Inquiry into the impact of the COVID-19 pandemic on the tourism and events sectors (including Appendices, Extracts of Proceedings and a Minority Report), and further presented Transcripts of Evidence.

Ordered that the Transcripts of Evidence lie on the Table and the Report be published.

Mr Erdogan moved, That the Council take note of the Report.

Debate ensued.

Question — put and agreed to.

* * * * *

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE — ALERT DIGEST — Pursuant to section 35 of the *Parliamentary Committees Act 2003*, Mr Gepp presented Alert Digest No. 9 of 2021 (including Appendices) from the Scrutiny of Acts and Regulations Committee.

Ordered to be published.

* * * * *

OMBUDSMAN — ANNUAL PLAN 2021-22 — Pursuant to section 24C(4)(c) of the *Ombudsman Act 1973*, and following the transmission of the report on 1 July 2021, the Clerk laid on the Table a copy of the Ombudsman's Annual Plan 2021-22.

OMBUDSMAN — INVESTIGATION INTO GOOD PRACTICE WHEN CONDUCTING PRISON DISCIPLINARY HEARINGS — Pursuant to section 25AA(4)(c) of the *Ombudsman Act 1973*, and following the transmission of the report on 7 July 2021, the Clerk laid on the Table a copy of the Ombudsman's Report on the Investigation into good practice when conducting prison disciplinary hearings, July 2021.

* * * * *

16TH REPORT TO PARLIAMENT ON THE STATE OF EMERGENCY — Pursuant to section 198(8B)(b) of the *Public Health and Wellbeing Act 2008*, and following the transmission of the report on 9 July 2021, the Clerk laid on the Table a copy of the 16th Report to Parliament on the Extension of the Declaration of the State of Emergency.

* * * * *

OMBUDSMAN — COUNCILS AND COMPLAINTS – A GOOD PRACTICE GUIDE 2ND EDITION — Pursuant to section 25AA(4)(c) of the *Ombudsman Act 1973*, and following the transmission of the report on 22 July 2021, the Clerk laid on the Table a copy of the Ombudsman's Report on Councils and complaints – A good practice guide 2nd edition, July 2021.

* * * * *

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE — GOVERNMENT RESPONSE TO THE FINAL REPORT ON THE INQUIRY INTO THE VICTORIAN GOVERNMENT'S RESPONSE TO THE COVID-19 PANDEMIC — Pursuant to section 36(2)(c) of the *Parliamentary Committees Act 2003*, and following its transmission on 2 August 2021, the Clerk laid on the Table a copy of the Government response to the Public Accounts and Estimates Committee's Final Report on the Inquiry into the Victorian Government's response to the COVID-19 pandemic.

* * * * *

PAPERS PURSUANT TO STATUTE — The following Papers, pursuant to the directions of several Acts of Parliament, were laid on the Table by the Clerk:

Crown Land (Reserves) Act 1978 —

Ministerial Order of 9 May 2021 giving approval to the granting of a licence at Alexandra Gardens Reserve.

Ministerial Order of 1 June 2021 giving approval to the granting of a licence at Alexandra Gardens Reserve.

Ministerial Order of 1 June 2021 giving approval to the granting of a licence at Alexandra Park Reserve.

Ministerial Order of 3 June 2021 giving approval to the granting of a lease at Sandringham Beach Park Reserve.

Education and Care Services National Law Act 2010 — Education and Care Services National Amendment Regulations 2021, under section 303 of the Act.

Interpretation of Legislation Act 1984 — Notices under section 32(3) in relation to — Environment Reference Standard (*Gazette No. G26, 1 July 2021*).

Statutory Rule No. 47 (*Gazette No. G26, 1 July 2021*).

Melbourne Cricket Ground Trust — Report year ended 31 March 2021.

National Parks Act 1975 — Minister's notice of consent of 11 July 2021 to undertake petroleum operations within Port Campbell National Park, under section 40 of the Act.

Planning and Environment Act 1987 — Notices of Approval of the following amendments to planning schemes —

Alpine Planning Scheme — Amendment C61.

Alpine, Ararat, Baw Baw, Benalla, Buloke, Central Goldfields, Colac Otway, Corangamite, East Gippsland, Gannawarra, Golden Plains, Greater Shepparton, Hepburn, Latrobe, Moira, Moorabool, Mount Alexander, Murrindindi, Northern Grampians, Strathbogie, Swan Hill and Yarriambiack Planning Schemes — Amendment GC161.

Ararat Planning Scheme — Amendment C45.

Bass Coast Planning Scheme — Amendments C157 and C160.

Benalla Planning Scheme — Amendment C32.

Boroondara Planning Scheme — Amendment C356.

Brimbank Planning Scheme — Amendment C211.

- Cardinia Planning Scheme — Amendment C272.
Casey Planning Scheme — Amendments C269 and C282.
Colac Otway Planning Scheme — Amendments C90 and C109.
Colac Otway, Golden Plains, and Moonee Valley Planning Schemes — Amendment GC191.
Glen Eira Planning Scheme — Amendments C225 and C226.
Golden Plains Planning Scheme — Amendments C83 and C96.
Greater Bendigo Planning Scheme — Amendment C255.
Greater Dandenong Planning Scheme — Amendment C227.
Greater Geelong Planning Scheme — Amendments C363, C409 and C423.
Greater Shepparton Planning Scheme — Amendment C218.
Hindmarsh Planning Scheme — Amendment C17.
Hobsons Bay Planning Scheme — Amendment C127.
Horsham Planning Scheme — Amendment C80.
Kingston Planning Scheme — Amendment C190.
Knox Planning Scheme — Amendment C190.
Mansfield Planning Scheme — Amendment C43.
Maribyrnong Planning Scheme — Amendment C167.
Maroondah Planning Scheme — Amendment C145.
Melbourne Planning Scheme — Amendment C412.
Melton Planning Scheme — Amendments C210 and C225.
Mitchell Planning Scheme — Amendments C145 and C159.
Moirra Planning Scheme — Amendment C90.
Monash Planning Scheme — Amendment C159.
Moonee Valley Planning Scheme — Amendments C202, C205 and C221.
Moorabool Planning Scheme — Amendment C92.
Mornington Peninsula Planning Scheme — Amendments C237, C255 and C279.
Nillumbik Planning Scheme — Amendments C135 and C136.
Port of Melbourne Planning Scheme — Amendment C3.
Port Phillip Planning Scheme — Amendment C162.
Victoria Planning Provisions — Amendment VC203.
Wangaratta Planning Scheme — Amendment C78.
Warrnambool Planning Scheme — Amendment C208.
Whitehorse Planning Scheme — Amendment C235.
Wodonga Planning Scheme — Amendment C133.
Wyndham Planning Scheme — Amendment C259.
Yarra Planning Scheme — Amendments C290 and C292.
Yarra Ranges Planning Scheme — Amendment C189.
- Statutory Rules under the following Acts of Parliament —
Agricultural Industry Development Act 1990 — No. 57.
Building Act 1993 — Nos. 72 and 73.
Child Wellbeing and Safety Act 2005 — No. 62.
Children, Youth and Families Act 2005 — No. 90.
Conservation, Forests and Lands Act 1987 — No. 91.
Corporations (Ancillary Provisions) Act 2001 — No. 80.
Country Fire Authority Act 1958 — No. 86.
Crown Land (Reserves) Act 1978 — No. 64.
Domestic Building Contracts Act 1995 — No. 63.
Environment Protection Act 1970 — No. 59.
Environment Protection Act 2017 — Nos. 60, 82, 83 and 92.
Forests Act 1958 — No. 65.
Funerals Act 2006 — No. 77.
Juries Act 2000 — No. 81.
Land Act 1958 — No. 66.
Local Government Act 1989 — No. 71.
Local Government Act 2020 — Nos. 69 and 70.
Magistrates' Court Act 1989 — No. 89.

- Marine Safety Act 2010 — Nos. 78 and 79.
National Parks Act 1975 — No. 67.
Occupational Health and Safety Act 2004 — Nos. 88 and 93.
Professional Engineers Registration Act 2019 — No. 58.
Road Safety Act 1986 — No. 75.
Service Victoria Act 2018 — No. 84.
Subordinate Legislation Act 1994 — No. 61.
Tobacco Act 1987 — No. 85.
Transfer of Land Act 1958 — No. 74.
Transport (Compliance and Miscellaneous) Act 1983 — No. 87.
Wildlife Act 1975 — No. 68.
Zero and Low Emission Vehicle Distance-based Charge Act 2021 — No. 76.
- Subordinate Legislation Act 1994 —
Documents under section 15 in respect of Statutory Rule Nos. 53, 55, 57, 58, 62, 64 to 71, 74, 75, 78, 79, 81, 84 to 86, 88 to 91 and 93.
Legislative instruments and related documents under section 16B in respect of —
Environment Protection Act 2017 —
EPA Designation — classification of agricultural and veterinary chemical waste for the purposes of the ChemClear program of 28 May 2021.
EPA Designation — classification of architectural and decorative waste paint for the purposes of the Paintback stewardship scheme of 9 June 2021.
EPA Designation — classification of arsenic-contaminated waste from the City of Greater Bendigo of 9 June 2021.
EPA Designation — classification of pharmaceutical waste for the purposes of the return unwanted medicines (RUM) project of 28 May 2021.
EPA Determination — discharges or emissions to the atmosphere from prescribed activities of 28 May 2021.
EPA Determination — discharges to land or surface water from prescribed activities of 28 May 2021.
EPA Determination — exemption from requirement to hold permission — temporary storage and containment of waste oils, paints and chemicals generated at another site at a council transfer station of 28 May 2021.
EPA Determination — permission exemption for modifications to a sewage treatment plant of 28 May 2021.
EPA Determination — Specifications acceptable to the Authority for receiving fill material of 9 June 2021.
EPA Determination — Specifications acceptable to the Authority for receiving processed organics of 9 June 2021.
EPA Determination — Specifications acceptable to the Authority for receiving recycled aggregates of 9 June 2021.
EPA Determination — Specifications for receiving livestock manure and effluent of 9 June 2021.
- Minister's Interim Order of 24 June 2021 for Amendment of the Trading Rules for Declared Water Systems (Revised Goulburn to Murray Trade Rule), under the Water Act 1989.
Minister's Order of 28 June 2021 on the Advanced Metering Infrastructure (Retail and Network Tariffs) Order 2021, under the National Electricity (Victoria) Act 2005.
Minister's Order of 23 June 2021 remaking of the Child Safe Standards, under the Child Wellbeing and Safety Act 2005.
- Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019 — Members of Parliament (Victoria) Annual Adjustment Determination 2021, under section 26 of the Act.
Wrongs Act 1958 — Notice of scale of fees and costs for referrals of medical questions to medical panels under part VBA (*Gazette No. S339, 28 June 2021*).

PROCLAMATIONS — Proclamations of the Governor in Council fixing operative dates in respect of the following Acts were laid on the Table by the Clerk:

Marine Safety Amendment (Better Boating Fund) Act 2020 — Whole Act — 1 July 2021
(*Gazette No. S347, 29 June 2021*).

Mutual Recognition (Victoria) Amendment Act 2021 — Whole Act — 1 July 2021 (*Gazette No. S346, 29 June 2021*).

Planning and Environment Amendment Act 2021 — Remaining Provisions — 7 July 2021
(*Gazette No. S372, 6 July 2021*).

9 BUSINESS OF THE COUNCIL — Mr Davis moved, by leave, That precedence be given to the following General Business on Wednesday, 4 August 2021 —

- (1) Order of the Day made this day, second reading of the Members of Parliament (Standards) Amendment Bill 2021;
- (2) the notice of motion given this day by Mr Davis referring a matter relating to polling contracts to the Ombudsman;
- (3) the notice of motion given this day by Mr O'Donohue on Crown Casino;
- (4) Order of the Day No. 1, resumption of debate on the second reading of the Public Health and Wellbeing Amendment (Greater Transparency and Accountability) Bill 2021; and
- (5) the notice of motion given this day by Ms Patten on Sessional Orders to make changes to the commencement of sitting day proceedings.

Question — put and agreed to.

10 PAPER — FARE MONITORING REPORT, 2019-20 — Mr Barton moved, by leave, That there be laid before this House a copy of the Commercial Passenger Vehicles Victoria's Fare Monitoring Report, 2019-20.

Question — put and agreed to.

The Report was presented by Mr Barton and ordered to lie on the Table.

11 MEMBERS' STATEMENTS — Statements were made by Members pursuant to Standing Order 5.13.

12 ENERGY LEGISLATION AMENDMENT (ENERGY FAIRNESS) BILL 2021 — Debate resumed on the question, That the Bill be now read a second time.

Amendments proposed to be moved in Committee by Mr Rich-Phillips were circulated.

Question — put.

The Council divided — The President in the Chair.

AYES, 24

Mr Barton; Dr Cumming; Mr Elasmarr; Mr Erdogan; Ms Garrett; Mr Gepp; Mr Grimley; Mr Hayes; Dr Kieu; Mr Leane; Ms Maxwell; Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Dr Ratnam; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; Ms Taylor; Ms Terpstra; Ms Tierney; Ms Watt.

(*Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020*)

NOES, 13

Mr Atkinson; Dr Bach; Ms Bath; Mr Bourman; Ms Crozier; Mr Davis; Mr Limbrick; Ms Lovell; Mrs McArthur; Mr O'Donohue; Mr Ondarchie; Mr Quilty; Mr Rich-Phillips.

(*Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020*)

Question agreed to.

Bill read a second time and committed to a Committee of the whole.

House in Committee.

Bill reported without amendment, the Report was adopted.

Mr Leane moved, That the Bill be now read a third time.

Question — That the Bill be now read a third time and do pass — put.

The Council divided — The President in the Chair.

AYES, 24

Mr Barton; Dr Cumming; Mr Elasmarr; Mr Erdogan; Ms Garrett; Mr Gepp; Mr Grimley; Mr Hayes; Dr Kieu; Mr Leane; Ms Maxwell; Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Dr Ratnam; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; Ms Taylor; Ms Terpstra; Ms Tierney; Ms Watt.

(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)

NOES, 13

Mr Atkinson; Dr Bach; Ms Bath; Mr Bourman; Ms Crozier; Mr Davis; Mr Limbrick; Ms Lovell; Mrs McArthur; Mr O'Donohue; Mr Ondarchie; Mr Quilty; Mr Rich-Phillips.

(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)

Question agreed to.

Bill read a third time.

Bill returned to the Assembly with a Message informing them that the Council have agreed to the Bill without amendment.

13 VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL AND OTHER ACTS AMENDMENT (FEDERAL JURISDICTION AND OTHER MATTERS) BILL 2021 — Debate resumed on the question, That the Bill be now read a second time.

Question — put and agreed to.

Bill read a second time and, by leave, read a third time and passed.

Bill returned to the Assembly with a Message informing them that the Council have agreed to the Bill without amendment.

14 ADJOURNMENT — Ms Tierney moved, That the House do now adjourn.

Debate ensued.

And then the Council, at 6.37 p.m., adjourned until tomorrow.

ANDREW YOUNG

Clerk of the Legislative Council

No. 114 — Wednesday, 4 August 2021

1 The President took the Chair at 9.35 a.m., read the Prayer and made an Acknowledgement of Country.

2 **PETITIONS** —

NO SECONDARY LEAD SMELTER IN HAZELWOOD NORTH — Ms Bath presented a Petition bearing 102 signatures from certain citizens of Victoria requesting that the Legislative Council call on the Government to revoke the planning approval for the Used Lead Acid Battery recycling facility in Hazelwood North and prioritise the health, safety and wellbeing of Hazelwood North residents and the Latrobe Valley community, honouring their Health Innovation Zone commitment.

Ordered to lie on the Table.

* * * * *

BREAST SCREENING PROGRAM — Ms Crozier presented a Petition bearing 109 signatures from certain citizens of Victoria requesting that the Legislative Council call on the Government to reverse the cuts to women's health protection services and fully fund the breast screening program so all women, at all times, have access to this essential program.

Ordered to lie on the Table.

* * * * *

SAFE ACCESS TO WONTHAGGI SECONDARY COLLEGE — Mr O'Donohue presented a Petition bearing 32 signatures from certain citizens of Victoria requesting that the Legislative Council call on the Government to fund and build, as a matter of urgency, the necessary infrastructure to ensure students, parents and the broader school community have safe access

to the new junior secondary campus at Wonthaggi Secondary College in San Remo, when it opens in 2022.

Ordered to lie on the Table.

3 PAPERS PURSUANT TO STATUTE — The following Papers, pursuant to the directions of several Acts of Parliament, were laid on the Table by the Clerk:

Auditor-General's Report on Integrated Transport Planning, August 2021 (*Ordered to be published*).

Crown Land (Reserves) Act 1978 —

Minister's Order of 8 July 2021 giving approval to the granting of a licence at Gasworks Park Reserve.

Minister's Orders of 18 July 2021 giving approval to the granting of leases at — Pakenham Bushland Reserve.

Williamstown Botanic Gardens Reserve.

Ombudsman — The Ombudsman for Human Rights: A Casebook, August 2021 (*Ordered to be published*).

Planning and Environment Act 1987 — Notice of Approval of an amendment to the Victoria Planning Provisions — Amendment VC206.

Subordinate Legislation Act 1994 — Documents under section 15 in respect of Statutory Rule Nos. 63 and 77.

4 MEMBERS' STATEMENTS — Statements were made by Members pursuant to Standing Order 5.13.

5 MEMBERS OF PARLIAMENT (STANDARDS) AMENDMENT BILL 2021 — Dr Cumming laid on the Table the statement of compatibility as required by the *Charter of Human Rights and Responsibilities Act 2006*.

Dr Cumming moved, That the Bill be now read a second time.

On the motion of Ms Taylor, the debate was adjourned for two weeks.

6 OMBUDSMAN REFERRAL — PUBLIC OPINION POLLING CONTRACTS — Mr Davis moved, That, under section 16 of the *Ombudsman Act 1973*, this House refers the following matters to the Ombudsman for investigation and report —

- (1) allegations raised in recent articles published in *The Australian*, which allege, based on documents obtained via freedom of information requests, that the Premier's Private Office was involved in the authorisation of procurement of public opinion polling contracts in favour of QDOS Research, a company headed by Mr John Armitage, in breach of normal, and expected procurement rules;
- (2) whether the Premier's Private Office directed the nature of questions asked in public opinion research, which would be a breach of public sector governance and Westminster protocols and conventions; and
- (3) if a breach is found to have occurred, whether this raises concerns surrounding the probity of the Department of Premier and Cabinet's decisions and advice on public opinion research and polling and whether this taxpayer funded research is being used for party political purposes rather than to inform the advice of senior public servants to government in the public interest.

Debate ensued.

Question — put.

The Council divided — The President in the Chair.

AYES, 14

Mr Atkinson; Dr Bach; Ms Bath; Mr Bourman; Ms Crozier; Dr Cumming; Mr Davis; Mr Finn; Mr Limbrick; Ms Lovell; Mrs McArthur; Mr O'Donohue; Mr Ondarchie; Mr Quilty.
(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)

NOES, 23

Mr Barton; Mr Elasmarr; Mr Erdogan; Ms Garrett; Mr Gepp; Mr Grimley; Mr Hayes; Dr Kieu; Mr Leane; Ms Maxwell; Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Dr Ratnam; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; Ms Taylor; Ms Terpstra; Ms Tierney; Ms Watt.

(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)

Question negatived.

7 CROWN CASINO — Mr O'Donohue moved, That —

- (1) this House —
 - (a) notes the allegations regarding the regulation of Crown Casino and criticisms of the performance of the current regulatory regime;
 - (b) further notes allegations regarding the Victorian Commission for Gambling and Liquor Regulation's failure to investigate the possible corruption of AFL betting markets;
 - (c) calls on the Andrews Labor Government to amend the Terms of Reference for the Finkelstein Royal Commission into the Casino Operator and Licence, within seven days of the House agreeing to this resolution, by inserting a paragraph that states "If you consider the casino regulatory regime, including the regulator, the Victorian Commission for Gambling and Liquor Regulation, suitable and whether you consider changes relevant to the casino regulatory regime are required";
 - (d) further notes the findings of recent New South Wales inquiries into Crown Casino under section 143 of the Casino Control Act 1992 (NSW);
 - (e) further notes the findings of Commissioner Patricia Bergin and the recommendations concerning Crown Resorts and the more general recommendations for a new regulatory body, an independent Casino Control Commission, that should be established via legislation to act as a dedicated, stand alone, specialist casino regulator with the powers of a standing royal commission;
- (2) if no variation of the Terms of Reference pursuant to paragraph (1)(c) has been gazetted within seven days of the House agreeing to this resolution, as advised to Members by the Clerk, a Select Committee be established to inquire into, consider and report, by 20 December 2021, on the implications of the Bergin Inquiry findings with respect to the existing Crown Casino licence in Victoria and casino regulation more generally in Victoria and the regulator's failure to investigate the possible corruption of AFL betting markets;
- (3) if the Committee proposes to transmit a report for the Inquiry to the House on a day when the House is not sitting, the Chair may give the report to the Clerk and —
 - (a) the Clerk must —
 - (i) as soon as practicable after the report is received give a copy of the report to each Member of the House;
 - (ii) as soon as practicable after the report is received cause the report to be published on the Tabled Documents Database and the Committee's website;
 - (iii) cause the report to be tabled in the House on the next sitting day of the House;
 - (b) the report, when given to the Clerk, is taken to have been published by order of the House;
- (4) the Committee shall consist of seven Members comprising three Members from the Government nominated by the Leader of the Government in the Council, two Members from the Opposition nominated by the Leader of the Opposition in the Council and two Members from among the remaining Members in the Council nominated jointly by minority groups and independent Members;
- (5) a majority of the Members appointed pursuant to paragraph (4) will constitute a quorum of the Committee;
- (6) the Chair of the Committee must be a non-Government Member;
- (7) in addition to exercising a deliberative vote, when votes on a question are equally divided, the Chair, or the Deputy Chair when acting as chair, shall have a casting vote;
- (8) the Committee shall proceed to conduct business within seven days of its establishment, notwithstanding that all Members have not been appointed and notwithstanding any vacancy;

- (9) the Committee may examine, call for, and compel evidence in relation to the Victorian Commission for Gambling and Liquor Regulation's recently announced, self-established investigation;
- (10) consistent with the powers of the Legislative Council, the Committee may —
- (a) compel witnesses to attend the Committee;
 - (b) require the production of documents and other things; and
- (11) the foregoing provisions of this resolution, so far as they are inconsistent with the Standing and Sessional Orders or practices of both Houses will have effect notwithstanding anything contained in the Standing and Sessional Orders or practices of both Houses.

Debate ensued.

Business having been interrupted at 12.00 noon pursuant to Sessional Orders —

- 8 QUESTIONS AND MINISTERS' STATEMENTS** — Questions without notice were taken and Ministers' Statements were made pursuant to Sessional Order 13.

* * * * *

QUESTIONS DIRECTED FOR WRITTEN RESPONSE — The President directed written responses be provided to questions without notice pursuant to Standing Order 8.07 as follows:

- **Taxi industry** — substantive and supplementary questions asked by Mr Barton — response from Ms Pulford due Friday, 6 August 2021.
- **Court case backlog – adjournments** — substantive question asked by Ms Maxwell — response from Ms Symes due Thursday, 5 August 2021.

- 9 CONSTITUENCY QUESTIONS** — Constituency questions were taken pursuant to Standing Order 8.08.

- 10 CROWN CASINO** — Debate continued on the question, That —

- (1) this House —
 - (a) notes the allegations regarding the regulation of Crown Casino and criticisms of the performance of the current regulatory regime;
 - (b) further notes allegations regarding the Victorian Commission for Gambling and Liquor Regulation's failure to investigate the possible corruption of AFL betting markets;
 - (c) calls on the Andrews Labor Government to amend the Terms of Reference for the Finkelstein Royal Commission into the Casino Operator and Licence, within seven days of the House agreeing to this resolution, by inserting a paragraph that states "If you consider the casino regulatory regime, including the regulator, the Victorian Commission for Gambling and Liquor Regulation, suitable and whether you consider changes relevant to the casino regulatory regime are required";
 - (d) further notes the findings of recent New South Wales inquiries into Crown Casino under section 143 of the Casino Control Act 1992 (NSW);
 - (e) further notes the findings of Commissioner Patricia Bergin and the recommendations concerning Crown Resorts and the more general recommendations for a new regulatory body, an independent Casino Control Commission, that should be established via legislation to act as a dedicated, stand alone, specialist casino regulator with the powers of a standing royal commission;
- (2) if no variation of the Terms of Reference pursuant to paragraph (1)(c) has been gazetted within seven days of the House agreeing to this resolution, as advised to Members by the Clerk, a Select Committee be established to inquire into, consider and report, by 20 December 2021, on the implications of the Bergin Inquiry findings with respect to the existing Crown Casino licence in Victoria and casino regulation more generally in Victoria and the regulator's failure to investigate the possible corruption of AFL betting markets;
- (3) if the Committee proposes to transmit a report for the Inquiry to the House on a day when the House is not sitting, the Chair may give the report to the Clerk and —
 - (a) the Clerk must —
 - (i) as soon as practicable after the report is received give a copy of the report to each Member of the House;
 - (ii) as soon as practicable after the report is received cause the report to be published on the Tabled Documents Database and the Committee's website;
 - (iii) cause the report to be tabled in the House on the next sitting day of the House;

- (b) the report, when given to the Clerk, is taken to have been published by order of the House;
- (4) the Committee shall consist of seven Members comprising three Members from the Government nominated by the Leader of the Government in the Council, two Members from the Opposition nominated by the Leader of the Opposition in the Council and two Members from among the remaining Members in the Council nominated jointly by minority groups and independent Members;
- (5) a majority of the Members appointed pursuant to paragraph (4) will constitute a quorum of the Committee;
- (6) the Chair of the Committee must be a non-Government Member;
- (7) in addition to exercising a deliberative vote, when votes on a question are equally divided, the Chair, or the Deputy Chair when acting as chair, shall have a casting vote;
- (8) the Committee shall proceed to conduct business within seven days of its establishment, notwithstanding that all Members have not been appointed and notwithstanding any vacancy;
- (9) the Committee may examine, call for, and compel evidence in relation to the Victorian Commission for Gambling and Liquor Regulation's recently announced, self-established investigation;
- (10) consistent with the powers of the Legislative Council, the Committee may —
- (a) compel witnesses to attend the Committee;
 - (b) require the production of documents and other things; and
- (11) the foregoing provisions of this resolution, so far as they are inconsistent with the Standing and Sessional Orders or practices of both Houses will have effect notwithstanding anything contained in the Standing and Sessional Orders or practices of both Houses.

The Acting President advised that the total time allocated for debate, pursuant to Sessional Order 8, had elapsed —

Question — put.

The Council divided — The President in the Chair.

AYES, 16

Mr Atkinson; Dr Bach; Ms Bath; Ms Crozier; Dr Cumming; Mr Davis; Mr Finn; Mr Hayes; Mr Limbrick; Ms Lovell; Mrs McArthur; Mr O'Donohue; Mr Ondarchie; Ms Patten; Mr Quilty; Dr Ratnam.

(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)

NOES, 21

Mr Barton; Mr Bourman; Mr Elasmarr; Mr Erdogan; Ms Garrett; Mr Gepp; Mr Grimley; Dr Kieu; Mr Leane; Ms Maxwell; Mr Meddick; Mr Melhem; Ms Pulford; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; Ms Taylor; Ms Terpstra; Ms Tierney; Ms Watt.

(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)

Question negatived.

11 BUSINESS POSTPONED — Ordered — That the consideration of Order of the Day, General Business, No. 2, be postponed until later this day.

12 SESSIONAL ORDERS — COMMENCEMENT OF SITTING DAY PROCEEDINGS — Ms Patten moved, That until the end of the Session, unless otherwise ordered by the Council —

(1) The following Sessional Orders be adopted, to come into operation with immediate effect:

1. Sitting and Adjournment of the Council

Standing Order 4.02 is suspended and replaced with the following:

The President will take the Chair as soon after the time appointed for the meeting of the Council as a quorum* of Members is present, and Members will stand in silence and pray or reflect on their responsibilities to the people of Victoria.

Standing Order 4.05(1) is suspended and replaced with the following:

The President will take the Chair as soon after the time appointed for the meeting of the Council as a quorum* of Members is present, and Members will stand in silence and pray or reflect on their responsibilities to the people of Victoria.

* To constitute a quorum there must be present (inclusive of the President) one-third at least of the Members of the Council [See section 32(1) of the *Constitution Act 1975*].

2. **Broadcasting, Recording and Photography of Proceedings**

Standing Order 20.02(4) is suspended and replaced with the following:

Visual and/or sound recordings and excerpts of visual and/or sound recordings must not commence until the President or Deputy President takes the Chair and must conclude on the adjournment of the Council or as soon as the Chair is vacated for a suspension of proceedings.

- (2) The foregoing provisions of this resolution, so far as they are inconsistent with the Standing Orders or practices of the Council, will have effect notwithstanding anything contained in the Standing Orders or practices of the Council.
- (3) The Clerk is empowered to renumber the Sessional Orders and correct any internal references as a consequence of this resolution.

Debate ensued.

Mr Meddick moved, as amendments —

1. In paragraph (1) in relation to the suspension of Standing Order 4.02, **omit** the words after “of Members is present,” and **insert** “the President will make an Acknowledgement of Country after which Members will stand in silence and pray or reflect on their responsibilities to the people of Victoria.”.
2. In paragraph (1) in relation to the suspension of Standing Order 4.05(1), **omit** the words after “of Members is present,” and **insert** “the President will make an Acknowledgement of Country after which Members will stand in silence and pray or reflect on their responsibilities to the people of Victoria.”.

Debate ensued.

On the motion of Ms Taylor, the debate was adjourned until later this day.

13 **PUBLIC HEALTH AND WELLBEING AMENDMENT (GREATER TRANSPARENCY AND ACCOUNTABILITY) BILL 2021** — Debate resumed on the question, That the Bill be now read a second time.

Question — put.

The Council divided — The President in the Chair.

AYES, 18

Mr Atkinson; Dr Bach; Mr Barton; Ms Bath; Mr Bourman; Ms Crozier; Dr Cumming; Mr Davis; Mr Grimley; Mr Hayes; Mr Limbrick; Ms Lovell; Ms Maxwell; Mrs McArthur; Mr O’Donohue; Mr Ondarchie; Mr Quilty; Mr Rich-Phillips.

(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)

NOES, 19

Mr Elasmarr; Mr Erdogan; Ms Garrett; Mr Gepp; Dr Kieu; Mr Leane; Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Dr Ratnam; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; Ms Taylor; Ms Terpstra; Ms Tierney; Ms Watt.

(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)

Question negatived.

14 **STATEMENTS ON REPORTS, PAPERS AND PETITIONS** — Statements on reports, papers and petitions were made by Members pursuant to Sessional Order 16.

15 **TRANSPORT LEGISLATION MISCELLANEOUS AMENDMENTS BILL 2021** — The President read a Message from the Assembly informing the Council that they had agreed to the amendments made by the Council in this Bill.

16 **ADJOURNMENT** — Mr Leane moved, That the House do now adjourn.

Debate ensued.

And then the Council, at 6.30 p.m., adjourned until tomorrow.

ANDREW YOUNG
Clerk of the Legislative Council

No. 115 — Thursday, 5 August 2021

1 The President took the Chair at 10.06 a.m., read the Prayer and made an Acknowledgement of Country.

2 **COMMERCIAL TENANCY RELIEF SCHEME BILL 2021** — The President read a Message from the Assembly presenting *A Bill for an Act to temporarily empower the making of regulations to modify the application of the law of Victoria in relation to certain commercial leases and licences and for other purposes* and requesting the agreement of the Council.

On the motion of Ms Pulford, the Bill was read a first time and, by leave, ordered to be read a second time forthwith.

Ms Pulford laid on the Table the statement of compatibility as required by the *Charter of Human Rights and Responsibilities Act 2006*.

On the motion of Ms Pulford, the second reading speech was incorporated into Hansard.

Ms Pulford moved, That the Bill be now read a second time.

On the motion of Mr Davis, by leave, the debate was adjourned until later this day.

3 **PETITION — BREAST SCREENING PROGRAM** — Mr Davis presented a Petition bearing 84 signatures from certain citizens of Victoria requesting that the Legislative Council call on the Government to reverse the cuts to women's health protection services and fully fund the breast screening program so all women, at all times, have access to this essential program.

Ordered to lie on the Table.

4 **PAPERS** —

PLAN MELBOURNE 2017-2050 — 2020 REPORT ON PROGRESS — Ms Stitt moved, by leave, That there be laid before this House a copy of the Plan Melbourne 2017-2050, 2020 Report on Progress.

Question — put and agreed to.

The Report was presented by Ms Stitt and ordered to lie on the Table.

* * * * *

LEGAL AND SOCIAL ISSUES COMMITTEE — INQUIRY INTO THE USE OF CANNABIS IN VICTORIA — Pursuant to Standing Order 23.29, Ms Patten laid on the Table a Report from the Legal and Social Issues Committee on the Inquiry into the use of cannabis in Victoria (including an Appendix, Extracts of Proceedings and Minority Reports), and further presented Transcripts of Evidence.

Ordered that the Transcripts of Evidence lie on the Table and the Report be published.

Ms Patten moved, That the Council take note of the Report.

Debate ensued.

Question — put and agreed to.

* * * * *

PAPERS PURSUANT TO STATUTE — The following Papers, pursuant to the directions of several Acts of Parliament, were laid on the Table by the Clerk:

Child Wellbeing and Safety Act 2005 — Child Link Two-Year Review, Final Report, under section 46X of the Act.

Falls Creek Alpine Resort Management Board — Report, 2020.

Mount Buller and Mount Stirling Alpine Resort Management Board — Report, 2020.

Mount Hotham Alpine Resort Management Board — Report, 2020.

Professional Standards Act 2003 —

Australian Institute of Building Surveyors Limited Professional Standards Scheme (*Gazette No. G26, 1 July 2021*).

Australian Property Institute Valuers Limited Professional Standards Scheme (*Gazette No. G26, 1 July 2021*).

Public Health and Wellbeing Act 2008 — 17th Report to Parliament on the Extension of the Declaration of the State of Emergency, under section 198(8A) of the Act.

Southern Alpine Resort Management Board — Report, 2020.

Subordinate Legislation Act 1994 — Documents under section 15 in respect of Statutory Rule Nos. 72, 73, 87 and 94.

Victorian Environmental Assessment Council Act 2001 — Government Response to the Victorian Environmental Assessment Council's Assessment of Victoria's Coastal Reserves Final Report.

5 SITTING OF THE COUNCIL — Ms Symes moved, That the Council, at its rising, adjourn until Tuesday, 17 August 2021.

Question — put and agreed to.

6 MEMBERS' STATEMENTS — Statements were made by Members pursuant to Standing Order 5.13.

7 COMMERCIAL TENANCY RELIEF SCHEME BILL 2021 — Debate resumed on the question, That the Bill be now read a second time.

Business having been interrupted at 12.00 noon pursuant to Sessional Orders —

8 QUESTIONS AND MINISTERS' STATEMENTS — Questions without notice were taken and Ministers' Statements were made pursuant to Sessional Order 13.

* * * * *

QUESTIONS DIRECTED FOR WRITTEN RESPONSE — The President directed written responses be provided to questions without notice pursuant to Standing Order 8.07 as follows:

- **Veterinary staff shortages** — substantive and supplementary questions asked by Mr Meddick — response from Ms Symes due Monday, 9 August 2021.
- **Mental health impacts on workforce** — substantive and supplementary questions asked by Ms Patten — response from Ms Symes due Monday, 9 August 2021.
- **Lockdown impacts on mental health** — supplementary question asked by Mr Quilty — response from Ms Symes due Monday, 9 August 2021.

9 CONSTITUENCY QUESTIONS — Constituency questions were taken pursuant to Standing Order 8.08.

10 COMMERCIAL TENANCY RELIEF SCHEME BILL 2021 — Debate continued on the question, That the Bill be now read a second time.

Question — put and agreed to.

Bill read a second time and committed to a Committee of the whole.

House in Committee.

Bill reported without amendment, the Report was adopted.

Ms Pulford moved, That the Bill be now read a third time.

Debate ensued.

Question — That the Bill be now read a third time and do pass — put.

The Council divided — The President in the Chair.

AYES, 31

Mr Atkinson; Dr Bach; Mr Barton; Ms Bath; Mr Bourman; Ms Crozier; Mr Davis; Mr Elasmir; Mr Erdogan; Mr Finn; Mr Gepp; Mr Grimley; Mr Hayes; Dr Kieu; Mr Leane; Ms Lovell; Ms Maxwell; Mrs McArthur; Mr Meddick; Mr Melhem; Mr Ondarchie; Ms Patten; Ms Pulford; Dr Ratnam; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; Ms Taylor; Ms Terpstra; Ms Watt.

(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)

NOES, 2

Dr Cumming; Mr Quilty.

(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)

Question agreed to.

Bill read a third time.

Bill returned to the Assembly with a Message informing them that the Council have agreed to the Bill without amendment.

11 NON-EMERGENCY PATIENT TRANSPORT AMENDMENT BILL 2021 — Debate resumed on the question, That the Bill be now read a second time.

Question — put and agreed to.

Bill read a second time and committed to a Committee of the whole.

House in Committee.

Bill reported without amendment, the Report was adopted, and the Bill was read a third time and passed.

Bill returned to the Assembly with a Message informing them that the Council have agreed to the Bill without amendment.

12 PRIVILEGES COMMITTEE REFERENCE — BREACH OF COMMITTEE DELIBERATIONS AND REPORT CONTENTS — Mr Atkinson moved, by leave, That this House —

(1) notes that on 5 August 2021, *The Age* newspaper and online reported the private deliberations and certain report contents in relation to the Legal and Social Issues Committee's Report on the Inquiry into the use of cannabis in Victoria before such report was tabled in the House;

(2) further notes that the article purports to quote a Member of Parliament speaking anonymously to the reporter;

(3) requires the Privileges Committee to inquire into and report to the House —

(a) on the breach of Committee deliberations and report contents;

(b) on any persons who have committed a contempt of Parliament; and

(c) on any sanctions recommended.

Debate ensued.

Question — put and agreed to.

13 PRIVILEGES COMMITTEE MEMBERSHIP — Mr Atkinson moved, by leave, That Ms Crozier be discharged from the Privileges Committee and Mr Davis be appointed in her place.

Question — put and agreed to.

14 JUDICIAL PROCEEDINGS REPORTS AMENDMENT BILL 2021 — The President read a Message from the Assembly presenting *A Bill for an Act to amend the Judicial Proceedings Reports Act 1958 in relation to certain sunset provisions, to provide for victim privacy orders and for other purposes* and requesting the agreement of the Council.

On the motion of Ms Symes, the Bill was read a first time and, by leave, ordered to be read a second time forthwith.

Ms Symes laid on the Table the statement of compatibility as required by the *Charter of Human Rights and Responsibilities Act 2006*.

On the motion of Ms Symes, the second reading speech was incorporated into Hansard.

Ms Symes moved, That the Bill be now read a second time.

On the motion Mr Ondarchie (for Mr O'Donohue), the debate was adjourned for one week.

15 POLICE INFORMANTS ROYAL COMMISSION IMPLEMENTATION MONITOR BILL 2021 — The President read a Message from the Assembly presenting *A Bill for an Act to establish the Police Informants Royal Commission Implementation Monitor and for other purposes* and requesting the agreement of the Council.

On the motion of Ms Symes, the Bill was read a first time and, by leave, ordered to be read a second time forthwith.

Ms Symes laid on the Table the statement of compatibility as required by the *Charter of Human Rights and Responsibilities Act 2006*.

On the motion of Ms Symes, the second reading speech was incorporated into Hansard.

Ms Symes moved, That the Bill be now read a second time.

On the motion of Mr Ondarchie (for Mr O'Donohue), the debate was adjourned for one week.

16 ADJOURNMENT — Ms Symes moved, That the House do now adjourn.

Debate ensued.

And then the Council, at 5.59 p.m., adjourned until Tuesday, 17 August 2021.

ANDREW YOUNG
Clerk of the Legislative Council

COMMITTEE OF THE WHOLE COUNCIL

Supplement to Minutes Nos. 113, 114 and 115

ENERGY LEGISLATION AMENDMENT (ENERGY FAIRNESS) BILL 2021

Committed Tuesday, 3 August 2021

Amendments circulated: Mr Rich-Phillips (pp. 836-9)

Clause 1 — Mr Rich-Phillips moved Amendment No. 1.

Question — That the amendment be agreed to — put.

The Committee divided — The Deputy President in the Chair.

AYES, 16

Mr Atkinson; Dr Bach; Ms Bath; Mr Bourman; Ms Crozier; Dr Cumming; Mr Davis;
Mr Grimley; Mr Limbrick; Ms Lovell; Ms Maxwell; Mrs McArthur; Mr O'Donohue;
Mr Ondarchie; Mr Quilty; Mr Rich-Phillips.

(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)

NOES, 21

Mr Barton; Mr Elasmarr; Mr Erdogan; Ms Garrett; Mr Gepp; Mr Hayes; Dr Kieu; Mr Leane;
Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Dr Ratnam; Ms Shing; Ms Stitt;
Ms Symes; Mr Tarlamis; Ms Taylor; Ms Terpstra; Ms Tierney; Ms Watt.

(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)

Question negated.

Clause 1 — put and agreed to.

Clauses 2 to 37 — put and agreed to.

Bill reported without amendment.

* * * * *

COMMERCIAL TENANCY RELIEF SCHEME BILL 2021

Committed Thursday, 5 August 2021

Clauses 1 to 16 — put and agreed to.

Bill reported without amendment.

* * * * *

NON-EMERGENCY PATIENT TRANSPORT AMENDMENT BILL 2021

Committed Thursday, 5 August 2021

Clauses 1 to 40 — put and agreed to.

Bill reported without amendment.

AMENDMENTS CIRCULATED IN RELATION TO —

1. ENERGY LEGISLATION AMENDMENT (ENERGY FAIRNESS) BILL 2021

Amendments circulated by Mr Rich-Phillips

1. Clause 1, line 6, omit "prohibit" and insert "regulate".
2. Clause 5, line 16, omit "**and 40EB**" and insert "**to 40EC**".
3. Clause 5, page 3, lines 19 to 31, pages 4 to 8, and page 9, lines 1 to 21, omit all words and expressions on these lines and insert—

"40EA Prohibition on commission or incentive payments for door-to-door sales and cold-calling

- (1) Without limiting the generality of section 20(2) or (3), or 21, the conditions to which a licence to sell electricity held by a retailer is subject include a condition prohibiting the retailer from—
 - (a) giving an employee or agent of the retailer a commission or an incentive payment; or
 - (b) engaging an agent who receives a commission or an incentive payment other than from the retailer—

for specified sales work which results in a domestic customer entering into a supply and sale contract with the retailer.

- (2) A supply and sale contract entered into as a result of specified sales work performed by an employee or agent of the retailer who receives a commission or an incentive payment for that work is of no effect.
- (3) In this section—

domestic customer has the same meaning as in section 41;
specified sales work means—

- (a) calling on a domestic customer at the domestic customer's ordinary place of residence for the purpose of negotiating a supply and sale contract; or
- (b) telephoning a domestic customer for the purpose of negotiating a supply and sale contract, irrespective of whether the domestic customer is at their ordinary place of residence at the time of the telephone call.

40EB Direct sales contracts to be lodged with the Commission

- (1) Without limiting the generality of section 20(2) or (3), or 21, the conditions to which a licence to sell electricity held by a retailer is subject include a condition requiring the retailer to provide the Commission a copy of the supply and sale contract (a **direct sales contract**) that the retailer intends to offer to domestic customers by—
 - (a) calling on a domestic customer at the domestic customer's ordinary place of residence; or
 - (b) telephoning a domestic customer, irrespective of whether the domestic customer is at their ordinary place of residence at the time of the telephone call; or
 - (c) requiring or permitting an employee or agent of the retailer to do a thing referred to in paragraph (a) or (b).
- (2) A direct sales contract entered into as a result of conduct described in subsection (1)(a), (b) or (c) is of no effect if the Commission has not approved the form and content of the direct sales contract before the contract is offered to the domestic customer.

- (3) The Commission must approve or reject the form and content of a direct sales contract provided by a retailer.
- (4) If the Commission rejects the form and content of a direct sales contract provided by a retailer, it must advise the retailer—
 - (a) what part or parts of the direct sales contract resulted in the rejection; and
 - (b) what changes would be required to the form and content of the direct sales contract for the Commission to approve it.
- (5) In this section—

domestic customer has the same meaning as in section 41.

40EC Requirement for membership of approved peak body for cold-calling or door-to-door sales

- (1) Without limiting the generality of section 20(2) or (3), or 21, the conditions to which a licence to sell electricity held by a retailer is subject include a condition requiring the retailer, or an agent of the retailer, to be a member of a peak body approved by the Commission, if the retailer—
 - (a) calls on a domestic customer at the domestic customer's ordinary place of residence for the purpose of negotiating a supply and sale contract; or
 - (b) telephones a domestic customer, irrespective of whether the domestic customer is at their ordinary place of residence at the time of the telephone call, for the purpose of negotiating a supply and sale contract; or
 - (c) requires or permits the agent or an employee of the retailer to do a thing referred to in paragraph (a) or (b).
- (2) A supply and sale contract entered into as a result of conduct described in subsection (1)(a), (b) or (c) is of no effect if the retailer or agent, as the case requires, was not a member of an approved peak body at the time the contract was entered into.
- (3) For the purposes of this section, the Commission may approve a peak body which sets standards or guidelines in relation to cold-calling or door-to-door sales practices.
- (4) In this section—

domestic customer has the same meaning as in section 41;

peak body means an entity established to represent the interests of retailers.".

- 4. Clause 19, line 15, omit "**and 48DB**" and insert "**to 48DC**".
- 5. Clause 19, page 51, lines 18 to 30 and pages 52 to 57, omit all words and expressions on these lines and insert—

"48DA Prohibition on commission or incentive payments for door-to-door sales and cold-calling

- (1) Without limiting the generality of section 28(2) or (3), or 29, the conditions to which a licence to sell gas by retail held by a gas retailer is subject include a condition prohibiting the gas retailer from—
 - (a) giving an employee or agent of the gas retailer a commission or an incentive payment; or
 - (b) engaging an agent who receives a commission or an incentive payment other than from the gas retailer—

for specified sales work which results in a domestic customer entering into a supply and sale contract with the gas retailer.

- (2) A supply and sale contract entered into as a result of specified sales work performed by an employee or agent of the gas retailer who receives a commission or an incentive payment for that work is of no effect.

- (3) In this section—

domestic customer has the same meaning as in section 48E;
specified sales work means—

- (a) calling on a domestic customer at the domestic customer's ordinary place of residence for the purpose of negotiating a supply and sale contract; or
- (b) telephoning a domestic customer for the purpose of negotiating a supply and sale contract, irrespective of whether the domestic customer is at their ordinary place of residence at the time of the telephone call.

48DB Direct sales contracts to be lodged with the Commission

- (1) Without limiting the generality of section 28(2) or (3), or 29, the conditions to which a licence to sell gas by retail held by a gas retailer is subject include a condition requiring the gas retailer to provide the Commission a copy of the supply and sale contract (a **direct sales contract**) that the gas retailer intends to offer to domestic customers by—
- (a) calling on a domestic customer at the domestic customer's ordinary place of residence; or
- (b) telephoning a domestic customer, irrespective of whether the domestic customer is at their ordinary place of residence at the time of the telephone call; or
- (c) requiring or permitting an employee or agent of the gas retailer to do a thing referred to in paragraph (a) or (b).
- (2) A direct sales contract entered into as a result of conduct described in subsection (1)(a), (b) or (c) is of no effect if the Commission has not approved the form and content of the direct sales contract before the contract is offered to the domestic customer.
- (3) The Commission must approve or reject the form and content of a direct sales contract provided by a gas retailer.
- (4) If the Commission rejects the form and content of a direct sales contract provided by a gas retailer, it must advise the gas retailer—
- (a) what part or parts of the direct sales contract resulted in the rejection; and
- (b) what changes would be required to the form and content of the direct sales contract for the Commission to approve it.
- (5) In this section—
- domestic customer** has the same meaning as in section 48E.

48DC Requirement for membership of approved peak body for cold-calling or door-to-door sales

- (1) Without limiting the generality of section 28(2) or (3), or 29, the conditions to which a licence to sell gas by retail held by a gas retailer is subject include a condition requiring the gas retailer, or an agent of the gas retailer, to be a member of a peak body approved by the Commission, if the gas retailer—
- (a) calls on a domestic customer at the domestic customer's ordinary place of residence for the purpose of negotiating a supply and sale contract; or
- (b) telephones a domestic customer, irrespective of whether the domestic customer is at their ordinary place of residence at the time of the telephone call, for the purpose of negotiating a supply and sale contract; or

(c) requires or permits the agent or an employee of the gas retailer to do a thing referred to in paragraph (a) or (b).

- (2) A supply and sale contract entered into as a result of conduct described in subsection (1)(a), (b) or (c) is of no effect if the gas retailer or agent, as the case requires, was not a member of an approved peak body at the time the contract was entered into.
- (3) For the purposes of this section, the Commission may approve a peak body which sets standards or guidelines in relation to cold-calling or door-to-door sales practices.
- (4) In this section—

domestic customer has the same meaning as in section 48E;

peak body means an entity established to represent the interests of gas retailers.".'. .

6. Clause 33, omit this clause.

7. Clause 34, lines 13 to 30, omit all words and expressions on these lines.

