HOUSE OF ASSEMBLY

Wednesday 27 October 2010

The SPEAKER (Hon. L.R. Breuer) took the chair at 11:00 and read prayers.

VISITORS

The SPEAKER: I welcome some ladies from the Probus Club of McLaren Vale, who have joined us in the gallery today. They are guests of the member for Mawson. Welcome, we hope you enjoy your time here.

SCHOOL BUS SERVICES

Adjourned debate on motion of Mr Brock:

That this house establish a select committee to investigate and report on the effectiveness and cost of the Department of Education and Children Services (DECS) school bus service, and in particular:

(a) the cost and community effect of DECS running its own school bus service;

(b) the cost and community effect of DECS contracting to a local private school bus service;

(c) the effectiveness of school bus services and contracts in South Australia compared to other states;

(d) the management of the bus service tendering process by DECS;

(e) the management of existing school bus service contracts by DECS; and

(f) any other related manner.

(Continued from 29 September 2010.)

Mr GOLDSWORTHY (Kavel) (11:08): I am pleased to be able to make a brief contribution to the motion that has been brought to the house by the member for Frome in relation to establishing a select committee on Department of Education and Children's Services school bus services. I support the motion because school buses and related issues are clearly important to school students in the electorate of Kavel, which I represent.

Over the years since becoming the member for Kavel issues have been raised with me in relation to school buses. I clearly remember a number of concerned parents coming to see me about the discontinuance of a school bus service that DECS ran from the township of Lobethal to Oakbank Area School. There was a lot of to-ing and fro-ing between us (the concerned members of the community and myself) and the minister of the day, the previous member for Adelaide, who is no longer in this place. We have a newly elected member for Adelaide, who sits on this side of the chamber, something about which we are very pleased.

However, as is normal with these matters, the government was totally intransigent. There were no negotiations in relation to this bus service, which had been an issue for quite some time. The principal at the school was obviously involved, and unfortunately the service was discontinued and it was not reinstated.

I regarded that decision as being penny-pinching in the extreme, given that a school bus would run to another small township only about four kilometres away from the Lobethal township. So, you could say it was an eight kilometre—if that—round-trip diversion to come into Lobethal to pick up some schoolchildren to then be taken to attend Oakbank Area School. Now, I understand the rationale. We had all the departmental gobbledygook and spin from the government in relation to this matter, but a decision to have DECS bus travelling four kilometres into the town to pick up the schoolchildren and then travelling another four kilometres coming out of the town is hardly a AAA rating matter.

Alternative arrangements had to be made through the local public transport system, involving the Hills transit bus, which was not ideal. The children had to travel much earlier than the school starting time required and had to wait at the school for some considerable time after school finished, in order to travel home via the public transport system.

All in all I think it was a pretty poor state of affairs, which is typical of this government. They are not really listening to the concerns of the community. There is a primary school at Lobethal but, for one reason or another, parents decided they wanted their primary school children to attend the area school. With older siblings attending the Oakbank Area School, it made sense that all the

children in those families attended the one school. There are issues concerning uniforms and understanding the particular school environment that make it more attractive for families to have their children go to the one school, if possible.

We see this approach by the government across a whole range of areas—really right across government. The Premier, after the election in March, said he was going to re-engage with the communities. Well, I think it is clearly evident that the exact opposite has taken place. He has not re-engaged; he has not listened, and there are many examples of this. Decide and defend is the manner in which this government is continuing to operate.

We on this side of the house believe that the community fully understands that approach that the government is taking and, as a consequence, the government finds itself with serious problems in relation to its polling. We say, 'Keep on going'—and I do not think the government can change. A leopard cannot change its spots; you cannot teach an old dog new tricks! I do not think that the government has the will, energy or know-how to actually change. It is a lazy, arrogant, disengaged government, and the community is certainly well aware of that. We see examples time and time again of the way the government approaches things. As I have said, the example with the school bus being withdrawn from that part of my electorate is a clear example of a government being disengaged from community needs.

As I said, we on this side of the house are keen to support the establishment of a select committee. Obviously, the motion brought to us by the member for Frome covers six points, and I am pleased to support it and happy to conclude my remarks on that note.

The SPEAKER: The member for Glenelg—Morphett.

Dr McFETRIDGE (Morphett) (11:15): Thank you, ma'am. John Mathwin was the member for Glenelg and spoke for eight hours in this place. I will not take quite that long today. I rise in support of the motion of the member for Frome. I say that with some degree of qualification, because I have actually driven school buses. When I was a teacher at Port Augusta, I drove the yellow school bus out to Stirling North and also out to Davenport mission. I know that the kids enjoyed the rides with me.

When I was teaching at Minlaton on Yorke Peninsula, I used to drive a little crash box school bus out to Curramulka and then down to some of the other seaside towns around there. There is no synchro with crash box buses and, every now and then, you would miss a gear and the kids would love yelling out, 'We'll pick that one up on the way back, Mr Mac.'

In the past, it has been very efficient and very convenient for the department of education to run school buses. It was certainly a bit of extra income for me as a teacher to drive school buses, and we were always looking for that bit of extra income at that time. That is not to say that it has to continue that way. This house should support the member for Frome's motion, because we need to look at the way school buses are provided nowadays.

I do not think it is the role of government solely to provide school bus transport for children. If it can be done more efficiently, more cheaply and if we can get out of the way of private providers—the government should not be getting in the way—then it is something that this committee can look at. The need to provide the safest possible form of transport for our most precious cargo—our children—is absolutely paramount. Getting buses that are roadworthy and able to transport from A to B, with seatbelts, the latest rollover technology, the latest mechanical safety, brakes, steering, and that sort of thing, is so important. I am sure that that will be discussed as part of this committee.

The whole role of the provision of school buses needs to be looked at. I think it can be done better and for less cost—not cheaply, but for less cost. We must never do things on the cheap with this sort of issue, particularly when our children are involved. The need to make sure that we are doing the right thing by not only the taxpayers in providing the most cost-efficient service but, in this case, the children of South Australia is something that I strongly support.

Mr VAN HOLST PELLEKAAN (Stuart) (11:18): School buses are incredibly important, and I support the member for Frome's position. I would like to say a few words with regard to school buses, how important they are to communities and how I think the government misplaces some of its economic value when it comes to school buses and small schools in rural regional South Australia.

Small schools are always under pressure with regard to their funding. We have seen that in the recent budget. Teachers, principals, parents, governing councils and, indeed, students at small

schools work incredibly hard, as I am sure they do in large schools as well. However, they work incredibly hard in small schools just to sustain themselves. They do not have a guaranteed future. When they are under pressure for student numbers and when they are under pressure for survival, they are very often under pressure to keep their school bus in place when numbers get low. I have a dreadful concern that the current government looks at the removal of the school bus on the first-hand not only as a direct cost-saving opportunity but also quite sneakily and quite deliberately as a potential school-saving opportunity—and I mean that in the worst way.

If the school bus goes (as members on this side have said many times), you quite often see the decline of the school, the decline of the shops, and the decline of other services in the town. Once people start taking their kids to other schools in other towns, those local services and local businesses—whether it is the bakery, the garage, the supermarket or what—start to dwindle and fight for their survival as well. Unfortunately, I am very pessimistic that the government not only sees the direct cost saving in the school bus but also sees the indirect cost saving with the potential for a small school to disappear. I think that is a great shame.

I think we should do the exact opposite in this place. I think we should value these schools and these school buses because they support these communities—and we should value these communities, communities which actually support the production of some of our most important exports. There are over 100 small towns in rural and regional South Australia producing grain, for example, and if we do not have people going to schools in those towns, if we do not have people growing up in those towns and staying in those towns providing other business services, it will be more and more difficult to provide those exports as well.

I fully support the member for Frome in his desire to look into this issue. I think that school buses are incredibly important. I make the point again: they are very important not just with regard to the simple and obvious issue of getting kids from home to school, they are very important with regard to sustaining small schools and regional South Australia in general.

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Education, Minister for Early Childhood Development) (11:22): I indicate at the outset that the government does not support the motion that a select committee be established to investigate the effectiveness and cost of DECS school bus services. However, I do want to thank the member for Frome for raising this matter on behalf of his community and acknowledge that he is an excellent local member, always fighting for his local area. I also acknowledge the member for Mount Gambier and the representations he has made on behalf of his community.

The Hon. R.B. Such: What about me?

The Hon. J.W. WEATHERILL: You are a nice bloke, but I cannot remember you saying anything to me about this. DECS has a long history and involvement in transporting children to and from school. It currently provides 509 free school bus services across South Australia, mostly in rural areas, providing transport for over 16,000 school students each day. School bus services in South Australia are split between DECS and the private sector on a roughly 50:50 basis. The split between DECS and private contractors consists of 283 contracted bus services run by over 100 operators, and 226 services run by DECS.

Broadly, the member for Frome's concerns fall into three categories: one is whether the way the bus service is currently configured is cost-effective; the second is whether the bus service delivers a good customer service; and the third is whether the bus industry is being treated fairly by the government in its contracting process. In relation to cost-effectiveness, to determine the cost effectiveness of our configuration of the bus service, in 2009 we commissioned PricewaterhouseCoopers to undertake a detailed independent economic evaluation of school bus services. The evaluation concluded that the current 50:50 split between DECS and private operators is a more economical way of providing bus services rather than outsourcing the service.

Indeed, from a purely economic perspective it concluded that completely insourcing the service might be more cost-effective. Obviously there are a range of other factors, such as flexibility, capital outlay and the disruption to communities that make that insourcing undesirable policy. I should also point out that a comparison between Western Australian, Victorian and South Australian systems of bus runs identified that the average running cost of transporting a student in South Australia is substantially lower than in those states. So, to the extent that concerns about the cost-effectiveness of the current configuration motivated this motion, we say that the configurations have been reviewed and found to be cost-effective.

In relation to service to the community, I understand that there are no significant criticisms of the service that is provided by the school bus service. It is widely regarded as reliable and comprehensive and is highly regarded by regional communities. Indeed, the contributions by members opposite back that up.

To improve this service further, the government is investing in an unprecedented $114.5 million over the next four years to upgrade school bus services: $23.8 million is being spent by DECS to buy new buses with seatbelts, air conditioning and other environmental and safety standards; $90.7 million is also being spent on supporting private contractors to supply buses fitted with these measures; and within four years more than 90 per cent of the bus fleet will have been upgraded, and within six years the entire fleet will have been upgraded.

In relation to fair treatment of the industry, from about the year 2000 bus contractors were placed on 10-year contracts and a policy decision was made to re-tender these contracts upon their expiry. This has meant that this year the industry has been concerned about the re-tendering process. We have listened to those concerns. Rather than simply going to open tender, the Department of Education and Children's Services is conducting a two-stage procurement process where private contractors will be asked to register their interest for a particular bus run and then submit their proposal to DECS. This means that where, for instance, there is no market for a route, we will be able to negotiate directly with the provider. We are doing this to reduce uncertainty.

We are also providing contracts of up to 15 years' duration: initially of seven years, with two options for renewal of four years each. By providing for contracts of such length we are trying to create greater certainty. Given the good service that has been provided to the community by existing operators, we are also willing to give a weighting to the tendering process for existing effective service—again, trying to provide some additional certainty to the industry.

In addition, DECS is going to engage a probity adviser to act as an independent reviewer of the proposals submitted by bus contractors for routes, and, of course, the additional investment provides additional certainty that the costs of upgrading to new buses will be compensated. To help bus contractors with the procurement process, DECS has run information sessions, inviting them to learn more about the $114.5 million investment in the school bus industry and what it means for their business. Feedback from these information sessions has been positive.

Given our investment, and given the certainty that this investment and the two-step tendering process now provides, the government does not believe that now is the right time to establish a select committee. This will inevitably create the very uncertainty we have been trying to avoid. We are, after all, asking contractors to make decisions involving significant financial outlays and they will be approaching banks now. We do not want to add complications to those financing decisions, bearing in mind that at the moment the accessing of finance from financial institutions is a particularly problematic issue.

Moreover, free school bus services in South Australia have a long history of reviews. In 1985, the school transport policy was released after a five-year review and submissions from the bus industry; in 1987, private consultants, Travers Morgan, reviewed cost structures for contractors; in 1993, the Hutchins/Johns report reviewed the 50:50 split of DECS and private contractors; in 2005, the Economic and Finance Committee reported on school bus contracts, and as a result of this review a taskforce was established to review school transport services; and in 2009, PricewaterhouseCoopers reported on the free school bus service and the split between DECS and private contractors. The department continues to review school bus services. Regular reviews of each route are done to make sure that we are running an efficient service and to factor in changing population and demands on school bus services.

Just before I conclude, I do undertake to the member for Frome that, in addition to the use of the probity adviser during the tender process, we will ensure that there is a suitable grievance mechanism where a contractor believes that the process has not dealt with them appropriately. I think that suggestion by the member for Frome is a useful addition to the procurement process, and I thank him for it.

We think it is right that the member for Frome has raised these issues. We know that school bus services are a matter of great interest to not only him but other members, particularly those in regional electorates, but for the reasons I have set out we do not believe that now is the right time for there to be a select committee established to examine these issues.

Mr BROCK (Frome) (11:29): I thank members from both sides for their input into the discussion on the select committee on DECS school bus services. The reason I brought up this

matter is that I am concerned, as other members on this side have indicated, about the smaller communities in our regions dependent upon transport involving private and/or DECS school buses.

Yesterday afternoon I was talking to the Spalding Rodeo people, who mentioned that they believe next year the Spalding school will lose its school bus service. I am sure that the member for Stuart is very aware of that, as they said that he had already taken steps and written to the minister about that issue.

The reason for this motion is to ensure that we are doing the best thing for our ratepayers, our constituents and taxpayers of this state. Again, I thank members on both sides of the house and also Independent members for their contribution.

The house divided on the motion:

AYES (20)

Brock, G.G. (teller)	Chapman, V.A.	Evans, I.F.
Gardner, J.A.W.	Goldsworthy, M.R.	Griffiths, S.P.
Hamilton-Smith, M.L.J.	Marshall, S.S.	McFetridge, D.
Pederick, A.S.	Pegler, D.W.	Pengilly, M.
Pisoni, D.G.	Sanderson, R.	Such, R.B.
Treloar, P.A.	van Holst Pellekaan, D.C.	Venning, I.H.
Whetstone, T.J.	Williams, M.R.	

NOES (23)

Atkinson, M.J.	Bedford, F.E.	Bignell, L.W.
Caica, P.	Conlon, P.F.	Fox, C.C.
Geraghty, R.K.	Hill, J.D.	Kenyon, T.R.
Key, S.W.	Koutsantonis, A.	O'Brien, M.F.
Odenwalder, L.K.	Piccolo, T.	Portolesi, G.
Rankine, J.M.	Rau, J.R.	Sibbons, A.L.
Snelling, J.J.	Thompson, M.G.	Vlahos, L.A.
Weatherill, J.W. (teller)	Wright, M.J.	

PAIRS (2)

Redmond, I.M.	Rann, M.D.

Majority of 2 for the noes.

Motion thus negatived.

PUBLIC WORKS COMMITTEE: PORT AUGUSTA AREA SCHOOL REDEVELOPMENT—STIRLING CAMPUS

Adjourned debate on motion of Mr Piccolo:

That the 381st report of the committee, entitled Port Augusta Area School Redevelopment—Stirling Campus, be noted.

(Continued from 29 September 2010.)

Mr PICCOLO (Light) (11:38): I will finish my report from the committee regarding the Port Augusta Secondary School. The last time this matter came before the house I provided an overview, and the conclusion was that the construction of a completely new school would be the most costly alternative. This was discounted as a number of the existing buildings are reasonably new and of a solid construction, in good condition and able to be redeveloped in a cost-effective manner.

The committee found that the preferred option is to redevelop the current site to: provide refurbished middle and senior school accommodation; establish a second kitchen in home economics; and refurbish the administration building to consolidate administration, student services, special education, student amenities, staff lounge, Aboriginal education centre, car park

extension, fire mains and a site power upgrade. Construction is due to commence immediately and will be completed by December 2011.

Based upon the evidence presented to it, and pursuant to section 12C of the Parliamentary Committees Act 1991, the Public Works Committee reports to parliament that it recommends the proposed public work.

Mr VAN HOLST PELLEKAAN (Stuart) (11:40): I will just say a few words on this project. While, as everybody in this place knows, I have serious concerns about how the government handles education in rural and regional South Australia, I am very pleased to say that this is a very positive project. I know that it is causing significant disruption and additional work for principal Paul Billows and deputy principal Iain Elliott, and all their staff and students. I think it is also long overdue, but I am certainly very pleased that it is happening.

This is a good project, combining essentially two campuses in Port Augusta into one. It will be very positive for the students, and, in fact, for the City of Port Augusta more broadly, to have a new and improved redeveloped secondary school right next to the CBD, Braddock Oval, the Central Oval sporting precinct and also, very importantly, the Port Augusta Youth Centre, which does some wonderful work. That centre allows for some special tuition for students needing some extra support, very often Indigenous students, and they are able to get that extra tuition in a more comfortable one-on-one environment than they might in the regular mainstream high school environment.

I commend the project. I caution everybody involved with it in regard to the difficulties of delays. Right now, it is on track to be finished in December 2011, which would then start the new school year off in 2012. As we all know, when it comes to school years, sporting seasons, or anything like that, a small delay in completion can cause a long delay in commencement of use. If that slips by just a few months, we may, unfortunately, miss a whole school year potentially, but I know that everybody working on the project will do everything they can to make sure that does not happen. I am certainly very pleased that the project is going ahead, and good work by everybody involved in that project.

Mr PENGILLY (Finniss) (11:42): Quite clearly, the opposition supported this project in Public Works. There was never any debate or argument about that. It was a project that needed doing. In typical Rann style they tried to get it up so they would sweeten up the election, so that they might win the seat after the member for Stuart left, but the new member for Stuart is cut and dried. He has got the thing; they have got a new school, which is the major outcome. We were pleased to work with the government members of the committee on this matter to get the school up and running.

I heard what the member for Stuart said about potential delays. We will watch that. We get quarterly reports, so we will be watching that to make sure it is on track, and following through on that. It is a good project. There are never enough new school buildings, there are never enough new schools, as we all know. Our children's education is absolutely paramount, so we look forward with interest to the opening of the building. Public Works Committee members will be invited and it is highly likely that we will go up and have a look at the official opening. The member for Stuart can provide us with his own unique hospitality after the opening. Yes, Madam Speaker, we do support the project and look forward to its completion.

Dr McFETRIDGE (Morphett) (11:43): School bus driving and high school teaching, it is all coming back this morning. I was appointed a teacher at Port Augusta High School in 1972—

An honourable member: Fifty-two.

Dr McFETRIDGE: That was a good year, a very good year, 1952, but 1972 was an even better year, because I was appointed a teacher at Port Augusta High School, and I actually met my wife up there; she was a dental therapist at the time. So it was a very good year. I was teaching woodwork and metalwork up there. I was driving the school bus, not only, as I said before in a previous contribution, to Stirling North and to Davenport Aboriginal community but I also had to drive the school bus with kids doing woodwork across to Willsden Primary School, where there was one of the remnants of the old grade 7 woodwork centres.

That was just the start of the redevelopment of schools at Port Augusta when we started using Willsden Primary School. Then there was the Port Augusta High School complex by the railway station in, I think it is Augusta Terrace—

Mr VAN HOLST PELLEKAAN: Flinders Terrace.

Dr McFETRIDGE: Sorry, Flinders Terrace, where the high school main campus was. It was a terrific school. The kids were fantastic there. A lot of the Aboriginal kids introduced me to their families; I got to know them well, and that is where I got my introduction to the huge gaps that exist between Aboriginal and non-Aboriginal families and communities in Australia, so I have continued to follow that interest.

The other thing that we did when we were at Port Augusta in 1974 and 1975 is that we built a new campus for the high school. The high school was overcrowded, so they built the new Augusta Park High School, and I remember spending many hours (out of hours on weekends and at night) fitting out the new woodwork and metalwork facilities at the Augusta Park High School, as it was then.

The demographics of the area have changed. The whole community seems to be changing. Now we have another revamp, a consolidation, of high school education in South Australia. I see that the motion refers to the Port Augusta Area School. I think it is still the Port Augusta High School, not the Port Augusta Area School. There is still a number of primary schools in Port Augusta, so I do not see why you would have an area school.

This is a terrific school. I have very fond memories of the school and the community at Port Augusta, and I just hope that they are continuing to get what they deserve in terms of better facilities and increased resources right across the spectrum, particularly in schooling. Having been a teacher there and having gone back many times with the Aboriginal Lands Parliamentary Standing Committee to talk to Aboriginal community groups, I know that we really need to make sure that we are giving this community every bit of assistance so that they can reap the benefits of the potential that already exists there, not only in those fantastic kids who I taught many years ago and who are there now but also in the communities. It is a terrific town. I have many fond memories of it, and I hope that this development of the Port Augusta High School is something that everybody up there is able to benefit from.

Mr PICCOLO (Light) (11:47): I agree with the member for Morphett: it is the Port Augusta Secondary School, that is correct. I thank members opposite for their support for the proposal, both on the committee and in this place. I put on record that I differ from the member for Finniss' comments in that there have been a number of schools in both government held and opposition held seats which have come to the committee's attention, so to suggest that it was somehow designed for the election is incorrect. I remind members opposite of the official Liberal Party policy regarding education facilities. It is the 'two trees' policy now, I understand, for education facilities. So, with those comments—

Members interjecting:

Mr PICCOLO: I thought that might get a response—I commend the motion to members.

Motion carried.

ECONOMIC AND FINANCE COMMITTEE: CONSUMER PROTECTION FOR FARMERS

Adjourned debate on motion of Mr Piccolo:

That the 70th report of the committee, entitled Consumer Protection for Farmers: Reaping a Fair Harvest, be noted.

(Continued from 30 June 2010.)

Mr PICCOLO (Light) (11:49): In supporting the recommendation from this committee, I will just reflect on a couple of things. First of all, I remind members of the house that this proposition was actually opposed by members of the opposition on this committee of inquiry which is to their great shame. I am constantly reminded, when I go out into the country parts of my electorate, how awful the Liberals were in opposing this motion.

Also, I remind members of the contribution made by the member for Bragg in trying to delay the finalisation of this motion. Her comments were embarrassing, and she went way off the topic. She actually avoided discussing the issues that came before the committee, and that was because they were embarrassed by the way the committee members behaved in opposing the recommendation. Clearly, the opposition was not prepared to support a key part of its constituency and it paid the price obviously in the appropriate electorate.

The recommendations contained in this report will obviously be pursued through both the state and federal governments and there are a number of other issues arising in rural areas which

will come before this house and which indicate that we need to start seeing farmers in a different light. It is important to understand that while farmers are small business people, when you consider their relationship to the marketplace, they are also consumers and they are sometimes as powerless as the ordinary consumer when dealing with a retailer or company.

This motion quite clearly recognises the important role that farmers play in our economy and also in our communities but also puts into context the power imbalance when farmers are trying to deal with multinational companies. One of the matters that gave rise to this motion was in my electorate and one was in the member for Hammond's electorate which he has dealt with. I am happy to say that the matter in my electorate has now been resolved through mutual negotiations, but I still get phone calls from farmers saying that they have some real problems when dealing with multinational machinery firms and that obviously we need to see this in a new light.

My understanding is that, unfortunately, the new consumer law (the national consumer law), which originally had a provision to treat small business as a consumer, does not actually provide for that at the moment, so that is something that this house needs to consider. In future we may have to look at legislation to ensure that farmers are seen not only as small business people but also as consumers, for the reasons I have just outlined.

With those comments, I will end the misery for opposition members, who are embarrassed by the way they have dealt with this matter. I support the recommendation and ask the house to endorse it.

Motion carried.

AUDITOR-GENERAL'S REPORT

In committee.

(Continued from 26 October 2010.)

The CHAIR: We are now considering the Auditor-General's Report—Attorney-General, Minister for Justice and Minister for Tourism. We have 30 minutes. I remind members that the committee is in its normal session so any questions have to be asked by members on their feet and all questions must be directly referenced to the Auditor-General's Report.

Ms CHAPMAN: I will be principally referring to the Auditor-General's Report, Part B, Volume 1 of the Agency Audit Reports commencing at page 93. I will start at page 94, which relates to the prisoner movement and in-court management provisions. In this area the Auditor-General did undertake some scrutiny of the contract and, in particular, the management of this contract. My first question to the minister is: how is the renewal of this contract consistent with the government's no privatisation pledge?

The Hon. J.R. RAU: I do not believe there is anything in the report about privatisation by the Auditor-General. Could I be directed to that aspect?

Ms CHAPMAN: My apologies, Madam Chair; I did not stand before.

The CHAIR: I heard page 94.

Ms CHAPMAN: Page 94 relates to South Australian prisoner movement in-court management. What was under scrutiny was a tender process for the new contract for the provision of services for prisoner transfer and other in-court management. It is a $50 million contract, and my question is: how is this process consistent at all with the government's no privatisation pledge?

The Hon. J.R. RAU: I now understand the member for Bragg's question. As the honourable member is probably aware, some time ago—I think about 15 years ago, or thereabouts; I believe during the tenure of the Brown or Olsen governments, I cannot remember which—arrangements were made whereby an organisation eventually came to be a contracting party with the government. That organisation has been variously called GSL or G4S. I think that currently it is GSL. Anyway, it does not matter. The point is that this organisation entered into a contract—it is G4S, I am sorry.

G4S, or its predecessor GSL, has, for many years, been the organisation which has provided certain services to the courts and to the prison system; and, essentially, those services are the transport of prisoners to and from court attendances and the assistance, I guess, of corrections and the courts in the movement of prisoners so that that work is no longer performed by SAPOL or by corrections.

If I understand the honourable member's question correctly, she is asking why that is still happening. The answer is that that contract has been on foot now for some 15 or so years, as I am advised (certainly for a long time), and all that has happened, as I understand it, is that that contract has continued to subsist.

In as much as the question was about whether this government had privatised anything, the answer to that is, I believe, no. All that has happened is that the arrangements that had previously been made by the former government have continued.

Ms CHAPMAN: I will take that as an endorsement of the excellent work of the privatisation previously. In any event, two entities applied. At page 95, the Auditor-General tells us that one of them withdrew, and there are a number of aspects in relation to what was then able to occur in terms of the overall procurement process. What entity withdrew?

The Hon. J.R. RAU: I just indicate that those who advise me are presently not in a position to assist me with answering that question. I should indicate that, subject to the arrangements that applied at the time, it may be that some commercial confidentiality is attached to the tender or the invitation process.

If there are not, the best I can offer the honourable member is that I will have those who advise me find out the answer to that question. If there is no reason of that type for not providing the answer, it will be provided.

Ms CHAPMAN: I thank the minister for that, because this is a $50 million contract. As the Attorney would be well aware, very often the Treasurer comes in to tell us who the short-listed bidders are for what he considers to be the important contracts. This is also an important one. If there was some confidentiality clause as to the terms of withdrawal or even application, we would respect that, but we would certainly like to know the name of the entity, and, if it is a non-corporate entity, who is in the consortium.

The Auditor-General on page 96 identifies the development of a contract management plan and raises some concern about it not having been applied. The department gave its explanation about what it relied on instead, but it still was recommended that there be a plan. So, my question is: is that being prepared, and will it be in place before it is necessary to undertake a procurement again in the future—particularly this contract, which is probably the biggest?

The Hon. J.R. RAU: Before I attempt to answer that question, I add that it might be of interest to the honourable member to also keep in mind that the organisation G4S which does this prisoner transfer is also, I believe, the manager and operator of the Mount Gambier Prison facility. So it is a bigger job than just driving people around the metropolitan area and so forth, but that does not alter whether we are going to get the answer—if we can, we will. However, it is quite a big job that they are undertaking—as I guess you would expect, with $50 million being involved.

In relation to the question the honourable member asks, I am advised by the department that the prisoner movement and in-court management agreement is the main document used for the purposes of a contract management plan, as it establishes the objectives, scope and governance and management framework under which the contract operates—and I have just explained that that is quite diverse because it is prison management, transport of people and so forth. Audit is of the view that a plan is still required to be implemented consistent with the requirements of the State Procurement Board guidance and the contract risk that was identified in the risk management strategy established by the project.

Following discussions with the State Procurement Board secretariat, it has been agreed between the department and the board that, where the contract management requirements (as outlined in the contract) satisfy the elements of a contract management plan, a separate document is not required. The department intends to raise this approach with the Auditor-General in order to satisfy the department, the Auditor-General and me that that is satisfactory.

Ms CHAPMAN: I appreciate that, but if you look at page 96, that is exactly why the department advised the Auditor-General that it did not do a plan: it did not think it was necessary because it was already covered by another process. The Auditor-General has reported to us in the parliament that that is not good enough and he expects that there will be a plan. The department at about point 9 on that page says it will conduct a review with a view to preparing this plan.

It may well be that they go back to the Auditor-General and ask whether, in these smaller cases, they have to have a plan and whether it is really necessary, but he has made it clear that he expects there to be a plan and that the department's explanation as to the effectiveness of its

alternative does not cut it with him. Essentially, he needs the department to have a plan. If there is going to be simply an attempt to put back what the Auditor-General has already rejected, we would want an explanation for that; otherwise, we would like some indication about when the plan is going to be in place so that it will be used in future.

The Hon. J.R. RAU: It is my understanding from speaking to those who advise me that it is the intention of the department that there will be discussions with the Auditor-General and that a position satisfactory to the Auditor-General will be arrived at with him. If that means a departure from the practice that has gone on until now and if that is what is required to satisfy the Auditor-General, it will indeed happen.

To fill out my earlier answer a little bit further, the Mount Gambier Prison contract to which I referred is, in fact, a separate contract but includes the same parties.

Ms CHAPMAN: Page 101 relates to questions of fraud and risk management. My question for the minister is about fraud policy. Has the fraud policy that was being developed been finalised; and, if not, when will it be?

The Hon. J.R. RAU: I am advised that the audit and risk management committee endorsed the draft Attorney-General's Department fraud and corruption control policy and framework in its meeting on 30 September 2010. The draft was then issued for consultation. Feedback has been received which will be incorporated where appropriate. The policy will then be referred to the chief executive for approval. The Attorney-General's Department audit and risk management services unit is monitoring the business unit risk assessment for 2010-11, and the status of risk assessments is reported to the audit and risk management committee.

Ms CHAPMAN: So when does the minister expect the draft fraud policy (not the risk management policy), once it has gone through this process, to be in place or at least presented back to the Auditor-General for approval?

The Hon. J.R. RAU: I am advised that the expectation is that that will occur within the next month or so.

Ms CHAPMAN: I refer to page 102, Shared Services, which indicates that the payroll disbursement file was under review by the auditor, in particular the CHRIS payroll system disbursement, which revealed a number of limitations, to put it that way. With regard to page 102, what steps is the department taking to minimise the risk of fraud in relation to the payroll disbursement file? For example, will it make the file 'read only', limiting access to one person, and so on?

The Hon. J.R. RAU: I am advised that, as would be clear to some extent from a perusal of page 102, the area in question is primarily a question for Shared Services rather than AGD as such. However, I am advised that, given the nature of the operations of Shared Services, audit consider it relevant to also include these findings among the findings for individual agencies. This obviously includes AGD. Any details, however, on these findings really are matters that should be taken up properly with Shared Services.

Ms CHAPMAN: Page 103 refers to the Masterpiece financial system security access, which also services the minister's department. Does the minister know how many officers are authorised to have access to the Masterpiece financial system and how many unauthorised officers currently have access to it?

The Hon. J.R. RAU: I am advised that those with whom I appear today do not have that information. I suggest, with respect, that the honourable member might be able to pursue that issue more effectively with Shared Services, and that is with the Treasurer.

Ms CHAPMAN: Page 109 relates to victims of crime. Given that the maximum payable is $50,000 under the eligibility on application provision under the Victims of Crime Act, will the minister advise how many recipients have received the maximum payment during the 12 months of this audit?

The Hon. J.R. RAU: I am able to provide some information about that now and some I will have to take on notice. What I can provide to the honourable member now is that my advice is that there were 1,031 claims during the relevant period. However, I do not presently have a breakdown as to how much each one of those claims amounted to. That is something I believe we can obtain, but I just cannot provide it now, and I will have that information obtained.

Ms CHAPMAN: My next question is, in fact, in relation to the 1,031 claims but from a different perspective. That is the number of claims that were paid out, but do you have any information as to how many claims were made?

The Hon. J.R. RAU: I am advised that I do not have that advice available, and I do not know whether that is something we can readily obtain, but we can certainly look for it.

Ms CHAPMAN: Referring to page 151 and the figures columns, given that the recoveries for 2009-10 were $762,000, the other income in 'Recoveries and other income' would be about $1 million. Where does the other income come from?

The Hon. J.R. RAU: I am just seeking clarification: is the honourable member referring to the reference there to the $1 million in brackets after 762,000, or where is the $1 million to which the honourable member is referring? I am not sure I understand the question properly. I see the recovery figure of $762,000 and I understand what the honourable member is talking about there, but is the honourable member talking about the $1 million in parentheses after that?

Ms CHAPMAN: No, that is usually the year before—and I am assuming it is, because that is consistent through the reporting. I do have some questions about victims of crime legal aid on page 151, but I have not marked it. The financial reference to the point we are discussing is at page 151, line 2, under 'Recoveries and other income': recoveries from offenders is $762,000 this year and was previously $1,072,000. Underneath that, and this should be 'other income'—

The Hon. J.R. RAU: I do not know whether I can help the honourable member, but is her question to me: are there other sources of income to the fund?

Ms CHAPMAN: And, if so, where they come from?

The Hon. J.R. RAU: I am sure that is obtainable, but I think that we will have to take that on notice so that we can provide that properly.

Ms CHAPMAN: Back to page 110, what is the nature of the outstanding debt of $64 million?

The Hon. J.R. RAU: As the honourable member would no doubt be aware, the basis of this fund is that, when a person is entitled to recovery, pursuant to the Criminal Injuries Compensation Act, and there is a known offender, the recovery is paid out of the fund to the injured party (the victim) and a notional debit is raised in the fund against the offender. It probably will not come as a surprise to anybody in here today that some of these offenders are not particularly cashed up—

Ms Chapman: Because half of them are in gaol.

The Hon. J.R. RAU: —because they are in gaol, or they are otherwise ne'er-do-wells or miscreants, could I say, and as such do not busily fill their piggy banks full of money that can then be handed over to the Crown. I think the explanation is that, over the many years that this fund has been in operation, it has tended to accumulate what we in a professional life, member for Bragg, might call bad debts. The likelihood of recovery of these, I believe, is not the best, but when you understand the people from whom the recovery is going to be sought, I guess that is not entirely a surprise; but that is how that number accumulates.

I am just checking with my advisers, but I believe that those funds, or those notional debits, have been accumulating since the 1970s, and therefore we are looking here at the product of many years of non-paying miscreants.

Ms CHAPMAN: I will not dwell on it, but I do note that, since the inception of the fund, it appears that $46 million has been written off, but in brackets it is $40 million. I am assuming that somehow or another $40 million was written off last year.

The Hon. J.R. RAU: I am advised that the cumulative figure to last year was $40 million, and the cumulative figure to this year is $46 million.

Ms CHAPMAN: So, the position is that, since the days of the Criminal Injuries Compensation Act, when the limit was $1,000, even if you had a multiple rate, this has been the continued accumulation and it is never written off; it is notionally written off but left on the books. Is that the position?

The Hon. J.R. RAU: I am advised that that is the position.

Ms CHAPMAN: On page 130 there is a reference to the remuneration for employees by category. There is an increase in the number of employees, which I think is in full-time equivalents, but it may not be. If that is not the case, perhaps you could identify it, minister. What accounts for the 21 per cent increase in staff from 227 to 228?

The Hon. J.R. RAU: As to the first part of the question about whether they are FTEs or something else, my understanding is that they are individual employees. The second thing is that they are made up of a number of different groups, and I will do my best to identify, for the honourable member, how that number is made up.

The total increase is 49, from which 14 are legal officers within the department. That would include the Crown Solicitor's Office, the DPP, policy planning, legislation and parliamentary counsel; so that is across all the range of legal offices within the AGD. That also includes officers at classification levels in the LEC range who were not previously included in this note, but due to enterprise bargaining increases over time are now included. Additional funding provided for legal resources has also contributed to the increase.

In the executive stream, there has been an increase of two in the number of executive officers included in this note. This increase includes an executive who transferred with the Office for Youth to the Attorney-General's Department on 1 July 2009. The other ones are, in number, 33. There are obviously other officers with remuneration in excess of $100,000. The majority of this increase, I am advised, includes officers in the ASO, MAS, OPS and PO classification streams. They were not previously included in this note, but due to enterprise bargaining increases over time, they are now included. This accounts for around 20 of that increase.

A further three officers received termination payments in 2009-10 which led to their inclusion in the note. A further two officers were transferred into the department through structure of government changes since 2008-09 for the Office for Youth and the Office for Recreation and Sport. It should be noted that this includes the following officers and statutory appointments: forensics scientists, Director of Public Prosecutions, Commissioner for Victims' Rights, President of the Guardianship Board, and the Police Complaints Authority.

Under the AGD heading, the total number of employees who received remuneration within AGD administered items greater than $100,000 in 2009-10 was six, compared with six in the previous year. Unless there is anything further, I think that probably covers it.

Ms CHAPMAN: How many employees are there in the Crown Solicitor's Government Investigations Unit?

The Hon. J.R. RAU: Are you asking how many fall into that category?

Ms CHAPMAN: Yes.

The Hon. J.R. RAU: We will get back to the honourable member. It may be one, but we are not sure.

Ms CHAPMAN: I will resist the temptation to ask how many are allocated to investigating lost USB sticks. During the 2009-10 year, was the Crown Solicitor's Office asked by the Department for Families and Communities or anyone else to provide legal advice as to the legality of paying $5.1 million to the Julia Farr Association, and, in particular, was it asked whether there was any breach of the Public Finance and Audit Act 1987 or any of the Treasurer's Instructions? If it was not in that financial year, is it in this financial year?

The Hon. J.R. RAU: I am not sure that bears any relationship to any of the page numbers that we have here.

Ms CHAPMAN: It is page 446, Part B, Volume 2.

The Hon. J.R. RAU: Can I suggest that possibly the best person to whom that question might be directed is the relevant minister, namely the Minister for Families and Communities, who would have made such a request.

Ms CHAPMAN: I have asked her; she doesn't know.

The Hon. J.R. RAU: Well, I think all I can do is indicate that we will look at it.

The CHAIR: We now proceed to the examination of the Auditor-General's Report in relation to the Minister for Transport, Energy and Infrastructure for 30 minutes. I remind members

that the committee is in its normal session, so any questions have to be asked by members on their feet, and all questions must be directly referenced to the Auditor-General's Report.

Mr HAMILTON-SMITH: The DTEI audit overview, page 15, deals with bank reconciliation and agency audit reports. It is Volume 5, page 1567. The Auditor-General states:

> The review of [DTEI's] bank reconciliations for 30 June 2010 found that [Shared Services] SA had not satisfactorily completed the bank reconciliations at the time of finalising this report. The reconciliations contained significant bank deposits and withdrawals which were not recorded in the general ledger and transactions recorded in the general ledger which were not matched to bank records...Audit review in both 2008-09 and 2009-10 identified deficiencies in controls over DTEI's cash at the bank and related reconciliation processes.

The Auditor-General also states:

> I was unable to obtain sufficient audit assurance that DTEI had addressed all matters associated with bank reconciliations. On this basis, I have concluded that it was appropriate to provide a qualified Independent Auditor's Report for the 2009-10 financial statements of DTEI.

My first question is: why is it that for three consecutive years the Auditor-General has found it necessary to report these problems? Can the minister explain to the committee why a process has not been put in place over the last three years to fix the problem raised by the Auditor-General?

The Hon. P.F. CONLON: For the benefit of the member—and I can understand why he might think that this is a failure to fix the problem from last year—this is, in fact, a completely different issue. The problem last year, from memory, was TRUMPS reconciliations, and you will find that the Auditor-General refers immediately below that to the TRUMPS reconciliations now meeting audit standards.

This is instead the migration of work that was done by departmental people, now Shared Services SA. They are in the early stages of doing this, and there are some complexities about the reconciliations that I think Shared Services SA has not met to the satisfaction—I suppose is the proper way of expressing it—of the Auditor-General. In fact, that is something about which DTEI has had correspondence with Shared Services SA, and we would expect to be able to fix this problem. However, this is a new issue that has arisen.

The issues that had been raised with TRUMPS reconciliations last year have, in fact, been addressed, on my understanding, to the complete satisfaction of the Auditor. I am told that there are a couple of minor outstanding issues with regard to TRUMPS, but nothing to raise any sort of qualification.

In fact, without wanting to avoid it, the questions would probably be more readily addressed to Services SA which, of course, is not run by DTEI; it is DTEI itself. However, I can assure the member that this is a totally new and different issue, and it arises from the migration to Shared Services SA doing what was formerly done in-house at the Department for Transport, Energy and Infrastructure.

Mr HAMILTON-SMITH: I thank the minister for his reply. Moving to the cash at bank concerns raised by the Auditor-General on page 1566, where he confirms that DTEI and Shared Services SA were unable to ensure that the general ledgers bank account balance was reconciled with the department's bank account records as at 30.6.10, what steps have been put in place to ensure that reconciliation of the account does occur at all times, and what was the level of imbalance at the end of the month for each month of 2009-10?

The Hon. P.F. CONLON: We would have to take the second part of the question on notice, because Shared Services actually does that now; we would have to get that from them. In fact, my understanding is that even before the Auditor-General's Report the department had written to Shared Services raising some of these issues, so we are confident that it will be fixed quite soon. The department was aware of the issues and moved.

I am reliably advised that they will not have any practical effect on the reconciliations. There are an enormous number of transactions out of the Department for Transport, Energy and Infrastructure in its total, but I can assure you that the department was well aware of the requirements and has had correspondence with Shared Services, even prior to the Auditor-General's Report, to attempt to assist Shared Services to meet the required standard.

Mr HAMILTON-SMITH: Volume 5, page 1569, of the report deals with the South Australian Transport Subsidy Scheme voucher misuse and fraud investigations. Voucher misuse and fraudulent activity has been detected within the scheme, and the matters have been referred to DTEI's investigations and audit unit and some to SAPOL. Some of the matters being investigated

include systematic fraud for large amounts involving multiple drivers. What amount of money is estimated to have been lost through these fraudulent activities?

The Hon. P.F. CONLON: We did identify the matters raised and there is an ongoing investigation, so we will provide the information about the total extent of any misuse or fraud when that is concluded. I can say that in 2009-10 there were, I think, 21 fraudulent claims identified by departmental staff and a further eight reported by members of the South Australian Transport Subsidy Scheme. These were reported to the department's investigation unit, which confirmed that fraud had occurred in those instances.

All the cases were forwarded to the Passenger Transport Standards Committee; 16 were disciplined by that committee, with penalties ranging from suspension of the driver's or operator's accreditation for periods varying from three months to two years and/or fines of up to $1,000; and there were three instances forwarded to SA Police. As a result of that, one driver has been charged with 166 counts of deception, another with 26 counts, and the major fraud squad is investigating an operator and his eight drivers, which involves a great many trips. They are confident they will lay charges in that regard.

The department's fraud control framework strategies for fraud prevention, detection, investigation, awareness and training are based on the Australian Standard 8001 Fraud and Corruption Control, providing a rigorous internal control environment, and a specific fraud and corruption control plan relating to fraud detection within SATSS is being developed to complement the fraud minimisation plan implemented this year.

Fraud control is thoroughly embedded in the process. It is regrettable that there are individuals who choose to attempt to do these things, but we have implemented what we believe are the appropriate standards in fraud control and these people have been identified and dealt with appropriately. We find the most serious cases disturbing; obviously, we cannot say too much about police inquiries but, if the allegations are correct, they appear to be people who have decided to knowingly embark upon fraudulent behaviour. We find that unacceptable and we will prosecute.

Mr HAMILTON-SMITH: Could the minister give us some examples of the sort of fraud that is being committed and indicate what action is being taken to recover the funds? Is it to be left to the courts both to impose fines and to make orders with regard to the repayment of lost funds, or is there separate action being taken to recover the money? If he could give us some examples of the sort of fraud that is being committed with this scheme the committee would be grateful.

The Hon. P.F. CONLON: I do not have the appropriate person here, but there is no doubt that if those people are convicted there will be a capacity to pursue them—whether it will be worthwhile pursuing it will be another matter. I am not going to throw taxpayers' money away against men of straw, but if those matters proceed to a conviction—I do not have the appropriate officers here to answer that, but we can give you further information—then the department would seek to recover that if it is, in fact, practical to do so.

Mr HAMILTON-SMITH: The same line of inquiry. Have people been suspended, as a result of these investigations, from providing services through the SATSS?

The Hon. P.F. CONLON: Yes, some have been suspended. I cannot tell you what the details of the actual cases were, but some have been suspended for a short period of time, some for up to two years, and with fines of up to $1,000. I assume that means that the range of behaviour is very different from those at the lower end and those who have been prosecuted, but I would have to get the details from the investigations unit.

Mr HAMILTON-SMITH: The minister has clearly identified the need for action to be taken to reduce this fraud. Is the idea of implementing smart card technology, GPS and other trip data to improve internal controls over the scheme being considered by DTEI? Can the minister advise whether such technology will be implemented to reduce the risk of drivers manipulating the system?

The Hon. P.F. CONLON: I am advised that we are looking at the introduction of some smart infrastructure in a number of areas. Rod Hook's people have been dealing with the appropriate departmental people about the possibility of electronic tracking through smart cards and GPS technology, and we will get advice on the feasibility of that. These things are complex systems. When Victoria introduced a smart card ticketing system for public transport, it had some issues, so it is important that we know of the feasibility. Work is being done to see whether there is feasibility in tracking that in real time. I am absolutely certain that down the track you are going to

see smart technology that will be able to track all sorts of vehicles and length of journeys and such like. So, it is certainly possible and the feasibility is being explored.

Mr HAMILTON-SMITH: Moving onto Volume 5, pages 1567 and 1577 of the report, which deal with TRUMPS, it has been highlighted in the report that there have been significant issues with the TRUMPS system and DTEI advised in 2009 that, due to the complexity of some matters, they would not be addressed until the end of 2010. Have the issues with the TRUMPS system been resolved, and, if not, what outstanding issues need to be resolved and when will they be resolved?

The Hon. P.F. CONLON: In terms of functionality, TRUMPS has no issues. I am advised, in fact, defects are well below industry standards for a system of this size and complexity. My friend cannot give an example, but he says the outstanding matters are very minor and are technical matters mostly around possibly programming.

We will get the detail, but I can assure you and the house that they are very minor and technical matters that do not go to the functionality of the system that is now performing above industry standards. I must say that, if you look at the introduction of these systems, there have not been very many around Australia that have not operated with some initial set up issues. They are complex systems and this one appears to be working at well above industry standards.

Mr HAMILTON-SMITH: Can the minister confirm if the implementation of an automated reconciliation system to improve the treatment and resolution of collection discrepancies is on track to be implemented in November 2010 and is the contract costing $953,000 over five years the one that has been awarded to the Chesapeake System Solutions Inc.?

The Hon. P.F. CONLON: There is a contract that has been awarded for some reconciliations for monies collected outside of TRUMPS in motor registration and through Services SA, and it is an automatic reconciliation system. I do not know to whom it has been awarded and I do not know exactly how it works. It would been a contract that would have been executed within the department by the appropriate officers. I will get you the details of it and I am not going to try and convey the explanation that I got because I am not sure I got it.

Mr HAMILTON-SMITH: Could the minister then tell us what the Chesapeake System Solutions Inc. contract for $953,000 is for?

The Hon. P.F. CONLON: I think it is likely to be that contract because the number sounds correct, but these officers will have to confirm that it is the Chesapeake system. There is a contract for about that amount of money for a reconciliation system. With an abundance of caution, we will check that but it would be very likely that that is the case. I cannot imagine that there are a number of contracts.

Mr HAMILTON-SMITH: I refer to page 1567 of Volume 5. DTEI is using dual receipting systems (GRL and TRUMPS) to process the majority of registration and licensing transactions, which is increasing the complexity of reconciliation and has increased the risk of errors by receipting staff. Can the minister advise how long DTEI will continue to use this dual receipting system?

The Hon. P.F. CONLON: I think you will find that the contract that we were talking about that will commence operation in November will remove the complexity referred to in that receipting system. The contract that was referred to will address that very issue. Again, if there is further detail we will give it to you, but my understanding is that the contract will address those issues that have been raised.

Mr HAMILTON-SMITH: I refer to page 1607 of Volume 5, employee costs. The number of DTEI employees earning over $100,000 per year has increased from 279 in 2009 to 362 in 2010. That is an increase of 83 people, and it seems very high. Can the minister advise if the number of employees within DTEI earning over $100,000 per year will decrease in 2011 following the announcement that there are to be public sector cuts? If so, from what areas will employee numbers be cut?

The Hon. P.F. CONLON: The increase is predominantly as a result of the salary increase paid in accordance with the South Australian Government Wages Parity (Salaried) Enterprise Agreement 2010. I think the question was asked in the house yesterday. It is far too early to identify clearly where some of those job cuts will come from. I am sure the information will be provided as soon as it is clearer, but it is certainly far too early to be doing that at this stage.

Mr HAMILTON-SMITH: On the same subject and page number, the number of employees paid in excess of $140,000 does seem extraordinarily high in this department; I think it is 16 in the $140,00 to $149,000 bracket and 12 in the $150,000 to $159,000 bracket. There are even nine employees paid $180,000 to $189,000, and so it goes on. Is the structure of the department top heavy, and why are there so many extraordinarily highly-paid people in this department?

The Hon. P.F. CONLON: It is one of the biggest departments in government by a long way. If you look at history, it actually incorporates a number of places that were stand-alone agencies. Energy is associated in there with infrastructure and the department of transport. A number of things that were actually done in other agencies have also been shifted in there, including the real estate management group. I would be quite happy to show you a diagram of all those, because it is an extraordinarily large department with a lot of different responsibilities. They, of course, run public transport and infrastructure. The Office of Infrastructure runs the BER programs, assisted by the real estate management group. The energy division, of course, manages energy.

I am also advised that some of those numbers include separation packages, but I do not know the details of those. However, I do not believe that the department is top heavy. In fact, the current amalgamation, if you like, of bringing together TransAdelaide with the former public transport division, will give an opportunity to reduce some of those positions by not having duplicated management, and that is a process we are seeking to undertake.

I do not believe that the department is top heavy. The full range of responsibilities is very wide and I am very happy to show that on paper, because I am quite proud of what the department does. It does a very good job, in my view. I must say that it is now recognised, for example, by the commonwealth as being the standard setter in the delivery of infrastructure projects. You and I both know that a few years ago that may not have been said, but it is certainly said now by Canberra. It is a very large department, and I can assure you that I know that full well by the number of dockets that come through the office. I am very happy to show where those people are, because I do not think this department has anything at all to hide in the quality of the work that it does with the people it has.

Mr HAMILTON-SMITH: I refer to the same budget line and page, same Auditor-General's page number. How many TVSPs are expected to be taken in 2010-11, and at what expected cost, noting that employee expenses increased by $15.1 million, mainly due to TVSPs, in the past year?

The Hon. P.F. CONLON: It is again far too early to say how that will work and when. In fact, the scheme has not been published as yet, so there is no official way to understand it. Anecdotally, we understand that because of a strong job market there is an interest in packages, but it is far too early in the process to give anything concrete for the next year.

Mr HAMILTON-SMITH: Page 1576 of Volume 5 deals with Metroticket revenue. The Auditor-General has commented on a number of issues, including Metroticket revenue and reconciliation processes, which were either not performed or not performed on a timely basis, as was the case for the department's processes for recovering the Metroticket cash shortages from bus contractor payments. Can the minister advise what action is being taken to ensure that these matters are being addressed, as DTEI's response to the findings are not made clear in the Auditor-General's Report?

The Hon. P.F. CONLON: I would highlight that most of the issues identified were timing issues as a result of staffing levels, which have subsequently been addressed. The identified value and risk of the matters were also considered to be relatively low level, but the department has reviewed all the issues identified and has strategies implemented to address them. Appropriate policies and procedures and support operations to mitigate further problems associated with the issues raised have been documented, and I guess the proof will be in the next year's Auditor-General's Report.

Mr HAMILTON-SMITH: On the same subject and page number, is the state government planning to no longer have ticket clerks present at railway stations throughout metropolitan Adelaide?

The Hon. P.F. CONLON: I am certainly not aware of any concrete plans to do something like that. The introduction of the smartcard ticketing system will make some changes for the better to the way we work and the way people purchase tickets, but we do not have any articulated plans for that as yet.

We still have to introduce that system. It is a system we have been very careful about as a result of what we have seen in other states. We have an advantage in this state—I do not know who started it—because we already have a single ticketing system for buses and trains, which was a complexity that others had to deal with and start up. We have bought an off-the-shelf system, which operates in a number of European cities and, I think, some North American cities, so we know it works for a consolidated ticketing system.

It will offer opportunities that we do not have at the moment with the paper ticketing system. With the growth of capacity to do things online, it is obvious that with an electronic system you are going to be able to do a lot of updating or adding credit to your smart card in a way that you cannot do now. It will change how we do business. It will be better for customers, but I do not believe we have any articulated plans at present.

Make no mistake, though, we have been looking at efficiencies as a result of the budget and, if efficiencies are to be made, we will seek to make them. As I have said on the record, we have attempted to work in a very cooperative way with Ashley Waddell and the train and tramways union; that has been a good relationship. Anything we do, we will do through appropriate discussion with them.

To reassure people, we do not have any articulated plans about that—not to my knowledge. If there is something that I do not know about, I am very happy to bring it back to the house but, as I said, no doubt there will be the opportunity for change as a result of moving to smart card technology. I must say that, because of what we have seen in other states, smart card technology does have some functionalities that we can explore down the track to do more. But, having learnt from others, we will be starting it up at the basic ticketing level and moving on from there once that is all bedded in.

Progress reported; committee to sit again.

[Sitting suspended from 13:02 to 14:00]

KEITH AND DISTRICT HOSPITAL

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition): Presented a petition signed by 2,888 residents of Keith and greater South Australia requesting the house to urge the government to take immediate action to overturn the decision to cut funding to the Keith and District Hospital.

Mrs REDMOND: Madam Speaker, I did not quite hear the figure on the petition. Could the Clerk repeat how many people signed the petition?

The SPEAKER: Mr Clerk, how many people signed the petition?

The CLERK: It was 2,888.

VISITORS

The SPEAKER: I advise members that we have a group of year 9 students here from the Banksia Park International High School, who are guests of the member for Newland. Welcome, and we hope you enjoy your time here.

SCHOOL RETENTION RATES

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Education, Minister for Early Childhood Development) (14:02): I seek leave to make a ministerial statement.

Members interjecting:

The SPEAKER: Order! I think you sought leave to make a ministerial statement; is that right, minister?

The Hon. J.W. WEATHERILL: Yes, madam.

Leave granted.

The Hon. J.W. WEATHERILL: A key focus of this state Labor government over the past eight years has been to improve school retention rates. We want every young South Australian to have the best opportunity for a successful future and that starts with staying at school until year 12.

School retention rates plummeted under the previous Liberal government. Eleven years ago, the public school retention rate reached an all-time low of 67.2 per cent, meaning almost a third of students were leaving school early.

When we came to office in 2002, that figure had hardly improved, with just 69.5 per cent of students being retained in public schools from year 8 to year 12. Our first bill passed in this place raised the school leaving age to 16 from the start of the 2003 school year. From 2009 we made it compulsory for all young people to be either learning or earning until the age of 17. We backed those moves with significant reforms to senior secondary education to make high school more relevant to young people's lives.

Monsignor David Cappo and the Social Inclusion Board were charged with investigating the reasons for early school leaving and pioneering new initiatives. That work led to the start of ICANs, a hugely successful program that supports young people to keep up their studies while they deal with the challenges in their lives. I am delighted that the commonwealth has backed this initiative with more than $32 million to roll out ICANs across the state.

These networks will eventually support up to 8,000 young people each year to stay at school and are a constant reminder of the value to this state of Monsignor Cappo's work. We also reviewed and introduced a South Australian Certificate of Education which recognises the value of vocational education and training. The first students will graduate with the new SACE in 2011. Our $29.5 million Trade Schools for the Future initiative is giving more than 2,000 students a head start into a career through a school-based apprenticeship.

We also set about restoring pride in our public schools and made them vibrant places so that young people would have more reason than ever to stay at school, starting with our school pride program; our Education Works stage 1, with its $323 million investment to build six new schools; then Education Works stage 2, with its $82 million funding to remodel over 30 schools; and, partnering with the commonwealth Labor government in its massive BER and DER activities, we are transforming our public schools on a scale that has not been seen for decades. I can announce today that this huge reform and investment, in partnership with the state's secondary schools, has led to a further increase—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —in the apparent school retention rate. Retention figures for 2010 show that 84.2 per cent of students remained in state schools from year 8 to year 12. This is the best result since 1994, the best result in 16 years, and it is also 17 points higher than the lowest point under the Liberal government. This means that in 2010 almost 1,800 more young people were retained in the public school system to year 12 than would have been the case in 2002 if those retention rates had maintained. That is almost 1,800 real young people getting a better opportunity to realise their future.

The evidence is overwhelming that keeping young people engaged in education and training is fundamental to their future. Young people who drop out of school are at an increased risk of being unemployed, homeless, involved in criminal activities and drug use. Of course, these results are testament to the hard work being done by teachers, school leaders and school service officers in helping young people to realise their potential.

Today's figures unequivocally demonstrate the success of this government's approach to school retention. They show that we are committed to not leaving people behind, that we are committed to ensure that school is made relevant for all young people so that they do not lose interest or disengage, and that we are having success. I am determined that we will never again find ourselves in the situation, as we were under the Liberals—

Members interjecting:

The SPEAKER: Order! There is too much noise in the background.

The Hon. J.W. WEATHERILL: We cannot allow ourselves to go back to a time when the Liberals presided over a situation where a third of our young people had disappeared from our schools by the time of year 12.

Members interjecting:

The SPEAKER: Order!

COUNTRY HEALTH SERVICES

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:07): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.D. HILL: The state government's key commitment is for the provision of quality public health services across our state. The Rann Labor government is absolutely committed to ensuring the best public health care for all South Australians regardless of where they live.

An honourable member interjecting:

The SPEAKER: Order! You will listen to the minister in silence.

The Hon. J.D. HILL: Thank you, Madam Speaker. Every year the state government puts more funding into public health care, with a record $4.5 billion for this financial year, including an extra 13 per cent or $84 million for country South Australian public health services.

Members interjecting:

The SPEAKER: Order! I warn the member for MacKillop.

The Hon. J.D. HILL: I will repeat that: in this current financial year we have put in an extra 13 per cent or $84 million for country South Australian public health services. The increase in funding for country South Australia this budget was considerably higher than the statewide increase which stood at 10.5 per cent.

Every year, demand for services in our public health system continues to grow as our population grows. In the current financial climate, where the global financial crisis impacted the state's revenue by some $1.4 billion, the government has taken the prudent steps of implementing some savings measures, as members would know.

Members interjecting:

The SPEAKER: Order, the Leader of the Opposition! I warn the leader.

The Hon. J.D. HILL: This is a serious issue and I am trying to go through—

Members interjecting:

The SPEAKER: Order! Leader of the Opposition, you are on a second warning.

The Hon. J.D. HILL: As health is the single largest component of state spending, it cannot be exempt from the savings measures. Remember that we have to find $1.4 billion as a government.

Members interjecting:

The SPEAKER: Order, member for Schubert!

Mr Venning interjecting:

The SPEAKER: Member for Schubert, I warn you.

The Hon. J.D. HILL: So, health, which takes up over a third of the state budget, cannot be exempt from these savings measures, and it is not unreasonable, it seems to me, that the private sector—which is funded through the health sector—should not be included. That process has led to the withdrawal of some funding to three private community hospitals: at Moonta, Ardrossan and, of course, at Keith. As private—

Members interjecting:

The SPEAKER: Order! Listen to what the minister has to say.

The Hon. J.D. HILL: Thank you, Madam Speaker. Private hospitals receive most of their funding, of course, from private health insurers for the provision of private services to private patients, and no-one should find that unusual. They also receive commonwealth funding for the provision of aged care which, of course, is the commonwealth's responsibility.

The state government has no jurisdictional responsibility for funding aged care, but there are some historic arrangements, such as these subsidies, that do not reflect proper jurisdictional responsibility. For historic reasons, that funding has been given in some cases. The state subsidy, of course, is a small part of the budgets for each of the three hospitals. There have been a lot of exaggerated claims about the possible impact of the budget—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: Thank you, Madam Speaker.

Mr Williams interjecting:

The SPEAKER: Order! I warn the member for MacKillop for the second time.

The Hon. J.D. HILL: Thank you, Madam Speaker. As I was saying, there have been exaggerated claims made about the possible impacts on the budget decisions.

Ms Chapman: You coward!

The Hon. J.D. HILL: Madam Speaker, I would ask—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: Madam Speaker, the member for Bragg reflected on me by calling me a coward, and I ask her to withdraw that. I think that is unparliamentary. If she wants to make claims about me, that is fine, but she should do it in the proper way.

The SPEAKER: Yes. Member for Bragg, I would ask you to withdraw that remark. It was heard very clearly across the floor.

Ms Chapman: I withdraw the remark. Unfortunately, we have to continue to listen to this nonsense.

The Hon. J.D. HILL: There have been a lot of exaggerated claims about the possible impact of the budget decisions, and I would like to take this opportunity to give some details of what it means for each of the hospitals. In relation to Keith, the full subsidy of $627,000 will be made available again this financial year for the provision of a range of services, including emergency care and three public inpatient beds.

Through the 2010-11 state budget process, $300,000 will continue to be made available for the provision of emergency care for the following year and beyond—so, 2011-12 and beyond. This, of course, is in addition to the $70,000 on-call payments made available to the general practitioners in Keith for on-call emergency service.

There are, I am told, approximately 600 patients a year who are either emergency department patients or outpatients of that hospital. Let us assume that they are all emergency patients. That is the equivalent of just under two patients a day. In other words, the government is prepared to put in $370,000—

Mr Pederick interjecting:

The SPEAKER: Order, the member for Hammond!

Members interjecting:

The SPEAKER: Order! The minister will continue.

Mr Pederick interjecting:

The SPEAKER: Order! The member for Hammond, I warn you.

The Hon. J.D. HILL: For the 600 or so patients a year (approximately two a day), the government is prepared to put in $370,000 of subsidies. I will allow members themselves to—

Mr Pengilly: You're a wuss.

The Hon. J.D. HILL: Is that right? I am not sure whether that is unparliamentary, Madam Speaker.

The SPEAKER: Yes, I am trying to work out whether 'wuss' is unparliamentary. I would be very careful if I were you, member for Finniss.

Members interjecting:

The SPEAKER: Order! I know that you have an audience, but I would ask you, please, to restrain yourselves and behave.

The Hon. J.D. HILL: I hope that the audience would appreciate that what I am trying to do is give facts; what the other side is doing is making personal abuse.

Mr Williams interjecting:

The Hon. J.D. HILL: I am meeting with people this afternoon, as you know.

Mr Williams interjecting:

The Hon. J.D. HILL: I wasn't invited.

The SPEAKER: Order! This is a parliament, not the front bar of the local pub. Behave!

Mr Williams: Why is he treating us like idiots, then?

The SPEAKER: Order! Member for MacKillop, behave yourself! If you listen you might understand that he is not treating you like idiots.

The Hon. J.D. HILL: Madam Speaker, as you would be aware, I am trying in a very sensible way to go through the facts. Now—

Mr Pengilly: Why didn't you get out there on the steps of parliament?

The SPEAKER: Member for Finniss, I warn you!

The Hon. J.D. HILL: I wasn't invited.

Members interjecting:

The SPEAKER: Order! This is getting ridiculous. Stop this childish behaviour and listen to the minister, or you will all leave the chamber!

The Hon. J.D. HILL: Now, where was I? I don't want to miss any of the salient features here. The amount of state money withdrawn from Keith is about 13 per cent of the hospital's total budget, not the 60 per cent that is being claimed in the media. According to their own figures, in the last financial year there were 408 occupied bed days for public patients at the Keith Hospital, meaning that on average there was over just one public patient in Keith on any given day.

In addition, in relation to Moonta, the state provides a subsidy currently of about $288,000, which funds eight long-stay aged-care beds—nursing home-style beds. The annual state subsidy to Moonta will be discontinued from 2011-12, so there is transition time, but the 64 aged-care beds that are funded by the commonwealth, of course, will remain funded. Up to $5,000 is provided to Moonta for accident and emergency. So, the main subsidy from the state government to Moonta is for eight aged-care style beds, which are really not the responsibility of the state. The commonwealth's responsibility for 64 is ongoing.

In relation to Ardrossan, Ardrossan Hospital receives $140,000 from the state government to subsidise its accident and emergency service. Country Health SA estimates there would be about two patient presentations on average a day at that emergency department. I have no criticism of what they are doing; however, there is an excellent 24-hour day, seven-day a week emergency service at Maitland, which is just 23 kilometres from Ardrossan.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: It is also important to note that at Moonta and Ardrossan, if a patient does not have private health insurance and needs to be admitted after seeing the emergency department, they would be sent to a public hospital elsewhere, at Wallaroo, Maitland or Adelaide, or pay a premium. So, let's be clear about this: the emergency department cannot admit public patients to the hospitals unless they pay the private premium. The state government's responsibility is for public hospital services to provide acute care when—

Mr Williams interjecting:

The SPEAKER: Order! Member for MacKillop, you are on your third warning. Next time, you are out.

The Hon. J.D. HILL: The state government's responsibility is for public hospital services to provide acute care when patients need it, not to fund aged care and not to fund services which are not used. It is also the state's responsibility to spend money on public country hospitals, hospitals such as Wallaroo, Maitland, Yorketown and Bordertown. For example, the state government recently spent $1 million upgrading Wallaroo Hospital with a new emergency department and birthing facilities.

Mr Pengilly interjecting:

The Hon. J.D. HILL: I just say to the member for Finniss that, if he thinks I'm arrogant, then why does he ring me privately and ask for little private deals about issues in his constituency which he wants fixed? Ask me in here in future!

Members interjecting:

The SPEAKER: Order!

Mr Pengilly interjecting:

The SPEAKER: Member for Finniss, you are on your second warning.

The Hon. J.D. HILL: Thank you, Madam Speaker. The state government's responsibility is for public hospital services to provide acute care when patients need it, not to fund aged care and not to fund services which are not used. We have been putting extra resources in the public hospitals. As I said, we recently spent $1 million upgrading Wallaroo with a new emergency department and birthing facilities.

I do want to acknowledge the good work of the three hospitals in question in their communities and the efforts of the local community to support their hospitals. I acknowledge that, and I also acknowledge that the communities are concerned about their hospitals and, therefore, I want to commit the assistance of my department, and Country Health SA within it, to work with these hospitals and their boards to help them through this transition. Already, Country Health SA has been in—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: Already, Country Health has been in contact with the commonwealth to explore extra funding support from the federal government for these hospitals. My office and my department have been contacted, with representatives from at least two of the hospitals seeking a discussion. I welcome the commitment to an open dialogue with these communities and look forward to discussions that are open and frank, but within the acceptance of the budget parameters.

I have also accepted an invitation from a number of members opposite to meet with them and representatives of the hospitals this afternoon. I will happily do that and go through some of these issues with them then.

PAPERS

The following papers were laid on the table:

By the Minister for Environment and Conservation (Hon. P. Caica)—

WorkCover Ombudsman South Australia, Office of—Annual Report 2009-10

By the Minister for Agriculture, Food and Fisheries (Hon. M.F. O'Brien)—

Veterinary Surgeons Board of South Australia—Annual Report 2009-10

By the Minister for Employment, Training and Further Education (Hon. J.J. Snelling)—

Education Adelaide—Annual Report 2009-10

LEGISLATIVE REVIEW COMMITTEE

Mr SIBBONS (Mitchell) (14:21): I bring up the 11th report of the committee.

Report received and read.

Mr SIBBONS: I bring up the 12th report of the committee.

Report received.

QUESTION TIME

The SPEAKER: A number of people are already on their second or third warning, so I would be very careful today if I were they.

COUNTRY HEALTH SERVICES

Mrs REDMOND (Heysen—Leader of the Opposition) (14:25): My question is to the Minister for Health. Given that for the second day in a row the government has been confronted by large protests in front of Parliament House, what message does the minister want to give in this house to the people who have travelled hundreds of kilometres from country South Australia to voice their anger over the closure of their hospitals? Is the minister at least prepared to reverse his decision?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:26): I thank the leader for her question. I guess there are two aspects to it. I say to the people who have travelled this far that I understand the passion they have for their local community and the concern they might have. That concern has been amped up by people seeking to make political capital out of the decisions we have made.

Members interjecting:

The Hon. J.D. HILL: That is par for the course. That is what the opposition will always do; it will take any decision by government and amp it up and exaggerate the implications of it.

Members interjecting:

The SPEAKER: Order!

Ms Chapman interjecting:

The SPEAKER: Order! I warn the member for Bragg.

The Hon. J.D. HILL: I think I was invited to make this kind of response, Madam Speaker, by the nature of the question, to be perfectly frank. It was a loaded question that contained comment, and if the Leader of the Opposition thinks that I will stand up here and meekly answer yes or no, according to whatever she thinks I should do, she is very much mistaken. I have agreed to meet with representatives of the—

Mrs Redmond interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: I have agreed to meet with representatives of the hospitals, and my office has been in contact with a number of representatives over recent days. I have to say that the conversations they have had over the phone have been quite reasonable. I am sure we can assist those hospitals to develop some transition arrangements so that they can be sustainable. In each case there is, in my view, no reason why there should be any long-term negative impacts on those communities as a result of the budget decisions. However, the point I make is that as a state we have to reduce our expenditure by about $1.4 billion because of the effects of the global financial crisis. If you take money out—

Members interjecting:

The Hon. J.D. HILL: They mock, Madam Speaker, as if the global financial crisis did not happen, as if the revenue base of our state was not cut—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: Yet they would spend all the money without taking any of the responsible actions that are necessary. As a government we—

An honourable member interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: As a responsible government we had to take responsible action. We are taking something like $400 million out of the public health system, and I think it is not unreasonable that a small amount should come out of the subsidies that we put into the private system.

VOLUNTEERS

Mr SIBBONS (Mitchell) (14:28): My question is to the Minister for Volunteers. Can the minister advise the house of ways in which the government is assisting volunteer organisations to access information technology services in the community?

The Hon. G. PORTOLESI (Hartley—Minister for Aboriginal Affairs and Reconciliation, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers) (14:29): I would like to thank the member for Mitchell for this very important question. It goes without saying that volunteers are the lifeblood of our community and make an incredible contribution both socially and economically to the people of South Australia. The government is absolutely committed to supporting them. We work closely with our Volunteers Ministerial Advisory Group who advises us that one of the important issues for volunteer organisations is access to information and communication technology. That is why we have undertaken an ICT access mapping project to identify the availability and locations of free and low-cost access to information and communication technology within local council areas.

By working with local and district councils across the state, the government has identified the range of ICT-related resources that community organisations could use, for example, through local libraries, schools and other community service outlets. This initiative has identified 281 sites covering 68 council areas that offer access to computers, internet and training either for free or at low cost. We have formed a register of these sites, which I am pleased to report is available through the government's Office for Volunteers website.

This is just another example of this government listening and responding to the needs of our volunteers. And the feedback from the community speaks for itself. For instance, Alexandra Lawson from the Red Cross says:

> Wow, this looks fantastic! Thanks so much for all the hard work that has gone into this. I can't wait to share it with my organisation and spread the word. Great to see such a fantastic initiative come to life!

Anne Bachman of—

Mr Marshall interjecting:

The Hon. G. PORTOLESI: Stay calm, grasshopper. Anne Bachman of the VMAG said:

> I have just accessed the site and am blown away. Just fabulous and covers what we were keen to have done. Do all make time to examine the site. Just fabulous and I am most impressed.

I am sure this register will become a most valuable tool for our tireless volunteers.

COMMUNITY HOSPITAL FUNDING

The Hon. I.F. EVANS (Davenport) (14:31): My question is to the Treasurer. Treasurer, in order to provide the $1.2 million per year that would keep open the community hospitals at Moonta, Ardrossan, Keith and Glenelg, why will the government not cut at least one of the ministers from the cabinet of the three recommended by the Sustainable Budget Commission, thus saving about $2.4 million per year?

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Federal/State Relations, Minister for Defence Industries) (14:32): One, two, three, four, five, six, seven, eight, nine, 10, then you have all of them in the upper house.

Members interjecting:

The SPEAKER: Order! I cannot hear the Treasurer.

The Hon. K.O. FOLEY: That is a question that could equally be applied to the members opposite.

The Hon. I.F. Evans interjecting:

The SPEAKER: Order! The member for Davenport, I warn you.

YEAR 12 EXAMS

Mrs VLAHOS (Taylor) (14:32): My question is to the Minister for Education. Can the minister advise the house on preparations for end of year exams that students in their final year of school are about to take?

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Education, Minister for Early Childhood Development) (14:33): I thank the honourable member for her question and acknowledge her interest in the prospects of our young South Australians. There are a number of important transition points in the school years and perhaps none receives more public attention than the final transition from school to post-school, world of work and community life. As the year 12 swot vac draws to a close, more than 220 schools across the state are beginning to prepare for holding final exams, starting with English studies next Monday and finishing with dance studies on 19 November.

Perhaps this annual exam period always captures our attention because we recognise that another generation is about to emerge as fully-fledged adults or perhaps we have children ourselves who are preparing for exams and we know how anxious this time is for them. Whatever it is about this time that gives us cause to reflect upon it, without doubt, it is a significant period in the lives of 13,000 young people in this state who will sit their final exams this year, because it marks the culmination of more than a decade of study and preparation for adult life.

It will be a time of anger, excitement and anticipation and, at times, a confusing blend of all three. I am assured by Dr Paul Kilvert, the Chief Executive of the SACE Board, a former principal and widely respected educator, that a mix of these emotions is entirely normal. I encourage all year 12 students to heed Dr Kilvert's advice that, whatever confronts them in the weeks ahead, they keep things in perspective, draw strength from their exam preparations and seize the opportunity to demonstrate their skills that they have gained through the years—and I would add an additional one: turn up at the right time, as I found out to my horror at one of my exams.

The other one is that, to help students during this exam period, the SACE Board has a range of useful exam information including full examination timetable and study tips available on the SACE website at www.sace.sa.edu.au, and I recommend that students take advantage of these important resources.

In embarking on their SACE, students will be developing a range of skills they can use through their life in future study and work and, for this, we need to thank all of their teachers. I know that for the year 12 coordinators and principals who have provided the instruction and inspiration for their students it is a very anxious time for them as they have chartered their young people through what is a difficult year.

I have had the great pleasure of attending two year 12 functions at either end of the metropolitan area, one at Glenunga and the other at Findon, just last night. What I have seen is a fantastic group of teachers who are all going through the same process as their students, very much anticipating and concerned for their wellbeing.

We know that many more young people are going through this experience. We have heard today that we have the highest level of school retention in something like 16 years at 84.2 per cent. This reflects the dedicated effort by the government to ensure that high school is more relevant to more students and, as members would be aware, not only are we farewelling students from our schools but also the current version of SACE, with year 12 students next year being the first to graduate from the new SACE.

These new reforms have been welcomed by education experts and they provide a new opportunity for our young people as they finish their year 12. So in many ways this exam period marks a new beginning but none more important than the fresh new chapter it will open in the lives of our young South Australians. On behalf of the government I congratulate all of our year 12 students on their hard work so far, and I wish them all the best for their exams.

KEITH AND DISTRICT HOSPITAL

Dr McFETRIDGE (Morphett) (14:37): My question is to the Minister for Health. The Keith Hospital board has said that, if the government proceeds with their budget cuts, the Keith Hospital will close by 30 June 2011. Is the minister saying the board is wrong or is this just another example of what the Treasurer said yesterday about the ambulance officers' pay errors—and I am quoting the Treasurer—'shit happens'?

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: Point of order, Madam Speaker. If the member wishes to explain the question, he has to seek leave of the house and he may not contain comment, particularly inflammatory comment. I do point out that they cannot then ask the minister not to debate a question when it is couched like that. They have no regard for standing orders.

The SPEAKER: Yes, I uphold that. There was a considerable amount of debate in that, member for Morphett, and you should have known better. However, we will ask the Minister for Health to respond.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:38): I have had a couple of meetings with representatives of the Keith Hospital board over the years. The most recent was the middle of this year which the member for MacKillop organised and, at that meeting, the representatives of the board told me they would have to close unless we gave them additional money to the money that we are already giving them. So to make the claim that the announcement we made the other day would be the cause of the hospital closing, I think is a false one.

Ms Chapman interjecting:

The SPEAKER: Order, member for Bragg!

The Hon. J.D. HILL: The point I was making was that I met representatives of the Keith board some months ago. They told me at the time that, unless the government was able to give them additional money to the money which we were already then giving them (the $600,000, or whatever it is, a year), then they would have to close, because they made the point to me that their finances were unsustainable, and that was the result of a range of factors which I will not necessarily going to unless I am asked, but that is what they told me.

So you can't say that it is going to close because of an announcement I made during the budget, because they already told me that that was going to be the consequence of the circumstances in which they were, so I have said to them, 'We are happy to work through with you to try to help you make your system sustainable.' We are offering to pay them $300,000 a year to look after about 600 emergency patients a year—that is about two patients a day, that works out to about $500 a patient, plus $70,000 we give to the GP to be on-call to provide that service—so we think that is quite a generous amount to look after emergency patients.

ADELAIDE GAOL

Ms THOMPSON (Reynell) (14:39): My question is to the Minister for Environment and Conservation.

Members interjecting:

The SPEAKER: Order!

Ms THOMPSON: What progress is being made with works to preserve one of the state's oldest buildings, which I understand is the Adelaide Gaol?

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (14:40): I thank the honourable member for her question.

The Hon. I.F. Evans: This is not the press release, is it?

The Hon. P. CAICA: Well, I am glad you've read it.

The SPEAKER: No debate across the chamber; minister, answer the question.

The Hon. P. CAICA: I will; I apologise.

The SPEAKER: Can you speak into your microphone; it is very difficult to hear you.

The Hon. P. CAICA: Yes, Madam Speaker. The Adelaide Gaol dates from 1841 and along with Government House is one of the—

Ms Chapman interjecting:

The SPEAKER: Order! I warn the member for Bragg for the second time.

The Hon. P. CAICA: Is it only the second time? I find that surprising. Along with Government House, Adelaide Gaol is one of the oldest public buildings in Adelaide. The gaol is an important part of early South Australian history providing a unique glimpse of 19th century colonial life and architecture. Today I am pleased to inform members that the government has provided $400,000 to undertake priority restoration works at the gaol and help preserve the fabric of this iconic heritage complex.

Conservation works have been carried out over the past 12 months with the first significant round of work completed in January this year. This work enabled the western wall of the semi-protected inmates cellblock, a two-storey stone building with distinctive symmetrical arches, to be restored. I had a look at it this morning and it looks fantastic. It also included repointing the stone piers and replacing the circular louvred air vents, a distinctive characteristic of that particular building.

The original women's cell, built in 1848, underwent extensive stabilisation work which included damp coursing, repointing of the brickwork and limestone wall, doorway reconstruction, window and external bar grille restoration, painting of the external surfaces and the removal of deteriorated fixtures. In addition, a cell in the female prisoners' yard was restored.

The Hon. I.F. Evans interjecting:

The Hon. P. CAICA: No it's not. It's not embarrassing at all. You should go down there. What I found very interesting—

Members interjecting:

The SPEAKER: Order! Minister, please don't respond to interjections across the floor.

The Hon. P. CAICA: I won't, Madam Speaker. A cell in the female prisoners' yard was restored, as I mentioned before I was rudely interrupted, to provide an example of how the building looked during colonial times. The red bricks in the arch support were replaced and repointed, stone mortar was replaced in the main wall and the cell door was restored and repainted in the heritage colour scheme of the period.

I am very pleased to report that the latest round of conservation works has now been completed. This work was carried out on several buildings including further restoration of stonework on the semi-protected inmates cellblock, stone coping and pointing on the laneway building and replacing shoulder stones of the 1879 new building. I am also advised that further restoration work on the 1841 administration building and the gaol's distinctive towers will commence shortly.

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: They are testing my patience if no-one else's, Madam Speaker.

The Hon. J.M. Rankine: They wanted to knock down Old Parliament House, too.

The Hon. P. CAICA: That's right. Did they want to knock it down?

The SPEAKER: Minister, get on with your answer.

The Hon. P. CAICA: Madam Speaker, I am attempting to do so.

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: These conservation works have been supported by DENR and DTEI with cooperation and assistance from the Adelaide Gaol Preservation Society. I just want to touch on the preservation society for a very short time. It is made up entirely of volunteers—and, of course, as highlighted earlier, we very much value our volunteers across the state.

The society assists with guided night tours, runs a souvenir shop and provides a valuable tourist and educational service for visitors. I am told that the society also contributed some of its own funds towards the conservation work. I recently had the pleasure of presenting a Heritage Heroes Award to members of the Adelaide Gaol Preservation Society recognising their significant contribution in helping make the Adelaide Gaol accessible to the people of South Australia.

Some of the members of this group have been involved with the society for 20 years, which demonstrates their outstanding commitment. I encourage all members to take advantage of the opportunity to acquaint themselves more closely with this fascinating site. It is visited by many local, interstate and international tourists, and it is also a popular educational resource for schools.

COUNTRY HEALTH SERVICES

Dr McFETRIDGE (Morphett) (14:45): My question is, again, directed to the Minister for Health. Was the Premier correct when he said on radio on 17 September, 'This budget rules out hospital closures'? Can the minister guarantee that the government's funding cuts will not close any hospitals? The opposition has been informed that the budget cuts of $370,000 per year will close the Keith Hospital, the budget cuts of $300,000 per year will close the Moonta Hospital and the budget cuts of $140,000 per year will close the Ardrossan Hospital.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:45): It is deeply unfortunate that the opposition is using these kinds of scare tactics on communities which are obviously feeling somewhat vulnerable. I went through (I thought in some detail) the services that we were currently funding in each of those hospitals and the impact that it would have on the hospitals if that funding was removed.

In the case of Moonta, we are funding eight aged-care beds, or the equivalent aged-care beds, nursing home beds. If that funding ceases, it will not affect the running of the rest of the hospital because there are 64 aged-care beds funded by the commonwealth government. If you cannot make 64 aged-care beds funded by the commonwealth work as a business, there is something seriously wrong. This is scaremongering by the opposition but—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —I am not surprised that the opposition would choose to pursue the issue of private hospitals because we know its track record in relation to public hospitals. When they were in government they cut public health in this state. They have a record in government of cutting—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —funding to public hospitals, particularly in the country. They closed many beds in country hospitals.

Mr Pederick interjecting:

The SPEAKER: Order, member for Hammond.

The Hon. J.D. HILL: They closed many country beds in country hospitals. They reduced services in country hospitals and, of course, they privatised. They privatised Modbury, and they wanted to privatise The Queen Elizabeth Hospital. They are interested in private health; they are not interested in public health. That's our priority—public health. No public hospital will close as a result of any of the decisions we have made, nor should any other private hospital. However, it is up to the boards to manage those hospitals according to the budgets that they have, and we are happy to help them do that.

Members interjecting:

The SPEAKER: Order!

OFFICE OF CROWN ADVOCATE

Mrs GERAGHTY (Torrens) (14:47): My question is to the Attorney-General. Can he inform the house about the recent appointment of the state's first Crown Advocate?

The Hon. J.R. RAU (Enfield—Attorney-General, Minister for Justice, Minister for Tourism) (14:48): Members may be interested to know that the Office of Crown Advocate has recently been appointed in the Crown Solicitor's Office, and an appointment to that position has now been made. Before I explain who the appointment is, I think it might be of interest for people to know—

An honourable member interjecting:

The Hon. J.R. RAU: Yes, I want to leave that until last.

An honourable member: It's not Atko, is it?

The Hon. J.R. RAU: It is not the member for Croydon, no. This appointment has followed a merit-based selection process in which the chief executive of my department and the Crown Solicitor were involved. The person appointed is Mr Michael Evans QC. His position will commence as of 15 November 2010.

His role will be in specialised in-house counsel work for the Crown, and it will involve, in some respects, taking over a number of proceedings which would otherwise have been out there in the private domain, some of which he has worked on in the past for the state and others which are unrelated to matters which he has worked on earlier. He will also provide other senior counsel assistance to the Crown in major civil litigation around the state. He will also provide high-level advice within the department and leadership for a team of lawyers within the Crown Solicitor's Office.

This position will complement beautifully the positions which already exist of the Solicitor-General and the Crown Solicitor. I have to say that, as Attorney, I am delighted to have Mr Evans make himself available to assist the Crown in this way. and it is part and parcel of an effort by me and those within the Crown to see that the Crown is properly regarded not only by people in the community generally but by the legal profession—and, indeed, government—as being a place of excellence where people of talent in the legal profession may aspire to go to work and to be proud to have that as part of their CV. Mr Evans will contribute significantly to that.

For those members who do not know, Mr Evans has been a legal practitioner since 1981, he has practised at the independent bar since 1991 and he was appointed Queen's Counsel in 2008. As I said, he has often appeared for the Crown. Can I say, again, on behalf of the department, that I am delighted to have Mr Evans make himself available to do this important work. I think that all of us in this place and, indeed, those associated with the government, should be very pleased to have a person of his calibre on board.

KEITH AND DISTRICT HOSPITAL

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (14:51): My question is to the Minister for Health. What did the Regional Impact Statement say regarding the case for the budget cut to the Keith Hospital, and will the government release that statement? One of the largest employers in the district, the Keith Hospital, services a country community spread over an area of 10,000 square kilometres.

Between 2004 and 2009, 46 per cent of the fatal crashes and 30 per cent of the serious injury crashes in the South-East occurred on the Dukes and Riddoch highways. The closure of the Keith Hospital will leave a total of 420 kilometres of the notoriously dangerous Dukes and Riddoch highways with no ready access to accident and emergency departments.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:52): Well, exactly; that is why we are funding the emergency department at that hospital, and we have said—

Mr Williams: There will be no hospital.

The SPEAKER: Order!

The Hon. J.D. HILL: We have said to the hospital, as the honourable member knows—you brought them to see me and they told me that they were going to close if we did not give them additional money. So, they cannot blame the suggestion of a close on a decision in the budget when they were making that threat prior to the budget coming down.

The honourable member just cannot draw the conclusion that the budget decision will cause that to happen. They have a business model which is not sustainable. You understand that—

Members interjecting:

The Hon. J.D. HILL: The budget will not cause that hospital to close. Any decision about the hospital's future, of course, is one for the board, but we believe that it is important to help the

hospital fund emergency services. As I say, about 600 patients a year are either outpatient or emergency department patients of that hospital, slightly—

Mr WILLIAMS: Point of order, Madam Speaker.

The SPEAKER: Order! There is a point of order. The Deputy Leader of the Opposition.

Mr WILLIAMS: The question was specifically about the Regional Impact Statement, and will the minister table that?

The SPEAKER: Minister, I think that you can answer his question as you choose. It has been asked about—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: Madam Speaker, I cannot obviously tell the house anything that was in cabinet documents. The question the honourable member asked me was based on the assumption that the decision made in the budget would cause the hospital to close, and what was in the Regional Impact Statement that reflected on that. Well, of course, I do not believe that the budget will cause that event to occur.

I am saying that we are prepared to support the emergency department because we recognise that there is a need for emergency department services. But only about two patients a day are brought into that emergency hospital, and we are prepared to put in, I think, $370,000 a year to support those two patients a day, which I would have thought is a reasonable—

Mrs Redmond interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: If the leader wishes to ask subsequent questions, please, she should feel free to do it, and—

Mr Williams: That was the question.

The Hon. J.D. HILL: The question was: will I reveal cabinet documentation to the house, and the answer is no.

OBESITY PREVENTION AND LIFESTYLE

Mr ODENWALDER (Little Para) (14:55): My question is for the Minister for Health. How have South Australia's measures to combat obesity been nationally recognised?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:55): I notice there is some very nervous laughter from some members of this house, and I will not comment.

Members interjecting:

The SPEAKER: Order! There will be no debate across the floor. The minister will not answer interjections from across the floor. It is getting very close for a couple of people.

The Hon. J.D. HILL: Madam Speaker, I will not address interjections, but I hope I can get through my answer without suffering any further. For the past two years, the Australian and New Zealand Obesity Society has announced which states are Australia's best and worst performing in relation to obesity prevention. The winner receives the Gold Medal Award and the loser receives the Couch Potato Award.

I am very pleased to announce that this year South Australia was given a gold medal as the most outstanding state, and we shared the prize with Western Australia. South Australia won this year after ranking fourth in 2008 and second in 2009. This year we toppled Queensland, which won in previous two years. Dr Anna Peeters, a public health researcher from Monash University and spokesperson for the Australian and New Zealand Obesity Society said:

> South Australia's leadership is demonstrated by a strategic and integrated approach across government, from social marketing, through capacity building, to health services and urban design.

The awards are given on the basis of rating and comparing progress across a range of obesity prevention priorities, including enabling cheaper and easier access to healthy food, reducing the

marketing and promotion of unhealthy foods, and creating opportunities for exercise through better urban design and access to facilities.

The ratings are determined by people from outside of government, such as academics and non-government organisations such as the Cancer Council. A number of South Australian initiatives were commended, including the Eat Well Be Active Healthy Weight Strategy and the expansion of the flagship Obesity Prevention and Lifestyle (OPAL) program.

Launched in March 2009, OPAL is the single biggest health promotion initiative in South Australia. The aim of OPAL is to change the cultural norms of the community by bringing together schools, health services, businesses, community organisations, retailers and local government to work together to produce community-wide solutions to promote healthy eating and physical activity.

Practical action on the ground revolves around particular themes. Theme 1 was 'Water. The original cool drink' based on the advice that soft drink consumption poses a serious threat to the weight and, of course, oral health of children. Steps taken have included new water fountains in public places, water tastings with children and successful initiatives to reduce the price of water, resulting in increased sales at sporting organisations. This has been well received by the communities.

The current theme is 'Give the screen a rest. Active play is best!' in recognition of the risks of too much sedentary time. The themes are informed by the advice of the OPAL Scientific Committee, chaired by internationally recognised Professor Boyd Swinburn of Deakin University. The committee includes many of South Australia's best academics in this field and they are committed to ensuring the effective implementation and evaluation of OPAL.

There is also an OPAL Strategic Advisory Committee, which involves a range of key stakeholders who can provide a broader range of advice and act as ambassadors and spokespersons for OPAL. Representatives of the Heart Foundation, the Cancer Council, school principals, general practice, school parents and others are also involved. Rachael Sporn was invited to provide leadership to OPAL communities. This has involved her visiting different OPAL events, and she has obviously been very popular with the kids.

The initial six councils were Port Augusta, Mount Gambier, Playford, Salisbury, Onkaparinga and Marion. These are all well underway, having commenced in September 2009. Another four councils commenced OPAL sites in September 2010: Charles Sturt, Port Adelaide Enfield, Copper Coast and Whyalla. Another five are expected to come on board in the middle of next year and five more the year after.

Preventing obesity remains a challenge right around the world. The South Australian government is supporting a comprehensive range of policies and programs with OPAL of particular interest to those interested in improving the health and well-being of children and their families.

KEITH AND DISTRICT HOSPITAL

Dr McFETRIDGE (Morphett) (14:49): My question again is to the Minister for Health. What is the government's plan for the 18 elderly residents whose home is the Keith Hospital, who will lose their home when the hospital closes due to the government's budget cuts?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:59): Madam Speaker, of course, that is a hypothetical question based on a claim—

Members interjecting:

The Hon. J.D. HILL: The responsibility for the Keith Hospital is in the hands of the Keith Hospital board, not the state government. We as a government—

Dr McFetridge interjecting:

The SPEAKER: Order, the member for Morphett!

The Hon. J.D. HILL: You are talking through your hat, my friend.

Members interjecting:

The Hon. J.D. HILL: It's true; the buck stops with me for public hospitals.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: The buck stops with me for public hospitals. I am not responsible for the Keith Hospital. In fact—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —the Keith Hospital board is responsible for any decision it made in relation to Keith Hospital. The majority of its funding comes from the commonwealth and from private sources. The state government's funding has been reduced, but it is still a substantial contribution to the emergency department. If the Keith Hospital seeks support and help from us to work through the transition from—

Members interjecting:

The Hon. J.D. HILL: It is very difficult, Madam Speaker, to get a thought out because of the constant interjections from the other side. They ask questions, then refuse to listen by making commentary on the side which is based on a false and malicious fear campaign. The state government's—

Mrs Redmond interjecting:

The SPEAKER: Order! The Leader of the Opposition will be quiet; you are on your third warning.

The Hon. J.D. HILL: The state government is prepared—as I have said publicly and privately—to work with the Keith Hospital board if they choose to open their books to us to help them through their transition into the new arrangements. The decisions they make are their decisions. We are not responsible for the arrangements they have put in place or the decisions they have made. We are not responsible for the fact that their budget has been—

Mr Pederick: It's two hours from Tailem Bend to Bordertown.

The SPEAKER: Member for Hammond!

The Hon. J.D. HILL: The government is not responsible for the decision-making processes of the Keith Hospital, for the increase in payments that they have made—

Mr Venning: Who is?

The Hon. J.D. HILL: Who is? The Keith Hospital management board is responsible, member for Schubert. That is who is responsible. It is a private hospital; it is not a public hospital.

Mr Venning: So, you aren't? You aren't at all? You walk away, not responsible—not, not, not.

The SPEAKER: Order, member for Schubert! Minister, I presume you have completed your answer. The member for Florey.

DISABILITY SERVICES

Ms BEDFORD (Florey) (15:02): My question is to the Minister for Disability. How is the Rann government working to improve protection for vulnerable South Australians with a disability?

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Housing, Minister for Ageing, Minister for Disability) (15:02): I thank the member for Florey for her question and commend her for the many years of service she has devoted to advocating on behalf of South Australians with a disability. Like all members, I know she welcomed the government's $70.9 million injection into disability services in last month's budget.

With work on the National Disability Insurance Scheme and with our Social Inclusion Disability Blueprint in motion, it is great that real action is underway to improve conditions for the disability community. At the same time as these groundbreaking projects continue, the Minister's Disability Advisory Council (MDAC) has been working tirelessly on its latest and arguably its most important piece of work to date.

There has been increasing recognition nationally and internationally that some people with disabilities are vulnerable to abuse or harm because of their reduced capacity to protect

themselves from others, report abuse or remove themselves from undesirable, inappropriate or harmful care.

Following discussions in May, I asked MDAC to undertake work that will examine world's best practice to properly protect vulnerable South Australians with a disability. Membership of the council consists of nine outstanding South Australians who all have personal experience of disability. We are also very fortunate to share in the expertise of Dr Lorna Hallahan, who chairs the council. There would not be a member in this chamber, I am sure, who would have anything but positive words to say about Dr Hallahan's knowledge and commitment to the South Australian disability community.

These nine members provide me with independent advice on issues affecting people with disabilities, with a focus on ensuring that the diversity and needs within the South Australian disability community are brought to my attention. It is a reality that some people with a disability are particularly vulnerable to abuse or harm, whether they are living at home, in a community setting or in one of our larger facilities. Unfortunately, the nature of their disability and their reliance on others for their care can leave them open to harm.

The government already has a range of measures in place aimed at providing protection. However, we believe this is an important matter where we should explore all options to provide the best protection we can. I note that the Hon. Kelly Vincent is advocating for the introduction of mandatory reporting. At this stage I would not rule this in or out, as I feel it is important that we thoroughly consider all possibilities.

Ms Chapman interjecting:

The Hon. J.M. RANKINE: The member for Bragg continues to interject. For her information, in particular, the Julia Farr Association recently concluded, on this matter, that:

...while a mandatory reporting framework may be of some assistance to vulnerable people in South Australia, it will not by itself be enough to advance the rights and safeguards of vulnerable people.

Ms Chapman interjecting:

The Hon. J.M. RANKINE: I also draw members' attention to the fact that I understand that the member for Bragg lodged a question on notice today about the number of strikes issued to Housing Trust tenants who have been disruptive. It would be interesting to know how many warnings the member for Bragg has had, and what the outcome of that is—

Members interjecting:

The SPEAKER: Order! The minister will get back to the question.

The Hon. J.M. RANKINE: —and whether she gets evicted!

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: We'll count up how many strikes she has had.

Members interjecting:

The SPEAKER: Order! I warn the member for Hammond for the second time.

Ms Chapman interjecting:

The SPEAKER: Order! Member for Bragg, you are on your third warning.

The Hon. J.M. RANKINE: Three strikes! Three strikes and you are out in the Housing Trust.

The SPEAKER: The minister will return to the question and stop responding to the other side.

The Hon. J.M. RANKINE: Thank you, Madam Speaker. It is three strikes and you are out in the Housing Trust; we take you to the Residential Tenancies Tribunal. We agree with the Julia Farr Association, which is why we want MDAC to explore all avenues relating to this important matter. This will ultimately deliver a framework that serves the best interests of vulnerable South Australians with a disability.

It is important that this work is both considered and undertaken in such a way as not to cause unnecessary alarm or concern for those people already dealing with difficult situations. I am told that this work will be completed in December. When finished I am hopeful that we can provide world's best practice for the protection of vulnerable South Australians with a disability.

COMMUNITY HOSPITAL FUNDING

The Hon. R.B. SUCH (Fisher) (15:07): I am still in here. My question is to the Minister for Health. Is the government creating a double standard by funding the community-based McLaren Vale hospital yet refusing to fund similar hospitals—such as Keith, Ardrossan, Moonta and Glenelg—which are in non-Labor seats?

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:07): I thank the member for Fisher for the question, a question that the opposition was too gutless to ask. I am happy for the question.

Members interjecting:

The Hon. J.D. HILL: Do you want to hear the answer or do you just want to interrupt?

Mr Pederick: Not really.

The Hon. J.D. HILL: That is the point, Madam Speaker—

Mr Williams interjecting:

The Hon. J.D. HILL: Tell us some more, Mitch.

Members interjecting:

The Hon. J.D. HILL: Maybe if you stopped talking I would give you the answer. The issue in relation to the McLaren Vale hospital is substantially different. We use the McLaren Vale hospital to supply extra capacity to take on patients who can no longer fit into Flinders Medical Centre. Flinders Medical Centre is a city hospital which—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: Flinders Medical Centre is at over capacity much of the time, and some patients from there, who no longer need to be in an acute hospital, can be transferred to that hospital. That is the reason.

Members interjecting:

The Hon. J.D. HILL: It is not what they have been doing at Moonta. Moonta has aged-care accommodation, which is not our responsibility. These are for patients who are recovering from acute surgical procedures. That is what we use that hospital for, and it is perfectly justifiable based on a supply and demand situation. We still have a similar arrangement in relation to Glenelg hospital, but we are building extra capacity for rehabilitation at the Repat hospital, which will take over that supply, so we will not need that particular service. I would just say to the house that, if in future the government for various management of supply and demand reasons needs to buy capacity in a private hospital anywhere in the state, I reserve the right to do that if we need to do it. That is different from providing a subsidy to a hospital for services which we do not need.

HOSPITALS, FUNDING

Mr GRIFFITHS (Goyder) (15:10): My question is to the Minister for Health. What does the minister say to Mr Ross Lennox, a constituent of mine who credits the Ardrossan Community Hospital for saving his life following a cardiac arrest, now that budget cuts will force the closure of this hospital?

The Hon. P.F. CONLON: Point of order. Again I draw attention—

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: I'm sorry, I'm being lectured by the member for Norwood on points of order. He has been here about five minutes! The member's question contained clear comment and, as the minister has answered all day, inaccurate comment. If he does not want the minister to debate, he cannot put comment in his question. Standing order 97, for the Leader of the Opposition who also does not know how to do her job.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: I can explain to the Leader of the Opposition, the comment was 'after forcing the closure of the hospital'. The minister has been on his feet all day explaining how that is not the case, and they engage in comment and debate contrary to standing order 97.

The SPEAKER: Order! You are now debating the question also, minister. That is very close to the bone. I will ask the minister to answer the question, but it was very clearly very close to debate. If I hear anymore like that, that will be it. Minister, I think you only need a short answer for this.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:11): Actually, I don't, Madam Speaker, I'm sorry. I was asked: what do I say to the gentleman who was looked after by the hospital. I do not know anything about that gentleman. I have no idea what the circumstances are—when he was looked after, how he was admitted to the hospital, any of the detail; whether or not there were other services available nearby that could have provided help for him. All of those elements were left out of the question. The conclusion in the question from the member was a statement of fact that the hospital was going to close, as I took it. That is what he said.

Let me read to the member what Belinda Jarvis, the Executive Officer of the Ardrossan Community Hospital told ABC radio. She said:

> It will survive past July next year but looking on into the future within a few years of that, perhaps not. It's…difficult to determine, but for us it's a large part of our budget.

The executive officer of the hospital has not closed the hospital, but the local member who should be standing up for this community has closed it. The executive officer wants to keep it open but the—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: The local member is talking down that hospital for base political reasons.

JULIA FARR ASSOCIATION

Ms CHAPMAN (Bragg) (15:13): My question is to the Treasurer. Have you finished reading the paper?

The SPEAKER: Order!

Ms CHAPMAN: How does the Treasurer explain the difference between a chief executive officer who moved $5.9 million to the Crown Solicitor's Trust Account to avoid the Treasurer's carryover policy and the former minister for disability who paid $5.1 million to the Julia Farr Association to avoid the Treasurer's carryover policy?

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Federal/State Relations, Minister for Defence Industries) (15:14): There is no comparison between the two issues, and I will say why. The use of the Crown Solicitor's Trust Account by the former CEO Kate Lennon—who lost her case, incidentally, in the Supreme Court of South Australia where she was claiming unfair dismissal. I think the government witnesses, a number of ministers, were found by the judge to have been good, credible, believable witnesses, and I think there was some question mark over the quality of the presentation of those acting or giving evidence from the other side. The—

Mrs Redmond: What's the difference?

The Hon. K.O. FOLEY: I am going to explain that to you, and I have no intention of talking over the top of screaming people so, if you want the answer, let's keep it quiet, please.

Members interjecting:

The Hon. K.O. FOLEY: Well, it's as simple as that. I am just not going to be bothered with your nonsense over there today. The member for Norwood should get some anger management lessons. I have to tell you—

Members interjecting:

The SPEAKER: Order! Treasurer, we will wait until there is order before you respond to this question. They are wasting their question time.

The Hon. K.O. FOLEY: The member for Adelaide, I think, must end question time with an enormous migraine headache and somewhat stressed from the constant aggression.

Mr Marshall: Are you trying to avoid answering the question?

The SPEAKER: Order! I warn the member for Norwood.

The Hon. K.O. FOLEY: Do you know what we used to do to kids like that at school? We all had one of these sorts of guys at school, didn't we, guys? The Crown Solicitor's Trust Account was a device used by the former CEO of that department to squirrel away money that was not spent to hide it from government in the carryover process and to draw that money out and to spend it on pet projects that she had no authority or appropriation for.

The former minister and attorney-general, and myself, for many years have carried the burden of abuse and criticism from members opposite about the Kate Lennon affair, and each and every witness from the government was found to be truthful and incredibly believable. But what occurred in the Lennon matter was a deliberate act of deceit and a deliberate move to have a slush fund from which that money could be spent on whatever the CEO of the day so proclaimed. In the case in question here, there is a number of—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: How come you go quiet when she tells you to be quiet but not when I say it?

Members interjecting:

The SPEAKER: Order! On with the question.

The Hon. K.O. FOLEY: Breaking news, I have to say: the Leader of the Opposition is more terrified of the member for Bragg than she is of me!

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Quiet!

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: If Isobel won't, I am not going to—

The SPEAKER: The member for Croydon.

INDIGENOUS TOURISM TRAINING

The Hon. M.J. ATKINSON (Croydon) (15:18): Can the Minister for Employment, Training and Further Education—

Members interjecting:

The SPEAKER: Order! I can't hear the member.

The Hon. M.J. ATKINSON: —tell the house what opportunities could arise for Indigenous South Australians from the purchase of the Ayers Rock Resort at Yulara by a consortium including the Indigenous Land Corporation?

The Hon. J.J. SNELLING (Playford—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Road Safety, Minister for Veterans' Affairs) (15:19): Thank you very much—

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: —Madam Speaker. Last week I visited the Anangu—

The Hon. I.F. Evans interjecting:

The SPEAKER: The member for Davenport, you are on your second warning.

The Hon. J.J. SNELLING: —Pitjantjatjara Yankunytjatjara lands to look at employment and training for Indigenous Australians in that part of the state. I am pleased to say that great effort has been put into new initiatives in the APY lands to increase opportunities for Aboriginal communities there. While I was in the lands, I was also encouraged to hear that a consortium involving the Indigenous Land Corporation announced plans to acquire the Ayers Rock Resort and to establish a national Indigenous tourism training academy at Yulara.

Over the next five years they hope to train 500 Indigenous workers in hospitality and tourism with the intention to gain employment at the Ayers Rock Resort and in other positions in the hospitality and tourism industry. I am encouraged by this initiative and intend to talk to the Indigenous Land Corporation to explore what support TAFE can provide and potentially engage students from the APY lands.

One of the programs that I was most pleased to see was the OZ Minerals award-winning pre-employment program which gives students from the APY lands the chance to gain nationally-accredited qualifications in mining. Students have been trained across five communities in the lands using community-based lecturers and e-learning, and successful graduates have been offered employment with OZ Minerals to work at its Prominent Hill mine.

While I was in the lands there was a community graduation for students completing their courses. I attended one of these at Fregon and was pleased to celebrate the students' success and to acknowledge the wonderful community support from their family and their friends. There will be another graduation ceremony at Prominent Hill tomorrow to coincide with the students' first week of work.

It is a great example of cooperation between TAFE SA, industry and the community that leads to real employment outcomes across regional and remote South Australia. Programs like this are only successful with the great dedication of industry, and I applaud OZ Minerals for its continuing contribution in training and employing local indigenous workers. The commonwealth and state governments are also looking to enhance training on the lands and $449,000 has recently been promised for a new training centre at Indulkana and another $550,000 for a similar centre at Fregon to support the training needs of local communities.

The state government is working with the commonwealth government to try to secure funding for a new trade training centre at Umuwa for students from across the lands to undertake industry specific training. Much needs to be done to bridge the gap between indigenous and non-indigenous people in the lands but I am pleased to say that with continued goodwill, the local community working with industry and the state and commonwealth governments, progress is being made.

JULIA FARR ASSOCIATION

Ms CHAPMAN (Bragg) (15:22): My question is for the Minister for Disability. How does the minister explain the fact that more than a year after $2.1 million of disability equipment funding was paid to the Julia Farr Association, at variance with the cabinet funding approvals and to avoid the Treasurer's carryover policy, that—

The Hon. P.F. CONLON: Point of order, Madam Speaker.

The SPEAKER: The Minister for Transport.

The Hon. P.F. CONLON: Just to explain to the opposition, to assert that it is at variance with the cabinet and in breach—

Ms Chapman interjecting:

The Hon. P.F. CONLON: Oh, please, just stop for a moment—and in breach of the guidelines is pure comment and debate—

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: —contrary to standing order 97. Really, we could have remedial lessons for these people if they wish, but don't waste question time.

Members interjecting:

The SPEAKER: Order! I can't hear a word you're saying; there is too much noise.

Ms CHAPMAN: I am happy to put those portions in quotes if you would like me to. I will just repeat the question.

The SPEAKER: Repeat the question; let me hear it again.

Ms CHAPMAN: How does the minister explain that, more than a year after $2.1 million of disability equipment funding was paid to the Julia Farr Association at variance with 'cabinet funding approvals' and to 'avoid the Treasurer's carryover policy', $1.8 million was still in the accounts of Julia Farr?

The SPEAKER: Before you go on, member for Bragg, who are you actually quoting? What are you quoting?

Ms CHAPMAN: I am happy to explain that. In the 2009—

The Hon. P.F. CONLON: She needs to seek leave. Members may not explain questions without seeking the leave of the house.

Ms CHAPMAN: Excuse me, Madam Speaker, I am responding to your invitation to give that explanation.

The SPEAKER: You got to where you were quoting; where are you now?

Ms CHAPMAN: I am speaking on your leave to explain the question. In June 2008, $2.15 million in disability equipment funding was paid to the JFA, which the Auditor-General has identified was 'outside cabinet funding approvals'. The 2009 annual report of the Julia Farr Association shows an amount of $1.82 million sitting in its accounts, and its explanatory note says, 'There is an amount of $1.82 million held in trust for the Department for Families and Communities.' It goes on to say, 'This amount is to be spent under the direction of the minister in future years.'

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Education, Minister for Early Childhood Development) (15:25): I will answer this question to the best of my recollection because, of course, I am no longer the minister for disability and do not have access to the present arrangements. To understand the trickiness of the question, implied in the question is some reference to the fact that it is at variance with cabinet approvals. That was a particular component of what the Auditor-General found about the precise sums—that is the $5 million-odd that was decided by cabinet to be applied to disability equipment—in that there was some variation as to which non-government association got it.

The overall sum that cabinet decided should go to disability equipment was spent on disability equipment. There was some adjustment of some very small amounts between the various disability organisations. What the member sought to do in her question was to suggest that somehow that minor matter was a major matter and that somehow cabinet did not approve it. This is the standard that we have come to expect from those opposite. They come in here seeking to impugn the integrity of ministers of this government on the basis of misleading the house. If those are the standards that you wish to go by you will have to live with those standards.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: I can tell you that I promoted this idea, cabinet approved this idea and it was implemented. This money went to Disability Services—precisely where it was meant to go.

30-YEAR PLAN FOR GREATER ADELAIDE

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy) (15:26): I table a copy of a ministerial statement relating to future growth areas in Adelaide's north made earlier today in another place by my colleague the Hon. Paul Holloway.

PERSONAL PHONE CALLS

Mr PENGILLY (Finniss) (15:27): I seek leave to make a personal explanation.

Leave granted.

Mr PENGILLY: Earlier this afternoon the Minister for Health referred to personal phone calls between him and myself. I have personal conversations with ministers both on the phone and privately on regular occasions. I do it in the best interests of my constituents.

Members interjecting:

The SPEAKER: Order! Point of order, Minister for Transport.

The Hon. P.F. CONLON: A personal explanation is restricted to correcting anything that is factually inaccurate, not to explain why you have phone calls.

The SPEAKER: Be very quick, member for Finniss. I will see if you are going to explain yourself in your personal explanation.

Mr PENGILLY: Thank you, Madam. I will continue to have discussions with ministers in any capacity to act in the best interests of my constituents.

Honourable members: Hear, hear!

GRIEVANCE DEBATE

HEALTH BUDGET

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (15:28): There was an interesting performance by the Minister for Education today. Apparently in a press conference just before question time he was asked whether he backs the current leadership team of the government, the Premier and Deputy Premier, and he answered, 'Caucus has made a decision and I have to respect that decision.' That was a rousing endorsement.

I bring this to the attention of the house because we have a government in distress, and this is possibly one of the reasons why we have a government making dumb decisions. The minister today avoided going out to see the reaction from the communities which he seeks to destroy by withdrawing a paltry sum of money, yet the reality is that his health budget is going to suffer from the dumb decisions that he has been making. I will come to that in a moment.

It also came to my attention that our Premier (the twitterer) twittered recently that he actually had a meal in Keith. Returning from Penola on the 17th after the canonisation of St Mary, the Premier apparently stopped in Keith to have a steak sandwich and chips, and he twittered that he was there so the world would know that he was in Keith. This is the Premier who, after the election that he lost, said, 'My ministers need to reconnect with the people. I've instructed that they go out and doorknock.'

This is the Premier who stopped in Keith to have a meal but who did not have the courtesy to ring up the chair of the local hospital board and say, 'I've got something for you. I'm in your town today. I understand that you guys are stressing over what my government is doing to your local hospital. Can I have 10 minutes of your time?' That is what the Premier would have done if he knew anything about connecting with the communities in South Australia.

This is the Premier who stands up and makes believe that he is governing for the whole of South Australia. The Minister for Health is disingenuous when he says, 'We are increasing the amount of money we are putting into country health.' He is disingenuous because, for eight years in a row, in real terms he has cut the amount of money that has gone into country health. Country hospitals are suffering right across the board.

He is also disingenuous when he says, 'We are providing for three public hospital beds in the Keith Hospital, but we are only getting a part of that service back because, on average, we have only one bed occupied.' What the minister does not tell the people of South Australia when he

is making those statements is that, on average, 5½ beds at the Keith Hospital are occupied. The fact is that most of those people pay for those beds through their private health insurance.

It is disingenuous of the minister not to acknowledge that, if that hospital closes, every one of those patients will end up in the public health system—every one of them. In the budget that this government handed down a few weeks ago (months late), one of the minister's performance targets for country health is to drive the rate of private patients in country hospitals to 16 per cent.

The budget also shows that it dropped from 11.9 per cent to 11.3 per cent in the last 12 months. The minister's strategy of getting more private patients contributing to his health budget is not working: it is going backwards. I can tell the house that 80 per cent plus of the people who go to the Keith and District Hospital use private health. At the end of next June—and do not be mistaken by this minister—that hospital will close.

One of the things that the board cannot do—and will not do, obviously—is to trade insolvent. That is what will happen when the government withdraws this paltry sum. That hospital will close. There will be no accident and emergency service purchased for $300,000 because there will be no doctors in that community and there will be no hospital to service it from. It will cost a fortune to provide an accident and emergency service along the Dukes Highway and the Riddoch Highway.

Minister, we heard about volunteers today. Do not think that volunteers are going to man ambulances along hundreds of kilometres of that road when there is no hospital to take road trauma victims to. You are asking volunteers to go out and pick up road victims off the road with nowhere to take them. Give us a break. It is not going to happen. Every one of those people in that community—

The DEPUTY SPEAKER: Thank you, member for MacKillop.

Mr WILLIAMS: —will end up being your responsibility, minister, and you know it.

The DEPUTY SPEAKER: Thank you, your time has expired.

Mr WILLIAMS: It is a great pity, Madam Deputy Speaker.

The DEPUTY SPEAKER: Your time has expired.

Mr Venning interjecting:

The DEPUTY SPEAKER: His time has expired. I mean, it is not as if we couldn't hear him; he was shouting. The member for Ashford.

CLEAN START

The Hon. S.W. KEY (Ashford) (15:33): On the invitation of Assistant Secretary Chris Field of the Liquor, Hospitality and Miscellaneous Workers' Union (LHMU), last week I attended a gathering in the electorate of Mitchell at the Marion shopping centre. This followed a meeting that had been held, I understand, in Adelaide's central business district for the Clean Start shopping centre campaign.

In 2006, the LHMU launched the Clean Start campaign to highlight the largely hidden crisis in the cleaning industry and how that reflected in the experience of the workers. The campaign thus far has made great strides to improve quality and reliability of the CBD office cleaning services and to stabilise the cleaning workforce while raising the living standards and winning cleaners the respect they deserve.

This is a quote from Louise Tarrant, the LHMU secretary. She also says that cleaners have been doing it tough despite the resilience of the Australian shopping centres in the global economic crisis. Shopping centre owners and investors spend billions of dollars on creating what is called a 'complete shopping experience'. Obviously, to complete that experience the place also needs to be clean.

I understand that the Shopping Centre Council of Australia (SCCA) announced its support of the fair contracting principles following the launch of the Clean Start campaign, and I would just like to congratulate them on doing that. The Clean Start collective agreement, which is already being delivered in the central business offices in Australia, states that cleaners should have:

1. Fair treatment. Respect for cleaners' jobs by encouraging a work environment that promotes and values the work performed by cleaners.

2. Fair hours. Maximising the hours available to cleaners so as to improve their income levels and provide opportunities for extended hours of employment.

3. Fair workload and safety. Commitment to providing a safe working environment for cleaners by introducing responsible and transparent contracting practices that will help to ensure reasonable workloads.

4. Fair wages. Employers agree to give certainty to cleaners by providing an annual increase in wages, achieving national wages parity and strengthening penalties and allowances over the life of the agreement.

5. Fair leave. Employers agree to provide fair leave provisions for cleaners and to work with the LHMU to provide a portable long service scheme for cleaners where it is currently not available.

6. Fair job security. Employers are committed to maximising the job security of cleaners during the change of contract.

7. Fair rights. Establish effective dispute resolution procedures to resolve workplace issues.

I would really like to compliment the employers who have taken on that agreement, and I am hoping that shopping centres also observe that particular 'Clean Start: it's time for fair office cleaning' approach.

I was a bit concerned but also not surprised, having been a cleaner myself, particularly when I was a student, that the latest union research states that the minimum wage for cleaners is around $16.03 per hour. Considering the prevalence of cash in hand payments for wages in many cleaning cases, these workers are quite often below the poverty line. It is estimated that cleaners take home more like $10.13 per hour, with no leave entitlements, superannuation, health and safety, or anything else.

One of the other areas is of concern is the chemicals that are used by cleaners in many cases, which do not have proper assessments of what harm or health and safety issues are associated with them.

I would like to take this opportunity to congratulate the Miscellaneous Workers Union for this campaign and all the workers who have made sure that the campaign, along with employers, is going to make a big difference in this very important area in our life.

HOSPITALS, FUNDING

Dr McFETRIDGE (Morphett) (15:38): In the Sustainable Budget Commission's list of items that could be cut, according to the razor gang is:

Cessation of service contracts. Under this initiative it is proposed to cease existing funding provided to private hospitals in the metropolitan and country areas (CE priority of 16).

So, it is way down there. It does say here, though, 'Account manager. The removal of funding will likely result in the closure of most of these private hospitals.' So, there is no doubt about it, the minister and the government knew that these hospitals would be in threat of closure and, as we heard today, they will close without the continuing funding from the government. This is not a charity handout, this is not dealing with Healthscope or the Catholic Church and all the other big organisations that run very good private hospitals; these are community hospitals.

Even in my own electorate of Morphett, there is the Glenelg Community Hospital. My son was born there. It serves the community very well. A very good friend of mine has just had a knee replacement there, but they also provide a Recovery at the Bay scheme which saves them thousands and thousands of dollars. I wonder what the former federal candidate for Boothby would be thinking about the Glenelg Community Hospital having its money cut by her colleagues in the Labor government in this state. It is the wrong thing to do.

Glenelg will survive, but the others will not. We heard a ministerial statement today about inputs. We heard about the inputs but, if you do not increase funding and staffing, you will go backwards at a million miles an hour. We know that health inflation is between 9 and 12 per cent. We know that lifestyle diseases are increasing the demand; we know that, so we had better increase the inputs. What we are not hearing about is the outputs.

In this particular case, we are not seeing improvements in the way country people are being treated regarding hospitals. Again and again, we are seeing a repeat of the 2008 failed policy on country health. Moonta, Ardrossan and Keith need the government's support. It is not a charity handout. They are actually saving this government thousands and thousands of dollars. The step-

down facilities used at McLaren Vale can be repeated all over this state—particularly at Moonta, Ardrossan and Keith—to get 500 or so country people out of city hospitals.

They are in city hospitals, but they should be back home in their communities as soon as possible. They will not be able to do that if the hospitals and the beds are not there. The way they are being treated is a disgrace. To rub salt into the wound, we are also seeing the petrol subsidy cut by this government. Petrol is going up by at least 3½¢ a litre, so we are going to see country people not only having to travel further for health services but having to pay more. They are being disadvantaged in many ways.

The other thing that we used to have was the Patient Assistance Transport Scheme (PATS) if those country people had to come to town, but what did we see in the last budget? We saw an 8 per cent cut in the Patient Assistance Transport Scheme. Some 46,943 people used that scheme last year, but the government wants to cut it down to 43,350 this year. There has not been an increase in funding for many years. The PATS brochure still has a 2004 date on it. So, they will not update the brochure and inform people of what assistance they are actually getting, which is not very much at all.

In the budget, patient satisfaction levels for both country and metropolitan are amazingly static, right across many years, and they are all very high. It seems so amazing that I wonder if these patient satisfaction levels are real. We are not seeing performance reports on country emergency departments. Why not? Because we know that there are serious issues there. The Stevens report into the emergency department in Mount Gambier will not be released. Why? Because there are issues there. They know that there are issues there just as there are issues in metropolitan emergency departments.

I come to the issue of empty beds. We are only paying for a few beds here. The occupancy of country hospitals is, fortunately, not like the Lyell McEwin, The Queen Elizabeth, the Royal Adelaide, Flinders and Noarlunga. On any day, when they are running at 100 per cent, country hospitals run at 60 to 70 per cent. There are empty beds that we are paying for and, just like a fire engine in a fire station, we are happy to pay for them because, if it does really hit the fan, we know that those beds will be there for the people of South Australia who are paying taxes through the GST.

We are now going to see 30 per cent of the GST go to Canberra, and we are going to see those taxpayers disenfranchised if this government has its way. At the moment, taxpayers are paying for those beds to be available. Just like a fire engine—it does not have to be on the road putting out fires all the time, but it should be there. This health system has to provide a safety net for people, not just in the city but in the country as well. Country people should not be disadvantaged, and this government is doing that.

Time expired.

PATRITTI WINERY

Mr SIBBONS (Mitchell) (15:43): In the heart of suburban Mitchell, in Dover Gardens, a stone's throw away from the retail mecca of Marion shopping centre, sits a remarkable family business: G. Patritti & Co Pty Ltd. These winemakers and distillers have been part of the fabric of the humble south-western suburbs since 1926, when Giovanni Patritti started the business, operating for the first 21 years without electricity.

In those days, Patritti sourced grapes from his surrounding vineyards to make one dry white—a hock—and one dry red—a claret—which was very popular with the Italian community, as far afield as Queensland. In the years since, those growing up locally have childhood memories of mum or dad taking the sherry flagon to Patritti for a refill of a quality product at a reasonable price. Some customers have been buying there for more than 50 years.

These days, Giovanni's grandson, James Mungall, and his fellow winemaker, Ben Heide, produce almost 60 lines from grapes sourced from 30 growers across the South Australian region. However, Patritti's still manages three vineyards, including the Marion council-owned vines on Oaklands Road, and all the lines still come out of Giovanni's original cellars on Clacton Road, including sparkling, fortifieds, and even non-alcoholic wines and juices.

The modest pricing remains, but the results of James' and Ben's labour are now being exported to 15 countries from Vietnam, China and India to Sweden, the US and African nations. Just last week Patritti's big, bold 2009 merlot took the Winegrapes Australia McLaren Vale Wine

Show by storm, winning a major trophy at that prestigious event, and bottled under Patritti's Blewitt Springs Estate range.

The winery's first domestically released merlot, it beat 39 other contenders in the best McLaren Vale single red varietal by earning an excellent score of 18.5 out of 20 from an international judging panel in a top field, often better known for pricier lines. The gold medal that came with the victory was one of 23 medals won this year by the winery at wine shows around Australia, but it is by far its biggest success. Despite enjoying the accolades and the excitement, director Ines Patritti acknowledges that the win has brought great excitement to the company, and they are very passionate about the production of wines in their Dover Gardens winery.

I wish to congratulate and toast the success of James, Ben, Ines and fellow second-generation company management, John and Geoff Patritti, not only for their McLaren Vale trophy, but also for the wines they produce each year and the enjoyment they bring to their customers both around the world and in my electorate of Mitchell. I am sure Giovanni Patritti would be proud of their efforts.

COUNTRY HEALTH SERVICES

Mr GRIFFITHS (Goyder) (15:47): I wish to build on the theme that has been promoted today about the concerns that the opposition, and indeed the people of Keith, Ardrossan and Moonta, have in regard to country health.

I need to clarify a few things. The question I posed to the minister in question time was about a Mr Ross Lennox, who had a cardiac arrest on the Ardrossan Bowling Club green early in 2009. The ambulance was called immediately and the hospital was also contacted, and two staff members from the hospital responded immediately with a Thomas pack and revived Mr Lennox after he had been without a heartbeat for some 25 minutes.

Mr Lennox is the man who has publicly stated that he is adamant that his life was saved because of the skills of the staff and the capacity of the Ardrossan Hospital to ensure that he got the treatment that he needed absolutely as soon as possible. It is important that that message actually get out there. What happened today on the steps of Parliament House was just the partial culmination of the efforts that will be made to try to preserve these hospitals.

Keith held a meeting on Thursday last week; I did not attend, but I went to the Ardrossan and Moonta public meetings which were also held last week, and both were wonderful examples of a community rallying together to ensure that they do all they possibly can to preserve what is near and dear to them. We had nearly 1,000 people in Moonta late in the afternoon. It was a great turnout, and people spoke passionately and raised real questions that they wanted answers to; unfortunately, there is only one person who can give them that, and that is the minister.

I am grateful that the minister has agreed to meet with the chairs of the boards of each of the three community hospitals this evening. That is a sign of good faith from him, and I recognise that. However, it is now important that we get down and actually recognise the importance of these hospitals. Moonta is part of a growing community. The Moonta/Moonta Bay/Port Hughes/Kadina/Wallaroo area is growing exponentially; it has something like a 3 per cent population growth that is not predicted to slow down. There is going to be an enormous number of people move in. The Wallaroo hospital will have challenges certainly now and going into the future in servicing the needs of that expanding community, which is why ensuring that Moonta hospital remains cannot be overstated.

Moonta has an arrangement in place—and has had an arrangement in place for over 15 years, I believe—whereby a payment is made by the public hospital health system for these eight long-stay beds that the minister has referred to in some of his answers today. The cost of that is $120.05. In any way of looking at this, this must be the cheapest access to a publicly-funded bed that the minister can ever organise. It seems amazing to me that a service that cost some $288,000 last year for an occupancy rate, on average, of about 6.3 beds per night is not continuing.

It has to be reviewed and we have to make people understand this. Unfortunately, it is the people who sit to your right, Madam Deputy Speaker, who have the influence, but the community is going to keep fighting. The demonstration of emotion that was witnessed out the front today really gives heart to all of us, because it shows that people will not give up that fight. These people travelled for hours to be there. Many are working people who probably gave up a day's pay to make sure they could be there to support their hospital.

For instance, the Ardrossan hospital is some 96 years old. It employs 56 people. It is the biggest employer in the town. I know when the Hon. Michael O'Brien visited the Goyder electorate a few weeks ago, we went to Cheetham Salt at Price. At the end of the briefing about the salt operations, the manager of that firm emphasised to minister O'Brien the important role that the Ardrossan hospital plays in his business, which employs 80 people in an adjoining small town. It is the domino effect of all these decisions that really needs to bring about a change of heart and a commitment of dollars going forward into the future.

As part of the answer to the question I asked about Mr Lennox, the Minister for Health referred to comments from Belinda Jarvis, who is the EODON of the Ardrossan Community Hospital. I emphasise that word 'community'. Ms Jarvis has confirmed with me, yes, the Ardrossan hospital will still be open in June of 2011, but it is the year going beyond that that presents the great dilemma for them.

The community is committed to it. An amount $140,000 does make an enormous difference. It is part of the business plan which was determined four years ago and which was funded by the minister to ensure that the hospital had a financial future, and that is the commitment that it needs. In the scheme of things, the multiplier effect of all these dollars in a $4.5 billion budget for health cannot be overstated.

These communities will continue to fight. I know they intend to engage with people who have any connection either with them or the communities these hospitals serve to ensure that as many people as possible within the metropolitan area understand the importance of the Keith, Moonta and Ardrossan hospitals and that they, in turn, put pressure upon the government to reverse its decision.

Time expired.

NORTHERN SCHOOLS LEADERSHIP DAY

Mr ODENWALDER (Little Para) (15:52): I rise today to pay tribute to some emerging leaders in a couple of the primary schools in my local area. Last Monday, I had the great pleasure, along with the member for Taylor, to attend and to speak at the Northern Schools Leadership Day, a joint initiative of the Elizabeth Grove and Elizabeth South primary schools. The aim of the day was to foster and encourage leadership among primary school children, both within the schools and more broadly within their local community.

Both of these schools, while they are excellent schools with innovative leadership and a great bunch of kids, exist within an area of significant disadvantage. I was particularly proud as a local boy, having gone to a school just nearby, to see so many kids with such ambition, and not only ambition but a real desire to do good in their own communities and help others.

Many of these kids are already leaders and volunteers in their schools and communities. They are helping their teachers with other kids, assisting with literacy and numeracy. They are volunteering for local sports clubs and community groups, and some of them whom I spoke to are even involved in programs to help educate other kids about personal and community safety.

Throughout the course of the morning, it was evident that these kids had a clear idea of what community leadership meant. Through my discussions with them, we established that leadership is not about who can shout the loudest or push the hardest. They decided that leadership is not about bullying and pushing each other around or pushing other people around, and it is definitely not always about being right and knowing more than everyone else.

They all agreed that leadership is mainly about helping others and showing those people around you how to achieve their best. It was inspiring. They also decided it was about making decisions and doing things that make other people's lives better, and giving those people the strength and confidence to be the best they can be. So, as I say, it was an inspiring morning.

The lead coach of the mighty Central District Football Club, Roy Laird, also spoke to the kids about leadership and teamwork. Many of the boys particularly, but not exclusively the boys, aspire to be professional footballers, and they made that absolutely clear throughout the morning. The input of Roy Laird was very much appreciated and particularly inspiring.

At the end of the day, during which the children participated in various team building and problem solving exercises, premier Mike Rann officially closed the day. This was a surprise to many there, including some of the school leadership. The children and the school community were really pleased that the Premier could make it. He spoke at length about his own journey and spoke

to the children about the importance of having goals and dreams and never losing sight of these goals.

I visited the Elizabeth Grove Primary School this week and spoke with the principal, Moya Wellman. She told me that the children really got a lot out of the day and, most importantly, they are passing on what they have learnt to other students around them and inspiring their peers to show leadership and to volunteer in various capacities.

It is my sincere hope that these kinds of events continue and grow—and I certainly want to be a part of it—and that we continue to see leadership development in our local schools as a priority. I commend Mrs Wellman and the school leadership for organising this event and inspiring the students to bigger and better things. I also acknowledge the efforts of the member for Taylor in getting behind the event and actively supporting leadership development in the primary schools in her area.

NATIONAL ENERGY RETAIL LAW (SOUTH AUSTRALIA) BILL

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:57): Obtained leave and introduced a bill for an act to establish a national energy customer framework for the regulation of retail supply of energy to customers; to make provision for the relationship between the distributors of energy and the consumers of energy; and for other purposes. Read a first time.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:57): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The Government is presenting new legislation that will enhance the national character and efficiency of Australia's energy markets, and provide strong protections for energy consumers in South Australia and on a national basis.

The *National Energy Retail Law (South Australia) Bill 2010* delivers on the Government's commitment to national energy reform and will deliver a national framework for regulating retailers and distributors who sell and supply electricity and gas to customers.

Background

As Honourable Members will be aware, South Australia is the lead legislator for national gas and electricity legislation and it retains this important role under the reforms proposed.

In June 2006 the Council of Australian Governments amended the Australian Energy Market Agreement to provide for (among other things), the national framework for energy access; and the national framework for distribution and retail services.

Implementation of the national framework for distribution and retail services was split into two packages (economic regulation of distribution services and the retail market regulation) due to the scale and complexity of the regulation. The 'economic' package was completed with the commencement of amendments to the *National Electricity Law* and Rules on 1 January 2008 and the new *National Gas Law* and Rules on 1 July 2008.

As part of the ongoing national energy market reforms, the Ministerial Council on Energy has completed the final component of the national framework for distribution and retail regulation set out by the Council of Australian Governments in the Australian Energy Market Agreement. This reform, known as the National Energy Customer Framework (here referred to as the 'Customer Framework'), will be implemented through a package of Laws, Rules and Regulations. The Customer Framework consists of this Bill, which includes as its Schedule the *National Energy Retail Law*, as well as Rules and Regulations to be made under that Law called the *National Energy Retail Rules* and the *National Energy Retail Regulations*. The Customer Framework requires consequential changes to the *National Electricity Law* and the *National Gas Law* which are included in the accompanying *Statutes Amendment (National Energy Retail Law) Bill 2010*. Finally, the Customer Framework also includes key amendments to the *National Electricity Rules* and the *National Gas Rules* on two matters. The first are national rules which enable retail customers and property developers to seek new (or significant modifications to existing) connections to electricity and gas distribution networks. The second are new rules to set out the rights and obligations between distributors and retailers which are necessary to support the retail supply of energy to customers and include a credit support regime.

Other minor consequential amendments are also being made to the *National Electricity Rules* and the *National Gas Rules* to ensure consistency with the new Customer Framework.

The Customer Framework will be applied in all jurisdictions which are part of the National Electricity Market, namely, South Australia, Victoria, New South Wales, the Australian Capital Territory, Tasmania, Queensland and the Commonwealth by application Acts which apply the framework for the purposes of those jurisdictions. The Ministerial Council on Energy has agreed that relevant jurisdictions will introduce the national framework progressively, noting that some transitional legislative arrangements will be required to appropriately manage the transition process.

Key Benefits of this Bill

The *National Energy Retail Law (South Australia) Bill 2010* seeks to achieve a national regulatory regime for retailers and distributors selling and supplying energy to customers. The Customer Framework will be under the jurisdiction of the Australian Energy Regulator as regulator and enforcement body and the Australian Energy Market Commission as rule maker. Its primary aims are to streamline regulatory requirements, increase efficiency through regulatory harmonisation and maintain best practice consumer protection. As a result, the Bill is expected to facilitate an increase in retail competition by reducing regulatory complexity and lowering barriers to entry, as well as by encouraging consumers to participate in this competitive market by providing strong and equitable consumer protections across participating jurisdictions.

Increased efficiency from national regulatory arrangements for energy

The separate regulation of energy retail markets by individual States and Territories is inefficient and imposes costs on retailers operating across State borders. There is duplication of processes and systems, which leads to higher compliance costs.

At the request of the Council of Australian Governments, the Ministerial Council on Energy has driven this current legislative reform with a key aim to achieve a national, harmonised regulatory regime for energy retailing. As a result, this reform removes many of the current inconsistencies for energy retailers and cuts red tape and compliance costs for Australian retailers operating across State borders.

Promoting competition via national authorisation framework

This Bill contains significant measures to facilitate retailers moving beyond individual State borders and to operate nationally. This brings benefits to customers from increased competition. One of these measures is the establishment of a national retailer authorisation, allowing a retailer to obtain one authorisation to operate nationally across all participating jurisdictions, rather than the six separate retail licences that would currently be required.

Consumer benefits

This Bill seeks to provide a comprehensive package of robust energy-specific consumer protections. The Customer Framework is intended to complement other general consumer protection laws such as the Australian Consumer Law and privacy legislation. Small customers will also have an efficient and effective option to deal with complaints and disputes via access to jurisdictional energy ombudsman schemes.

A further key benefit of the Customer Framework to consumers of electricity and gas is greater consistency of consumer rights across all participating jurisdictions. Energy consumers living in different parts of Australia benefit from having the same access to information and level of protection irrespective of which jurisdiction they reside in. Particular benefits flow to vulnerable consumers in financial hardship under national hardship requirements forming part of the framework.

National retailer of last resort scheme

A substantial element of the Bill is the institution of a national Retailer of Last Resort (here referred to as RoLR) framework. This provides for the substitution of a back-up electricity or gas retailer if a customer's current retailer fails. The national RoLR framework replaces existing jurisdictional RoLR schemes for electricity and gas.

RoLR schemes are necessary to support fully contestable retail markets and ensure the continued supply of energy for customers where a retailer exits the market due to solvency issues or for other reasons. RoLR schemes also bring financial security for the wholesale electricity and gas markets if a retailer fails. A national scheme provides the benefits of applying to retailers operating across State borders, which should increase the capacity of the market to manage a wider range of possible RoLR events. It also allows the national coordination of these important regulatory arrangements by a single regulator—the Australian Energy Regulator.

National regulator

The Australian Energy Regulator will be the national regulator operating under the *National Energy Retail Law*, taking a role similar to its role under the *National Electricity Law* and *National Gas Law*. This Bill therefore brings the whole energy supply chain—wholesale markets, transmission networks, distribution networks and retail markets—under national regulation with the Australian Energy Regulator overseeing a robust compliance and enforcement regime across all participating jurisdictions.

Part of a broader energy regulatory framework

The *National Energy Retail Law (South Australia) Bill 2010* forms the final piece of the broader national energy regulation frameworks and will work in a complementary way with established energy regulatory frameworks which apply in the energy sectors at State, Territory and Commonwealth levels.

The Customer Framework in this Bill will work alongside existing national electricity and gas regulatory frameworks covering wholesale markets and network access regulation. The accompanying *Statutes Amendment (National Energy Retail Law) Bill 2010* will make limited consequential amendments to the National Electricity and Gas Laws to ensure the *National Energy Retail Law* operates effectively within the broader energy regulatory

environment. These consequential amendments will only have force and effect in a participating jurisdiction from the time that the jurisdiction applies the *National Energy Retail Law* as a law of that jurisdiction.

In addition, minor consequential amendments to the National Electricity and Gas Rules are also included in the Customer Framework that are necessary to align the framework within the existing national energy regimes.

The *National Energy Retail Law (South Australia) Bill 2010* will replace significant parts of existing jurisdictional energy legislation as jurisdictions transition to the Customer Framework. A jurisdiction's application Act may, for transitional or other reasons, modify the application of various provisions of the Customer Framework for the jurisdiction. Further, certain provisions of the Customer Framework rely upon jurisdictional energy legislation for their full effect, for example, the operation of energy ombudsman schemes, guaranteed service level schemes, and social policy initiatives such as community service obligations. Therefore, the Customer Framework is intended to operate in parallel with jurisdictional energy legislation and should in its application to a jurisdiction be read in conjunction with the application Act and other energy legislation of the jurisdiction.

This Bill will establish a regulatory regime that jurisdictions can fully adopt over time as appropriate for the circumstances of each market. That is, the Bill is sufficient to support a fully competitive retail market in the absence of retail price regulation, integrating regulation of retail market activity and consumer protections. That being said, this Bill will be able to be implemented by jurisdictions with continued retail price regulation, although some transitional legislative arrangements may be necessary.

Consultation

The introduction of this Bill follows substantial consultation on two exposure drafts of the Law and Rules, a Regulation Impact Statement and many other formal and informal consultative processes, through which officials have engaged with stakeholders to develop a comprehensive regime.

More than six discrete formal consultation processes have taken place where written submissions have been invited from stakeholders. Public forums have also been held and working groups have met with stakeholders frequently on an informal basis to discuss concerns and provide feedback on policy positions. Consultation commenced with a number of issues papers in 2006 through to June 2007, followed by a comprehensive Standing Committee of Officials Policy Paper and a Regulation Impact Statement in 2008, two public exposure drafts of the Law and Rules in 2009 and targeted consultation on specific matters such as the retailer of last resort regime and the national connections framework.

Stakeholder submissions have been carefully considered throughout the process. Energy Ministers have sought to ensure strong protections for consumers, while also seeking to balance the benefits of such protections against the cost of additional regulatory obligations, which ultimately get passed through to customers, and can act as a barrier to competition and innovation. The Ministerial Council on Energy is confident that the right balance has been achieved. This Bill represents a good outcome after several years of consultation and work to balance the interests of consumers and industry and positions from jurisdictions.

National Energy Retail Law objective

This Bill incorporates an objective which mirrors the objectives in the *National Electricity Law* and the *National Gas Law*. The national energy retail objective guides both the Australian Energy Regulator in carrying out its role under the Customer Framework and the Australian Energy Market Commission when it is carrying out its rule making role.

The national energy retail objective is 'to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to price, quality, safety, reliability and security of supply of energy.'

The alignment between the objectives of the laws governing the various sectors of the energy markets is an important foundation for the regime. Adopting an equivalent objective for the Customer Framework will ensure that the national energy regimes remain focussed on the long term interests of consumers. This is a fundamental principle agreed between governments in the Australian Energy Market Agreement.

The long term interest of consumers of energy requires the economic welfare of consumers, over the long term, to be maximised. The long term interests of consumers in competitive energy markets are promoted through the application and development of consumer protections to enable customers to participate in the market with confidence, support effective consumer choice and ensure ongoing access to energy on reasonable terms as an essential service.

When the *National Electricity Law* and the *National Gas Law* were each introduced to this Parliament, the economic efficiency nature of the objective was emphasised in the context of the regulatory frameworks for the wholesale markets and the national access regimes for monopoly infrastructure, to deliver services in the long term interests of consumers. The national energy retail objective in this Bill operates in the context of a Customer Framework which has as its focus a strong regime of consumer protections for small customers, and further protections and assistance programs for customers in hardship, to ensure that those customers are able to confidently participate in the retail market, thereby maximising their economic welfare.

The Bill provides a robust interface between the community and a competitive retail market, and it is important that economic concepts such as the essential service nature of energy, information asymmetry between energy businesses and their customers, and transaction costs for small customers, along with the benefit to the community of ensuring that vulnerable customers are able to maintain their energy supply and pay their bills, are at the forefront of decision making under the Customer Framework.

Consequently and necessarily, the Bill also clarifies that the Australian Energy Regulator and Australian Energy Market Commission, in exercising their respective statutory functions under the Customer Framework, are to do so in a way that is compatible with the development and application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers.

Which parties does the Bill apply to?

As I have already mentioned, the Customer Framework will govern the sale and supply of energy by retailers and distributors, respectively, to customers. As a result, the Bill applies to the relationships between retailers and customers, distributors and customers, and retailers and distributors.

A fundamental principle underlying the Customer Framework established by this Bill is that energy is an essential service. The framework recognises that small customers (both residential and small business customers) have little bargaining power and can be put at a significant disadvantage by the practices of their energy retailers and distributors if those practices are not regulated to ensure certain minimum standards. The Bill therefore incorporates a suite of consumer protections to ensure fairness to small customers. The Bill also provides additional protection to the most vulnerable customers including a requirement on retailers to develop and maintain a customer hardship policy, the detail of which is discussed later.

Small customers are defined as all residential customers and small business customers who consume energy below an upper consumption threshold as prescribed in the *National Energy Retail Regulations*. The upper consumption thresholds to be prescribed on commencement are 100 megawatt hours of electricity per annum and 1 terajoule of gas per annum. The *National Energy Retail Regulations* recognise that these thresholds may need to be reviewed to take account of developments in the energy markets over time and therefore require the Ministerial Council on Energy to undertake a review of the thresholds after a period of no more than five years following the commencement of the Regulations and then at intervals of no more five years after that.

Few of the consumer protections contained in the Bill extend to large customers, who consume above the upper threshold, as large customers have significant bargaining power with retailers in a competitive market, and additional protections come with an additional cost which impacts the financial interests of large customers.

It is expected that when Parliament is presented with the consequential amendments package to South Australia's legal instruments South Australia will retain its existing electricity consumption threshold of 160 megawatt hours per annum for the time being, rather than moving to the national upper consumption threshold under the Bill. This will assist with South Australia's transition to the national package with the retention of price regulation arrangements. It is noted that the gas threshold in South Australia is consistent with the national upper consumption threshold of 1 terajoule of gas per annum.

I now turn to the detail of the arrangements in the Bill.

Retailer—Small Customer Relationship

The Customer Framework deals with key aspects of the relationship between retailers and small customers. It ensures that small customers continue to benefit from important consumer protections, while delivering efficiency savings to energy retailers through a nationally consistent framework.

Obligation to offer supply

A fundamental consumer protection underpinning this Bill is the imposition of a regulatory obligation on retailers to offer to supply energy to small customers. This obligation recognises that regulatory intervention is needed to ensure that essential services are accessible to all those who require them.

The *National Energy Retail Law* obliges a retailer to offer supply to a small customer if it is the 'designated retailer' for that customer. The designated retailer is the retailer that has financial responsibility for the premises of the customer in the wholesale energy market if there is an existing connection. Where there is no connection, the local area retailer is the designated retailer and will have the obligation to offer supply to newly connecting customers in the retailer's specified local area. The Customer Framework also includes arrangements to assist a customer to identify its designated retailer.

The *National Energy Retail Law* requires the designated retailer to have a standing offer of supply, incorporating the standard retail contract, which will be set out in a schedule to the *National Energy Retail Rules*, and published standing offer tariffs (which may be regulated tariffs where a jurisdiction continues to regulate retail prices). The designated retailer can only make a limited range of permitted alterations to their form of standard retail contract such as the inclusion of the retailer's corporate branding. Retailers will also be subject to limitations about the frequency of variations to the standing offer prices.

The *National Energy Retail Rules* prescribe the regulatory obligations that form the terms and conditions for the sale of energy under the standard retail contract and deal with requirements relating to billing, payment, security deposits, disconnection and reconnection, complaints and disputes, and termination.

This approach of specifying the terms and conditions of standing offer contracts provides regulatory clarity to retailers and eliminates the need to seek approval of the contract by the Australian Energy Regulator. Most importantly, it offers small customers a full set of consumer protections. The standard contract also provides a basis for customers to compare and choose alternative market retail contracts.

Generally, it is this standard contract and a standing offer price that a designated retailer must offer to a small customer.

However, to provide greater flexibility for retailers supplying 'larger' small business customers, the *National Energy Retail Law* allows retailers to fulfil the obligation to supply those business customers consuming 40 megawatt hours or more per annum of electricity or 400 gigajoules or more per annum of gas by offering either a standard retail contract or a market retail contract. As with the upper consumption thresholds, these thresholds are also prescribed in the *National Energy Retail Regulations* and are subject to review by the Ministerial Council on Energy.

There is no obligation to offer supply to large customers in this Bill, as a large customer's energy supply decisions are commercial decisions, based on the availability of energy at a suitable price to sustain a particular business.

Market retail contracts

Small customers may elect to purchase energy under a market retail contract. Market retail contracts give retailers the opportunity to differentiate themselves from their competitors by offering innovative products and services. These innovations foster competition and allow consumers to shop around for the retail product that best suits their needs.

However, the increased flexibility given to retailers is not achieved at the expense of a robust consumer protection regime. The *National Energy Retail Law* ensures that key consumer protections are maintained under a market retail contract by requiring retailers to adopt a set of minimum terms and conditions as prescribed by the *National Energy Retail Rules*.

In jurisdictions that permit the use of prepayment meters, such as South Australia, the *National Energy Retail Rules* also provide additional requirements to the prescribed terms and conditions of the market retail contract, specifically designed to offer comparable protections to small customers wishing to purchase energy through a prepayment meter system.

Deemed supply arrangements

In further recognition of the essential nature of energy, small customers whose market retail contract expires, or who move in to premises which are connected to the network but have not yet arranged a contract with a retailer, will be supplied energy by the designated retailer for that premises under a deemed customer retail arrangement. However, while continuity of supply on reasonable terms is vital, retailers also need to be able to identify their customers with certainty. Accordingly, customers are required to take appropriate steps to enter into a standard or market retail contract as soon as practicable.

National hardship regime

The essential nature of energy means it is critical to ensure the vulnerable members of our communities are supported. The Customer Framework provides this support by establishing a national customer hardship regime.

Under this regime, each retailer is required to develop and maintain a customer hardship policy. The purpose of a customer hardship policy is to identify residential customers experiencing payment difficulties due to hardship and to assist those customers to better manage their energy bills on an ongoing basis.

The Bill requires that the customer hardship policies satisfy minimum requirements. The minimum requirements ensure that retailers have in place the necessary processes and policies to assist customers identified as requiring assistance. These include processes for identifying customers experiencing payment difficulties due to hardship and providing for the retailer's early response to such customers. Retailers will also be required to offer flexible payment options, including payment plans and the Centrepay payment option, and have in place processes to identify appropriate government concessions.

The protections contained in the Bill are supplemented by additional safeguards in the *National Energy Retail Rules*, in particular limits on the circumstances in which a customer on a payment plan can be disconnected.

Each customer hardship policy must be approved by the Australian Energy Regulator, who may only approve a policy that meets the mandatory minimum requirements set out in the Bill. The Bill also provides statutory guidance to the Australian Energy Regulator as to the matters it must have regard to when considering whether to approve a customer hardship policy, including that retailers must have programs and strategies to avoid disconnection of a hardship customer solely due to inability to pay. The Customer Framework also empowers the Australian Energy Regulator to monitor retailers' compliance with the obligations of the customer hardship regime, and to develop and report on a range of hardship program indicators.

It is intended that adopting a national approach to customer hardship will enable effective management of the costs to retailers where they participate in more than one jurisdiction.

Informing small customers

This Bill includes rights for small customers to a range of information to be provided by both retailers and distributors. Some of these include information to identify who is their designated retailer, information to be given to customers when entering into a retail contract, historical billing information, tariff variations, and disconnection warning notices.

When a small customer contacts their designated retailer to obtain supply, the Bill requires that retailer to also disclose the availability of its standing offer to ensure that customers are aware of this entitlement.

Energy Marketing

Retailers and marketers must obtain 'explicit informed consent'

The Bill requires retailers (and those marketing on their behalf) to obtain explicit informed consent from a small customer for key transactions such as entry into a market retail contract. This Bill requires full and adequate disclosure of all matters relevant to the consent of the small customer and retailers are required to retain records of customer consent for at least 2 years. Further, a market retail contract is void if the retailer fails to obtain explicit informed consent of the small customer.

Ensuring best practice energy marketing behaviour

This Bill enables rules for energy marketing that complement the requirements set out in the general Australian Consumer Law and in national telephone and e-marketing legislation. The energy marketing rules in the Customer Framework recognise that retailers in the energy market engage in extensive marketing activity to gain and retain customers and that energy marketing is often conducted by third party contractors who are not directly accountable to energy customers. This regime will promote best practice marketing behaviour and provide appropriate redress for small customers if problems occur.

The energy marketing rules are designed to apply where it is considered energy-specific requirements are needed, such as energy marketing to small business customers, provision of energy-specific information to customers before entry into market retail contracts, and the need to allow a cooling-off period even though supply of energy may have commenced.

Together with the Australian Consumer Law and other general consumer protection legislation, the energy marketing regime under this Bill provides protection to energy customers and ensures that conduct of energy marketers is appropriate and not invasive.

Australian Energy Regulator price comparator service

This Bill enables the Australian Energy Regulator to establish, develop and operate a price comparator service. The price comparator is a service to small customers to enable them to compare the standing offer price available to a customer and market offers available in the area in which their premises is located, to find the most suitable offer available. This initiative will also promote competition amongst retailers. The price comparator service will operate on an 'opt-in' basis for jurisdictions that elect to apply the service.

The Bill requires retailers to provide information to the Australian Energy Regulator on their standing offer price and market offer prices that are generally available to small customers. This ensures that the obligation is not too onerous for retailers and does not hamper their ability to develop innovative and competitive retail offers.

The format and content of the price comparator and other price disclosure requirements will be developed by the Australian Energy Regulator through a full consultation process with stakeholders as part of the implementation of this national framework.

Energy Bill Benchmarking

This Bill enables the making of rules in relation to the provision of energy consumption benchmarks to residential customers. Once developed, benchmarks for energy consumption would be included on the energy bills of residential customers to enable them to compare their energy consumption against an appropriate localised benchmark. The objective of providing these benchmarks is to motivate above-average energy users to implement energy efficiency improvements that reduce energy use.

While the Bill provides for rules to be developed with respect to 'energy' consumption benchmarks, the initial rules will only provide for consumption benchmarks relating to electricity. This structure will allow for future development of new rules to extend the benchmark regime to apply to gas consumption, if proven cost effective.

To ensure their relevance and effectiveness, the initial electricity consumption benchmarks will be based on localised zones and contain a household size comparator. Retailers will have the discretion to present the benchmarks in either a graphical or tabular format and may position them in a location of their choosing on their customers' electricity bills. This degree of discretion is intended to help minimise retailers' costs and ensure flexibility in the way that they communicate with their customers.

The initial electricity consumption benchmarks will be developed in consultation with relevant stakeholders. Once developed, initial benchmarks will be prescribed in the *National Energy Retail Regulations*. Responsibility for the ongoing administration of the electricity consumption benchmarks will be with the Australian Energy Regulator under the *National Energy Retail Rules*. This role will primarily entail updating the benchmarks every three years.

Distributor-Customer Relationship

In establishing a direct contractual relationship between a distributor and a customer, the Bill recognises that distributors are responsible for, and best able to manage, the physical delivery of energy at a customer's premises, even though the energy is purchased from a retailer. The approach is similar to existing contractual models that are operating in electricity in most jurisdictions already, but it does represent a change for many gas distributors. This Bill does not interfere with existing gas access arrangements of distributors and works in tandem with those frameworks.

The Customer Framework retains current practice under which most customers pay both network charges of the distributor and retail charges to their retailer under the customer retail contract.

Obligation to offer connection services

The Bill includes an obligation on a distributor (both electricity and gas) to provide customers services such as new connections, connection alterations and ongoing supply services under a direct contractual relationship. This

obligation to offer is an essential obligation on distributors which mirrors and supports the obligation on retailers to have a standing offer to sell energy to small customers. The obligation on distributors to provide customer connection services under the Bill is qualified to the extent that both distributors and customers must satisfy relevant requirements of the energy laws in the provision of those services.

Connection contracts

The Bill provides for three types of customer connection contracts: deemed standard connection contracts, which can apply for all customers; Australian Energy Regulator approved deemed contracts, which relate to classes of large customers; and negotiated connection contracts.

These contracts reflect that energy distributors are monopoly service providers and, in general, customers have limited ability to meaningfully negotiate the terms and conditions of their energy supply. As such, the deemed contracts which apply by force of law are either regulated as a model contract or approved by the Australian Energy Regulator to ensure they are fair and reasonable.

While individual negotiation of connection and supply arrangements is not generally required by most customers, the Bill recognises that negotiated contracts may be required particularly for larger business customers with specific connection needs. Where connection contracts are negotiated, the Customer Framework includes a negotiating framework in the National Electricity and Gas Rules. These additional Rules are enabled by amendments to the *National Electricity Law* and the *National Gas Law* made in the *Statutes Amendment (National Energy Retail Law) Bill 2010)*. The negotiating framework for connection will ensure customers' interests are protected and customers receive adequate time and information to consider any proposed arrangements.

The Customer Framework imposes direct obligations on customers to ensure distributors' connection assets on their property are treated appropriately and access to premises for meter reading is given where necessary. Distributor obligations include requirements prior to disconnection such as giving a warning notice, and notice requirements to customers of planned interruptions that may affect supply to the customers' premises.

Life support

As continued access to energy is a critical issue for customers who use life support equipment, this Bill contains strong protections for customers with life support equipment in their homes or other premises.

Where a customer informs their retailer or distributor that a person residing at premises requires life support, the Customer Framework requires both the retailer and the distributor to keep a register of premises where life support equipment is in use and will stipulate that distributors must not disconnect these registered premises. The Customer Framework also ensures that these customers are afforded every opportunity to guard against the risk of unavoidable supply interruptions, such as during an emergency supply outage.

The National Connections Framework

As I have indicated, the Customer Framework before us today also includes a national connections framework. This framework is provided for in the accompanying *Statutes Amendment (National Energy Retail Law) Bill 2010*.

The connection framework is to be inserted into the *National Electricity Rules* and the *National Gas Rules*, for retail customers seeking new connections or alterations to existing connections to electricity and natural gas distribution networks. Recognising that many new connections are arranged by property developers before retail customers move in, arrangements are also included to enable property developers to apply for one or multiple connections.

Each project for a new connection or modification of an existing connection will not be identical. For example, the distance of premises from existing infrastructure will vary. However, a large number of new connections and modifications will have common features, such as the type of assets needed to connect or modify.

To accommodate these similarities, the framework establishes two broad types of service offerings: basic connections and standard connections. Basic connection services are services that involve no or only minimal augmentation of the network or pipeline and are likely to be sought by a significant number of retail customers within the distributor's service area.

Under the framework, each distributor must have at least one model standing offer for each class of basic connection services it provides. Electricity distributors must also define at least one standing offer for the basic connection services it provides for micro-embedded generators (for example, rooftop solar panels). A model standing offer is a template offer, describing the terms and conditions which will apply to the connection, such as the circumstances in which charges are payable and how they will be calculated and the timeframe in which work will be completed.

Distributors may also provide model standing offers for standard connection services for other categories of connection that, while not likely to be sought by a significant class of customer, are still common to different classes of customers within their area.

To provide for differences across distribution areas, each distributor is responsible for developing its own basic and standard connection service offerings. However, to ensure the proposed model terms and conditions for these offers adhere to the requirements of the framework, model standing offers must be approved by the Australian Energy Regulator before being offered to customers.

The framework sets out an enquiry and application process with prescribed response times to ensure customers enquiring about new or altered connections receive timely information to assist them in making an

application. For a straightforward basic or standard connection, an 'expedited' process is available. This allows the customer to state from the outset that they accept the distributor's model standing offer, to enable straightforward connections to be competed as quickly as possible.

The Customer Framework ensures new terms and conditions of new or altered connection offers integrate with the customer connection contracts under the *National Energy Retail Law*. This means customers will have a single contract with their distributor covering both their new or altered connection and ongoing supply.

The national connection regime also contains a negotiating framework for retail customers seeking non-standard connections or connection alterations. While this is expected to apply mainly to larger connection applicants, customers seeking basic or standard connection services may also elect to adopt this negotiation framework. An application and offer process with prescribed response times is also prescribed under the rules.

The national connections regime includes provisions for the process and cost of new connections and connection modifications. Importantly, the connection charging regime also integrates with the existing economic regulation of networks under the *National Electricity Rules* and the *National Gas Rules*. For electricity, to ensure connection charges for retail customers and property developers are broadly consistent across networks and align with distributor determinations, distributors must submit a connection policy as part of each regulatory proposal, for approval by the Australian Energy Regulator.

A distributor's model standing offer for a new or altered connection must be consistent with its distribution determination, including its connection policy.

In turn, the connection policy must be consistent with connection charge principles under the Rules and connection charge guidelines, to be developed by the Australian Energy Regulator. The guidelines will establish principles for fixing a threshold below which retail customers will be exempt from any requirement to pay connection charges for any upstream augmentation necessary to make the connection. In this way, smaller or more typical retail customers will not be paying directly for upstream augmentation in respect of their connection.

In developing the electricity connection charging guidelines, the Australian Energy Regulator must have regard to the inter-jurisdictional differences related to regulatory control mechanisms, classification of services and other relevant matters. The Australian Energy Regulator's consideration of established practices in jurisdictions will provide a useful benchmark in developing these guidelines, and will go a long way in ensuring a relatively smooth transition for all to the new arrangements for new or altered connections.

For gas, there will be connection charges criteria to provide detail on the methodology for calculating connection charges and ensuring that distributors take into account the revenue they will receive over time from supplying gas to the premises and do not seek to recover this upfront when the connection is made.

Finally, the regime ensures that all connection applicants under the Customer Framework have access to dispute resolution, whether to the relevant energy ombudsman (for small customers) or to the Australian Energy Regulator. To facilitate this, recently-made regulations waive the access dispute fees of the Australian Energy Regulator for gas customers consuming less than 1 terajoule of gas per annum, and for electricity customers consuming less than 750 megawatt hours of electricity per annum, which will enhance such customers' ability to use this mechanism.

Small Compensation Claims Regime

The Bill also includes a Small Compensation Claims Regime (the 'small claims regime') which is designed to provide small customers with small claims a low cost and effective way to obtain compensation for (mainly) damage to their property without needing to prove negligence.

The Bill allows the small claims regime to operate in those States and Territories that choose to implement it. This provides flexibility and recognises that not all jurisdictions may be in a position to adopt the regime based on existing practices. Some distributors already operate similar voluntary schemes while other jurisdictions impose a regulatory requirement on distributors to do so. The small claims regime in the Customer Framework has been designed to enable a State or Territory to define in its local instrument what a claimable incident and compensable matter are in that jurisdiction, to accommodate differences.

The small claims regime in this Bill enables a small customer to refer a small claim for compensation to their distributor to be assessed, processed, and if appropriate, compensated. The types of small claims that typically arise involve damage to electrical and electronic goods such as televisions and computers. The small claims regime provides the framework for the resolution of small claims in a way that does not involve a distributor having to admit fault, negligence or bad faith, and which is efficient and simple to understand.

In addition to the consumer protection aspect, the small claims regime provides an incentive for distribution businesses to actively manage their quality of supply rather than pay compensation for potentially avoidable incidents. Further, it assists distribution businesses with their management of liability by reducing the need for small customers to potentially seek legal action for damage and instead offers small customers an uncomplicated tool to claim compensation. Lastly, it reduces the burden of dispute resolution involving property damage through jurisdictional ombudsman schemes as small customers can deal directly with the distribution business and need only involve the energy ombudsman if they are dissatisfied with the outcome of a claim.

Small Customer Complaints and Dispute resolution

This Bill includes robust arrangements for the handling of complaints and disputes from small customers by energy retailers and distributors. It also supports and facilitates the role of jurisdictional energy ombudsman schemes as external dispute resolution bodies.

Retailers and distributors must publish on their websites a set of procedures (their 'standard complaints and dispute resolution procedures'), for responding to small customer complaints. These procedures must be consistent with the applicable Australian Standard on complaint handling.

A retailer or distributor will also be required to handle a customer complaint in accordance with its published procedures, and to advise the customer in a timely way of the outcome of their complaint, including any reasons for its decision.

A customer must also be informed that if the customer is not satisfied with how their retailer or distributor has handled their complaint, they can refer the matter to the energy ombudsman in their State or Territory, and the retailer or distributor must provide the customer with the contact details of the energy ombudsman.

The Bill also includes a requirement for each retailer and distributor to be a member of an energy ombudsman scheme for each jurisdiction in which the retailer or distributor sells or supplies energy to small customers or engages in marketing to small customers, and to comply with the requirements of that scheme.

The Bill seeks to ensure that while the energy ombudsman schemes themselves operate according to their own jurisdictional laws or constitutional arrangements, the schemes are able to receive, investigate and resolve small customer complaints and disputes that may arise under the Customer Framework.

Retailer authorisation

Under this Bill there will be a national energy retailer authorisation regime for the first time. A party will be prohibited from selling energy to customers unless it has obtained a retailer authorisation from the Australian Energy Regulator, or has been exempted by the Australian Energy Regulator from this requirement. The regime works to ensure that only businesses which can demonstrate their capacity and suitability to meet their obligations in selling energy can operate in the energy retail sector. The retailer authorisation regime is one mechanism in the Customer Framework to minimise the risk of non-compliance or failure by a retailer, and the impacts of any such failure on the energy markets and customers.

The Bill gives the Australian Energy Regulator regulatory functions and powers to grant or refuse a retailer authorisation application. The Bill also sets out the entry criteria that an applicant must meet when applying for a retailer authorisation. These entry criteria include demonstrating to the Australian Energy Regulator that the business has the organisational and technical capacity, financial resources and demonstrated suitability to meet the regulatory obligations of a retailer and therefore to hold an authorisation.

The Bill further provides that, in considering the suitability of a retailer for authorisation, the Australian Energy Regulator will take into account any relevant matters, including the previous commercial dealings of the applicant and its associates and the standards of honesty and integrity shown in previous commercial dealings of the applicant and its associates.

This regime differs from jurisdictional licensing regimes, including South Australia's current regime, because the national retailer authorisation does not use conditions on the authorisation to impose ongoing requirements on retailers. Rather, authorised retailers must comply with direct obligations under the various energy laws.

However, as a means to ensure compliance with the Customer Framework, the Australian Energy Regulator will also have the power to revoke a retailer's retail authorisation should the Australian Energy Regulator be satisfied that a retailer is unable to meet its obligations under the Law, Regulations or Rules.

This Bill requires the Australian Energy Regulator to develop guidelines, in consultation with relevant organisations, to provide potential applicants with guidance if they wish to apply for a retailer authorisation and if they wish to transfer, vary or surrender their authorisation.

Exempt Sellers Regime

Not all businesses that sell energy can or should be required to obtain a retailer authorisation and comply with the full range of obligations on retailers contained in the Customer Framework. This Bill provides the Australian Energy Regulator with the power to grant an exemption to a person or class of persons, known as exempt sellers. Given the costs and obligations that holding a retailer authorisation entails, small entities such as caravan parks, which on-sell incidental amounts of energy may need to be exempted from the requirement. Other unique situations may also require special arrangements.

The Bill therefore provides for 3 types of exemptions. The first is individual exemptions which would be granted on a case-by-case basis, taking into account the particular circumstances of an individual seller. The second type of exemption is a class of registered exemptions which the Australian Energy Regulator determines, and particular sellers who fall within that class of sellers must register with the Australian Energy Regulator to have the benefit of the exemption. The third type of exemption is a deemed exemption. The Australian Energy Regulator will determine and publish classes of sellers who fall within the class. These will be the small operators for whom it is inefficient to identify each individual seller.

Exempt sellers may be subject to conditions imposed by the Australian Energy Regulator which are enforceable as if they were Rules. The Bill gives clear policy guidance to the Australian Energy Regulator when it is determining classes of registrable or deemed exemptions, assessing an individual exemption, or imposing conditions on an exemption. The Australian Energy Regulator must have regard to both overarching policy principles and more targeted exempt seller related factors and customer related factors.

The exemptions framework set out in the Bill has been designed to recognise the wide variety of supply arrangements that exist and ensure the Australian Energy Regulator has flexibility to apply obligations to exempt sellers which protect the interests of the exempt seller's customers and are appropriate to the seller's individual circumstances.

Retailer of Last Resort Scheme

I have already mentioned one of the key elements of the Bill is the institution of a national RoLR framework, which will replace existing jurisdictional RoLR schemes for electricity and gas. The RoLR arrangements have been subject to extensive separate consultation, to ensure that the institutional arrangements are sound.

A RoLR scheme provides security to customers by ensuring the continuity of supply if their retailer happens to fail or exit the market without making arrangements for continued sale and supply of energy to its customers. A RoLR event can be invoked for a range of reasons, including the suspension of a retailer from a wholesale exchange for energy or insolvency of the retailer.

A retailer failure in this situation also has a major flow-on effect as the Australian Energy Market Operator would not be able to settle the wholesale markets for energy consumed. The national RoLR scheme therefore incorporates backup arrangements to ensure the integrity of the relevant market's financial settlements in the event of a retailer failure, and thus protect customers.

The national RoLR scheme provides for the identification of retailers who will become responsible for the customers of a failed retailer and continue to supply electricity and/or gas to those customers. The arrangements establish the practices and procedures to be followed prior to, during and after a RoLR event.

The Australian Energy Regulator is charged with the role of registering and appointing retailers of last resort. Registered RoLRs may, if a RoLR event occurs, be appointed as a retailer of last resort for affected customers. Retailers may volunteer to be registered, or the Australian Energy Regulator may require them to become a RoLR by making them a default RoLR. The Australian Energy Regulator must have regard to the RoLR criteria in registering or appointing a RoLR, which pertain to the operational and financial capacity of the retailer.

The arrangements require the Australian Energy Regulator to notify, or ensure the notification of, all affected parties when a RoLR event occurs, through a RoLR notice. The Australian Energy Regulator is empowered to make plans which will set out how the various parties, such as distributors, retailers and the Australian Energy Market Operator should interact to deal with a RoLR event. These arrangements will include notification to affected customers of what will occur.

The Australian Energy Regulator is empowered to require information from retailers under the RoLR regulatory information provisions, to ensure that it is fully informed and able to ensure the effective transfer of customers to the RoLR if a RoLR event occurs. To deal with the possibility that the failed retailer may be insolvent and unable to provide information, a failed retailer's insolvency official may be requested to provide necessary information to the Australian Energy Regulator.

The regulatory information provisions are modelled on those established under the National Gas Law, with the exception that there is no provision for issuing general Regulatory Information Orders, as this is not appropriate to the RoLR context. Therefore only Regulatory Information Notices are provided for. There are other modifications that reflect the likely urgency of issuing these Regulatory Information Notices in the context of an actual or imminent retailer failure.

The Australian Energy Regulator is further empowered to act to investigate the potential for a RoLR event to occur. This is provided through the Australian Energy Regulator's powers in relation to contingent events. Under these powers the Regulator may inquire into the financial position of retailers, consult with the Australian Energy Market Operator, disclose information to relevant parties and notify the Australian Energy Market Operator and jurisdictional Ministers if it believes that there is a risk of a RoLR event. These powers are necessary to ensure that customer security of supply is preserved and not compromised by the threat of retailer failure.

The Australian Energy Regulator may also inquire with one or more registered RoLRs as to whether they wish to be appointed should a RoLR event occur to streamline the appointment process that will be undertaken following an actual RoLR event. All actions taken by the Regulator under contingent events are subject to confidentiality protections to ensure the regulator's investigations do not of themselves trigger a RoLR event by causing uncertainty in the market.

Arrangements are also made for the recovery of the costs associated with RoLR events by RoLRs and distributors.

In the case of RoLRs, these will be set out in a cost recovery scheme determined by the Australian Energy Regulator. The cost recovery scheme approved by the Australian Energy Regulator must allow the RoLR to recover the reasonable costs associated with the scheme.

The cost recovery process will occur through the Australian Energy Regulator requiring distributors to make payment to a RoLR in accordance with their liability under the RoLR cost recovery scheme. Distributors will then have the ability to pass costs through to retailers via their distribution price determination or access arrangement, effectively providing for all customers to contribute to the costs of the scheme, recognising that it provides a service to the whole of the market.

In the gas sector, further arrangements are also necessary to ensure that RoLRs are able to access sufficient gas and pipeline capacity to fulfil their required role for the duration of their obligations. To this end, if there is otherwise insufficient capacity or gas available to the RoLR, gas pipelines and shippers are required to provide

capacity and gas to the RoLR on terms and conditions which are comparable to those generally available in the market. The Australian Energy Regulator will be empowered to determine these terms and conditions, and to hear disputes with pipeline operators as access disputes under the National Gas Law. RoLRs will be required to enter into negotiations to purchase replacement contracts going forward and, if they are unable to conclude those negotiations, capacity and gas must be auctioned by those that hold it.

The Bill provides arrangements under which affected customers will be supplied after a RoLR event. In the case of small customers, they will be subject to a deemed supply arrangement on standard terms and conditions. Large customers will be supplied on terms and conditions that must be published by registered RoLRs.

As these arrangements are in the nature of emergency powers to deal with a substantial market failure, it is necessary that they be fully enforceable and actionable. Therefore, statutory immunity is provided to the Australian Energy Regulator, Australian Energy Market Operator, RoLRs and distributors as well as their staff in carrying out their roles. Further, the regime provides for the displacement of some provisions of the *Corporations Act 2001* (Commonwealth) to ensure there is no doubt of the primacy of the RoLR scheme.

Recent experience has revealed a number of ways in which customers can be adversely affected by being transferred to a RoLR. Therefore, the Bill includes provisions to ensure that the failed retailer or its insolvency official honours customer payment plans, returns security deposits to customers, returns any prepaid credit to customers, and cancels direct debit and Centrepay arrangements with the failed retailer.

Retailer-Distributor Relationship

This Bill recognises that distributors and retailers have direct obligations to their shared customers under the Customer Framework. To serve their customers, distributors and retailers must freely exchange information and coordinate service delivery. It is also necessary that there are uniform and predictable billing and payment requirements between distributors and retailers. To date, these mutual 'retail support' obligations have been contained in jurisdictional regimes under a variety of instruments.

The new Customer Framework sets these requirements out clearly in rules made under the *National Electricity Law*, the *National Gas Law* and *National Energy Retail Law*. The heads of power for the making of these Rules are contained in the *National Energy Retail Law* and in the accompanying *Statutes Amendment (National Energy Retail Law) Bill 2010*. The rights and obligations on retailers and distributors are direct regulatory obligations that are even handed and fair to both of them.

Credit support

The retailer-distributor arrangements in the Customer Framework include credit support rules which provide for retailers to give guarantees to distributors, known as credit support, to guard against the risk of retailer default on payment of network charges, in turn protecting customers from bearing the cost of a default.

The credit support provisions represent a balanced and proportionate requirement on retailers which takes into account their creditworthiness and the risk posed by a retailer to any given distributor. The proportionate arrangements will lower barriers to entry and expansion by retailers into new distribution areas, and thereby encourage competition between retailers nationally.

The credit support rules will effectively require distributors to act prudently in obtaining appropriate levels of credit support from a retailer under the rules. Distributors will be able to pass through certain unpaid network charges to customers, but customers will not be required to pay to the extent a distributor has not taken reasonable steps to obtain credit support from a retailer where it is entitled to do so under the rules.

Appropriately, the credit support arrangements provide incentives for retailers to improve their credit worthiness, and provide incentives for distributors to efficiently manage their risk exposure.

Ministerial Council on Energy role and functions

As provided for in the Australian Energy Market Agreement, the Ministerial Council on Energy will be the national policy and governance body for the Australian energy market, including the Customer Framework.

The Bill reflects similar functions and powers for the Ministerial Council on Energy as those set out under the *National Electricity Law* and *National Gas Law*. Firstly, the Ministerial Council on Energy may direct the Australian Energy Market Commission to carry out a review and report back to Ministers. Such a review may result in the Australian Energy Market Commission making recommendations to the Ministerial Council on Energy in relation to any relevant changes to the *National Energy Retail Rules* that it considers are required. Secondly, the Ministerial Council on Energy may initiate a Rule change proposal. This may, for example, be the result of a review carried out by the Australian Energy Market Commission as a result of a request by the Ministerial Council on Energy. Thirdly, the Ministerial Council on Energy may publish statements of policy principles in relation to the Australian Energy Market Commission's rule making and review functions under the new Customer Framework.

Australian Energy Market Commission role and functions

The Australian Energy Market Commission is the rule making body for the current *National Electricity Rules* and the *National Gas Rules*. The Commission will have a similar role under this Bill for the *National Energy Retail Rules*. The Australian Energy Market Commission will assess Rule change proposals which have been initiated by the Ministerial Council on Energy, the Australian Energy Market Operator, industry participants and energy users including retail customers, in accordance with its rule making procedures.

In so far as its review function is concerned, the Australian Energy Market Commission must conduct reviews as directed by the Ministerial Council on Energy into matters such as the sale and supply of energy to

customers and the operation and effectiveness of the *National Energy Retail Rules*. The Australian Energy Market Commission may itself decide to conduct reviews into the operation and effectiveness of the Rules.

The Australian Energy Market Commission will be required to have regard to the National Energy Retail Objective in performing its functions under the Customer Framework. Further guidance has been set out in this Bill for the Australian Energy Market Commission when making a rule, which I will say more about shortly.

Further, the Australian Energy Market Commission must have regard to any relevant Ministerial Council on Energy statements of policy principles in making a rule change or conducting a review into any matter relating to the *National Energy Retail Rules*.

Australian Energy Regulator role and functions

The Australian Energy Regulator is a Commonwealth statutory body under the *Trade Practices Act 1974* (Commonwealth). The Australian Energy Regulator is the primary regulator under the *National Electricity Law* and the *National Gas Law* in all jurisdictions except Western Australia. Under this Bill, the Australian Energy Regulator will have similar powers to regulate, and ensure compliance by, retailers and distributors under the Customer Framework.

The Bill requires the Australian Energy Regulator to exercise key functions under the Customer Framework in a manner that will contribute to the achievement of the national energy retail objective, and where relevant, in a manner that is compatible with the development and application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers. These key functions include approval of applications for retailer authorisations, administering the national exempt seller's framework, and regulating the Retailer of Last Resort regime.

The Australian Energy Regulator has a number of new approval functions which include approving Customer Hardship Policies of retailers and deemed customer connection contracts for large customers which a distributor may choose to submit. Under the new connections framework, the Australian Energy Regulator will also have an approval role in relation to various connection offerings of distributors.

Enforcement

The enforcement regime in this Bill reflects the current enforcement regimes in the *National Electricity Law* and the *National Gas Law* to create a harmonised enforcement regime across the legislative frameworks. The existing general compliance and enforcement regimes for the energy sector empower the Australian Energy Regulator to do the following—

- generally monitor compliance with the Law, Regulations and Rules and investigate breaches.
- seek a range of remedies in Supreme Courts and the Federal Court to enforce the obligations in the regime (for example injunctions and declarations).
- seek civil penalties where applicable.
- serve an infringement notice which, if paid, would avoid Court proceedings.

This Bill, together with amendments to the *National Electricity Law* and the *National Gas Law* included in the accompanying *Statutes Amendment (National Energy Retail Law) Bill 2010*, establish for the first time a power for the Australian Energy Regulator to accept enforceable undertakings from energy market participants. This type of administrative remedy gives the Regulator an alternative tool in achieving compliance to having to proceed straight to court action. This type of regime for enforceable undertakings is similar to the power which the Australian Competition and Consumer Commission has under the *Trade Practices Act 1974* (Commonwealth).

In addition, the Bill incorporates a conduct provision regime in relation to certain specified obligations owed by retailers to distributors and vice versa. This regime has been included to enable retailers and distributors to take direct action against the other party where appropriate.

Obtaining and using information

This Bill adopts key general information gathering powers currently available to the Australian Energy Regulator under the *National Gas Law* and *National Electricity Law*. The Bill gives the Australian Energy Regulator the ability to obtain information or documents from any person where such information or documents are required by the Australian Energy Regulator for the purpose of performing or exercising any of its functions and powers. The usual protections apply for the various categories of confidential information.

The Customer Framework makes certain that there is no duplication for industry participants in providing information to the Regulator. Similarly, the Australian Energy Regulator will have flexibility in the way in which it may use and report information provided to it. This Bill expressly states that information provided under any of the three national energy regimes can be used for the purposes of any of those regimes. Similarly, the Australian Energy Regulator may combine into single documents reports and guidelines that cover similar subject matters across the three regimes. This will save both costs and red tape for stakeholders.

New compliance regime for the retail sector

This Bill contains a targeted compliance framework which applies to retailers and distributors who are subject to the Customer Framework. Retailers and distributors must have policies, systems and procedures to enable them to efficiently and effectively self-monitor their own compliance.

An effective compliance monitoring and reporting regime must be supported by the free flow of information to the Australian Energy Regulator, and retailers and distributors will be obliged to provide information relating to specific matters relevant to the Customer Framework and listed in Compliance Procedures and Guidelines developed and published by the Australian Energy Regulator.

The Bill has a clear compliance auditing regime which sets out how the Australian Energy Regulator may initiate such audits. Compliance audits can assess compliance by a retailer or a distributor with its obligations under the *National Energy Retail Law*, the Regulations or the Rules.

The Bill mandates an annual compliance report to be prepared and published by the regulator which will include both the monitoring activities of the Australian Energy Regulator during the year and the compliance of retailers and distributors, in particular, in relation to energy marketing.

New performance reporting for the retail sector

The full benefits of a national energy retail market will become evident if there is effective competition in the retail sector, such that customers are able to share in the benefits of an efficiently run energy market.

Consumers, businesses and government require access to quality information on the development and efficacy of the retail market. Therefore, this Bill empowers the Australian Energy Regulator to gather information and publish a Retail Market Performance Report annually.

This annual report will include both a retail market overview and a retail market activities review for the year. The overview will include information on the number of retailers actively selling energy to customers and customer numbers of each retailer. It will also indicate the total number of customers on standard retail contracts and market retail contracts for small customers and by reference to each retailer. The report will cover transfer activities between retailers and energy affordability for small customers.

The annual retail market performance report will also report on retail market activities. This includes information and statistics on customer service and customer complaints as well as the handling of customers experiencing payment difficulties, (distinguishing hardship customers). In addition, the report will detail activities relating to prepayment meters, disconnection and reconnection for non-payment of bills, energy concessions and rebates for customers (where these are administered by retailers) and security deposits held by retailers.

Importantly, this Bill requires the Australian Energy Regulator to develop, in consultation with stakeholders, hardship program indicators which cover entry into and participation in, hardship programs and assistance available to customers under customer hardship policies.

The Bill expressly states that compliance audits may be carried out in relation to a retailer's compliance with the obligation of retailers in relation to hardship customers and the implementation by a retailer of its own customer hardship policy.

The Bill also enables the Australian Energy Regulator to conduct performance audits of energy retailers against these hardship program indicators. This will allow the regulator to assess whether vulnerable customers are being well served by a retailer's customer hardship policy and the retail market generally.

National Energy Retail Rules

This Bill enables the making of the initial *National Energy Retail Rules* on the recommendation of the Ministerial Council on Energy, by a Ministerial notice. However, the introduction of the Customer Framework differs from previous national energy reforms in that the Customer Framework will not commence in any jurisdiction (including South Australia) immediately upon enactment by the South Australian Parliament.

Commencement will occur in each jurisdiction when the jurisdiction applies the package of Laws and Rules. The Australian Energy Market Commission will only assume its responsibilities for rule making when commencement of the Customer Framework first occurs in any jurisdiction. Therefore, during the pre-commencement period (between enactment in South Australia and application in any jurisdiction), the various national Rules made by the South Australian Minister remain the responsibility of the Minister. Should it become evident as part of jurisdictional implementation that any adjustments are needed to the initial Rules made by the Minister prior to jurisdictional commencement, the Laws provide a residual power that would allow the Minister to make necessary and consequential changes to the initial Rules, but only up until commencement by any one jurisdiction. Any such changes made by the South Australian Minister during this period must first be approved by the Ministerial Council on Energy.

Subject to any transitional arrangements applied during jurisdictional implementation of the Customer Framework, the Australian Energy Market Commission will assume responsibility for these national rules on the date of commencement of the Customer Framework in any one jurisdiction, and the rules will be subject to change in accordance with the Rule change process from that date onwards.

The Bill has the same rule change process for the Australian Energy Market Commission as the *National Electricity Law* and *National Gas Law*. The Australian Energy Market Commission may make a rule after the Rule change procedure has been followed if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national energy retail objective.

The Australian Energy Market Commission rule change process set out in the Bill is transparent and involves the opportunity for significant input by stakeholders. Thorough consultation must be carried out on rule changes, with requirements for fully reasoned draft and final determinations. The 'fast track' amendment procedure

(which proceeds straight to a draft determination) is also available where adequate prior consultation has been undertaken.

The Bill contains the rule making test which requires the Australian Energy Market Commission to satisfy itself that the Rule will or is likely to contribute to the achievement of the national energy retail objective and allows the Australian Energy Market Commission to give weight to any aspect of the objective as it considers appropriate in the circumstances. The Commission must, in the context of the Customer Framework, to do so in a way that is compatible with the development and application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers.

Regulations made under the National Energy Retail Law

National Regulations may be made for the Customer Framework under this Bill. As with previous practice with the Regulations made under the *National Electricity Law* and *National Gas Law*, the Regulations will not be a vehicle to implement matters of substance, but rather matters of a more machinery nature requiring some degree of flexibility but which needs to be within the decision making power of the Ministerial Council on Energy. The Regulations prescribe civil penalty provisions, a list of jurisdictional energy ombudsman schemes; a list of current jurisdictional regulators and the national consumption thresholds for small business customers. The regulations are also likely to be used for transitioning from jurisdictional frameworks to the national customer framework, but these transitional regulations do not form part of this Regulation. An important safeguard is that Regulations can only be made with the unanimous agreement of all relevant Ministerial Council on Energy Ministers.

Application of the Bill in South Australia

From South Australia's perspective, the passage of this Bill will not result in an immediate transition to the national framework. Instead, consequential amendments to the current South Australian energy legislative instruments resulting from the application of this Bill will be prepared and presented to Parliament at a later time. These amendments will include South Australian specific obligations on energy retailers and distributors where it is considered necessary, an example of which will be a requirement on some retailers to comply with the Residential Energy Efficiency Scheme. These South Australian specific obligations will complement the Bill that is being introduced here today to form a sound regulatory framework for energy market participants and energy consumers in South Australia.

It is anticipated that South Australia will commence implementation of the national framework under this Bill if the consequential amendments to existing legislative instruments are passed by Parliament. Most important is the Government's continued commitment to price regulation in South Australia which will be maintained post implementation of this national framework with any necessary transitional arrangements forming part of the consequential amendment package.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause sets out the short title of the measure.

2—Commencement

Clause 2(1) provides for the measure to be brought into operation by proclamation. Clause 2(2) excludes the operation of section 7(5) of the *Acts Interpretation Act 1915* due to the fact that this measure forms part of a co-operative legislative scheme involving other Australian jurisdictions.

3—Interpretation

A key aspect of the definitions under the Act is that there will be a point of distinction between the *National Energy Retail Law*, being a law to be applied in the jurisdiction of the scheme participants, and the *National Energy Retail Law (South Australia)*, being the *National Energy Retail Law* as it applies in this State. The clause also provides that definitions included in the law (as applying because of this measure) also apply for the purposes of the Act.

Part 2—Application of National Energy Retail Law

4—Application of National Energy Retail Law

This clause provides that the *National Energy Retail Law* set out in the Schedule will not apply in this jurisdiction until a day fixed by the Governor by proclamation made under this provision. The reason for drafting this provision in this way is that the Bill has to address the possibility that the Schedule will need to be brought into operation for the purposes of the laws of one or more other jurisdictions before the *National Energy Retail Law* is to be applied to South Australia. From the day fixed for the application of the National Law in this jurisdiction, the National Law will apply and the applied law may be referred to as the *National Energy Retail Law (South Australia)*.

5—Application of regulations under National Energy Retail Law

From the day fixed under clause 4(1), the regulations in force for the time being under the National Law will apply as regulations in force for the purposes of the *National Energy Retail Law (South Australia)*. These regulations are to be referred to as the *National Energy Retail Regulations (South Australia)*.

6—Interpretation of certain expressions

In the *National Energy Retail Law (South Australia)* and the *National Energy Retail Regulations (South Australia)*, references to the National Law or to 'this Law' will be references to the *National Energy Retail Law (South Australia)* and references to 'the jurisdiction' or 'this jurisdiction' will be references to South Australia.

7—Exclusion of legislation of this jurisdiction

In view of the interjurisdictional application of the National Law, it is appropriate to provide for the exclusion of certain Acts.

Part 3—Related matters

8—Conferral of functions and powers on Commonwealth bodies to act in this jurisdiction

This clause provides for the Australian Energy Regulator and the Australian Competition Tribunal to do acts in or in relation to this State in the performance or exercise of a function or power conferred by the national energy retail legislation of another participating jurisdiction.

9—Extension of reading-down provision

This clause provides that a provision of the proposed Act is to be construed so as not to exceed the legislative powers of the Parliament, in particular with respect to a provision that appears to impose a duty on a Commonwealth officer or body.

10—Regulation-making power for purposes of *National Retail Energy Law (South Australia)*

This clause authorises the Governor to make such regulations, including regulations constituting local instruments, as are contemplated by the *National Energy Retail Law (South Australia)* as being made under this measure as the application Act of this jurisdiction.

Part 4—Provisions applying in South Australia as host jurisdiction

11—Interpretation

This clause provides that for the purposes of this Part a reference to the *National Energy Retail Law* is a reference to the law, as amended from time to time, set out in the Schedule.

12—Regulations

This clause authorises the Governor to make the regulations that are to be made under the *National Energy Retail Law*. The Governor will be able to act under this clause even if the *National Energy Retail Law* is yet to apply in this jurisdiction under the scheme set out in clause 4.

13—Minister authorised to exercise powers under the national scheme

This clause authorises the Minister to make rules under the *National Energy Retail Law* or as provided by amendments to the *National Electricity Law* or the *National Gas Law* by the *Statutes Amendment (National Energy Retail Law) Act 2010*. This clause also makes it clear that if the national energy retail legislation of another jurisdiction confers a function or power on the Minister, the Minister may perform that function or exercise that power.

14—Exclusion of legislation of this jurisdiction

In view of the interjurisdictional application of the regulations and rules made under the National Law, it is appropriate to exclude the application of the *Subordinate Legislation Act 1978*.

Schedule 1—*National Energy Retail Law*

Part 1—Preliminary

Division 1—Citation and interpretation

1—Citation

This clause provides that this Law may be cited as the National Energy Retail Law.

2—Interpretation

This clause sets out definitions used in the Law.

3—Application of Law, National Regulations and Rules in this jurisdiction

This clause states that this legislation can only apply in a jurisdiction by an application Act.

4—Meaning of civil penalty provision and conduct provision

This clause outlines the provisions which apply a civil penalty.

5—Meaning of customer and associated terms

This clause defines a customer for the sale of energy to premises or, the customer purchases energy from a retailer. The customer is either a residential or business customer.

6—Provisions relating to consumption thresholds for business customers

This clause states the regulations will specify the consumption thresholds for business customers.

7—Classification and reclassification of customers

This clause permits the Rules to make provision for or with respect to the classification or reclassification of customers.

8—Interpretation generally

This clause applies Schedule 2 to the *National Gas Law* to the Law, the National Regulations and the Rules.

Division 2—Matters relating to participating jurisdictions

9—Participating jurisdictions

This clause identifies the participating jurisdictions for the purposes of the Law.

10—Ministers of participating jurisdictions

This clause identifies the Ministers of the jurisdictions administering the Law.

11—Local area retailers

This clause requires a participating jurisdiction to make regulations nominating a local area retailer or retailers.

12—Nominated distributors

This clause allows a participating jurisdiction to make regulations nominating a local area distributor or distributors.

Division 3—National energy retail objective and policy principles

13—National energy retail objective

This clause states the objective of the Law.

14—MCE statements of policy principles

This clause allows the Ministerial Council on Energy (MCE) to issue statements of policy principles for the Australian Energy Market Commission (AEMC) that are relevant to the performance and exercise of its functions.

Division 4—Operation and effect of *National Energy Retail Rules*

15—Rules to have force of law

This clause provides for the Rules to have the force of law in each of the participating jurisdictions.

Division 5—Application of this Law and the Rules to forms of energy

16—Application of Law and Rules to energy

This clause applies the Law and the Rules to the sale and supply of electricity or gas to customers, to a retailer (to the extent it sells electricity or gas or both) and to a distributor (to the extent its distributes electricity or gas or both).

Division 6—Miscellaneous

17—Extraterritorial operation of Law

This clause provides for the extra territorial operation of the legislation.

18—Law binds the State

This clause provides that the legislation binds the State.

Part 2—Relationship between retailers and small customers

Division 1—Preliminary

19—Application of this Part

This clause specifies how Part 2 of the Law applies to the relationships between retailers and their customers.

Division 2—Customer retail contracts generally

20—Kinds of customer retail contracts

This clause identifies the two kinds of contracts under which a retailer may provide customer retail services to small customers.

Division 3—Standing offers and standard retail contracts for small customers

21—Model terms and conditions

This clause requires the Rules to set out the model terms and conditions for standard retail contracts.

22—Obligation to make offer to small customers

This clause requires a designated retailer to make a standing offer to small customers at its standing offer prices, and under the retailer's form of standard retail contract.

23—Standing offer prices

This clause requires a retailer to publish its standing offer prices on its website and allows for the price to be varied in accordance with certain requirements.

24—Presentation of standing offer prices

This clause requires the standing offer prices to be presented in accordance with the Australian Energy Regulator (AER) Retail Pricing Information Guidelines.

25—Adoption of form of standard retail contract

This clause requires a retailer to adopt a form of standard retail contract and publish it on the retailer's website, and specifies how alterations may be made.

26—Formation of standard retail contract

This clause specifies when a standard retail contract takes effect between a retailers and a small customer.

27—Obligation to comply with standard retail contract

This clause requires a designated retailer to comply with the obligations imposed on it under the terms and conditions of a standard retail contract.

28—Variation of standard retail contract

This clause permits the retailer to make certain variations to the standard retail contract, and requires the retailer to make certain other variations.

29—Standard retail contract to be consistent with model terms and conditions

This clause provides that the terms and conditions of a standard retail contract will have no effect to the extent of any inconsistency with the model terms and conditions, and the model terms and conditions apply instead to the extent of any inconsistency.

30—Duration of standard retail contract

This clause provides that the standard retail contract will remain in force until it is terminated in accordance with the Law, the Rules or the contract.

31—Satisfaction of designated retailer's obligation to make standing offer by making market offer to certain small customers

This clause specifies how a designated retailer can satisfy its obligations to make a standing offer to a small market offer customer.

32—Rules

This clause provides for the Rules to make provision for or with respect to standard retail contracts.

Division 4—Market retail contracts for small customers

33—Formation of market retail contracts

This clause allows a small customer and a retailer to negotiate and enter into a market retail contract for retail services or any other services.

34—Minimum requirements for market retail contracts

This clause provides for the Rules to set out the minimum requirements for market retail contracts.

35—Variation of market retail contract

This clause provides that the process for varying a market retail contract must not be inconsistent with the Rules in relation to the variation of market retail contracts.

36—Market retail contract to be consistent with minimum requirements of the Rules

This clause provides that the terms and conditions of a market retail contract will have no effect to the extent of any inconsistency with any minimum requirements of the Rules, and the minimum requirements apply instead to the extent of any inconsistency.

37—Presentation of market offer prices

This clause requires a retailer to present its market offer prices in accordance with the AER Retail Pricing Information Guidelines and present those prices prominently on its website.

Division 5—Explicit informed consent

38—Requirement for explicit informed consent for certain transactions

This clause requires the retailer to obtain the explicit informed consent of a customer for certain transactions.

39—Nature of explicit informed consent

This clause sets out the requirements for a small customer to give explicit informed consent to a transaction and how the customer must give that consent.

40—Record of explicit informed consent

This clause requires a retailer to keep a record of each explicit informed consent given by a small customer for at least two years and specifies the format and content of the record.

41—No or defective explicit informed consent

This clause provides that any transaction that requires explicit informed consent is void to the extent that explicit informed consent was not obtained or was defective, and provides for the consequences of a void transaction.

42—Rules

This clause permits the Rules to make provision for or with respect to explicit informed consent in relation to small customers.

Division 6—Customer hardship

43—Customer hardship policies

This clause requires a retailer to submit a hardship policy to the AER for approval within three months of being granted a retailer authorisation and sets out the process for varying the policy.

44—Minimum requirements for customer hardship policy

This clause outlines the minimum requirements for a customer hardship policy.

45—Approval of customer hardship policy or variation

This clause requires the AER to approve a customer hardship policy or variation where the policy or variation meets certain requirements, having regard to certain principles, and allows the AER to request or make variations or alterations prior to the policy or variation.

46—Obligation of retailer to communicate customer hardship policy

This clause requires a retailer to advise a residential customer of its hardship policy where it appears the customer is having difficulty meeting payment due to hardship.

47—General principle regarding de-energisation (or disconnection) of premises of hardship customers

This clause requires a retailer to give effect to the principle that de-energising a hardship customer due to inability to pay energy bills should be as a last resort option.

48—Consistency of market retail contract with hardship policy

This clause provides that the terms and conditions of a customer's market retail contract are of no effect to the extent of any inconsistency with the retailer's customer hardship policy if that customer becomes a hardship customer.

49—Rules

This clause permits Rules to be made for or with respect to hardship customers and hardship policies.

Division 7—Payment plans

50—Payment plans

This clause requires a retailer to offer and apply payment plans to hardship customers and residential customers experiencing payment difficulties.

51—Debt recovery

This clause prevents a retailer from commencing debt recovery proceedings if the customer is meeting payment plan obligations, or if the retailer has failed to comply with its hardship policy and the Law and Rules relating to payment plans.

52—Rules

This clause permits Rules to be made for or with respect to payment plans for small customers.

Division 8—Energy marketing

53—Energy Marketing Rules

This clause allows Rules (called Energy Marketing Rules) to be made for the carrying out of energy marketing activities and requires any person carrying out energy marketing activities to comply with the Energy Marketing Rules.

Division 9—Deemed customer retail arrangements

54—Deemed customer retail arrangement for new or continuing customer without customer retail contract

This clause provides that a deemed customer retail arrangement is taken to apply between a financially responsible retailer and a move-in or a carry-over customer, except where the customer consumes energy at the premises by fraudulent or illegal means.

55—Terms and conditions of deemed customer retail arrangements

This clause provides that the terms, conditions and prices of a retailer's deemed customer retail arrangement are the terms, conditions and prices of its standard retail contract.

Division 10—Prepayment meter systems

56—Use of prepayment meter systems only in jurisdictions where permitted

This clause permits the use of prepayment meters only within jurisdictions where their use is permitted by a local instrument.

57—Contractual arrangements for use of prepayment meter systems

This clause requires a retailer to provide customer retail services using a prepayment meter under a market retail contract.

58—Use of prepayment meter systems to comply with energy laws

This clause requires a retailer to comply with the energy laws relating to the use of prepayment meter systems.

59—Persons on life support equipment

This clause provides that a retailer must not enter into a prepayment meter market retail contract with a small customer where the premises require life support equipment. A prepayment meter must be removed from such premises at no charge and replaced with a standard meter.

60—Rules

This clause permits Rules to be made for or with respect to retail services involving the use of prepayment meters.

Division 11—AER Retail Pricing Information Guidelines and price comparator

61—AER Retail Pricing Information Guidelines for presentation of standing and market offer prices

This clause allows the AER to make guidelines for the presentation of standing and market retail offers.

62—Price comparator

This clause requires the AER to develop and make available on its website the price comparator if and to the extent permitted by a local instrument of a jurisdiction.

63—AER information gathering powers for pricing guidelines and comparator

This clause requires a retailer to provide information and data to the AER relating to the retailer's market and standing offer prices and (if relevant) for the purposes of the price comparator.

Division 12—Large customers—responsibility for energy consumed

64—Large customer consuming energy at premises

This clause allows for retailers to charge and recover an appropriate amount from large customers in the event that an appropriate arrangement for the payment of charges relating to energy has not been entered into.

Part 3—Relationship between distributors and customers

Division 1—Preliminary

65—Application of this Part

This Part applies to the relationship between distributors and customers.

Division 2—Obligation to provide customer connection services

66—Obligation to provide customer connection services

A distributor must, subject to and in accordance with the energy laws, provide customer connection services in the circumstances provided for by this clause.

Division 3—Customer connection contracts generally

67—Kinds of customer connection contracts

The 3 kinds of customer connection contracts are set out in this clause.

Division 4—Deemed standard connection contracts

68—Model terms and conditions

The Rules will set out model terms and conditions for deemed standard connection contracts.

69—Adoption of form of deemed standard connection contract

A distributor is required to adopt a form of deemed standard connection contract in accordance with the requirements of this clause and publish it on the distributor's website. This obligation is a civil penalty provision.

70—Formation of deemed standard connection contract

This clause sets out when a contract in the form of a distributor's deemed standard connection contract under section 69 is taken to be entered into by the distributor and a customer.

71—Obligations to comply with deemed standard connection contract and to bill retailer

This clause requires a distributor to comply with the obligations imposed on it by a deemed standard connection contract between the distributor and a customer. Except in relation to a new or altered connection, the distributor must bill the retailer.

72—Variation of deemed standard connection contract

This clause provides for the circumstances in which a distributor may vary the terms and conditions of the distributor's form of deemed standard connection contract.

73—Deemed standard connection contract to be consistent with model terms and conditions

A deemed standard connection contract must be consistent with the model terms and conditions or any required alterations. If there is an inconsistency the model terms and conditions apply.

74—Duration of deemed standard connection contract

This clause provides for the duration of a deemed standard connection contract.

Division 5—Deemed AER approved standard connection contracts

75—Submission and approval of form of standard connection contracts for large customers

This clause provides for the submission by a distributor and approval by the AER of a standard connection contract applicable to one or more classes of large customers.

76—Formation of deemed AER approved standard connection contract

This clause provides for when a deemed AER approved standard connection contract is taken to be entered into by the distributor and a large customer of a class to which the approved form applies.

77—Amendment and replacement of form of deemed AER approved standard connection contract

A deemed AER approved standard connection contract may be amended or replaced by another deemed AER approved standard connection contract.

Division 6—Negotiated connection contracts

78—Negotiated connection contracts

A distributor is obliged to provide information and explanations to a small customer negotiating and entering into a customer connection contract, a negotiated connection contract, in accordance with the relevant requirements of the NER and the NGR.

Part 4—Small customer complaints and dispute resolution

79—Definitions

This clause sets out definitions specific to this Division.

80—Role of energy ombudsman

The energy ombudsman for this jurisdiction is, as authorised by its constitution provisions, conferred with functions and powers under this Part and the Rules.

81—Standard complaints and dispute resolution procedures

Retailers and distributors are obliged to develop, make and publish on their website their standard complaints and dispute resolution procedures.

82—Complaints made to retailer or distributor for internal resolution

This clause provides for the manner in which small customer complaints about relevant matters to a retailer and distributor are to be dealt with by the relevant entity.

83—Complaints made or disputes referred to energy ombudsman

A small customer may make a complaint or refer a dispute to the energy ombudsman about a relevant matter, or any aspect of a relevant matter, concerning the customer and a retailer or distributor.

84—Functions and powers of energy ombudsman

This clause sets out the functions and powers of the energy ombudsman and provides for how those functions and powers are to be performed and exercised.

85—Information and assistance requirements

This clause sets out the information and assistance obligations of a retailer or distributor or AER relating to a small customer complaint or dispute to the energy ombudsman.

86—Retailers and distributors to be members of scheme

This clause provides for the circumstances in which a retailer and a distributor must be a member of, or subject to, an energy ombudsman scheme for a jurisdiction.

87—Rules

The Rules may make provision for or with respect to small customer complaints and disputes.

Part 5—Authorisation of retailers and exempt seller regime

Division 1—Prohibition on unauthorised selling of energy

88—Requirement for authorisation or exemption

This clause sets out the requirements for a person selling energy to hold a current retailer authorisation and be relevantly registered or be an exempt seller. This clause is a civil penalty provision.

Division 2—Application for and issue of retailer authorisation

89—Applications

A person may apply to the AER for a retailer authorisation.

90—Entry criteria

This clause sets out the entry criteria in relation to an application for a retailer authorisation.

91—Public notice and submissions

Before deciding an application, the AER must publish a notice and consider written submissions received within the period for receipt of those submissions.

92—Deciding application

The AER is obliged to decide whether to grant or refuse an application and this clause provides for when the AER must grant the application.

93—Conditions

The AER may impose conditions on the retailer authorisation relating to the satisfaction of the entry criteria. The grant may be conditional on satisfaction of conditions. The conditions may be amended or revoked.

94—Notice of decision to grant application

The AER must give a successful applicant a notice in accordance with the requirements of this clause.

95—Deemed refusal

This clause sets the circumstances in which the AER is deemed to have refused an application for a retailer authorisation.

96—Issue and public notice of retailer authorisation

On the grant of a retailer authorisation the AER must issue a retailer authorisation to the applicant and publish a notice on the AER's website.

97—Notice of refusal

On the refusal of an application for a retailer authorisation the AER must notify the applicant and publish a notice on its website.

98—Duration of retailer authorisation

A retailer authorisation continues in force until it is surrendered or revoked.

99—Variation of retailer authorisation

The AER may amend a retailer authorisation to make any alterations requested by the retailer.

100—Form of energy authorised to be sold

A retailer authorisation may authorise the sale of electricity or gas and cannot be varied to change or add to the form of energy that the applicant is authorised to sell to customers.

Division 3—Transfer of retailer authorisation

101—Transfer only by application

This Division sets out the exclusive circumstances in which a retailer authorisation may be transferred.

102—Applying for transfer

A retailer may apply to the AER to transfer the retailer's authorisation.

103—Deciding transfer application

This clause sets out what the AER must take into account in deciding whether to grant or refuse the transfer application, what it may and is obliged to do on granting an application and the obligations of the transferor or the transferee. The subclause imposing obligations on the transferor and the transferee is a civil penalty provision.

104—Application of application process to transfers

The AER may determine that specified provisions of Division 2 apply in relation to the proposed transferee in the same way as they apply in relation to the applicant for a retailer authorisation, and those provisions apply accordingly with any necessary modifications.

Division 4—Surrender of retailer authorisation

105—Surrender of retailer authorisation

A retailer authorisation is surrendered in accordance with this clause.

106—Transfer of customers following surrender

A person whose retailer authorisation is surrendered must comply with the requirements of conditions imposed for the transfer of the person's former customers to another retailer. This clause is a civil penalty provision.

Division 5—Revocation of retailer authorisation

Note—

This Division does not apply where a RoLR notice is issued under Part 6: see section 142(2).

107—Power to revoke retailer authorisation

The AER may decide to revoke a retailer authorisation in accordance with this Division. The grounds for revocation of a retailer authorisation are set out in this clause.

108—Transfer of customers following revocation

A person whose retailer authorisation has been revoked must comply with the requirements of conditions imposed for the transfer to another retailer of the persons who were its customers immediately before the revocation. This clause is a civil penalty provision.

Division 6—Exemptions

109—Definitions

This clause sets out the definitions specific to this Division.

110—Power to exempt

The AER may decide to exempt persons or classes of persons in accordance with the Rules from the requirement to hold a retailer authorisation. A person is an exempt seller for the purposes of this Part while an exemption is in force in relation to the person.

111—Power to revoke exemption

The AER may revoke an exemption in accordance with this clause.

112—Conditions

The AER may impose conditions on an exempt seller or class of exempt sellers in accordance with the Rules and the AER Exempt Selling Guidelines. An exempt seller must comply with applicable conditions imposed under this section. This obligation on an exempt seller is a civil penalty provision. The AER may deal with a breach of a condition as if it were a breach of the Rules.

113—Rules

The Rules may make provision for or with respect to the exemption of persons or classes of persons from the requirement to hold a retailer authorisation and the variation or revocation of exemptions.

114—Manner in which AER performs AER exempt selling regulatory functions or powers

This clause provides for the manner in which the AER must perform or exercise an AER exempt selling regulatory function or power including that it may take into account the exempt seller related factors set out in clause 115 or the customer related factors set out in clause 116.

115—Exempt seller related factors

This clause sets out the exempt seller related factors.

116—Customer related factors

This clause sets out the customer related factors.

Division 7—Miscellaneous

117—AER Retailer Authorisation Guidelines

The AER must make and may amend the AER Retailer Authorisation Guidelines in accordance with the retail consultation procedure.

118—AER Exempt Selling Guidelines

The AER must, in accordance with the Rules, develop and maintain (and may amend) AER Exempt Selling Guidelines in accordance with the retail consultation procedure.

119—Public Register of Authorised Retailers and Exempt Sellers

The AER must maintain, and publish on its website, a Public Register of Authorised Retailers and Exempt Sellers.

120—Revocation process—retailer authorisations and exemptions

This clause sets out the revocation process in relation to a retailer authorisation or an exempt seller's exemption.

Part 6—Retailer of last resort scheme

Division 1—Preliminary

121—Purpose of this Part

This clause provides for the purpose of this Part.

122—Definitions

This clause contains definitions for the purposes of the retailer of last resort (RoLR) scheme. Inter alia, the clause defines 'RoLR event' which includes, revocation of a retailer authorisation, the suspension of a retailer's right to acquire electricity or gas in the relevant wholesale markets and insolvency events.

Division 2—Registration of RoLRs

123—RoLR criteria

This clause specifies the RoLR criteria which are used for the purposes of the RoLR scheme.

124—Expressions of interest for registration as a RoLR

This clause provides for the calling for expressions of interest from retailers for registration as a RoLR.

125—Appointment and registration as a default RoLR

This clause provides for the appointment and registration of default RoLRs. Default RoLRs must be appointed for each connection point (in the case of electricity) and each distribution system (in the case of gas) at all times. The clause also enables the AER to terminate the appointment of default RoLRs.

126—Registration of additional RoLRs

This clause provides for the registration of additional RoLRs. Additional RoLRs are in addition to the default RoLR for a connection point or distribution system.

127—Register of RoLRs

This clause provides for the keeping of a register of RoLRs.

128—Termination of registration as a RoLR

This clause provides for the termination of registration of RoLRs other than default RoLRs.

129—New basis for registration as a RoLR

This clause enables AEMO to advise the AER that a RoLR may be registered on a basis other than a connection point (in the case of electricity) or a distribution system (in the case of gas).

Division 3—Contingency events

130—AER's powers

This clause enables the AER, in the event of the contingency of a RoLR event, to exercise certain powers including requesting financial information from the retailer concerned and making inquiries of registered RoLRs as to whether they want to be appointed designated RoLR if a RoLR event eventuates.

131—Confidentiality provisions

This clause contains the confidentiality provisions that apply in the case of contingency events.

Division 4—Appointment of designated RoLRs

132—Designation of registered RoLR for RoLR event

This clause provides for who is to be appointed a designated RoLR in respect of a RoLR event. The default RoLR is appointed by force of the section in respect of a RoLR event unless the AER has before the event appointed another registered RoLR instead.

133—Criteria for RoLR designation

This clause specifies the criteria for being appointed a designated RoLR.

134—Appointment of more than one designated RoLR for RoLR event

This clause enables the AER to appoint more than one designated RoLR for a RoLR event having regard to the size of, or other circumstances of, the event.

135—AER RoLR Guidelines

This clause enables the AER to make and publish guidelines for the purposes of the RoLR scheme. The guidelines must specify certain matters in relation to the AER exercising its powers under section 134. The guidelines may also provide for other matters, including as to the form of and information to be contained in applications or expressions of interest made in accordance with the Part.

Division 5—Declaration of RoLR event

136—Issue of RoLR notice

This clause provides that the AER must issue a RoLR notice as soon as practicable after a RoLR event occurs. The clause provides for the contents of the notice which include who is specified as the designated RoLR or designated RoLRs for the event and specifying the transfer date on which all customers of the failed retailer are transferred to the designated RoLR.

137—RoLR notice—direction for gas

This clause provides for certain directions that the AER may include in a RoLR notice if there is no declared wholesale gas market or short term trading market or, in the AER's opinion there is an insufficiency of capacity or gas available in a short term trading market. The directions are as to making available capacity and gas so that a designated RoLR may perform its functions. The section further makes provision for agreements for long term provision of the capacity or gas including, if agreement is unable to be reached, providing for how a haulage contract or gas sale contract is then to come into existence.

138—Service and publication of RoLR notice

This clause provides for the service and publication of a RoLR notice.

139—Publication requirements for RoLR events

This clause provides for publication of RoLR events including making provision for publication on websites, messages on call centres and advertisements.

140—Transfer of responsibility

This clause, by force of law, terminates the customer relationship between a customer and the failed retailer as at the transfer date specified in the RoLR notice and provides that customer then becomes a customer of the relevant designated RoLR. The section also makes provision for the designated RoLR to assume certain functions, obligations and powers of the failed retailer (including in relation to life support equipment) and further makes provision for how customer transfers to the failed retailer that were underway as at the transfer date are to be dealt with. Special provision is contained in the section for large customers of electricity who may pre-nominate who is their retailer in the case of a RoLR event, in which case that customer is transferred to that retailer rather than the designated RoLR.

141—Termination of customer retail contracts

This clause, by force of law, terminates the contract between the failed retailer and the customer as at the transfer date. The section also provides for how disputes that arose under that contract are to continue to be dealt with, termination of direct debit (including Centrepay) authorisations, refund of advance payments and security deposits, completion of service orders and continued compliance by the failed retailer and its insolvency official with payment plans.

142—Revocation of retailer authorisation

This clause provides that the AER may, if it has not already done so, revoke a failed retailer's retailer authorisation by endorsement on the RoLR notice.

143—Compliance requirements following service of RoLR notice

This clause provides for who must comply with a RoLR notice and also requires AEMO to comply with the notice as well as the RoLR scheme.

144—RoLR Procedures

This clause provides for the RoLR Procedures that AEMO may include in the procedures that it makes under the National Electricity Law and the National Gas Law. The RoLR Procedures (among other things) may make provision for the operation and implementation of the RoLR scheme.

Division 6—Arrangements for sale of energy to transferred customers

145—Contractual arrangements for sale of energy to transferred small customers

This clause provides that a RoLR deemed small customer retail arrangement arises between the designated RoLR and the small customer with effect on and from the transfer date, the terms and conditions of which are those of the designated RoLR's standard retail contract and the prices of which are (subject to any variation arising from a RoLR cost recovery scheme) that RoLR's standing offer prices.

146—Contractual arrangements for sale of energy to transferred large customers

This clause provides that a RoLR deemed large customer retail arrangement arises between the designated RoLR and the large customer with effect on and from the transfer date, the terms and conditions of which are those published by the designated RoLR and which must be fair and reasonable.

147—Duration of arrangements for small customers

This clause provides for how a RoLR deemed small customer retail arrangement may be terminated and what may replace it and when.

148—Duration of arrangements for large customers

This clause provides for how a RoLR deemed small customer retail arrangement may be terminated.

Division 7—Information requirements

Subdivision 1—Preliminary

149—Operation of this Division

This clause provides that this Division does not limit the information that AEMO may require in relation to a RoLR event. It further provides, to avoid doubt, that AEMO may under RoLR Procedures require a failed retailer and insolvency official to provide information.

Subdivision 2—General obligation to notify AER

150—Information to be provided to AER by AEMO and retailers

This clause provides that both AEMO and a retailer must give notice to the AER (and in the case of a failed retailer, to AEMO) of anything that it has reason to believe might affect the retailer's ability to maintain continuity of sale of energy to its customers or gives rise to a RoLR event.

Subdivision 3—Serving and making of RoLR regulatory information notices

151—Meaning of RoLR regulatory information notice

This clause defines a RoLR regulatory information notice. It also provides that the insolvency official of a failed retailer must provide information when served with the notice.

152—Service of RoLR regulatory information notice

This clause provides for when a RoLR regulatory information notice may be served on a retailer. The notice may be served either when a RoLR event has occurred or in connection with the AER's exercise of its powers under Division 3 (Contingency events).

Subdivision 4—Form and content of RoLR regulatory information notices

153—Form and content of RoLR regulatory information notice

This clause provides for the form and content of a RoLR regulatory information notice.

154—Further provision about the information that may be described in a RoLR regulatory information notice

This clause makes further provision as to the information that may be required by a RoLR regulatory information notice.

155—Further provision about manner in which information must be provided

This clause enables a RoLR regulatory information notice to specify when and how information may be provided and verified.

Subdivision 5—Compliance with RoLR regulatory information notices

156—Compliance with RoLR regulatory information notices

This clause provides that a retailer (or former retailer) and insolvency official must comply with a RoLR regulatory information notice.

157—Provision of information obtained from RoLR regulatory information notice

This clause provides for the sharing of information received pursuant to a RoLR regulatory information notice with AEMO, distributors, designated RoLR's and other persons whom the AER considers it necessary to give the information to.

Subdivision 6—General

158—Providing false or misleading information

This clause establishes a criminal offence for providing false or misleading information in response to a RoLR regulatory information notice.

159—Person cannot rely on duty of confidence to avoid compliance with RoLR regulatory information notice

This clause provides that a person cannot rely on a duty of confidentiality to avoid compliance with RoLR regulatory information notice.

160—Legal professional privilege not affected

This clause provides that section 156 and a RoLR regulatory information notice do not affect legal professional privileges.

161—Protection against self-incrimination

This clause provides, in the case of natural persons to whom section 156 applies, for protection against self incrimination.

Division 8—RoLR plans

162—RoLR plans

This clause provides for the AER to make RoLR plans which are for the procedures to be followed in the case of a RoLR event and for exercises. A RoLR plan must not be inconsistent with the RoLR Procedures.

163—Contents of RoLR plans

This clause provides, without limitation, as to what a RoLR plan must provide for. Among other things, it must provide for communication of the RoLR event to the community, small and large customers, Ministers, distributors and designated RoLR's. In the case of small customers, this must include communication of what will happen to their contracts, this including as to the effect of sections 140 and 141.

Division 9—RoLR cost recovery schemes

164—Operation of this Division, schemes and determinations

This clause provides that this Division and the RoLR cost recovery scheme have effect notwithstanding anything to the contrary in the National Electricity Law, the National Gas Law, the Rules made under those laws, any distribution determination in electricity or any applicable access arrangement in gas.

165—RoLR cost recovery

This clause provides that a registered RoLR may only recover costs incurred in relation to the RoLR scheme in accordance with a RoLR cost recovery scheme determined under this Division.

166—RoLR cost recovery schemes

This clause provides for the AER to make a determination with respect to a RoLR cost recovery scheme under which a default RoLR may recover both its costs of preparing for a RoLR event and the costs of the event as well and a designated RoLR that is not a default RoLR may only recover the costs of the event.

167—RoLR cost recovery scheme distributor payment determination

This clause provides that the AER must, as part of its determination with respect to a RoLR cost recovery scheme, also make a RoLR cost recovery distribution scheme payment determination under which distributors pay the RoLR concerned but those payments are then treated as pass throughs to customers.

168—Amendment of schemes and determinations

This clause provides for when a RoLR cost recovery scheme or a RoLR cost recovery scheme distribution payment determination may be amended by the AER.

Division 10—Miscellaneous

169—Information to be included in customer retail contracts

This clause provides that all customer retail contracts for small customers must include a notice explaining what will happen to the customer's arrangements for purchase of energy if a RoLR event occurs.

170—Application for retailer authorisation by failed retailer or associate

This clause enables the AER, on application for a retailer authorisation by a failed retailer or an associate, to refuse the application or grant it on condition that there be a payment in respect of the costs of the prior RoLR event involving that retailer.

171—Reimbursement of insolvency official

This clause provides for reimbursement of an insolvency official for that official's reasonable costs of complying with the RoLR scheme, a RoLR notice or a RoLR regulatory information notice.

172—AER report on RoLR event

This clause requires the AER to report to the MCE on a RoLR event after the occurrence of the event.

173—Immunity

This clause provides an immunity for protected persons (as defined in the section) in relation to acts or omissions for the purposes of the RoLR scheme.

174—Authorised disclosure of information

This clause authorises disclosure of personal information within the meaning of Privacy legislation of the Commonwealth and participating jurisdictions.

175—Corporations Act displacement

This clause declares this Part to be a Corporations legislation displacement provision in relation to Chapter 5 of the Corporations Act 2001.

Part 7—Small compensation claims regime

Division 1—Preliminary

176—Small compensation claims regime

This Division establishes a small compensation claims regime to enable small customers to make small claims for compensation from distributors who provide customer connection services to their premises.

177—Definitions

This clause sets out the definitions specific to this Division.

178—Claimable incidents—meaning

This clause sets out what is a claimable incident.

179—Compensable matters—meaning

This clause sets out what are and what are not compensable matters.

180—Maximum amount—meaning

This clause sets out what is a maximum amount for which a distributor is liable to pay compensation for a claim.

181—Minimum amount—meaning

This clause sets out what is a minimum amount for which a distributor is liable to pay for a claim.

182—Median amount—meaning

This clause sets out what is a median amount for the purposes of setting the discretionary range and the mandatory range for a claim.

183—Repeat claimant—meaning

This clause sets out the meaning of a repeat claimant.

184—AER determinations of minimum amount, median amount and repeated claims maximum number

This clause sets out the requirements for an AER determination of what is a minimum amount, median amount and repeated claims maximum number. The clause applies to a participating jurisdiction only if and to the extent a local instrument of that jurisdiction declares that this section applies in relation to it.

Division 2—Compensation generally

185—When compensation is payable

This clause provides for when compensation is payable under this Division to a small customer by a distributor under a claim for compensation properly made in respect of a claimable incident.

186—Duty of distributor to provide information and advice

Each distributor is obliged to provide information and advice in accordance with the requirements of this clause.

Division 3—Claims process

187—Making of claims

This clause provides for the process for making claims for compensation in respect of a claimable incident from a distributor who provides customer connection services to premises of the customer.

188—Claims for less than the minimum amount

A distributor may reject a claim for compensation if the amount claimed is less than the minimum amount for the claimable incident.

189—Claims for more than the maximum amount

This clause provides for the circumstances where a claim for compensation is for more than the maximum amount.

190—Confirmation of claims involving property damage

If a distributor is not able to confirm that a claimable incident involving property damage did affect the small customer's premises in the manner claimed this clause provides for a process for progressing the claim.

191—Claims for amounts within the mandatory range

This clause sets out the circumstances in which, if the amount claimed is within the mandatory range, a distributor must pay the customer the amount claimed without reducing or disputing the quantum of the amount claimed.

192—Claims for amounts in the discretionary range

This clause sets out what a distributor is required to pay if the amount claimed is within the discretionary range.

193—Claims by repeat claimants

This clause provides for dealing with claims for compensation by small customers who are repeat claimants.

194—Distributor to reimburse customer for reasonable costs of claim

If a distributor pays compensation to a small customer under this Division, the distributor must pay to the person the amount of any reasonable costs incurred by the person in providing any quotes or evidence to the distributor.

195—Rejection of claims

This clause provides for some circumstances in which a distributor may reject a claim for compensation.

196—Distributor to advise customer of reasons for reducing or rejecting claim and of review rights

A distributor is obliged to advise a customer of the reasons for reducing or rejecting a claim and of their review rights in accordance with the requirements of this clause.

197—Small customer complaint or dispute resolution

A small customer who is dissatisfied with a decision of a distributor under this Division in relation to the customer's claim for compensation may lodge a complaint with the relevant energy ombudsman.

Division 4—Payment of compensation

198—Method of payment

A payment of compensation payable to a small customer under this Division is to be made by the distributor as soon as practicable and in accordance with the other requirements of this clause.

199—Finality of payment of compensation

If a small customer is compensated in respect of a claimable incident that affected particular premises this clause provides for the finality of the payment of compensation.

Division 5—Miscellaneous

200—Other remedies

Apart from section 199, nothing in this Part prevents a small customer from commencing or maintaining proceedings for damages in respect of a claimable incident in a court of competent jurisdiction.

201—Payment of compensation not to be admission of fault, negligence or bad faith

In deciding to make a payment of compensation under this Part, a distributor does not admit fault, negligence or bad faith in respect of the claimable incident concerned.

202—Requirement to keep records on regime activities

A distributor must create and keep and make available relevant records in accordance with the requirements of this clause.

203—Rules

The Rules may make provision for or with respect to the small compensation claims regime.

Part 8—Functions and powers of the Australian Energy Regulator

Division 1—General

204—Functions and powers of AER (including delegations)

This clause sets out the AER's functions and powers, and provides for the effectiveness of a delegation by the AER under section 44AAH of the TPA.

205—Manner in which AER performs AER regulatory functions or powers

This clause makes provision in relation to the manner in which the AER must perform or exercise its regulatory functions or powers.

Division 2—General information gathering powers

206—Power to obtain information and documents

This clause provides that the AER may serve notices requiring information to be furnished or documents produced and creates an offence of failing to comply with such a notice or knowingly providing false or misleading information in purported compliance with such a notice, for which the penalty is a fine of up to $2,000 for a natural person or up to $10,000 for a body corporate.

Division 3—Disclosure of confidential information held by AER

207—Confidentiality

This clause provides that the confidentiality provisions of section 44AAF of the TPA are effective for the purposes of the Law, the National Regulations and the Rules.

208—Authorised disclosure of information given to AER in confidence

This clause allows the AER to disclose information in some circumstances.

209—Disclosure with prior written consent is authorised

This clause allows the AER to disclose information with the consent of the person who provided it.

210—Disclosure for purposes of court and tribunal proceedings and to accord natural justice

This clause allows the AER to disclose information if it is required to for a court or tribunal proceedings.

211—Disclosure of information given to AER with confidential information omitted

This clause allows the AER to omit confidential information before disclosing a document.

212—Disclosure of information given in confidence does not identify anyone

This clause allows the AER to disclose de-identified information.

213—Disclosure of information that has entered the public domain

Allows the AER to disclose information that has entered the public domain.

214—Disclosure of confidential information authorised if detriment does not outweigh public benefit

This clause allows the AER to disclose information if the detriment does not outweigh the public benefit.

Division 4—Miscellaneous matters

215—Consideration by the AER of submissions or comments made to it under this Law or the Rules

This clause requires the AER to consider submissions, made in response to an invitation to provide submissions. when making a decision.

216—Use of information provided under a notice under Division 2

This clause allows the AER to use information provided in response to a notice under section 206 for a purpose connected with its performance or exercise of a power or function under the Law or the Rules, the National Electricity Law or National Electricity Rules, or the National Gas Law or National Gas Rules.

217—AER to inform certain persons of decisions not to investigate breaches, institute proceedings or serve infringement notices

This clause requires the AER to inform a person who provided information about a breach or potential breach of the law or the Rules that they do not intend to investigate the breach or commence proceedings.

218—AER enforcement guidelines

This clause allows the AER to issue guidelines about how it will conduct enforcement actions under the Law.

219—Single documentation

This clause allows the AER, where it is authorised to prepare a document under the Law or the Rules, and under the National Electricity Law or National Electricity Rules, or the National Gas Law or National Gas Rules for a similar, related or corresponding purpose, to prepare a single document to satisfy all requirements.

220—Use of information

This clause allows the AER to use information obtained under the Law or the Rules for a purpose connected with its performance or exercise of a function or power under the National Electricity Law or National Electricity Rules, or the National Gas Law or National Gas Rules.

Part 9—Functions and powers of the Australian Energy Market Commission

Division 1—General

221—Functions and powers of the AEMC

This clause sets out the AEMC's functions and powers.

222—Delegations

This clause provides that a delegation by the AEMC under section 20 of the *Australian Energy Market Commission Establishment Act 2004* is effective for the purposes of the Law, the National Regulations and the Rules.

223—Confidentiality

This clause provides that the confidentiality provisions of section 24 of the *Australian Energy Market Commission Establishment Act 2004* are effective for the purposes of the Law, the National Regulations and the Rules.

224—AEMC must have regard to national energy retail objective

This clause provides that the AEMC must have regard to the national energy retail objective.

225—AEMC must have regard to MCE statements of policy principles in relation to Rule making and reviews

This clause provides that the AEMC must have regard to any relevant MCE statements of policy principles in making a Rule or conducting certain reviews.

Division 2—Rule making functions and powers of the AEMC

226—Rule making powers

This clause states the rule making functions and powers of the AEMC are set out in Part 10 of the Law.

Division 3—Committees, panels and working groups of the AEMC

227—Establishment of committees and panels and working groups

This clause allows the AEMC to establish committees, panels and working groups.

Division 4—MCE directed reviews

228—MCE directions

This clause provides that the MCE may direct the AEMC to conduct reviews. The direction must be published in the South Australian Government Gazette.

229—Terms of reference

This clause provides for the terms of reference of MCE directed reviews.

230—Notice of MCE directed review

This clause requires the AEMC to publish notice of an MCE directed review.

231—Conduct of MCE directed review

This clause provides for the conduct of MCE directed reviews.

Division 5—Other reviews

232—Reviews by AEMC

This clause provides for reviews by the AEMC other than MCE directed reviews.

Division 6—Miscellaneous

233—Fees

This clause provides for the AEMC to charge fees as specified in the Regulations.

234—Confidentiality of information

This clause provides for the treatment of confidential information by the AEMC.

Part 10—National Energy Retail Rules

Division 1—General

Subdivision 1—Interpretation

235—Definitions

This clause sets out definitions for the purposes of this Division.

Subdivision 2—Rule making test

236—Application of national energy retail objective

This clause requires the AEMC to make rules that contribute to the achievement of the national energy retail objective.

Division 2—National Energy Retail Rules generally

237—Subject matters of Rules

This clause provides for the subject matter of the Rules.

Division 3—Initial National Energy Retail Rules

238—South Australian Minister to make initial National Energy Retail Rules

This clause provides for the South Australian Minister to make the initial Rules. A notice of making must be published in the South Australian Government Gazette and the Rules must be made publicly available.

Division 4—Subsequent Rules and rule amendment procedure

239—Subsequent rule making by AEMC

This clause provides for the AEMC to make rules.

240—Rules relating to MCE or Ministers of participating jurisdictions require MCE consent

This clause requires the AEMC to obtain the MCE's consent before making rules relating to the MCE or Ministers of participating jurisdictions.

241—AEMC must not make Rules that create criminal offences or impose civil penalties for breaches

This clause prohibits the AEMC from making rules that create criminal offences or impose civil penalties for breaches.

242—Documents etc applied, adopted and incorporated by Rules to be publicly available

This clause requires documents applied, adopted or incorporated by a Rule to be publicly available.

243—Initiation of making of a Rule

This clause provides for who may request the making of a Rule and provides that the AEMC must not make a Rule on its own initiative except in certain circumstances.

244—AEMC may make more preferable Rule in certain cases

This clause allows the AEMC to make a Rule that is different from a market initiated Rule if the AEMC is satisfied that its proposed rule will or is more likely to better contribute to the achievement of the national energy retail objective.

245—AEMC may make Rules that are consequential to a Rule request

This clause allows the AEMC to make Rules that are consequential to a rule change request.

246—Content of requests for Rules

This clause sets out what a request for the making of a Rule must contain.

247—Waiver of fee for Rule requests

This clause allows the AEMC to waive a fee for a rule request.

248—Consolidation of 2 or more Rule requests

This clause allows the AEMC to consolidate multiple requests for a Rule.

249—Initial consideration of request for Rule

This clause provides for initial consideration by the AEMC of a request for a Rule.

250—AEMC may request further information from Rule proponent in certain cases

This clause allows the AEMC to request additional information from a person who requests the making of a Rule.

251—Notice of proposed Rule

This clause requires the AEMC, if it decides to act on a request for a rule to be made, or forms an intention to make an AEMC initiated rule, to publish notice of the request or intention and a draft of the proposed Rule.

252—Publication of non-controversial or urgent final Rule determination

This clause provides for the publication of non controversial and urgent Rules.

253—'Fast track' Rules where previous public consultation by energy regulatory body or an AEMC review

This clause allows certain requests for Rules to be dealt with expeditiously.

254—Right to make written submissions and comments

This clause provides for the making of written submissions on a proposed Rule.

255—AEMC may hold public hearings before draft Rule determination

This clause provides for the holding of a hearing in relation to a proposed Rule.

256—Draft Rule determinations

This clause requires the AEMC to publish its draft determination, including reasons, in relation to a proposed Rule.

257—Right to make written submissions and comments in relation to draft Rule determination

This clause provides for written submissions on a draft Rule determination.

258—Pre-final Rule determination hearings

This clause provides for a pre-final determination hearing to be held in relation to a draft Rule determination.

259—Final Rule determination

This clause requires the AEMC to publish its final Rule determination, including reasons.

260—Proposal to make more preferable Rule

This clause allows the AEMC to take action to consult, receive submissions and conduct hearings in relation to a more preferable Rule.

261—Making of Rule

This clause requires the AEMC to make a Rule as soon as practicable after publication of its final Rule determination. Notice of the making of a Rule must be published in the South Australian Government Gazette.

262—Operation and commencement of Rule

This clause provides that a Rule comes into operation on the day the notice of making is published or on such later date as is specified in that notice or the Rule.

263—Rule that is made to be published on website and made available to the public

This clause requires the AEMC, without delay after making a Rule, to publish the Rule on its website and make a copy available for inspection at its offices.

264—AEMC must publish and make available up to date versions of Rules

This clause requires the AEMC to maintain an up to date copy of the Rules on its website and to make copies of the Rules available for inspection at its offices.

265—Evidence of the National Energy Retail Rules

This clause is an evidentiary provision relating to the Rules.

Division 5—Miscellaneous provisions relating to Rule making by the AEMC

266—Extensions of periods of time in Rule making procedure

This clause provides a general power for the AEMC to extend periods of time in the Rule making procedure.

267—AEMC may extend period of time for making of final Rule determination for further consultation

This clause allows the AEMC to extend periods of time for consultation as a result of comments received during consultation.

268—AEMC may publish written submissions and comments unless confidential

This clause allows the AEMC to publish submissions unless they are confidential.

269—AEMC must publicly report on Rules not made within 12 months of public notification of requests

This clause requires the AEMC to publicly report if it fails to make a Rule within 12 months of receiving a request.

Part 11—National Energy Retail Regulations

270—General regulation-making power for this Law

This clause enables the Governor to make regulations to give effect to the Law on the unanimous recommendation of the Ministers of the participating jurisdictions. In view of the interstate application of laws scheme

that is based on this measure and regulations made under the Act, Parliamentary disallowance of the regulations is excluded.

271—Specific regulation-making power

This clause enables the Governor to make regulations of a transitional nature relating to the transition from the energy laws to this new scheme.

Part 12—Compliance and performance

Division 1—AER compliance regime

272—Obligation of AER to monitor compliance

This clause requires the AER to monitor compliance of regulated entities and other persons with the Law, the National Regulations and the Rules.

273—Obligation of regulated entities to establish arrangements to monitor compliance

This clause requires regulated entitles to establish and observe policies, systems and procedures to monitor compliance with the Law, the National Regulations and the Rules.

274—Obligation of regulated entities to provide information and data about compliance

This clause requires a regulated entity to provide to the AER information and data relating to the entity's compliance with requirements of the Law, the National Regulations and the Rules.

275—Compliance audits by AER

This clause allows the AER to carry out, or arrange for the carrying out, of a compliance audit of a regulated entity.

276—Compliance audits by regulated entities

This clause requires a regulated entity to comply with an AER request to carry out a compliance audit.

277—Carrying out of compliance audits

This clause requires a compliance audit to be carried out in accordance with the AER Compliance Procedures and Guidelines.

278—Cost of compliance audits

This clause provides for the cost of compliance audits to be borne by the regulated entity.

279—Compliance reports

This clause requires the AER to publish an annual compliance report on its website.

280—Contents of compliance reports

This clause specifies the required content of a compliance audit report.

281—AER Compliance Procedures and Guidelines

This clause requires the AER to make AER Compliance Procedures and Guidelines and specifies matters the procedures and guidelines may deal with.

Division 2—AER performance regime

282—Obligation of regulated entities to provide information and data about performance

This clause requires a regulated entity to submit to the AER information and data relating to the entity's performance.

283—Performance audits—hardship

This clause allows the AER to conduct performance audits in respect of performance of retailers by reference to hardship program indicators.

284—Retail market performance reports

This clause requires the AER to publish an annual retail market report on its website.

285—Contents of retail market performance reports

This clause specifies the required content of a retail market performance report.

286—AER Performance Reporting Procedures and Guidelines

This clause requires the AER to make AER Performance Reporting Procedures and Guidelines and specifies matters the procedures and guidelines may deal with.

287—Hardship program indicators

This clause requires the AER to determine and publish hardship program indicators in accordance with the Rules.

Part 13—Enforcement

Division 1—Enforceable undertakings

288—Enforceable undertakings

This clause allows the AER to accept and enforce enforceable undertakings.

Division 2—Proceedings generally

289—Instituting civil proceedings under this Law

This clause provides that proceedings for breach of the Law, the National Regulations or the Rules may not be instituted except as provided in this Part.

290—Time limit within which proceedings may be instituted

This clause provides for the time limit within which proceedings may be instituted.

Division 3—Proceedings for breaches of this Law, the National Regulations or the Rules

291—AER proceedings for breaches of this Law, the National Regulations or the Rules that are not offences

This clause provides for the orders that may be made in proceedings in respect of breaches of provisions of the Law, the National Regulations or the Rules that are not offence provisions.

292—Proceedings for declaration that a person is in breach of a conduct provision

This clause allows a person other than the AER to apply to a court for a declaration that a person is in breach of a conduct provision.

293—Actions for damages by persons for breach of conduct provision

This clause allows a person other than the AER to apply to a court for a declaration that a person is in breach of a conduct provision.

Division 4—Matters relating to breaches of this Law, the National Regulations or the Rules

294—Matters for which there must be regard in determining amount of civil penalty

This clause sets out matters to be taken into account in determining civil penalties.

295—Breach of a civil penalty provision is not an offence

This clause provides that a breach of a civil penalty provision (as defined in clause 2) is not an offence.

296—Breaches of civil penalty provisions involving continuing failure

This clause provides for breaches of civil penalty provisions involving continuing failure.

297—Conduct in breach of more than one civil penalty provision

This clause provides for liability for one civil penalty in respect of the same conduct constituting a breach of two or more civil penalty provisions.

298—Persons involved in breach of civil penalty provision or conduct provision

This clause provides for aiding, abetting, counselling, procuring or being knowingly concerned in or party to a breach of a civil penalty provision.

299—Attempt to breach a civil penalty provision

This clause provides that an attempted breach of a civil penalty provision is deemed to be a breach of that provision.

300—Civil penalties payable to the Commonwealth

This clause provides that civil penalties are payable to the Commonwealth.

Division 5—Judicial review of decisions under this Law, the National Regulations and the Rules

301—Definition

This clause defines 'person aggrieved' for the purposes of this Division.

302—Applications for judicial review of decisions of the AEMC

This clause provides that aggrieved persons (as defined in clause 301) may apply for judicial review in respect of AEMC decisions and determinations, and that the operation of a decision or determination is not affected by an application for judicial review, unless the Court otherwise orders.

Division 6—Further provision for corporate liability for breaches of this Law

303—Definition

This clause defines 'breach provision' for the purposes of this Division.

304—Offences and breaches by corporations

This clause provides that an officer (as defined) of a corporation is also liable for a breach of an offence provision or civil penalty provision by the corporation if the officer knowingly authorised or permitted the breach.

305—Corporations also in breach if officers and employees are in breach

This clause provides that an act committed by an officer (as defined) or employee of a relevant participant (as defined) will be a breach where the act, if committed by the relevant participant, would be a breach.

Division 7—Application of provisions of NGL

306—Tribunal review of information disclosure decision

This clause applies the provisions of Division 3 of Part 5 of Chapter 8 of the National Gas Law to a decision by the AER to disclose information under clause 214 of this Law.

307—Costs in a review

This clause specifies how the Australian Competition Tribunal may award costs.

308—Infringement notices

This clause applies the provisions of Part 7 of Chapter 8 of the National Gas Law in relation to civil penalty provisions in this Law.

309—Search warrants

This clause applies the provisions of Division 2 of Part 1 of Chapter 2 of the National Gas Law (with such modifications as prescribed by the National Regulations) in relation to the provisions of this Law, the National Regulations and the Rules.

Part 14—Evidentiary matters

Division 1—Publication on websites

310—Definitions

This clause provides for definitions specific to this Division.

311—Publication of decisions on websites

This clause provides for when a decision or document is taken to be published on a website.

Division 2—Evidentiary certificates

312—Definitions

This clause provides for definitions specific to this Division.

313—Evidentiary certificates—AER

This clause enables an AER member or certain persons assisting the AER to sign a certificate stating that certain matters are evidence of the matter.

314—Evidentiary certificates—AEMC

This clause enables an AEMC Commissioner or the AEMC chief executive to sign a certificate stating that certain matters are evidence of the matter.

Division 3—Time of commencement of a Rule

315—Time of commencement of a Rule

This clause provides for the time a Rule commences.

Part 15—General

316—Immunity in relation to failure to supply energy

This clause provides an immunity to a retailer or distributor, or an officer or employee of a retailer or distributor, in relation to a failure to supply energy in certain circumstances.

317—Distributor—retailer mutual indemnity

This clause provides a mutual indemnity between a retailer and distributor of a shared customer.

318—Immunity in relation to personal liability of AEMC officials

This clause protects AEMC officials from any personal liability as a result of performing their functions under this Law and the Rules.

319—Giving of notices and other documents under Law or Rules

This clause specifies how notices and documents may be served under the Law or the Rules.

320—Law and the Rules to be construed not to exceed legislative power of Legislature

This clause provides that a provision of the Law and the Rules is to be construed so as not to exceed the legislative power of the Legislative of the jurisdiction.

Debate adjourned on motion of Mr Pederick.

STATUTES AMENDMENT (NATIONAL ENERGY RETAIL LAW) BILL

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:58): Obtained leave and introduced a bill for an act to the Australian Energy Market Commission Establishment Act 2004, the National Electricity (South Australia) Act 1996 and the National Gas (South Australia) Act 2008. Read a first time.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:58): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The *Statutes Amendment (National Energy Retail Law) Bill 2010* makes amendments to the *National Electricity Law* in the Schedule to the *National Electricity (South Australia) Act 1996*, the *National Gas Law* in the Schedule to the *National Gas (South Australia) Act 2008* and the *Australian Energy Market Commission Establishment Act 2004*, which are necessary and consequential to the implementation of the *National Energy Retail Law (South Australia) Bill 2010*.

Consequential amendment of National Electricity and Gas Laws

The consequential amendments set out in this Bill are essentially the same for the *National Electricity Law* and for the *National Gas Law*. These consequential amendments enable rules to be made about new subject matters that form part of the National Energy Customer Framework and to align the reporting, compliance and enforcement regimes across the three national energy laws (the *National Electricity Law*, the *National Gas Law* and the *National Energy Retail Law*).

Application of the Statutes Amendment (National Energy Retail Law) Bill 2010

The *National Energy Retail Law* will not commence in any participating jurisdiction (including South Australia) immediately upon enactment by the South Australian Parliament. Rather, its commencement will occur in each jurisdiction when the jurisdiction applies the Law. Similarly, the amendments to the *National Electricity Law* and *National Gas Law* made by this Bill will apply in a participating jurisdiction when the *National Energy Retail Law* is applied in that jurisdiction.

Rule making power of the South Australian Minister

The *National Electricity Law* and the *National Gas Law* are amended to give the South Australian Minister the power to make initial *National Electricity Rules* and *National Gas Rules* relating to the implementation of the *National Energy Retail Law* and Rules. There are two new sets of initial rules, for retail customer connections and for regulating the retail support arrangements (including credit support) between energy distributors and retailers. The content of these new rules is considered to be appropriately located in the *National Electricity Rules* and the *National Gas Rules*, rather than in the *National Energy Retail Rules*.

As is the case under the *National Energy Retail Law*, this Bill confers a residual power for the South Australian Minister to make necessary and consequential changes to the initial Rules, should it become evident as part of jurisdictional implementation of the *National Energy Retail Law* that adjustments are required. Any such changes may only be made by the South Australian Minister until any one of the participating jurisdictions applies the *National Energy Retail Law* and must first be approved by the Ministerial Council on Energy. Thereafter, all Rule changes will be subject to the standard Australian Energy Market Commission rule change process.

Australian Energy Market Commission's rule making powers

The rule making powers of the Australian Energy Market Commission under the *National Electricity Law* and the *National Gas Law* will similarly extend to the new subject matters set out in this Bill.

In addition, where the Australian Energy Market Commission receives a rule change request under the *National Electricity Law*, it will be able to make a consequential amendment to another rule that may have been made under the *National Electricity Law*, the *National Gas Law*, or the *National Energy Retail Law*. The Bill also makes a similar amendment to the Australian Energy Market Commission's consequential rule making power under the *National Gas Law*.

Harmonisation of reporting and information management

This Bill provides for a number of ways in which reporting and information management may be streamlined or harmonised under the three national energy laws, which will reduce duplication and costs to industry participants in providing information to the various regulatory bodies. For example, it provides that information used by the Australian Energy Regulator for performance reporting obligations under the *National Electricity Law* or

National Gas Law may be used in preparing similar reports under the *National Energy Retail Law*. It also provides for the preparation of single documentation by the Australian Energy Regulator under the three national energy laws and for the use of information obtained by the Australian Energy Regulator under each Law for a purpose connected with the performance or exercise of its functions and powers under any of the other national energy laws.

Enforceable undertakings

This Bill will make amendments to the *National Electricity Law* and *National Gas Law* to establish for the first time in the energy sector a power for the Australian Energy Regulator to accept enforceable undertakings from energy market participants, similar to the power which the Australian Competition and Consumer Commission has under the *Trade Practices Act 1974* (Commonwealth). Similar provisions will exist in the *National Energy Retail Law*, creating a uniform enforcement power for the Australian Energy Regulator under the three national energy laws. This type of administrative remedy gives the Australian Energy Regulator an alternative tool in achieving compliance, rather than having to proceed straight to court action.

Conduct provision regime for the National Electricity Law

In addition, the Bill introduces a conduct provision regime into the *National Electricity Law*, which mirrors the conduct provision regimes in the *National Gas Law* and the new *National Energy Retail Law*. This enables persons regulated under the *National Electricity Law* to take direct action against another party where appropriate. For example, this regime will operate in relation to certain specified obligations owed by retailers to distributors and vice versa under the new credit support arrangements.

Nominated Distributor

There are some distribution entities that are not subject to full economic regulation but who provide services to retail customers, such as uncovered gas distribution pipelines. In order to allow jurisdictions to include these distributors in the national connection framework or the retail support rules, this Bill enables the 'nomination' of these distributors by a jurisdiction. The application Act of a participating jurisdiction, for either the *National Electricity Law* or the *National Gas Law*, may provide for the making of a local regulation nominating an entity to operate as a nominated distributor. That regulation may apply specified provisions of the *National Electricity Rules* or the *National Gas Rules* (as the case may be), with or without modification, to the nominated distributor relating to the connection of premises of retail customers and retail support (including credit support) obligations between distributors and retailers. A nomination of an entity as a nominated distributor may be made for the whole or a specified part of the geographical area of a jurisdiction, or the whole or a specified part of the distribution system or pipeline that is owned, controlled or operated by the entity.

Corporations Act displacement

This Bill will provide for the displacement of some provisions of the *Corporations Act 2001* (Commonwealth) to ensure the primacy of certain *National Electricity Rules* and *National Gas Rules* in the event of a retailer of last resort event. This is consistent with a similar limited displacement of the Corporations legislation provided for by the *National Energy Retail Law* for the purpose of supporting the operation of the national retailer of last resort regime in Part 6 of that Law.

Minor and other amendments

This Bill includes a range of other minor amendments consequential to the enactment of the *National Energy Retail Law* or necessary for the implementation of the new national connections rules and the retail support rules as part of the *National Electricity Rules* and the *National Gas Rules*. These include the introduction of new or amendment of existing definitions, the identification of relevant civil penalty provisions, and other minor amendments to bring consistency to the terminology used in the three national energy laws.

The immunity in relation to failure to supply electricity in section 120 of the *National Electricity Law* will also be amended to prevent the variation or exclusion of the statutory immunity in that section under an agreement between a retailer, or a distributor, and a person who is a small customer within the meaning of the *National Energy Retail Law*. This, along with similar provisions in the *National Energy Retail Law*, will ensure that the statutory immunity applies to electricity and gas retailers and distributors under agreements with small customers, while preserving the right of such customers to seek redress where there has been bad faith or negligence by the other party.

Amendment of *Australian Energy Market Commission Establishment Act 2004*

This Bill also makes minor consequential amendments to the *Australian Energy Market Commission Establishment Act 2004* to enable the Australian Energy Market Commission to exercise its functions and powers under the *National Energy Retail Law*.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

Clause 2(1) provides for the measure to be brought into operation by proclamation. Clause 2(2) excludes the operation of section 7(5) of the *Acts Interpretation Act 1915* due to the fact that this measure forms part of a co-operative legislative scheme involving other Australian jurisdictions.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Australian Energy Market Commission Establishment Act 2004*

4—Amendment of section 3—Interpretation

The definition of *National Energy Law* under the *Australian Energy Market Commission Establishment Act 2004* is to be amended to make reference to the legislative instruments associated with the *National Energy Retail Law*.

Part 3—Amendment of *National Electricity Law*

5—Amendment of section 2—Definitions

This clause inserts new definitions in the *National Energy Law* (the *NEL*) on account of the new *National Energy Retail Law*.

6—Substitution of section 2A

An access dispute will include a dispute between a retail customer (or other person specified by the Rules) and a regulated distribution system operator about an aspect of access to a connection service specified by the Rules to be an aspect to which Part 10 applies.

7—Insertion of section 2AA

This clause inserts a section which outlines the provisions which apply a civil penalty.

8—Amendment of section 2D—Meaning of regulatory obligation or requirement

These amendments insert references to the *National Energy Retail Law* or the *National Energy Retail Rules* in various provisions of section 2D of the NEL.

9—Insertion of section 6A

This clause inserts a section which allows a participating jurisdiction to nominate an entity as a distributor to which certain aspects of the Rules will apply.

10—Insertion of section 10A

It is necessary to displace certain provisions of the *Corporations Act 2001* of the Commonwealth.

11—Amendment of section 11—Electricity market activities in this jurisdiction

12—Amendment of section 14A—Regulated transmission system operator must comply with transmission determination

13—Amendment of section 14B—Regulated distribution system operator must comply with distribution determination

These amendments update cross-references.

14—Amendment of section 15—Functions and powers of AER

15—Amendment of section 16—Manner in which AER performs AER economic regulatory functions or powers

These amendments make technical drafting amendments.

16—Amendment of section 28N—Compliance with regulatory information notice that is served

17—Amendment of section 28O—Compliance with general regulatory information order

These clauses identify sections as civil penalty provisions.

18—Amendment of section 28V—Preparation of network service provider performance reports

Any information that is used to prepare a report under section 28V of the NEL will be able to be used for the purposes of preparing a report under the *National Energy Retail Law* or the *National Energy Retail Rules*.

19—Substitution of section 28ZD

20—Amendment of section 28ZF—AER enforcement guidelines

These are consequential amendments.

21—Insertion of sections 28ZH and 28ZI

A new provision will allow the AER, where it is authorised to prepare a document under the law or the Rules, and under the *National Gas Law* or the *National Gas Rules*, or the *National Energy Retail Law* or the *National Energy Retail Rules*, to prepare a single document to satisfy all requirements.

Another provision will allow the AER to use information obtained under the Law or the Rules for a purpose connected with its performance or exercise of a function or power under the *National Gas Law* or the *National Gas Rules*, or the *National Energy Retail Law* or the *National Energy Retail Rules*.

22—Amendment of section 34—Rule making powers

These are consequential amendments to the rule making powers of the AEMC and the NEL.

23—Amendment of section 49—AEMO's statutory functions

This is a consequential amendment.

24—Amendment of section 50D—Network agreement

This amendment identifies section 50D(1) as a civil penalty provision.

25—Amendment of section 50F—Augmentation

This is a consequential amendment.

26—Amendment of section 53C—Compliance with market information instrument

These amendments identify specified sections as civil penalty provisions.

27—Amendment of section 54C—Disclosure required or permitted by law etc

This amendment up-dates terminology.

28—Deletion of section 58—Definitions

This is a consequential amendment.

29—Insertion of Part 6 Division 1A

This clause inserts a provision that will allow the AER to accept and enforce enforceable undertakings.

30—Amendment of section 60—Time limit within which AER may institute proceedings

31—Amendment of section 61—Proceedings for breaches of a provision of this Law, the Regulations or the Rules that are not offences

These are consequential amendments.

32—Insertion of sections 61A and 61B

This clause inserts a provision that will allow a person other than the AER to apply to a court for a declaration that a person is in breach of a conduct provision.

Another provision will allow recovery of damages by people who suffer loss as a result of a breach of a conduct provision.

33—Amendment of section 64—Matters for which there must be regard in determining amount of civil penalty

34—Amendment of section 67—Conduct in breach of more than one civil penalty provision

These are consequential amendments.

35—Substitution of section 68 and insertion of section 68A

Section 68 must be recast to recognise that a person may breach a conduct provision.

New section 68A provides that an attempted breach of a civil penalty provision is deemed to be a breach of that provision.

36—Amendment of section 69—Civil penalties payable to the Commonwealth

37—Amendment of section 74—Power to serve a notice

38—Amendment of section 75—Form of notice

39—Amendment of section 79—Withdrawal of notice

40—Amendment of section 81—Payment expiates breach of civil penalty provision

41—Amendment of section 83—Conduct in breach of more than one civil penalty provision

42—Substitution of section 86

These are consequential amendments.

43—Insertion of section 90D

New section 90D will allow the Minister to make initial Rules associated with the operation of the *National Energy Retail Law* or the *National Energy Retail Rules*.

44—Amendment of section 91B—AEMC may make Rules that are consequential to a Rule request

This amendment will allow the AEMC to make a rule associated with the operation of the *National Gas Law* or the *National Energy Retail Law* that is necessary or consequential, or corresponds, with a rule under this law.

45—Amendment of section 120—Immunity in relation to failure to supply electricity

This amendment will exclude section 120(2) from operating with respect to certain agreements with small customers (as defined by the *National Energy Retail Law*).

46—Amendment of section 136—Compliance with access determination

47—Amendment of section 157—Preventing or hindering access

These amendments identify certain provisions as civil penalty provisions.

48—Amendment of Schedule 1—Subject matter for the National Electricity Rules

This is a consequential amendment.

49—Amendment of Schedule 3—Savings and transitionals

This amendment will insert a clause that will provide that the amendments made to the NEL by this measure will not apply in a participating jurisdiction until the *National Energy Retail Law* is applied in that jurisdiction as a law of that jurisdiction. This provision will ensure that the amendments do not flow "automatically" into a participating jurisdiction unless or until it applies the *National Energy Retail Law*.

Part 4—Amendment of *National Gas Law*

50—Amendment of section 2—Definitions

This clause inserts new definitions into the *National Gas Law* (the *NGL*) on account of the new *National Energy Retail Law*.

51—Amendment of section 6—Meaning of regulatory obligation or requirement

These are consequential amendments.

52—Insertion of section 8A

This clause inserts a section which allows a participating jurisdiction to nominate an entity as a distributor to which certain aspects of the Rules will apply.

53—Insertion of Chapter 1 Part 5

It is necessary to displace certain provisions of the *Corporations Act 2001* of the Commonwealth.

54—Amendment of section 64—Preparation of service provider performance reports

Any information that is used to prepare a report under section 64 of the NGL will be able to be used for the purposes of preparing a report under the *National Energy Retail Law* or the *National Energy Retail Rules*.

55—Substitution of section 66

New section 60 will allow the use of certain information for the purposes of the other laws or related Rules.

56—Amendment of section 68—AER enforcement guidelines

This is a consequential amendment.

57—Insertion of sections 68A and 68B

These new provisions will correspond to new sections 28ZH and 28ZI in the NEL.

58—Amendment of section 74—Subject matter for National Gas Rules

59—Amendment of section 91A—AEMO's statutory functions

These are consequential amendments.

60—Amendment of section 91GC—Disclosure required or permitted by law etc

This amendment up-dates terminology.

61—Insertion of section 178A

The new section will apply the dispute provisions to certain disputes under the Rules.

62—Insertion of Chapter 8, Part 1A

This amendment inserts a provision that will allow the AER to accept and enforce enforceable undertakings.

63—Amendment of section 232—Proceedings for declaration that a person is in breach of a conduct provision

This is a consequential amendment.

64—Insertion of section 294C

New section 294C will allow the Minister to make initial Rules associated with the operation of the *National Energy Retail Law* or the *National Energy Retail Rules*.

65—Amendment of section 297—AEMC may make Rules that are consequential to a Rule request

66—Amendment of Schedule 1—Subject matter for the National Gas Rules

These are consequential amendments.

67—Amendment of Schedule 3—Savings and transitionals

This amendment will insert a clause that will provide that the amendments made to the NGL by this measure will not apply in a participating jurisdiction until the *National Energy Retail Law* is applied in that jurisdiction as a law of that jurisdiction. This provision will ensure that the amendments do not flow "automatically" into a participating jurisdiction unless or until it applies the *National Energy Retail Law*.

Schedule 1—Statute Law Revision

This Schedule provides for references to the *Trade Practices Act 1974* to be up-dated.

Debate adjourned on motion of Mr Pederick.

HEALTH AND COMMUNITY SERVICES COMPLAINTS (MISCELLANEOUS) AMENDMENT BILL

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:59): Obtained leave and introduced a bill for an act to amend the Health and Community Services Complaints Act 2004. Read a first time.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (16:00): I move:

That this bill be now read a second time.

I seek leave to insert the second reading explanation into *Hansard* without my reading it.

Leave granted.

This Bill seeks to amend the Health and Community Services Complaints Act 2004 (the Act). Some of the amendments arise from the review of the Act, which was conducted in line with the requirements of section 88 of the Act. Others arise from the Social Development Committee's Inquiry into Bogus, Unregistered and Deregistered Health Practitioners.

In late 2008, I appointed Ms Uschi Schreiber, Lead Partner and Chair, Oceania Health and Human Services Practice from Ernst and Young (New South Wales) to independently review the Act. Her report was subsequently tabled in Parliament on 3 March 2009. Ms Schreiber stated that the Act has substantively achieved its intended purpose and that no significant legislative changes are required. However, some finetuning was recommended. This Bill will finetune the Act as recommended by the review.

Section 22 has been amended to include an additional principle, which must be included in the Charter of Health and Community Services Rights. This additional principle states that a person should be entitled to be assisted by a person of his or her choice when making a complaint about the provision of health or community services. The need for this amendment has arisen from the increasing number of complaints that are made and resolved on behalf of a service user with the involvement of a person authorised by the service user to act on their behalf.

Section 55 has been amended to enable the Health and Community Services Complaints Commissioner to require a health or community services provider to provide information to the Commissioner about what action they have taken, or plan to take, in regard to matters that the Commissioner has raised with them. The purpose of this amendment is to foster greater accountability by the providers of health and community services.

The arrangements which exist within the Act in regard to the sharing of information between a registration board and the Commissioner have been extended to section 29(3). This section has been amended to enable the Commissioner to work co-operatively with complaints resolution bodies established under the Commonwealth Government Aged Care Act 1997.

The grounds on which the identity of a service user or complainant may be protected have been extended by amendment of section 74. The additional grounds are where the complaint raises a significant issue of public safety, public interest or public importance or where the complaint raises a significant question as to the practice of a health or community service provider, and non-disclosure is in the public interest.

The Commissioner will have the power to publish returns by prescribed providers and the manner of reporting has been amended to require providers to report complaints relating to rights under the Charter established in Part 3 of the Act.

The amendments expand the membership of the Health and Community Services Advisory Council with an additional member to represent the interests of carers and another additional member to have knowledge and experience in the quality and safety of health services.

The need to regulate unregistered health practitioners was highlighted by the Social Development Committee's Inquiry into Bogus, Unregistered and Deregistered Health Practitioners. Unregistered health practitioners include a range of complementary/alternative practitioners, such as naturopaths and homeopaths, as well as mainstream health practitioners, such as social workers or speech therapists and any other health practitioner who does not need to be statutorily registered in order to practise their occupation. The vast majority of these practitioners are entirely conscientious in the way they do their jobs.

Some however, and particularly those who came to the attention of the Social Development Committee, have used their positions to exploit people. Some claim to be able to cure cancer while others resort to treatment that is essentially nothing more than sexual voyeurism. Some don't offer receipts and request that all payments be made in cash and others won't give refunds to families when a course of treatment is paid for, but the patient dies part way through the treatment.

In the case of registered health professionals, such as medical practitioners, optometrists, dentists etc., their registration board may impose a variety of sanctions on them as a result of investigating a complaint. Conditions may be imposed and a practitioner can be prohibited from practising for various periods of time, including permanently. The primary task of the registration board is to protect the health and safety of the public.

In contrast, the Commissioner may only publish a report following the investigation of a complaint against an unregistered practitioner. If the publication of the report does not result in the practitioner improving their practice in ways requested by the Commissioner, no further action can be taken. The Commissioner does not have powers to impose sanctions or enforce these sanctions if necessary.

This Bill will rectify the situation by giving the Commissioner power to issue orders, including interim orders, to place conditions on an unregistered practitioner's practice or prohibit them from practising for a specified period of time or permanently. A code of practice, similar to one operating in New South Wales will be established in the Health and Community Services Complaints Regulations 2005 under the Act. The code will establish some minimum standards with which unregistered health practitioners must comply. Breach of the code will potentially lead to an order being issued by the Commissioner. Non compliance with an order may result in the unregistered health practitioner being fined or jailed. A person who is subject to an order is entitled to appeal this decision.

The effect of this Bill is to finetune and strengthen the Health and Community Services Complaints Act 2004. It will enable the independent Commissioner to be more demanding of health and community services providers while strengthening the role of the service user within the Act. Health practitioners, who seek to exploit people, who are often very vulnerable because of a terminal illness, can potentially be jailed. The Bill will provide increased protection for South Australians from quacks and bogus health practitioners and I commend it to all members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of Health and Community Services Complaints Act 2004

4—Amendment of section 4—Interpretation

This clause inserts a new definition of carer being a person who is a carer for the purposes of the Carers Recognition Act 2005.

5—Amendment of section 9—Functions

This clause updates the reference to the Australian Human Rights Commission.

6—Amendment of section 22—Content of Charter

This clause adds an additional principle to which the Commissioner must have regard when developing or reviewing the Charter under section 22 of the Act. That principle is that a person should be entitled to be supported by a person of his or her choice when making a complaint about the provision of health or community services.

7—Amendment of section 29—Assessment

Currently section 29(3) of the Act provides that, if a complaint involves an approved provider under the Aged Care Act 1997 of the Commonwealth, the Commissioner must consult with a relevant complaint resolution body operating under that Act and may also refer the complaint to another authority operating under that Act for resolution. This clause provides for the Commissioner, where a complaint is referred to another authority operating under the Commonwealth Act, to be able to provide information and assistance to that authority.

8—Amendment of section 55—Notice of action to providers

Currently section 55 of the Act provides for the Commissioner to publish a report in relation to a complaint that the Commissioner considers is incapable of resolution. The section provides for a process of notification of recommended action to the relevant service provider and any relevant registration authority who are afforded time in which to make representations to the Commissioner prior to the publishing of any report. This clause proposes to replace the existing subsections (4) and (5) with new provisions that, while allowing for the same period for representations to be made, allow the Commissioner to require a service provider to respond to the notice outlining what action (if any) the service provider has taken, or intends to take, in response to the matters raised in the notice.

9—Insertion of Part 6 Division 5

This clause proposes to insert a new Division in relation to unregistered health practitioners as follows:

Division 5—Action against unregistered health practitioners

56A—Codes of conduct

This proposed section enables the Governor to make a code, or codes, of conduct in relation to the provision of health services that is not otherwise covered by the operation of a registration authority.

56B—Interim action

This proposed section provides for the Commissioner to be able to take interim action preventing or restricting the practice of a health service provider pending an investigation. An interim order may be made where an investigation has been commenced, where the Commissioner has a reasonable belief that the provider has breached a code of conduct or committed a prescribed offence and where the Commissioner is of the opinion that interim action is necessary to protect the health and safety of member of the public. The Commissioner may make orders restricting, placing conditions on, or removing the provider's right to provide health services, for a period of 12 weeks or shorter period as may be specified in the order. A breach of an order under this proposed section carries a maximum penalty of $10,000 or imprisonment for two years or both.

56C—Commissioner may take action

This proposed section provides for the action that the Commissioner may take upon a breach of a code of conduct or upon a provider being found guilty of a prescribed offence if, in the Commissioner's opinion, the relevant health service provider also poses an unacceptable risk to the health or safety of members of the public. The Commissioner may make orders restricting, placing conditions on, or removing the provider's right to provide health services, and may also publish public warnings in relation to the health service provider. A breach of an order under this proposed section carries a maximum penalty of $10,000 or imprisonment for two years or both.

56D—Commissioner to provide details

This proposed section requires the Commissioner, if taking action under proposed section 56B, to provide information in relation to the orders to the health service provider the subject of the orders, the complainant (if any) and to any relevant professional body. The Commissioner may also publish all or part of such information.

56E—Appeal

This proposed section provides for an appeal to the Administrative and Disciplinary Division of the District Court in relation to the making of an order or the publishing of a statement.

56F—Related matters

This proposed section provides that the Governor may, by regulation, exclude a specified person, or persons of a specified class, from the application of this Division.

To avoid doubt, this proposed section also provides that action may not be taken under this proposed Division in relation to conduct that falls within the authority of a registration authority under Part 7 of the Act.

10—Amendment of section 67—Establishment of Council

This amendment adds two members to the Health and Community Services Council. Firstly one person who, in the opinion of the Minister, is qualified, by reason of his or her experience and expertise, to represent the interests of carers, and secondly one person who, in the opinion of the minister, has appropriate experience and expertise in relation to the quality and safety standards of health services.

11—Amendment of section 69—Functions of Council

Currently section 69(1) provides for the functions of the Health and Community Services Council. This clause proposes to delete section 69(1) and replace it with a substantially similar provision. It is proposed that the functions of the Council are to advise both the minister and the Commissioner in relation to those matters listed in the section. An additional function is proposed to be providing advice on key strategic issues that arise in relation to the resolution of complaints made in relation to the provision of health or community services. It is proposed to delete the current function of the Council to refer to the Commissioner any matter that, in the view of the Council, may properly be dealt with or considered by the Commissioner under this Act.

12—Substitution of section 74

This clause proposes to substitute a new section 74 into the Act. The proposed section adds an additional power of the Commissioner to withhold information that would enable a health or community service user or a complainant to be identified. This would be where, in the Commissioner's opinion, the matter under consideration raises a significant issue of public safety, public interest or public importance, or raises a significant question as to the practice of a health or community service provider, and non-disclosure is in the public interest.

13—Amendment of section 76—Returns by prescribed providers

Currently section 76 of the Act requires a designated health or community service provider to lodge with the Commissioner a return containing information of certain types of complaints received by the health or community service provider and any action taken during the relevant period in response to, or as a result of, those complaints. Currently the section applies only to prescribed classes of complaints relating to matters of public safety, interest or importance. This amendment proposes to expand the types of complaints to which this section applies to include prescribed classes of complaints received that relate to matters arising under the Charter.

14—Insertion of section 86A

This proposed section enables the Commissioner to assist and share information with a person concerned in the administration or enforcement of a law of the State, the Commonwealth, another State or a Territory of the Commonwealth, for purposes related to the administration or operation of that other law.

Debate adjourned on motion of Mr Pederick.

FOOD SAFETY STANDARDS

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (16:00): I move:

That the Social Development Committee investigate and report on the merits or otherwise of schemes that provide information to the public on the results of food safety inspections and noncompliance with the Food Act, such as the UK-style 'scores on doors' system or the New South Wales online register of businesses fined, and in particular—

(a) the aims and objectives of such schemes;

(b) whether the system improves compliance with food safety standards and legislation;

(c) the impacts on consumers, industry, local government and state government, including costs and benefits;

(d) the work needed to underpin, develop and implement the schemes;

(e) whether the schemes should be mandatory or voluntary for food businesses;

(f) any regulatory or administrative changes required to implement such schemes in South Australia; and

(g) any other related matters.

While I believe the overall standard in food outlets in South Australia is high, there have been requests both within this house and in the media to make the results of inspections and noncompliance publicly available.

There are obstacles, of course, to this occurring under the current food legislation. South Australia's food legislation is not aimed at secrecy but is primarily there to protect public health and safety and, as such, focuses on prevention activities rather than punishment. Local government and the Department of Health have been working together and recently released a joint working plan which aims to continuously improve—or should I say in, deference to the member for Croydon, if he were here, to improve continuously—food safety and the effectiveness of the Food Act.

Activities on the plan include the development of a consistent framework for the classification of risk and frequency of food inspections. Some further changes have already been undertaken in response to calls for greater transparency. For example, we now publish the details of successful prosecutions brought by council. Some argue that these changes do not go far enough.

Before taking further action, it is important to broadly consult with key stakeholders and other members of the public. I believe we need to give local government, food businesses, consumers and the public, as well as members, of course, an opportunity to say how they think more information could be provided to the public in order for them to make informed decisions about which food outlets to go to.

In this motion, I am asking that the parliament's Social Development Committee examine regulations and systems across the nation to deliver a model that informs and reassures South Australians about food safety. I believe the Social Development Committee is the appropriate forum for a more complete examination of these issues.

Debate adjourned on motion of Mr Pederick.

NATURAL RESOURCES MANAGEMENT (REVIEW) AMENDMENT BILL

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (16:03): Obtained leave and introduced a bill for an act to amend the Natural Resources Management Act 2004. Read a first time.

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (16:04): I move:

That this bill be now read a second time.

As required by section 234 of the Natural Resources Management Act 2004, a review of the operation of this act was undertaken before the end of the 2006-07 financial year. In August 2007, the report arising from this review was laid before both houses of parliament by the Minister for Environment and Conservation.

By way of background, the Natural Resources Management Act 2004 amalgamated three acts that dealt with three significant areas of natural resources management separately. These statutes were: the Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986, the Soil Conservation and Land Care Act 1989 and the Water Resources Act 1997. This amalgamation was designed to deliver more effective and integrated natural resources management through new regionally focused NRM boards and the state-level NRM Council that the new act established for South Australia. The act also provides for an integrated and transparent system to ensure South Australia's natural resources are managed in a manner that supports ecologically sustainable development.

The report on the Review of the Natural Resources Management Act 2004, as tabled in parliament, made over 60 recommendations that included a number of recommended legislative amendments. This bill seeks to clarify existing provisions, simplify administration, improve flexibility and address inconsistencies.

The Natural Resources Management Review Amendment Bill 2010 includes provisions that:

- refine, simplify and clarify some processes in the legislation and provide a solid base for additional amendments that may be required in the future;
- allow for more expedient water conservation measures by simplifying the processes;
- promote Aboriginal engagement in natural resources management in South Australia by requiring consultation with relevant bodies; and
- provide for significantly increased penalties for water theft.

This bill is fundamental in making the operation of the Natural Resources Management Act 2004 more effective and efficient, thereby ensuring that South Australia is well equipped to meet future challenges in natural resources management. The government looks forward to bipartisan support for the passage of this legislation. I seek leave to insert the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Natural Resources Management Act 2004*

4—Amendment of section 3—Interpretation

The amendments in this clause relate to the definitions that apply under the Act.

The definition of *intensive farming* is to be revamped so that an NRM plan may designate various forms of farming as *intensive farming*, or exclude various forms of farming from the definition of *intensive farming*, in relation to the area to which the NRM plan applies.

Another amendment will remove the definition of *residential premises*.

Another set of amendments will allow the Governor, by proclamation, to declare a watercourse, or a part of a watercourse, to constitute surface water for the purposes of the Act.

5—Amendment of section 11—Powers of delegation

Section 11(4)(b) of the Act currently provides that the minister may not delegate a function or power under Chapter 5 of the Act. The clause removes that paragraph.

6—Amendment of section 13—Composition of NRM Council

Section 13 of the Act is to be amended in two respects.

Section 13(4) provides that the minister must invite expressions of interest from members of the public before nominating a person for appointment to the NRM Council. An amendment will provide that expressions of interest are not to be required if the minister is seeking to fill a casual vacancy for the unexpired term of the relevant office if the unexpired term is less than two years.

Section 13(5)(a)(v) provides that the minister should seek to have a member of the NRM Council with expertise in the field of 'business administration'. This is to be altered to 'business management'.

7—Amendment of section 14—Conditions of membership

The maximum term of appointment of a member of the NRM Council is to be altered from three years to four years (subject to a decision to reappoint the member).

8—Amendment of section 20—Annual report

Section 20(2) of the Act currently provides for the annual report of the NRM Council to be accompanied by the annual reports of each of the regional NRM boards. It is intended that the boards will now furnish their annual reports directly to the minister.

9—Amendment of section 22—Establishment of regions

This clause corrects an incorrect reference.

10—Amendment of section 25—Composition of boards

Section 25(2) and (3) provide that the minister must invite expressions of interest from members of the public before nominating a person for appointment to a regional NRM board. An amendment will provide that expressions of interest are not to be required if the minister is seeking to fill a casual vacancy for the unexpired term of the relevant office if the unexpired term is less than 2 years.

Section 25(4)(a)(vi) provides that the minister should seek to have a member of any regional NRM board with expertise in the field of 'business administration'. This is to be altered to 'business management'.

11—Amendment of section 26—Conditions of membership

The maximum term of appointment of a member of a regional NRM board is to be altered from three years to four years (subject to a decision to reappoint the member).

12—Amendment of section 38—Annual reports

It is proposed that regional NRM boards will now furnish their annual reports directly to the minister (rather than through the NRM Council).

13—Amendment of section 49—Conditions of membership

The maximum term of appointment of a member of an NRM group is to be altered from three years to four years (subject to a decision to reappoint the member).

14—Repeal of section 57

This clause consequentially repeals section 57 of the Act.

15—Amendment of section 65—Power of delegation

This amendment enables the Chief Officer to delegate a function or power conferred on the Chief Officer under other Acts in addition to the principal Act.

16—Substitution of section 72

The rules under the Act as to self-incrimination are to be revised. It is now proposed that it will not be an excuse to refuse to answer a question or to produce a document on the ground of self-incrimination. However, the answer given or the fact of production of any material will not be admissible against the person in proceedings (other than in proceedings in respect of making a false or misleading statement or declaration).

17—Amendment of section 75—Regional NRM plans

This clause sets out a number of amendments relating to the content of regional NRM plans.

It is intended to make it clear that a plan can relate to any matter that is relevant to promoting the objects of the Act in the relevant region.

An adjustment is to be made as to when a 'social impact' statement is to be required with respect to a levy under Chapter 5, being when a new levy is proposed, or an existing levy is to raise an amount that represents an increase above CPI increases.

18—Amendment of section 76—Preparation of water allocation plans

This clause amends section 76 to require the matters set out in new paragraph (aab) to be included in water allocation plans, and sets out an explanation of what an environmental water requirement is.

19—Repeal of section 78

The requirement to prepare a 'concept statement' in relation to a proposal to create a regional NRM plan is to be removed.

20—Amendment of section 79—Preparation of plans and consultation

It will be an express requirement for a board, as part of the processes associated with consultation on a draft plan, to provide a copy of the draft to any body that represents the interests of Aboriginal people identified by the minister.

21—Amendment of section 80—Submission of plan to minister

This is a consequential amendment.

22—Amendment of section 81—Review and amendment of plans

The period within which a regional NRM board must ensure that its regional NRM plan is comprehensively reviewed is to be changed from 5 years to 10 years.

23—Amendment of section 97—Outside council areas

The amendments effected by this clause will allow multiple holdings that fulfil certain criteria to be subject to 1 levy under section 97 of the Act. The provisions are based on a comparable scheme under the *Local Government Act 1999*, which applies in relation to the imposition of regional NRM levies under section 95 of the Act.

24—Amendment of section 100—Interpretation

This clause amends the definition of *levy* so that it no longer includes a fee payable to the minister under section 102(5) of the Act.

25—Amendment of section 106—Determination of quantity of water taken

A levy based on the quantity of water taken will not apply in relation to water taken for the purposes of the construction or repair of a public road.

26—Amendment of section 115—Declaration of penalty in relation to unauthorised or unlawful taking of water

This amendment clarifies the method for declaring a penalty under section 115(1)(d) of the Act.

27—Amendment of section 121—Interpretation

This amendment makes it clear that, for the purposes of Chapter 6 of the Act, degradation of land includes any adverse effect on the 'productive capacity of land'.

28—Amendment of section 124—Right to take water subject to certain requirements

New subsection (6b) sets out matters to which section 124(3) of the Act does not apply in respect of designated drainage infrastructure.

29—Amendment of section 125—Declaration of prescribed water resources

This clause amends section 125 of the Act to include the ability for a regulation under the section to operate by reference to designated drainage infrastructure.

30—Amendment of section 127—Water affecting activities

Section 127 of the Act is to be amended to clarify that a relevant authority may require that separate applications be made, and may issue separate water authorisations or permits, with respect to each distinct activity or item of infrastructure under subsection (3) of that section.

Section 127(6) of the Act is to be amended to allow an expiation notice to be issued for an offence constituted by a breach of a prescribed condition of a water permit, and also to significantly increase the applicable penalties to breaches of subsection (1) or (5a) of that section.

31—Amendment of section 128—Certain uses of water authorised

It is proposed that a notice published under section 128(1) of the Act may also operate by reference to designated drainage infrastructure.

32—Amendment of section 135—Permits

Section 135 of the Act relates to permits. The amendment to this section will expressly require a relevant authority to take into account the provisions of the relevant regional NRM plan when considering an application for a permit and to ensure that any permit, or conditions of a permit, are not inconsistent with the provisions of the relevant regional NRM plan.

33—Amendment of section 145—Requirement for remedial or other work

This amendment will allow the option of capping a well to apply if work is considered necessary under section 145 of the Act.

34—Amendment of section 150—Transfer of water licences

This clause amends section 150(13) of the Act to allow the minister to require a reduction in the size of a dam, or require other work with respect to the dam, when granting the transfer of a water licence under the section.

The clause also inserts an offence for the holder of a water license to fail to comply with a requirement under new subsection (13)(d) within a specified period.

35—Amendment of section 152—Source of allocation

These amendments will support arrangements that allow the 'carry-over' of allocations (or proportions of allocations) at the expiration of a term.

36—Amendment of section 161—Variation of approvals

New paragraph (da) is inserted into section 161(1) of the Act, to enable the variation of a water resource works approval by the minister where the variation is necessary in his or her opinion to provide consistency with action taken with respect to the variation or transfer of a water licence that is relevant to the approval.

37—Amendment of section 164N

This amendment will clarify that a reference in section 164N of the Act to an 'existing user' will extend to a person who is the successor-in-title to a person who has been an existing user under that section.

38—Amendment of section 167—Allocation of reserved water

This amendment corrects an incorrect cross-reference.

39—Amendment of section 169—Water conservation measures

Section 169 of the Act is to be amended so as to allow the minister to impose water conservation measures under that section by notice in the Gazette (rather than such measures being imposed by regulation).

40—Amendment of section 175—Movement of animals or plants

This amendment extends the operation of section 175(2) to animals to which that subsection applies as well as plants.

41—Amendment of section 176—Possession of animals or plants

This amendment removes the current requirement from section 176(1) that an animal be kept in captivity, and instead prevents a relevant animal from being kept, or being in a person's possession or control. It also provides an additional offence of a person keeping an animal to which new subsection (1a) applies, or having in their possession or control such an animal, in a control area for the relevant class of animal.

42—Amendment of section 177—Sale of animals or plants, or produce or goods carrying animals or plants

This amendment extends the operation of section 177(2) to include animals of a class to which that subsection applies.

43—Amendment of section 179—Offence to release animals or plants

This clause inserts new section 179(a1), creating an offence for a person to release an animal of a class to which the subsection applies, or cause or permit an animal of that class to be released. The offence relates to the State generally, rather than just to a control area for the relevant animal as is currently the case with subsection (1).

44—Amendment of section 181—Requirement to control certain animals or plants

This clause inserts new section 181(a1), which requires a person who has in his or her possession or control an animal of a class to which the subsection applies to comply with any instructions of an authorised officer with respect to the keeping or management of such an animal.

45—Amendment of section 223—Evidentiary

This clause allows specified evidence in respect of specified infrastructure to be presumed to be proved (in the absence of proof to the contrary) in civil or criminal proceedings.

46—Repeal of section 234

This clause repeals section 234 of the Act, which is spent.

Debate adjourned on motion of Mr Pederick.

STATUTES AMENDMENT (CRIMINAL INTELLIGENCE) BILL

The Hon. J.R. RAU (Enfield—Attorney-General, Minister for Justice, Minister for Tourism) (16:08): Obtained leave and introduced a bill for an act to amend the Casino Act 1997, the Firearms Act 1977, the Gaming Machines Act 1992, the Liquor Licensing Act 1997, the Security and Investigation Agents Act 1995; and the Summary Offences Act 1953. Read a first time.

The Hon. J.R. RAU (Enfield—Attorney-General, Minister for Justice, Minister for Tourism) (16:07): I move:

That this bill be now read a second time.

When the government began the process of drafting it led to the enactment of the Serious and Organised Crime Control Act 2008. It became clear that the act would have to deal with the situation where the Commissioner of Police was in possession of certain information critical to a decision and that information could not otherwise be made public or, in particular, disclosed to the individual to whom it related.

This kind of information is called criminal intelligence. Criminal intelligence is evidence that suggests that a person is or has been involved in a crime but which, if disclosed, could prejudice criminal investigations, enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement or endanger a person's life or physical safety. This is not a concept new to the law. The common law had long recognised such a category of information and subsumed it under the name of public interest immunity. However, the common law did not deal with it well or sufficiently and it was not clear that public interest immunity applied to some administrative as opposed to judicial proceedings.

The concept of criminal intelligence had been the subject of specific legislation in other acts that dealt with this kind of situation. As it turned out, the most significant of these was in the Liquor Licensing Act 1997. The development of criminal intelligence provisions in a number of acts directed to the disruption of the activities of organised crime has meant that there are now three versions on the statute book. One of them has been upheld as constitutional by the High Court. It is highly desirable and in the public interest that all of these provisions conform to the constitutional model.

Criminal intelligence provisions are controversial. They operate, for example, by denying a person an application for a licence or a party to legal proceedings the right to know of and respond to evidence that is prejudicial to their application or their case. This is a breach of procedural fairness and natural justice. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Because of this, criminal intelligence provisions have been the subject of constitutional challenge. There have been two such challenges to South Australian provisions;

- an applicant for a liquor licence challenged the constitutional validity of former section 28A of the *Liquor Licensing Act 1977*. This provision was held to be constitutionally valid by the High Court (*K-Generation Pty Ltd v Liquor Licensing Court* [2009] HCA 4);
- an owner of premises that were the subject of a fortification removal order unsuccessfully challenged the constitutional validity of section 74BB of the *Summary Offences Act 1953*. This provision was held to be valid by the Full Bench of the Supreme Court (*Osenkowski & Anor V Magistrates Court Of South Australia & Anor* [2006] SASC 345).

The case before the High Court in K-Generation was being argued right at the time that the *Serious and Organised Crime (Control) Bill 2008* was being drafted. The Solicitor-General of the day (Mr C Kourakis QC) was apprehensive that the Court would strike down the particular version of the criminal intelligence provision before it. He advised the drafters that some modifications should be made to criminal intelligence provisions generally to make them more amenable to High Court approval. This was done in some cases (including in the Liquor Licensing Act itself).

As it turned out, the High Court upheld the validity of the criminal intelligence provision in the *Liquor Licensing Act 1977*. The result was that the statute book then had (and has) on it two versions of the criminal intelligence provision. One is the one, the validity of which was upheld by the High Court. One is not.

But that is not all. The criminal intelligence provision in section 74BB of the *Summary Offences Act 1953* upheld as valid by the Full bench of the Supreme Court is different yet again. So there are three versions on the statute book.

This is not a defensible position. Experience shows directly that there are those affected by criminal intelligence provisions who are willing and able to litigate the constitutionality of the provision to the High Court. This is not only very expensive for the State but, literally, takes years, during which time the operation of the provision and the legislation that depends upon it are placed in limbo. the State cannot afford the needless expense and the disruption to the operation of its policies as expressed in legislation.

If action is not taken now and quickly, these unproclaimed provisions will eventually come into force of their own effect because of the two year rule in s 7(5) of the *Acts Interpretation Act 1914*. For example, the one in the *Liquor Licensing Act 1997* will come into effect on 4 December 2010.

All criminal intelligence provisions, including the old one in the *Summary Offences Act 1953* should conform to the model upheld as constitutionally valid by the High Court in the *K-Generation* case. The Acts that must be amended are:

- the Casino Act 1997;
- the Firearms Act 1977;
- the Gaming Machines Act 1992;
- the Summary Offences Act 1953;
- the Liquor Licensing Act 1997; and
- the Security and Investigation Agents Act 1995.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

Operation of the measure will commence on a day to be fixed by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Casino Act 1997*

4—Substitution of section 66A

Section 66A of the *Casino Act 1997*, which deals with the confidentiality of information classified by the Commissioner of Police as criminal intelligence, is to be repealed. A new section that is consistent in its terms with criminal intelligence provisions in other legislation is to be substituted. The new section provides that in any proceedings under Part 8 of the Act (Review and appeal), the Independent Gambling Authority or the Supreme Court must, on the application of the Commissioner of Police, take steps to maintain the confidentiality of information classified by the Commissioner of Police as criminal intelligence. Steps are to be taken to receive evidence and hear argument about the information in private in the absence of the parties to the proceedings and their representatives. The provision also provides that the Authority or Court may take evidence consisting of or relating to information that is classified as criminal intelligence by way of affidavit of a police officer of or above the rank of superintendent.

5—Amendment of section 69—Confidentiality of criminal intelligence and other information provided by Commissioner of Police

Section 69(4) is to be repealed by this clause. The subsection, which imposes certain requirements in relation to delegation of the function of classifying information as criminal intelligence, is unnecessary because section 19 of the *Police Act 1998* deals with delegations by the Commissioner of Police.

Part 3—Amendment of *Firearms Act 1977*

6—Amendment of section 5—Interpretation

This clause amends the definition of *criminal intelligence* in the interpretation provision of the *Firearms Act 1977*. The purpose of the amendment is to ensure that the term is defined consistently in the State's legislation.

7—Amendment of section 26C—Right of appeal to District Court

This clause amends section 26C by substituting new provisions relating to the confidentiality of criminal intelligence. The section as amended will provide that, on an appeal to the District Court, the Court—

- must, on the application of the Registrar, take steps to maintain the confidentiality of information classified by the Registrar as criminal intelligence, including steps to receive evidence and hear argument about the information in private in the absence of the parties to the proceedings and their representatives; and
- may take evidence consisting of or relating to information so classified by the Registrar by way of affidavit of a police officer of or above the rank of superintendent.

Part 4—Amendment of *Gaming Machines Act 1992*

8—Amendment of section 3—Interpretation

The definition of *criminal intelligence* that applies for the purposes of the *Gaming Machines Act 1992* is amended by this clause so that it is consistent with other definitions of the term. As a result of the amendment, the term will include information relating to actual or suspected criminal activity (whether in South Australia or elsewhere) the disclosure of which could reasonably be expected to endanger a person's life or physical safety.

Part 5—Amendment of *Liquor Licensing Act 1997*

9—Amendment of section 28A—Criminal intelligence

This clause amends section 28A of the *Liquor Licensing Act 1997*, which provides for the confidentiality of information classified by the Commissioner of Police as criminal intelligence. The purpose of the amendment is to make the section consistent with similar provisions in other Acts. The section as amended will provide that in proceedings under the Act, the Liquor and Gambling Commissioner, the Licensing Court of South Australia and the Supreme Court are to take steps to maintain the confidentiality of information classified by the Commissioner of Police as criminal intelligence, including steps to receive evidence and hear argument about the information in private in the absence of the parties to the proceedings and their representatives. The provision also provides that evidence consisting of or relating to information so classified by the Commissioner of Police may be taken by the Commissioner or Court by way of affidavit of a police officer of or above the rank of superintendent.

Part 6—Amendment of *Security and Investigation Agents Act 1995*

10—Amendment of section 3—Interpretation

This is a further amendment made for the purpose of ensuring that *criminal intelligence* is defined consistently in each of the Acts in which the term is used. Currently, the definition does not refer to the disclosure of information that might endanger a person's life or physical safety.

Part 7—Amendment of *Summary Offences Act 1953*

11—Amendment of section 74BA—Interpretation

This clause amends section 74BA to insert a definition of *criminal intelligence* that is consistent with the definitions in other Acts.

12—Amendment of section 74BB—Fortification removal order

This clause deletes the current provisions which protect sensitive material by reference to the principle of public interest immunity.

13—Amendment of section 74BC—Content of fortification removal order

This clause amends section 74BC to ensure that information included in, and attached to, a fortification removal order made by the Court does not include information the disclosure of which would be inconsistent with a decision of the Court under proposed new section 74BGA.

14—Insertion of section 74BGA

This clause inserts a new section relating to criminal intelligence that is consistent in its terms with criminal intelligence provisions in other legislation.

Debate adjourned on motion of Mr Pederick.

CORRECTIONAL SERVICES STAFF

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Industry and Trade, Minister for Small Business, Minister for Correctional Services, Minister for Gambling) (16:10): I seek leave to make a personal explanation.

Leave granted.

The Hon. A. KOUTSANTONIS: At the estimates hearing on 8 October 2010, I was asked about staff entitlement changes announced in the budget, and I responded with information provided by the Department for Correctional Services.

It has been brought to my attention today that there was a technical error in the advice that I received. When asked by the member for Stuart about departmental efficiencies, I responded:

While it is true that some correctional employees—and I mean 'some'—will lose some leave loading and the days accrued of long service leave will change, let me say from the outset that no seven day-a-week rotating shift-working correctional staff will lose any leave loading entitlements. They will still receive 17.5 per cent leave loading or applicable penalties, whichever is greater, on their recreation leave.

The technical error is that seven day-a-week rotating shift-working correctional staff receive 20 per cent leave loading or applicable penalties, whichever is greater, on their recreation leave.

AUDITOR-GENERAL'S REPORT

In committee (resumed on motion).

The CHAIR: We will now proceed to an examination of the Auditor-General's Report in relation to the Minister for Industry and Trade, the Minister for Small Business, the Minister for Correctional Services and the Minister for Gambling for 30 minutes. I remind members that the committee is in its normal session so that any questions must be asked by the members on their feet and all questions must be directly referenced to the Auditor-General's Report. The member for Waite.

Mr HAMILTON-SMITH: I refer to the Auditor-General's Report, pages 1513, 1515 and 1519 and 'Employee benefit expenses' and 'Remuneration of employees' at page 1527. Minister, in budget estimates you stated that the DTED restructure to abolish 78 positions by 1 January 2011 would be finalised by 25 October this year.

In light of this, has that been completed in accordance with your deadline, and, if so, can you now inform us how many of the proposed reductions will come from non-renewal of short-term contracts? What degree of notice and termination package does the government intend to give these contracted employees? How many will come from TVSPs, and how many will be found in other ways?

The Hon. A. KOUTSANTONIS: You want to know about the structure; is that right?

Mr HAMILTON-SMITH: Firstly, I just want to know if the deadline has been met and, secondly, how many will be contract non-renewals, how many will be TVSPs and how many 'other'?

The Hon. A. KOUTSANTONIS: The advice I have received is that we did meet the deadline on 25 October. In terms of contractors, that is yet to be determined. I will endeavour to get a detailed answer to the member on its completion. In terms of the structure, we are still seeking classification advice.

Mr HAMILTON-SMITH: I understand the decisions have been made in accordance with your deadline. The minister seems to be saying that the decisions have been made but, in regard to the number of persons who are contracted staff who will not be renewed, the decisions have not been made. In regard to TVSPs, you seem to be suggesting that decisions have not been made. So, were the decisions made on the 25th and, if they have been made, are you in a position to tell us what the break-up of those cuts will be?

The Hon. A. KOUTSANTONIS: The advice I have received is that the department is undertaking its skills-matching program with the staff available in DTED for the positions that will be available under the new structure. Until that is completed, we cannot give you a definitive answer.

Mr HAMILTON-SMITH: I understand that the new structure has been agreed to, but the decisions have not yet been reached in regard to who will go. Am I understanding correctly?

The Hon. A. KOUTSANTONIS: The advice I have received is that people have not transitioned into the new structure as yet.

Mr HAMILTON-SMITH: Do you know what the savings will be? If you do not know, how many of the people who will not be re-employed are contracted or TVSPs, because there are different payout structures for both? Do you not know what the savings will be from the restructure at this point?

The Hon. A. KOUTSANTONIS: The advice I have received is that, once we have completed the skill matching based on positions available, the department is confident it can reach the savings targets that have been set in the budget.

Mr HAMILTON-SMITH: So, do I understand that we will get that information at the next budget but not before?

The Hon. A. KOUTSANTONIS: I am sure that as soon as I am aware of the final outcome, I will endeavour to let the member know.

Mr HAMILTON-SMITH: I refer to the same subject and same page numbers. Does the agreed restructuring of DTED, now decided on 25 October, differ from what you advised estimates some weeks ago? If it is different in any way, is it exactly what you told estimates in regard to the number of staff who will be constituted into various sections of DTED? Has there been any further change?

The Hon. A. KOUTSANTONIS: The advice I have received is that, in terms of total numbers, the numbers given to you during estimates are accurate. In terms of the breakdown, if there are any changes, I will definitely come back and inform the member and the committee.

Mr HAMILTON-SMITH: Just moving onto page 1527 of the Auditor-General's Report, what is the number of staff being paid over $100,000—an increase from 44 to 55 in the 2009-10 period—and how many of those staff will be targeted for removal? The number of staff being paid more than $100,000 went up from 44 to 55, which is a significant increase—25 per cent, or so. How many of them are to go?

The Hon. A. KOUTSANTONIS: The advice I have received from the department is that that increase in staff receiving more than $100,000 per year in salary is based on a bracket creep through already negotiated agreements. In terms of the number of those staff who will be targeted for TVSPs, until the skills matching and the programming is completed, I cannot give you a definitive answer.

Mr HAMILTON-SMITH: The top salary level bracket indicated in the Auditor-General's Report signals a salary of $330,000 to $339,000. Is that the salary package of the CEO, Mr Lance Worrall?

The Hon. A. KOUTSANTONIS: On the advice I have received, no.

Mr HAMILTON-SMITH: Who is that payment for?

The Hon. A. KOUTSANTONIS: Paul Case, the Chief Executive Officer of the Olympic Dam Task Force.

Mr HAMILTON-SMITH: Why are we paying Mr Paul Case more than the CEO of the entire department for his work on the Olympic Dam Task Force?

The Hon. A. KOUTSANTONIS: The salary negotiations for Mr Case were negotiated before I became minister.

Mr HAMILTON-SMITH: I understand that, minister, but I still ask the question: why is that job more important than running the entire department?

The Hon. A. KOUTSANTONIS: I know that the member is looking for me to expand on my answer. I was not present in cabinet. I was not responsible for the negotiation of his package, so I would be misleading the committee if I gave details on something on which I do not have any information.

Mr HAMILTON-SMITH: I will move to page 1513 of the Auditor-General's Report, which deals with grants and subsidies. I asked this question during estimates, and I think you were going to come back to me. Now that it has been a few weeks, hopefully you are able to respond. What is the government's current policy in regard to the referral of proposals for grants and subsidies to the Industry Development Committee, a subcommittee of the Economic and Finance Committee? Have all of these proposals gone to the Industry Development Committee in accordance with statute?

The CHAIR: For my clarification, member for Waite, was that one question or two?

Mr HAMILTON-SMITH: Really, one—a comprehensive question.

The Hon. A. KOUTSANTONIS: The advice I have received is that the Treasurer has delegated powers of referral to the Industries Development Committee (IDC) to the Minister for Industry and Trade: me. Referral to this committee is at the discretion of the minister—again, me—and I am advised that there is no statutory obligation on me to refer matters to the IDC. However, I have always seen the importance of the IDC; I think it is a robust way of us having a bipartisan approach to certain industry development, and I will be taking a more liberal view on referrals of these matters to the IDC.

Mr GRIFFITHS: I have a supplementary question. Being a member of the Economic and Finance Committee and an appointee to the IDC, it would give me great pleasure to have something to consider, but it is my understanding that the IDC has not met—certainly not since the 2006 election. Can the minister indicate when he intends to refer an item to the IDC?

The CHAIR: For my own clarification, member for Goyder, are you still referring to page 1527?

Mr GRIFFITHS: Madam Chair, I did indicate that it was a supplementary question.

The CHAIR: Indeed, but is it a supplementary question relating to exactly the same page?

Mr GRIFFITHS: It is related to the answer provided by the minister.

The CHAIR: So which page is it related to?

Mr GRIFFITHS: The page that you referred to, Madam Chair.

The CHAIR: What is that page? Would it be page 1514?

Mr GRIFFITHS: I would rather talk about the specifics of the issue rather than the page reference.

The CHAIR: But I would like to know if you know what you are referring to, member for Goyder.

Mr GRIFFITHS: Yes, Madam Chair.

The Hon. A. KOUTSANTONIS: The member for Goyder served under me for four years on the committee. He was an excellent member of that committee and I think he is a fine member of the IDC. I look forward to using—

Mr Hamilton-Smith interjecting:

The Hon. A. KOUTSANTONIS: He caused a lot of trouble; he was a very fine member and a great advocate for the Liberal Party of South Australia. We miss him.

Mr HAMILTON-SMITH: Is the minister aware of the protocols that were applied up until 2002 in regard to Industries Development Committee referrals where all projects over a certain limit were referred to the IDC at the insistence of the now Treasurer? How long has it been since a matter has been referred to the IDC? Did this policy change after 2002 or was it only after 2006?

The Hon. A. KOUTSANTONIS: I cannot speak for what happened before I had referral statutory authority. I know that the shadow minister is trying to make a political point and that is fine, I understand that. What I am saying is that I think it plays an important role, and from this point forward if I think there is something that needs to be considered by the committee I will forward it there, because I believe it has an invaluable role.

I have spoken to members of this house who have served on that committee and, from memory, the people I spoke to who served on it in the past—and I am talking about a long time ago—found it a very valuable and useful tool for making sure there was no political rancour over some very important investment decisions that the government was making. I think it is something that we should be using again.

Mr GRIFFITHS: I have a page reference for a small business question, if I may. It is Volume 4, page 1527, Activity 5, Small Business Big Impact. Frustratingly, given the important role that small business plays in the South Australian economy, I can find very few references to it in the Auditor-General's Report. That means that either it is doing really well or that it does not get the level of financial support that it should from the state government. I had some questions for the minister in estimates, and I appreciated the candour of his answers, but I would like to ask some questions with regard to that Activity 5, which states that the aim is to support small businesses in their growth and expansion.

Does the minister believe that the decision not to renew funding for the business enterprise centres from 30 June 2011 and the Regional Development Australia structure from 30 June 2013 will meet that objective and function of DTEI and allow small businesses in South Australia to move forward.

The Hon. A. KOUTSANTONIS: As I said to the member in estimates (and I do believe this passionately), what small businesses are looking for from state governments is not advice on

what products to buy or what colour displays they should have in their store, but a regulatory framework in which they can survive, and that regulatory framework is something to a small business. I am talking about the ability to have good faith negotiations and fair dealings when negotiating a retail tenancy agreement. It is about making sure that contracts are negotiated in good faith and that there are fair dealings. I think that is what the overwhelming number of small businesses in South Australia are looking for from the state government.

I understand the member opposite is lamenting the lack of funding from BECs and I understand his concerns. My view is that, if the BECs provide such a great service and they are so valuable to South Australian businesses, then they will survive, but I do not believe fundamentally that it is the role of the state government to subsidise business advice to private businesses.

Mr HAMILTON-SMITH: Minister, page 1512 of the Auditor-General's Report deals with financial assistance grants. Can you tell the committee about the strategic industry development fund and the strategic industry support fund? How much is in each fund and what are the different functions of these two funds?

The Hon. A. KOUTSANTONIS: To not waste the time of the committee, I will get you a detailed response very quickly on the roles and functions of those two grants.

Mr HAMILTON-SMITH: And the amounts of money in each fund. In the same response, could I also ask you to provide the quantum and the role and function of the SA Innovation and Investment Fund, which is a third fund that I think you manage? I look forward to those responses on notice.

On the same page, the Auditor-General refers to there having been 161 obligations overdue with regard to acquittals of funds given and that that is now down to around 66, with effect July 2010. How many grants have been given that have not been acquitted? As of today's date, how many are outstanding? Although you may need to take it on notice, would the minister be prepared to list those companies that are still to acquit their grant?

The Hon. A. KOUTSANTONIS: I am advised that as of 30 September 2010 the department has reduced the number of obligations outstanding for more than 60 days to 39. It continues to follow up all outstanding obligations, and I am not prepared to give you the names of the businesses.

Mr HAMILTON-SMITH: How many companies?

The Hon. A. KOUTSANTONIS: Thirty-nine. So as not to confuse this, I will restate that. As at 30 September 2010, the department has reduced the number of obligations outstanding for more than 60 days to 39—that is not the number of companies; it is obligations—and continues to follow up all outstanding obligations. I am sorry if I may have misled you earlier.

Mr HAMILTON-SMITH: What number of companies are overdue, because the Auditor-General mentions that it was 66? How many companies are overdue at the moment?

The Hon. A. KOUTSANTONIS: The advice I have is that this was always going to be a matter that would overrun every now and then because, often the moment the funds are given, the obligation has not been fulfilled. We will try to keep it as low as possible, but I do not have the exact number of companies that are outstanding to report, but I do not think it is a matter of concern.

Mr GRIFFITHS: Again referring to page 1527 and Small Business Big Impact, it is not specifically detailed here but there is a very common level of frustration among businesses about red tape. As I understand it, two targets have been set by the state government in regard to red tape reduction, and I think there has been an initial report on some $130 million or $150 million in what it states as being reduction in red tape and the savings that will be achieved. There is another target out there now, I think, in the range of $150 million to $170 million. Is the minister able to provide the chamber with an update on the progress being made on red tape reduction?

The Hon. A. KOUTSANTONIS: To be entirely honest, I think it would be exceptionally unfair of me to start reading out the response that I had ready for estimates because it would take up the remaining time so, to be fair to you, I will give you a detailed response.

Mr GRIFFITHS: I move now to the gambling area, and I ask this question on behalf of the Hon. Terry Stephens. My question relates to page 1640, Volume 5, under the heading Service Level Agreements, where the Auditor-General noted that the department has not revised and renewed expired service level agreements with at least six government departments or statutory

authorities, including the Independent Gambling Authority. Minister, can you advise why these service level agreements have not been revised and renewed?

The Hon. A. KOUTSANTONIS: From the advice I have received from the department in the course of the 2009-10 audit, it was noted that the Department of Treasury and Finance had not revised and renewed some expired service level agreements. One of those was an agreement with the Independent Gambling Authority. When queried by the Auditor-General's office, DTF later advised that it had developed documents but that it had been experiencing delays. I will get further information to the house as soon as it is available.

Mr GRIFFITHS: So that I may be very sure, there have been no consequences as a result of not renewing those agreements at this stage, but you will provide details of the implications at a later date.

The Hon. A. KOUTSANTONIS: Yes, that's right.

Mr GOLDSWORTHY: My questions are again on behalf of the Hon. Terry Stephens in relation to Correctional Services. I refer to the Auditor-General's Report Part B, Volume 1, page 217, under point 5 on employee benefits expenses and remuneration of employees. We can see that in 2009 there were 47 employees within the department (DCS) earning $100,000 or more, and in 2010 there are 62—an increase of 15 fat cats, an explosion of more than 30 per cent. Minister, how can you justify this explosion in the number of fat cats at a time when the Rann Labor government is slashing public sector jobs and workers' entitlements? Are any of these employees part of your own staff? Have any DCS staff been seconded to your office?

The Hon. A. KOUTSANTONIS: The advice I have in response to the first part of that stupid question is no, and the rest of the stupid question I will answer. The number of employees with packages over $100,000 in 2009-10 was 62 compared to 47 in 2008-09 and this equates to approximately 4 per cent of employees. The remuneration includes all costs of employment including salaries, wages, superannuation contributions, fringe benefits tax and any other salary sacrifice benefits.

In 2009-10 there were 27 pay periods compared to 26 in 2008-09. The 27th pay period resulted in an additional nine employees receiving a total remuneration package greater than $100,000. Additionally in 2009-10, public servants received a $600 once-off payment as part of the public sector enterprise bargaining agreement and this resulted in a further three employees receiving total packages greater than $100,000. The total remuneration received by the 62 employees with a total remuneration value in excess of $100,000 for the year was $7.9 million. I also advise the member sitting opposite who asked the question, if he thinks everyone earning over $100,000 a year is a fat cat, then he is talking about himself.

Mr GOLDSWORTHY: Referring to page 204 in the same volume, where the Auditor-General makes mention of the management of the Mount Gambier Prison, I understand that the shadow minister visited that prison a few months ago. We would be interested to understand how the tender process is progressing, given that the contract had been extended by six months. Minister, will there be any further extensions to the current contract; and are you able to advise when the tender process will be completed?

The Hon. A. KOUTSANTONIS: The advice I have received is that the tender is on schedule. It will be commissioned before 30 June next year.

Mr HAMILTON-SMITH: I will just go back to industry and trade, if I may. What are the exact details of the government's plans for G'Day USA? I understand their funding has been cut, but can you just confirm what is to happen with South Australia's involvement in G'Day USA henceforth, if any?

The Hon. A. KOUTSANTONIS: Alas, I do not have any information about G'Day USA, but if the member is seeking a ticket, I will do my best to get him one.

Mr HAMILTON-SMITH: It is actually the Treasurer who is sitting to your right who has been to every single one ad nauseam and at length, so perhaps you might like to talk to the Treasurer. Do I take it from your answer that—

The CHAIR: Your time has fully expired.

Progress reported; committee to sit again.

MINING (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 September 2010.)

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (16:45): I am pleased to say that I am the lead speaker for the opposition on this matter. I look forward to the debate on this important piece of legislation.

The DEPUTY SPEAKER: The calm and measured debate I am sure you are going to enjoy.

Mr WILLIAMS: This is quite an important piece of legislation, and it has been a fair while coming. The government has, indeed, taken decisions and highlighted that it was waiting to get this piece of legislation through the parliament before making final decisions. I refer particularly to the decision about Arkaroola, which was—

An honourable member interjecting:

Mr WILLIAMS: I will come to our position on that. We do, indeed, have a position, and I can tell the Deputy Premier that it has been enunciated, although I thought that he would have been aware of that. The Mining Act is an important piece of legislation, and it will become more and more important as our state economy becomes more and more reliant on the mining sector. I personally have a keen interest in this piece of legislation and I will take the opportunity to make the point to the house as to why I have a keen interest in it.

One of the functions of the Mining Act is to develop the processes through which the relationship between miners and landowners, landholders and land operators (or owner-operators or whatever they are called) goes forward. As a farmer and a landowner, I have a keen interest in that—more so, as I have an active mine on my property. There is an extractive mineral lease that is owned by either an individual or a company; to be quite honest, I am not sure of the ownership of the lease which has operated on one of my blocks of land for a number of years.

Indeed, I will tell the house about what I have seen as some of the deficiencies in the Mining Act in the past. I have taken certain actions over a number of years as the property owner (which I will explain to the house) to try to protect what I believe should be my rights as a landowner. The particular property in question has a reasonable resource of basalt, what we call 'blue metal' in the industry. It is crushed and used as road-making material. There is quite a resource on one of my properties.

When this operator came in, I was very dissatisfied with some of the ways he was operating; in fact, part of his operation went outside of his lease. This operator has since sold the business, but I am still left today with exposed cliffs in the middle of my paddock in the middle of my farm which are outside of the lease. To be quite honest, I was somewhat dissatisfied with the response of the department to that particular operator, and that was not the only issue that the department had with that operator, either, I might add.

Some years ago, to try to protect myself, I took out a mining claim over a large area of that property, and, from memory, it was probably before I became a member of this place. I took out a mining claim and, under the act, that mining claim had a life of up to 12 months. In that period of time I changed the title of that property from a leasehold title to a freehold title, which increased my rights as a farmer considerably. I had to go through the process of taking out that mining claim to allow that to happen.

More recently, even after doing that, one day—and since I have been in this place I do not spend a lot of time driving around my paddocks—I did observe that there were a series of pegs in my paddock. When I made some inquiries through the department, it turned out that the operator of that mining lease was in the process of trying to establish a much greater area of that lease than was originally pegged and claimed. It was a couple of hectares in the first instance, from memory, and he was trying to expand that out to something like over 10 hectares.

Again, it took me some time working with some people in the department to get the operator back to the original lease within the original boundaries, which is when we discovered that he had gone outside his boundaries in one part of the operation. Again, to try to protect myself, I took out a claim over a much larger portion of that block of land that is in my own and my wife's name, and sometime within the 12 months subsequent to doing that (and I am not quite sure when that was) I applied for an extractive minerals lease to turn that claim into a mine.

That application has been in the department for a number of years—probably three, four, maybe five years; I am not quite sure to be honest. Quite recently another operator in the region approached me expressing an interest in that application of mine and, in fact, that operator and I have recently lodged a proposal to the department which should—I hope—allow the department to complete the analysis of that application and, in fact, sometime in the not too distant future turn it into a mining lease, and suddenly I will be the owner of a mining lease.

I say that to the house because it illustrates the personal interest I have in the Mining Act and the way in which it operates, not that these changes to the act impose or impinge on any of those arrangements whatsoever. What I said initially was that one of the functions of the Mining Act is to establish the processes which occur between the miner and the landowner; and, in this case, I would be both parties—so, there is no issue there to be resolved by the considerations imposed by the regulatory regime imposed by the Mining Act. Notwithstanding that, I give that information because it does two things: it explains to the house not only my personal interest in the Mining Act and how it operates but also the experience that I have had over a significant number of years in working with the existing Mining Act.

The Hon. K.O. FOLEY: I would like to take a point of order at this stage, Madam Deputy Speaker. I have been listening with interest. We are now some 10 minutes into the debate and the honourable member has spoken at length about his personal interests in a mine.

The DEPUTY SPEAKER: Please sit down, member for MacKillop.

The Hon. K.O. FOLEY: I have been trying to find the standing order, but my recollection is that we do have a standing order that relates to conflict of interest issues. Maybe the clerks could advise me whether I am wrong, but I would like a ruling as to whether it is appropriate for a member of parliament to be managing a bill on behalf of the opposition for which he clearly has a conflict—and he has been up-front about it, and I am not at all critical about him being up-front. But I would just like to know whether or not a conflict, as I see it, is a matter that would preclude the member from participating in this.

The DEPUTY SPEAKER: We will check it for you now, but I think I did hear the member say that the very nature of this bill would not affect him either way.

The Hon. K.O. Foley interjecting:

The DEPUTY SPEAKER: We are taking him at his—can you sit down, member for MacKillop? We are taking him on his word. I am sure that is the case, is it not, member for MacKillop?

Mr WILLIAMS: Yes.

The DEPUTY SPEAKER: I have some clarification of this matter. The Clerk tells us that, under standing order 170, if you have a pecuniary interest you may not vote on the matter, but nothing prevents you from speaking on the matter.

The Hon. K.O. FOLEY: On the point of order, I do not mean to be difficult, but I am a stickler for the rules. I see myself as an experienced member of this house, and it is my job to ensure that we stick to the rules. I was just saying that I got Gunny and Venning on this some years ago with the Wheat Board. I do not know whether or not the member will have a pecuniary interest in this. I do not know how one decides that.

Mr Pederick: It's a rubble pit.

The Hon. K.O. FOLEY: A what?

Mr Pederick: It's a rubble pit; a road base.

The Hon. K.O. FOLEY: I am not critical; I am in awe of him having such multiple business interests.

The DEPUTY SPEAKER: Thank you, Treasurer. On your point of order—and I understand that you are a stickler for the rules—

Members interjecting:

The DEPUTY SPEAKER: I did not actually say anything. I understand that you like the rules. I am advised by the clerks that what the member for MacKillop is speaking about here is a general interest that any landholder may have. So, I do not think he has a conflict of interest in—

The Hon. K.O. Foley: I don't have a rubble pit in my backyard.

The DEPUTY SPEAKER: Well, you don't have a rubble pit, I don't have a rubble pit, but it appears that the member for MacKillop has a rubble pit, and he is allowed to talk about these things.

The Hon. K.O. FOLEY: Madam Chair, I will accept, obviously, as I should, the ruling of the house, and I apologise taking up the time, but democracy requires vigilance.

The DEPUTY SPEAKER: Rigorous vigilance, and that is what we like to see: robust vigilance. Had you actually finished, member for MacKillop?

Mr WILLIAMS: I have not even started, Madam Deputy Speaker.

Mr Pederick interjecting:

The DEPUTY SPEAKER: It was a sparky moment.

Mr WILLIAMS: Madam Deputy Speaker, I did not realise that the Deputy Premier had such an interest in this matter. He has probably encouraged me to lengthen my contribution considerably to whet his appetite for knowledge on the operation of the Mining Act. I would have thought that we might have been able to conclude this matter by 6 o'clock, and that is obviously not going to happen.

The DEPUTY SPEAKER: Is that a threat or a warning?

Mr WILLIAMS: No; I am just enthused by the Deputy Premier's appetite.

The Hon. K.O. Foley: I promise not to take any more points of order if you finish by six.

The DEPUTY SPEAKER: That's the way.

Mr WILLIAMS: The Mining Act, as I was saying, is an important piece of legislation. It does regulate those relationships between the parties involved in the industry. At least one of the other important things it does is regulate the way that the state protects its interests, and its interests are obviously in the mineral wealth of the state. It also enables the state to collect revenue from people who, I guess, in a sense are subcontractors to the state in extracting that mineral wealth and processing and selling it. We charge royalties for that; so the Crown has an interest.

The Mining Act sets out how we protect the interest of the Crown and how we assess and collect those royalties. The Mining Act also gives the minister of the day—and, through the minister, the government of the day—powers to regulate the way that miners operate so as to protect the environment (the natural environment and the built environment) and also the cultural heritage. So, they are by and large the three functions of the Mining Act. For the Deputy Premier's knowledge, I might remember some other things that the Mining Act provides.

It is a very important piece of legislation, giving the government of the day the opportunity to extract the mineral wealth of the state for the benefit of the communities in a way that is sensitive to environmental issues and also to manage relationships between the people who are doing the actual mining and anybody who has an interest in the land or the sites where the mining is occurring. Those relationships, as I said, could involve the landowner and/or the land occupier, and often they are not the same person. That is what the act is basically about.

The amendments brought to us in this bill strengthen the minister's ability to manage in regard to the environment. That is the principal change we see here, and there are some quite significant changes, such as new powers or extended powers given to the minister to allow the minister to more adequately manage those environmental issues.

I mentioned Arkaroola earlier, and there is an ongoing public debate about whether or not it should be mined. Obviously, if the decision was taken not to mine it, that would be the end of the story. If the decision was taken to allow mining, obviously, a precursor to allowing mining would be to allow exploration for mineral wealth, and then the person doing the exploration may or may not decide to take that further step to try to operate a mine. That is a question that has been hotly debated in the public arena.

The minister has made a number of statements, which I will paraphrase, and I am sure that I will be corrected by the Deputy Premier if I get any aspect of this wrong. It seems that some 12 months ago, when the minister renewed the exploration lease of Marathon Resources, in particular, he basically said, 'Marathon Resources have a lease; they have an expectation that that

lease will be rolled over, it will be renewed, and they will be able to continue and complete their exploration work.'

In the interim, before the parliament had considered these amendments before us today, the minister said that, before allowing Marathon the normal activities under such an exploration lease, he wanted these additional powers. I can understand the rationale behind that if the minister and the government were going to allow that exploration to go ahead. The government has not said that at this stage, but it seems pretty obvious to me that it is going to allow the expiration to go ahead, otherwise the minister would not have renewed that licence some 12 months ago. So, we are in abeyance until the parliament has finished its deliberations on these amendments, and then we will see what the minister's next step will be in regard to that particular issue.

I think only last week I read somewhere that the government has decided that its discussion paper, I guess would be the best way to describe it, 'Seeking a Balance', has now been taken off the shelf and thrown in the bin. I think that was the sensible thing to do because it did not satisfy any of the players within the debate, let alone those on the ground—the immediate stakeholders, that is, the landowners, Marathon Resources and/or the native title holders. However, there were a whole heap of other players and interested parties, particularly from the conservation movement, who were dissatisfied with that particular approach as well. To answer the Deputy Premier's question, that is, what is our attitude to Arkaroola, we came out some time ago—in fact, it was at the end of the winter break when we started to debate this legislation in the other place—and pointed out that we did not believe that 'Seeking a Balance' was a sustainable way forward.

We actually thought that the pre-existing zone over Arkaroola gave a very high level of protection to the whole area, and that we should proceed with that same level of protection—indeed, the level of protection that Marathon Resources was aware of when it first took up the lease to explore that area. We could not see why you would want to change that and water it down. I think that the government has come to a very similar position, and we await with interest the minister's next move once he has the additional powers given to him in this bill.

As I have said, the bill has already been through the other place. The Minister for Mineral Resources Development is a member of that place, and the bill was introduced there. In reality, almost all the heavy lifting and the argy-bargy, the amendments moved both by the opposition and other crossbench parties, have been debated and, by and large, agreed positions found on virtually the whole bill. I will not go into that but a lot of work was done, certainly by myself and my colleague the Hon. David Ridgway, who handled the bill on our behalf in the other place, along with the minister and members of the crossbench and minor parties in that place. I cannot recall the number of amendments, but I know that the opposition moved a significant number and the Greens moved a significant number, as did Family First, and possibly some others as well. So there was a fair amount of work.

We got to a point where there were some outstanding matters. There was considerable debate, particularly with the South Australian Chamber of Mines and Energy, with whom I was liaising (and I am sure that the minister and his department were also, as well as members of the other place and some other parties), and the Farmers Federation certainly had some input. However, there were some outstanding matters for which a resolution could not be found, and the issue of Arkaroola was one of those. I know there was also some information that we were still trying to gather at that time to satisfy inquiries by some of my colleagues.

Just prior to the winter break a position was agreed between the minister and my colleague the Hon. David Ridgway, the leader in the other place, that the bill proceed almost to completion with a couple of questions left in abeyance. Those were tackled when the parliament resumed after the winter break; they were resolved very quickly and an agreed position was found for all those matters. That is the bill we have before us now.

Interestingly, I received a briefing from the government and the department a bit over a week ago, I think. The government, in considering the bill as it came out of the other place, is of the opinion that there are some minor matters that need to be fixed. Some of the amendments that were passed in the other place may potentially have some unintended consequences, and I see that there is on file a number of government amendments to the bill as it has come from the other place.

Having looked at those amendments, I can advise the minister—I think I have informed the minister's office—that I believe the government's position with regard to those amendments is

acceptable and that the opposition will accept them. I will not go into it; the minister will give us the full reasoning behind each of those amendments as we go through the committee stage, just to put it on the record.

An honourable member interjecting:

Mr WILLIAMS: Maybe he is not as enthusiastic about this bill as he showed us earlier. I indicate that the opposition accepts the wisdom of the amendments that are on file in this place. Again just getting back to the general discussion of the bill, one of the things this bill does is formalise in the legislation a number of the practices which are already happening in the administration of the Mining Act in South Australia. It is my understanding that some of the things the department has been doing—and I refer to things such as the insistence of having mining plans.

As I understand, there is nothing in the existing legislation that underpins those requirements of the minister to have certain information provided, for example, mining and rehabilitation plans. That will now be specified within the act and underpin the authority of the agency through the minister to insist on that sort of process being gone through and being ticked off by the department before mining licences are given. There are a range of steps within the Mining Act to get from, firstly, obtaining an exploration lease and then moving through a range of steps to get to an operational mine. I am not going to bore the house with going through them, but that is the way it works. There is a lot of rationale for why it is set up the way it is.

Interestingly, my daughter, who works in the mining industry, gave me a book some years ago. I have not completed it yet, but it details how in this country at least—and from what I read it mainly goes through the Victorian experience—we started off in the early days with the discovery of gold in Victoria and worked our way through to the situation where we find ourselves with most of the state's mining legislation today. It is quite an interesting book for someone in my position to read.

The Mining Act (like all our acts) is a living thing: it changes as times and circumstances change. As I said a little while ago, significant parts of these changes are about environmental protection, and obviously our society has a different attitude to the environment from what it had previously. I think the principal act is 1971, so that is almost 40 years ago. Our attitude to the environment has changed dramatically over that time. It is probably long overdue that some of these provisions be put in the Mining Act.

There has been considerable public discussion about the impact on the farming community of some mines that have been proposed and gone ahead within the state in recent years. As we have seen more exploration activity and more mining activity in South Australia, one of the things we are seeing is that exploration and mining activity is moving into the settled areas of the state. In some cases we are seeing conflict between the various land uses, particularly the conflict between what a mining company might want to do and what a farmer might want to do.

I have talked to a lot of farmers in recent years who have been in fear of even the thought that a mine is going to be operating on their farm or across their back fence. They are in fear of that happening. I can understand their believing that their lifestyle is going to change dramatically. I have put to farmers in every case that I have talked to them that it is not necessarily the case that a mine on their farm is a bad thing. It can be an extremely good thing for them; it can deliver them a new source of income. I have seen, in some cases, where that has happened.

Notwithstanding that, there has been some conflict between the farming community and the mining sector. It is good news that the Farmers Federation and the Chamber of Mines and Energy in this state, as a result of discussions amongst themselves, have established a code of practice to try to overcome a lot of the animosity which was otherwise there. Notwithstanding that, I still get phone calls from time to time, as do my colleagues representing rural electorates, from very distressed and disturbed farmers about what is proposed on their farm. I was speaking to a landowner in the member for Goyder's electorate only the weekend before last.

I always put to the farmers, as I just said, that a mine on their property is not necessarily a bad thing, that the Mining Act does offer them protection. It does not (and is not intended to) stop mining operations on any land; in fact, it is designed to do the exact opposite. It is designed to protect the Crown's interest in the mineral wealth of the state and to set in train processes to allow the Crown to capitalise on those interests and have that mineral wealth extracted. Where there is conflict between various land users (particularly between farmers or other landowners/land

occupiers) and the miner, it sets out how compensation systems should operate and how compensation should go to the loser in that arrangement, if there is a loser.

There have been people within the farming community who have had the misconception that freehold title should give them an absolute right to stop any mining from happening and, in these conversations I have with farmers, I am always right up-front in explaining to them that that is not the situation. I explain to them why that is not the situation and why it never will be the situation and that what they need to do is to take good legal advice over what their rights are, what their responsibilities are, what the responsibilities and rights of the mining proponents are, and then take their decisions from that point of view. I have seen a number of cases where landowners have failed to do that and have, in my opinion, been dealt with unfairly.

So, that is why we took that attitude in some of the amendments that we moved and some of the amendments we supported in the other place. We thought that there were some anomalies which favoured the mining companies against the landowners, and we sought to rebalance that. I believe that we have moved a significant way to doing that, and the bill that we have before us I think is a much better piece of legislation than the principal act that these amendments would apply to. I do not think I need to say any more on that matter. Time obviously will be the test as to whether we have the balance right or whether we need to move a little bit further in favour of the farmers or whether we have actually moved a bit too far. I am sure that, if there are still flaws remaining in the act, they will be brought to our attention fairly rapidly; if that is the case, hopefully the parliament will address those in a timely fashion. One of the other significant changes is that there are now provisions in the act for the appointment of authorised officers, setting out the powers of authorised officers.

In the knowledge that Graham Gunn is no longer in the parliament, I was very diligent to go back and ensure that the powers we were conferring on authorised officers under this piece of legislation were no stronger than those that appear in many other pieces of legislation. I think the powers in the bill pretty well reflect those in the Petroleum Act, and they have been accepted by the parliament already, so I accepted that the parliament and certainly the opposition would find them acceptable.

As I said, we get to the environment provisions. A new definition of 'environment' is provided in this bill. I am not too sure that it is much different from the old one; it is possibly a bit clearer, but the way it is referred to through the various clauses of the bill I think works better and is probably easier for those people who are going to be working with the act, whether they be a mining proponent or a landowner, occupier, an interested third party or whatever, like the Conservation Council or the Wilderness Society.

I think it is a little bit easier to follow through exactly how the powers operate within the act. As a result, these amendments will then enshrine in the act the powers to make sure that the mining operation and remediation plans are established. It gives the minister new powers to actually make changes to conditions of mining leases at any time. There is set out a process so that the operator can appeal if the minister makes a change to a condition of their lease but it does allow the minister of the day to acknowledge that there are changing community attitudes, for instance.

A mining lease that has been around for a number of years may become dated and it gives the minister the opportunity to update some of the conditions there to reflect the new community attitudes. The opposition accepts that, particularly given that there are rights of appeal. It does not give the minister unilateral powers. We accept that and think that that is a sensible way to move forward. It is obviously acceptable to the industry as well.

New provisions (which are quite new to this act but not new to our statutes and appear in some other acts) also give the minister powers to impose restitution conditions upon an operator. So, if the minister believes that something the operator is doing warrants it or that there is potential for significant environmental damage to occur, the minister can force the operator to take remedial action or to take action to stop that environmental damage from occurring. Again, the opposition accepts that that is one of the tools that the minister should have.

By and large, I think I have covered most of the changes that we will be seeing in the act, and I have highlighted that most of the heavy lifting has in fact occurred in the other place. I will just quickly browse my notes here again to make sure that I have not missed anything particularly important that I wanted to cover.

Mr Griffiths: I think you've been quite thorough.

Mr WILLIAMS: You're trying to get me to shut up, too. I knew there was something I overlooked. Steven, you will be pleased to know that I found this. A new power also allows the minister to insist that an independent expert provide a report for the purpose of assessing royalties payable. I talked about the Crown and the act protecting the Crown's interest. People in the street certainly and even members of this place are probably unaware of the difficulty sometimes in actually determining exactly what royalties are paid and I am sure that the Deputy Premier as Treasurer is very interested in this matter because there are ways that miners can fudge their numbers.

The Hon. K.O. Foley: They've been doing it in Coober Pedy for a hundred years.

Mr WILLIAMS: Yes. It is particularly difficult where a miner has an integrated business where they quarry at one point and then the material that they are quarrying or mining moves to another point, because the royalty, from memory, is assessed at the mine gate. The definition of the mine gate can vary and obviously it varies where some products are processed within the mine gate, some are outside the mine gate and sometimes it can be quite difficult to put a value on a product. Just for instance, OneSteel at Whyalla mines its ore outside at a particular site then ships it to where it is refined at its smelters in Whyalla. How do you assess the value of that product as it comes out of the mine gate?

That was one of the really vexed questions that was facing the industry over the commonwealth government's resource rent tax: where do you put that value on? It became even more difficult in the Pilbara, where there were different operators with different systems, because they do a lot of value adding. My understanding was that when the rail lines were built and the ownership of and access to the railway line was set up, some companies could claim different amounts against the value, say, at the dockside because of the way it was transported from where it was mined to the dockside.

To my understanding the assessing of royalties can be quite complicated. There is a new power given to the minister to insist that an independent third party expert be brought in to report on that, perhaps to a lesser extent than the example that the deputy leader gave at Coober Pedy. I think that opens up a different can of worms altogether from what I am talking about. There is some nodding going on from people who have considerably more knowledge in this area than both the Deputy Premier and myself.

I think I can safely conclude my remarks. I know some of my colleagues are very keen to contribute to this debate but, at this point, I do not think there is a lot of controversy left in this bill because it has all been sorted out in the other place.

Mr GRIFFITHS (Goyder) (17:26): The member for MacKillop has done a forensic review and there is absolutely no doubt about that, with a tremendous amount of work in the joint party discussions and in his dialogue with David Ridgway in the other house in the review that has taken place there.

I wish to put on the record some contact that I had as a result of the Mining Act review and, indeed, the mining exploration that is taking place on Yorke Peninsula. Traditional agricultural areas are now being looked at quite seriously when it comes to mining opportunities. Farmers in my area are, in some ways, excited by the opportunity to diversity the economy in the area but are also concerned about the impact upon their own traditional operations which, in most cases, are over several generations.

The Copper Coast (Kadina, Wallaroo and Moonta area) has a history of mining that goes back 150 years. The important role that it played upon the economy locally and for the state at that time will never be forgotten and there was a tremendous influx of people into the state who were looking to work the copper mines. However, now we have people who are quite concerned about the work that Rex Minerals and Syngas is doing. I tell them quite openly that it is important that we diversify the economy. The state needs to look at any other economic opportunity that will bring revenue and job opportunities. However, these people are still coming to me quite often.

There is a now a collective of thought where there is a lot of concern. Rex Minerals is quite a professional firm. Certainly, in meetings that I have had with them, they were very open and willing to talk to groups of people. They conduct broadscale briefings on what they are doing and they work with smaller groups also. However, two weeks ago I had a meeting with a family (that the member for MacKillop was talking about; he spoke to them on the weekend for me) who are quite strong on this fact, and they will fight any effort for mining exploration to take place on their property.

They have seen what has occurred in the adjoining property which has been purchased by Rex Minerals from a second or third cousin of theirs. They are there for the long haul and I respect the attitude that they bring. However, it is important that this bill, as I understand it, has looked at every opportunity to ensure that there is some surety and some processes in place to give the traditional operators of that land, being the farming community, some control over what will occur while still ensuring that there is a process and regulations in place to encourage mining exploration.

Getting a balance right is always going to be the challenge. In the case of Rex Minerals, my understanding is that it has raised some $85 million in capital looking to undertake drilling operations. It has five drilling teams in the area at the moment, and it intends to scale them down to three next year. It has been in place for a couple of years now. It believes that the scope of its development is impressive; and, certainly, the information it provided to me leads me to no other conclusion.

It has quite a shallow deposit, but it will be that shallow deposit which therefore creates an opportunity, presumably, for open-cut mining which, indeed, will cause a lot of concern in the community. I take this opportunity to make the chamber aware of the fact that, yes, mining is important, but it must be undertaken with a balance between the traditional users of the land, being agriculture.

The work has been done by others in different places. The shadow minister, the member for MacKillop, has certainly expanded on the bill as it currently stands, and I look forward to its swift passage through the house.

Mr KENYON (Newland) (17:30): I will not take long—I never do. The only point I really want to talk about on this bill revolves around one of the amendments that was successfully moved in the upper house. The amendment is to move the proceedings that have traditionally been in the Warden's Court into the Environment, Resources and Development (ERD) Court.

The reason I have a concern about that is because, as members will know, the Warden's Court is a low-cost court, and, by moving it into the ERD Court (which is a branch of the Supreme Court, if my somewhat hazy legal knowledge is correct), you are moving it into a higher-cost court. The amendment moved by, I think, the Hon. Mr Parnell in another place and supported by the Liberal Party has had the effect of increasing the costs to the very landholders who are seeking some sort of ruling or some sort of surety about the way their land is accessed.

My view is that that amendment is damaging. Obviously, not only does it impose extra costs on exploration companies but also it is damaging to the very landholders the amendment was supposedly designed to protect. My contribution, for what it is worth, is to suggest that that is not an ideal situation, that it should go back to the Warden's Court, and that, when they occur, disputes can progress their way up through the system into more expensive courts, if that is the wish of the protagonists. The Warden's Court is the appropriate place in the first instance because it is the cheapest, the least formal and the most useable and friendly court for both landholders and exploration companies. That is my contribution. Other than that, I commend the bill.

Mr VAN HOLST PELLEKAAN (Stuart) (17:32): It is great to take the chance to say a few words. I will not take too long on this bill. Given that we know that the Treasurer is a stickler for the rules, I will declare an interest. I have a miniscule number of shares in a tiny exploration company. It was a very poor investment that a friend of mine and I made many years ago. I still have those shares, probably because there would be no-one to sell them to, so I do not think that my ability to speak or to vote is likely to be impacted here.

The only other thing to say, of course, is that, as members in this place know, I do have shareholdings in some businesses in the outback (not in the electorate of Stuart), and naturally they do benefit by whatever traffic is going past. Given that the Treasurer told us what a stickler he is for the rules, I thought I would just put that on the record. I do benefit from increased mining, increased tourism and any increased traffic whatsoever that is going on in the outback, but, as I said, none of that is in the electorate of Stuart.

Our shadow mining minister has gone through the proposed amendments in great detail, which is terrific. It is probably important to highlight that, really, all the discussion in both houses of parliament and outside has been relatively friendly, relatively amicable and, I think, very constructive, and I think that everyone who participated in those should be commended. Of course, not everyone got what they wanted, but I think that there is general agreement on where we are heading here.

There is also general agreement on how important mining is to our state and to our nation. I have been to most of the mines in outback South Australia at one time or another. I worked for BP back when BP was a 49 per cent shareholder in the Olympic Dam mine at Roxby Downs, so I have a long, extensive history and some insight into the importance of mining to our state and to our regions.

Enormous benefits have come from mining in regard to employment for people from both pastoral areas and farming areas. There are people in Adelaide who go to work at mines, there are people all over regional South Australia. There are people who have managed to stay afloat, keep their families and their businesses afloat, by the opportunities that have come to them to earn additional money working in mining, whether as an employee or as a contractor.

Also, Indigenous employment and Indigenous training have been enormously boosted. Of all of the different ways that people put effort into training Indigenous people in South Australia, this seems to be at the moment one of the most successful ones. It has just small numbers at this stage, but with regard to the success ratio of people participating—starting and completing programs—this seems to be very important. I certainly support it if it continues along those lines.

We do hear the Premier say very regularly that he and his government take great credit for the number of mines that have opened in South Australia over the last eight years. I think he is not a shy chap, and he is not shy to take as much credit as it possibly can. I think the reality is that any government has a responsibility to pursue mining as much as it possibly can within South Australia. I have confidence that both a Labor government and a Liberal government would do exactly that.

You do not have to be a genius to see that this is an industry that is going to be wonderful for South Australia. It has already contributed enormously and will do even more so in decades to come. So, I think the government is doing exactly the work that the government should do in that department, and so they deserve credit for that, but perhaps not quite as much as they take.

Rather than go through all of the amendments that have been proposed, I would like to just focus on Arkaroola in the electorate of Stuart, because it still is quite a hot topic and a very important place for lots of different reasons. The proposal to ban mining, to identify Arkaroola as a place where mining would not be allowed, was certainly not accepted by the opposition, and I fully support that position. Arkaroola is an incredibly special place. As those who have been there know, the Sprigg family has been there for just over 40 years. The reality is that they have lived and worked there through two generations now, and they have gone about that in a very responsible and very pragmatic way.

The things that the Spriggs did 40 years ago, they do not do now, in exactly the same way as the things that households did 40 years ago, they do not do now, and what companies did 40 years ago, they do not do now. They have always valued Arkaroola extraordinarily highly, and they have shared Arkaroola with people all over the state, all over Australia and all over the world, and they are to be absolutely commended for that. I suggest that they, more than anybody, know the value of the place, and they seek to protect it, to look after it, and to ensure that nothing changes there as they know it with regard to mining.

I really do commend them on that; however, my position as a local member of parliament and the opposition's position is not, though, that mining should be banned at Arkaroola. That would be inappropriate, because we do not know what technology will be available in five, 10, 20, or 50 years. We do not know what may or may not be available and whether mining would be appropriate decades down the track. So, it would not be appropriate to lock mining out of Arkaroola.

However, what is very appropriate with regard to mining at Arkaroola is to protect it highly. So the position that we took is that, if we were in a position to make a decision, we would not allow the government to water down the zone A protections that are already in place at Arkaroola, as was suggested in the Seeking a Balance document. The government's 'Seeking a Balance' document very clearly suggested that that should happen through altering protections as well as through changing boundaries of protections.

We are adamantly and steadfastly against that, because we think that the environmental protection afforded by the class A zone is extremely strict and extremely appropriate. Just one of the excerpts of that protection is that mining would be allowed in that area at Arkaroola only if it was in the state's and the nation's interests. I think that is appropriate, and I do not think we need to give it any more or any less protection.

The Hon. K.O. Foley: So, you would allow it if it is in the state and the national interest?

Mr VAN HOLST PELLEKAAN: Correct.

The Hon. K.O. Foley: How do you define—

Mr VAN HOLST PELLEKAAN: Allowed only if it is in the interests of the state or the nation. That is appropriate. The other side of the coin, of course, is Marathon Resources, which has had a series of exploration licences there. It has had its ups and downs. When we came to our position, we had nine or 10 Liberal MPs who actually went to Arkaroola. They went there, flew over the place, drove around the place and had on-site briefings at the exploration area from both the Spriggs and Marathon Resources.

They also had classroom-style briefings, if you like, back at the village from the Spriggs and from Marathon Resources. I commend both those parties for the way in which they gave us the information and the way in which they put their views and their thoughts forward. They were very responsible and both did their very best to put their views forward to influence us, as they should. Both parties participated in a completely appropriate way in those discussions.

The reality is that, until very recently, Marathon Resources has had a legal entitlement to explore. Marathon is optimistic that its exploration will be extremely fruitful. It believes that it has, to a degree, been very fruitful already and that, if allowed to continue exploring, it would find Arkaroola is an even more prospective resource than it is already and that it would like to go mining.

The reality is that Marathon's exploration licence expired very recently. The Liberal opposition did not believe that it was appropriate to take away an exploration company's legal right to explore and that, given that it was put in place by a Labor government, it would be inappropriate to actually pull the rug out from any company that has a legal right to do that. So, the government is now faced with a difficult situation of whether or not to review that exploration licence and, no doubt, the minister will go through all of his due diligence and make that decision.

Certainly our view, in a nutshell, is that Arkaroola is an incredibly special place and that it should be protected, that the extremely high levels of environmental protection in place at the moment—and, importantly, that were in place at the time that Marathon Resources started its exploration—should not be watered down and that the legal entitlement that Marathon Resources had at the time we came to our position should certainly not be taken away. That zone A protection gave Arkaroola the protection it deserved. I just wanted to give a brief description of how we came to our position and what our position actually is. Certainly, from the position of the electorate of Stuart, that is one of the very important aspects of this mining amendment bill. I am certainly a strong supporter of both mining and the environment within the electorate of Stuart. They are both extremely important, and we will always look for ways where they can coexist and operate together successfully.

Mr TRELOAR (Flinders) (17:44): I, too, would like to begin today by declaring that we have a rubble pit on our property. In fact, we have a gravel pit that has been used for road surfacing in the past and we have a rubble pit for our own private use on the farm. I just put that on the record, given that we have been reminded to declare those interests in this discussion.

I also rise to support the Mining Act amendment bill. This bill regulates the relationship between all parties involved in mining ventures, and it is particularly important and pertinent at the moment because difficulties have existed in the past. I am sure many of our regional representatives here will have had discussions with landowners who have been approached by various mining and exploration companies to traverse their property for exploration and investigation, and it is not always easy for landowners to come to grips with that situation.

Many third and fourth generation farmers here in South Australia have a genuine attachment to their land; sometimes the property has been in a family for more than 100 years, and people become very attached to the land. When others come in and attempt to change the relationship landowners have with their land, it makes for some difficult negotiations, so it is important that we make sure those relationships are balanced, that discussions and negotiations are balanced, and that it is a win-win situation for all.

As the member for Stuart has indicated, I also believe that there is a place for both mining and the environment, as well as a productive landscape generally across this state. It is very important that we get that balance. Mining has been important to the state's history, and it has often been said that in the early days the copper mines actually saved this state from bankruptcy.

Certainly in the 1840s, when copper was first discovered in Kapunda, and soon after in Burra and then in the Copper Triangle area of the Upper Yorke Peninsula around Moonta and Wallaroo, copper was a big part of the state's economy. It was very important; in fact, it probably went a long way towards building this particular structure in the 1880s.

The Broken Hill mine was also developed from this state. As every schoolboy remembers, copper, lead and zinc were mined at Broken Hill and shipped by train to Port Pirie, where they were smelted and exported. In fact, my own great-grandfather (I will indulge in a bit of family history here) worked a bullock team from the mine at Burra to the port at Wakefield in those very early days. That is how he made a crust when he first arrived on these shores.

Mr Whetstone interjecting:

Mr TRELOAR: He also shot through for a time, member for Chaffey, and visited the Victorian goldfields, trying his hand at mining there. He did not make a fortune but he did okay: he did well enough to buy some land around Watervale in the state's Mid North, so I guess that is another family interest in mining here in this state. Of course, in my own region of Eyre Peninsula—it is just outside my electorate but it certainly adjoins it, in the electorate of Giles—the iron ore mines of the Middleback Ranges were very important, once again, in developing the state's economy.

The Hon. K.O. Foley interjecting:

Mr TRELOAR: I should not respond to that, the whip tells me. We can have that discussion later I am sure, Treasurer; however, it is very topical, as you would be well aware. Certainly, the city of Whyalla grew up around the iron ore mine in the Middleback Ranges as well as the steelworks and shipbuilding yards that were developed from that.

Mr Marshall interjecting:

Mr TRELOAR: Shipbuilding, member for Norwood—that was not unparliamentary language.

Members interjecting:

Mr TRELOAR: There are interjections here, Mr Acting Speaker. Minerals have been a big contributor to this state's wealth and to regional economies around the state. Specifically, in my own electorate of Flinders we have the potential for extraordinary mineral wealth. We are part of the Gawler craton and the latest estimates of iron ore wealth in that Eyre Peninsula Gawler craton region is somewhere between two and three billion tonnes. We are on the cusp of some very exciting times. The development of a deep sea port will be critical in seeing those mines develop. The benefits and the spin-offs to the state and the regional economy will be significant. We have talked about jobs and infrastructure, and the community relations that go along with that. One mine that has recently developed on the Eyre Peninsula is the Iluka sand mine, north-west of Ceduna.

Mr Pederick interjecting:

Mr TRELOAR: It is a very good operation, as the member for Hammond has suggested. In fact, it was only two months ago, after receiving an initiation, that I visited the Iluka sand mine. I was really very impressed with the operation. They have taken into account all the environmental needs and they have already embarked on land rehabilitation following the mining operation. As I understand it, the mineral sand has been discovered along an old shoreline on the Nullarbor Plain.

It really is quite visible once the overburden is taken away and mining begins. In fact, it is visible to the naked eye. The mineral sand is quite a dark grey; it is a very heavy sand and visible to the naked eye. The sand is mined. It is put onto triple road trains and hauled into Ceduna, where it goes onto the port of Thevenard and is shipped to Western Australia for processing. It has made Ceduna a very busy town and its impact on the town has been significant. You can feel it in Ceduna now; it is a busy town when you drive into it. There have been spin-offs not only for the local workforce but also local businesses. Iluka has been very good at keeping the community in the loop and in doing business.

As I said, the future wealth of this state is very much around mining and its development. I am pleased to support this bill, because, as I said, it really does assist the relationship between all the parties involved in mining operations. As I said, it is a critical amendment. We are supportive of this because balance is all important in these sometimes very difficult and tenuous negotiations. With those few words, I support the bill.

Mr PEDERICK (Hammond) (17:53): I rise to support the Mining (Miscellaneous) Amendment Bill 2010. I believe it is not before time that we are making some amendments to the Mining Act 1971—almost 40 years, as the member for MacKillop rightfully observed. I will go over my relationship with potential mine material, because I want to ensure that the Treasurer understands any relationship I have had with rubble pits and other mines. I believe that my family, in the late 1970s or early 1980s, had an experience with the highways department on our farm at Coomandook when it was realigning the road from Tailem Bend. It did a major realignment, following the railway line instead of going out to Moorlands where the former Dukes Highway is. It undertook a major realignment from Tailem Bend straight down the railway line through Cooke Plains, which cut off some 12 kilometres of driving.

We had a couple of stone hills on our property which, when tested, I believe had pretty good quality road base or rubble. We had certainly used some of this road base on the farm, but for a range of reasons the commercial use of that road base did not come about. But I believe there would be hundreds and thousands of tons on our property, being situated in the Limestone Coast, and it is very good material. We certainly have a couple of pits on the property that we use for filling in on the sheep yards and for tracks through the farm. There are also local sand mines in the area, and we have used a little bit of sand from our own property.

I declare my interest having worked in the mining industry. In 1982 I went to the Cooper Basin, based mainly in Moomba, but then working all around on scrapers mainly and bulldozers, building leases for oil rigs, airstrips and road-making in the Cooper Basin. It was very interesting and challenging work for a young lad; it is a challenging environment. I have noted on my recent visits to mines in the Upper North how incredibly conditions have changed for people in mining. I just look at the camps, and there is an explosion of amenities, which is good, I must say.

The Hon. K.O. Foley: That's an interesting turn of phrase: 'explosion of amenities'.

An honourable member interjecting:

Mr PEDERICK: Well, yes—a major improvement in amenities for people working in mines. I remember visiting Prominent Hill at the opening of the mine and I was very impressed with facilities up there with links to the internet, satellite TV in every room and mobile phone coverage, which back in the early eighties was not around. It was an exciting time, so for 12 months in 1982—and I have spoken about it in this place before—until early 1983 I was earthmoving.

I then worked for a company called Gearhart Australia, which was taken over by Halliburton, in well testing and running what are called 'guns' in the field. These guns have a four-inch steel casing with 22-inch steel piercing cartridges loaded into them to fracture the oil seams. It is not bad work on the surface, and you always hoped that you would never bring up a gun unexploded. It was interesting work, but it was a bit hard when everything is happening 10,000 feet below you and you cannot see the results of your work.

Things have progressed remarkably in the field of mining. Occupational health and safety has moved ahead in great leaps and, as I said, conditions have improved for mining companies and people in the field. But then we get to the latter day where we have far more mines outside of areas like the Cooper Basin or Prominent Hill. There are far more mines in suburban areas—and by that I mean the local farmlands and not out in the pastoral zone. But this is not a new phenomenon.

Look at the silver mine which opened up in the early to mid-1800s at Glen Osmond. Charlie Hill Smith has been the owner of that property, and it has recently come onto the market. I have been to several interesting events there, which I will not go into here. It is an interesting property where one room backs straight into this old mine and there are the old original rail tracks and old railcars for the mine through there. So, mining in more settled areas has happened well and truly in the early days of settlement in the state and it is starting to expand further into other areas. I seek leave to continue my remarks.

Leave granted; debate adjourned.

At 18:00 the house adjourned until Thursday 28 October 2010 at 10:30.