HOUSE OF ASSEMBLY

Tuesday 19 March 2013

The SPEAKER (Hon. M.J. Atkinson) took the chair at 11:00 and read prayers.

The SPEAKER: Honourable members, I respectfully acknowledge the traditional owners of this land upon which this parliament is assembled and the custodians of the sacred lands of our state.

STATUTES AMENDMENT AND REPEAL (TAFE SA CONSEQUENTIAL PROVISIONS) BILL

The Hon. J.J. SNELLING (Playford—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for Defence Industries, Minister for Veterans' Affairs) (11:02): I move:

That the sitting of the house be continued during the conference with the Legislative Council on the bill.

Motion carried.

MOTOR VEHICLE ACCIDENTS (LIFETIME SUPPORT SCHEME) BILL

Adjourned debate on second reading.

(Continued from 6 March 2013.)

The Hon. I.F. EVANS (Davenport) (11:03): I rise as the lead speaker on the government's Motor Vehicle Accidents (Lifetime Support Scheme) Bill. In making some comments, I wish, first, to address the issue of the government's decision to debate this particular matter today, which I think is regrettable, but the government is quite within its rights to debate this matter today, having introduced it on the last Thursday of sitting before the long weekend and then insisting on its being debated today.

I want to open with these comments because what the government has done is unfair on this chamber, but we fully intend to debate it this week and ultimately it will get through this week. The reason I say that I think it is unfair is for these reasons. The government introduced the bill on the Thursday of the last sitting week. We were given a briefing last Wednesday. The government is aware that the opposition's processes are such that we need to have papers written by the Thursday night for our party room meeting (which is on the Monday) so that they can be distributed on Friday for members to consider, in our party room on the Monday, matters that will be debated in the chamber that week. I gave an undertaking to the government that my view was that we would be better served to debate this in the week of 9 April, and I guaranteed it would be completed in that week. The government's decision was not to accept that offer; that is fine.

I just make the point to the government that this is a government that, through the Economic and Finance Committee, supported a motion to set up a committee inquiry into this matter. The Economic and Finance Committee then moved, with the support of the government members, to ask for the actuarial advice that underpinned the government's green paper that was put out last year, which outlined three or four different schemes that the government was considering. The committee wanted that actuarial information to look at. In fairness to the Motor Accident Commission, they did send us that actuarial advice, but with a requirement that it be kept confidential by the committee. So, I cannot use that information and I will not be using that information before the chamber today.

The government, after it put out its green paper, then put out a white paper that concerned a scheme involving three different bills that, joined together, set out the government's agenda for this particular issue. The Economic and Finance Committee, with support of the government members, asked for the actuarial advice on that particular scheme. That was on 7 February. Then the government introduced its bill—one bill, not three—and the Economic and Finance Committee, with the support of the government members, asked for the actuarial advice of that scheme, which is the scheme we are about to debate today.

We have not received one piece of actuarial advice, despite the fact that the Economic and Finance Committee, with the support of the government members, asked for that advice. That is fine; the government is quite within its rights to bring this bill before the house today. They have done that; we intend to debate it. We are debating it void of that information. I made the offer through the minister's staffer, in front of the three public servants who briefed us, to debate this

matter on 9 April with a guarantee that we would put it through this chamber that week. As the minister knows, and as the government knows, the one person who has never ratted on the deal in regard to debating legislation is the member for Davenport. When I give my word, I stick to it, but the government decided not to accept that; that is fine.

Then of course, during the briefing, we asked a whole range of questions because, as the lead speaker and the shadow minister responsible, I have the obligation to write the paper for the joint party room of the Liberal Party to consider in reaching its position. Knowing full well that the paper has to be written Thursday night and distributed Friday, the government's answers came through at 20 to six last night. The answers that I got to all the questions I asked during the briefing were denied to me and my party room in relation to this particular matter.

I intend to read the questions and answers into the *Hansard* in due course, so that the Independent members who are in the chamber today, and indeed the upper house members who will debate this at some time in the future, at least know the questions that were asked and the answers that were given, so that they are better informed about the bill we are about to debate.

I think it is regrettable that the government have done what they have done, but I accept the fact that, under the rules under which we operate, if the government do want to flex their muscles and push something through, they have that entitlement to do so. As shadow treasurer, I will be keeping this letter that the minister sent me requiring it to be put through this week because, if we are lucky enough to win the election in March next year, then the standard has been set.

This particular bill essentially does two or three things, as I understand it. It reforms the compulsory third party scheme that the state operates under the Motor Accident Commission; it sets up a lifetime care authority for those people who are catastrophically injured, but only in motor vehicle accidents as defined under the Motor Vehicles Act; and it essentially meets some of the requirements that the federal Gillard government has imposed on states in regard to the National Disability Insurance Scheme. That is the broad context of what this particular bill does, and I will go through the issues one at a time.

In relation to the national disability scheme, it is my understanding from the briefing that we had that the federal government has nominated South Australia as a trial site for the national disability scheme. The trial that is running in South Australia of the national disability scheme is in regard to children. Part of the agreement at the COAG level in relation to setting up the trial sites for the national disability scheme is that the states have in place a process to deal with the catastrophically injured under the motor vehicle accident schemes. All states are required to have in place—it does not have to be operating necessarily by 1 July but it must be in place by 1 July this year, as I understand it—a scheme to deal with the catastrophically injured in motor vehicle accidents. If you are injured catastrophically outside of motor vehicle accidents, then there is no solution offered by this legislation at the moment.

If you are catastrophically injured outside of a motor vehicle accident, the briefing to me, as I understand it, was that the negotiations with the federal government are ongoing but no-one knows who is going to be covered, how it is going to be paid for, or when this scheme is going to commence—if the scheme is going to commence at all. If you break your neck playing football, you break your neck riding a horse, you break your neck diving off a jetty or in a pool, this scheme does not help you. The opposition are no better informed about what the government's plans are, either federal or state, in regard to those people. This scheme is about those who are catastrophically injured in a motor vehicle accident only.

What they are proposing in regard to the catastrophically injured is to take those people out of the compulsory third party scheme and put them in under a new entity—a lifetime care entity—essentially based on a New South Wales model. The lifetime care authority will be funded by a levy on motor registrations, I understand from the government. The actuarial advice shows that it is $105 a year—we have not seen that advice—but the government tells us it is $105 a year. That will fund all of the claims, the life-time costs of the claims for that year.

For instance, if there are 10 people catastrophically injured in a particular year, then the levy is set to collect 100 per cent of the lifetime medical and care costs of those people who were injured. They estimate the average of the length of time they will live—it might be 40 or 50 years, it could be 20 years, but they will estimate their length of life—and they will estimate the cost of care over that whole period for those 10 people. Then they will bring that back through actuarial advice to a present-day cost, and that present-day cost will then be divided by the number of car

registrations and a levy will be struck to fully fund the whole-of-life costs for those injured in that particular year.

The way I understand it is that there will have to be some averaging of that particular levy in case there is an accident where 20 or 30 people are catastrophically injured one year and to the next the levy would be significantly different. The opposition is assuming there is some averaging component of that levy. The second reading speech, of course, says that the lifetime care authority will be guaranteed to be fully funded.

Under the legislation, of course, that is not true. Under the legislation, the Lifetime Care Authority gets actuarial advice on what the levy should be to fully fund it. The authority then recommends that to the minister and the minister can apply a political judgement as to whether the levy should be whatever the actuarial advice says and fully fund it, or indeed whether the minister will take a political decision weeks out from the election to say, 'Well, actually, we will make the levy a bit less and pick it up the next year.'

So, the levy can be manipulated for political purposes. There is nothing in the legislation that says the minister must ensure the scheme is fully funded. It may well be the government's intent that it be fully funded, but there is nothing in the legislation that requires full funding. We are told the extra cost to this is $105 per car registration. The government is saying this new scheme to look after the catastrophically injured will commence on 1 July 2014—so after the election.

They are saying that the current scheme is so bad in the way it treats the catastrophically injured that we have to introduce a new scheme, but we are not going to introduce the new scheme too quickly—certainly not before the election. We asked extensively in the briefing whether there was any requirement from the commonwealth government about when this scheme should start. Did they have to start it on 1 July? Is there any reason they could not start it on any other date? The answer was: there was no commonwealth requirement. The state government had simply picked 1 July 2014.

The opposition is going to support this legislation, but we are also going to move amendments to bring forward the catastrophic care component so that it starts on 1 October this year. We accept the government's argument that the catastrophic care scheme needs to be improved. We accept the government's argument that there are 20 to 40 people a year who fall through the cracks and are catastrophically injured in motor vehicle accidents that would be better served under this lifetime care model.

We accept that argument, but we see no reason at all why those catastrophically injured should not have this scheme as early as possible. We see no reason to delay the scheme. The government is setting up an independent commission against corruption within six months. We see no reason why they cannot set up this authority within six months. They have been over to New South Wales numerous times. It is essentially a photocopy of the New South Wales model. They have extensively negotiated with New South Wales about a whole range of procedures and how this works. It is not that difficult to set up this authority.

The Liberal Party will be moving an amendment that the Lifetime Care Authority, the catastrophic care component, is brought forward nine months to 1 October 2013 so that the care that is going to be given to the catastrophically injured under this particular provision is brought in as early as possible. Our amendment actually says that it be no later than 1 October, which means if the government can get it ready earlier, then let's bring it on earlier.

Why do we need this catastrophic care cover? We need this catastrophic care cover because the government argues—and the opposition accepts the argument—that there are people involved in motor vehicle accidents who are not covered by the current compulsory third party scheme. That is, the compulsory third party scheme is an at-fault scheme, and what that means is that to be able to seek benefit under the scheme, you actually have to prove a fault of another driver or vehicle.

In the second reading speech, there were a number of examples the minister used where people have been driving a motor vehicle and have had an accident, become catastrophically injured and no other vehicle was involved. The simplest case would be driving down the road, a kangaroo comes out, you swerve to miss the kangaroo, you hit a tree and become catastrophically injured—you are not covered under the current scheme and therefore all of the care goes to the family and to the welfare system generally.

I do not mind saying to the house that my sister's partner has a son who is in exactly this circumstance through a motorbike accident, he was not covered at all, and we have gone through the process of raising hundreds of thousands of dollars to build a trust for him so that he has appropriate care. The opposition knows exactly what catastrophic care we are talking about in relation to the faults with the CTP scheme and that is why we are genuine and sincere in bringing forward the date for the operation of this scheme; there is simply no argument as to why the scheme should wait until 1 July 2014. Why should another 10, 15 or 20 people fall through the cracks when we all know that if the government really wants to it could have this scheme running a lot earlier than 1 July 2014?

The lifetime care scheme will be a no-fault scheme and that means you will be covered if you are catastrophically injured in a motor vehicle accident regardless of any contribution you may make to your own injury and regardless of the circumstances of the injury. I know there will be people who will put the worst possible circumstance and say, 'Why are we covering these people?' and some people will come out and say, 'So, someone could be drugged out of their brain, driving unregistered, driving unlicensed, become catastrophically injured and the scheme is going to cover them?' and the answer to that question is, 'Yes, it is going to cover them.'

It is going to cover them because what is the answer if you do not cover them? What is to become of those people who find themselves in these circumstances? Thankfully there is a small number of people who find themselves in that circumstance each year, but when you find yourself in those circumstances it is traumatic and obviously life changing, not only for you, but for your whole family and whole support network. It is a no-fault scheme under all circumstances, as the opposition understands it.

That, essentially, sets out our understanding of the lifetime care authority. The question then comes: how are we paying for this $105 a year levy? The answer to that is: the way the government has decided to pay for it is not out of general revenue, not out of other tax measures, but by making the CTP scheme cheaper by cutting entitlements to injured motorists. Essentially, what the government is doing is saying that our CTP scheme as it currently stands—which is an at-fault scheme and will remain an at-fault scheme—is simply too expensive and, in the government's own words, is too generous. The government will argue the motorist is better off through the combination of the two changes, that is, a change to the CTP scheme that lists the threshold higher for the injuries to which you are going to get compensation for and to introduce the catastrophically injured lifetime care system.

We have not seen the actuarial advice on that, even though we have asked for it three times, so we have no option but to take the government's word on that. What they are doing is they are going to lift the threshold at which injured motorists, under the at-fault CTP scheme, will receive compensation or acceptance into the scheme and that saves the scheme money. It saves the scheme, as we understand it, around $100 per car registration a year. The government intends to introduce those changes on 1 July of this year. So the government's model is to introduce cuts to injured motorists and, therefore, a saving of $100 a year on 1 July this year.

Part of the legislation that provides the most benefit to the injured, that is, the catastrophic care part of the equation, they are delaying for another year until 1 July next year, and that also, of course, adds in the extra cost. The opposition's model is different. Our model is to bring in the changes to the CTP scheme at the same time as the government, on 1 July this year, and bring in the catastrophic care component on 1 October this year. That gives the government six months to set up the lifetime care authority and, frankly, you could do it a lot quicker than that, given that all you have to do is photocopy what is in New South Wales.

As we do in opposition, we have sought to consult on this matter, and we have had numerous meetings with the Law Society, the Bar Association and the Lawyers Alliance, while the green paper and the white paper are in circulation. Just prior to the final bill being tabled, the government apparently had struck a deal with the various law groups so that they are not, as I understand it, opposed to these particular measures.

As we do in opposition, we have sent out the bills to the various industry groups, and because of the short time frame the government have brought this bill on, remembering there was a public holiday in that, when groups do not work, oppositions do, but the industry groups do not. As of today's date we have not got the formal advice back from those industry groups either.

It would have been nice if the government had accepted our offer to debate this on 9 April, so that we might have had industry groups' feedback, we might have had the actuarial advice, and

we might have had the answers to our questions about the bill prior to our party room debate. My view is that the minister's staff are not serving us well, but that is a matter for the minister and not me.

In fairness to those three law associations, my clear understanding from the public comments from the media, from the South Australian Law Society, the Lawyers Alliance and the Bar Association, is that they are in agreement with the government about the bill in principle. Whether there are technical matters about wording and interpretation that still need to be amended, I cannot advise the house because we have not received their formal advice.

We know particularly they were looking at some of the technical nature into the definition of injuries and what points are going to be allocated to what injury. They asked the opposition for the final copy. We asked and got the advice that, as of today, the government has still not resolved that particular matter, so that is not available to the law groups, the medical groups or, indeed, the opposition for purposes of the debate.

Just for clarity of the house, what I mean by that is that, under the catastrophic care system when you become catastrophically injured you are eligible to go into a scheme; so, there is a definition about what is 'catastrophically injured' and it's essentially severe brain, severe spinal, multiple amputations, severe burns—in broad description.

Then, under the compulsory third-party scheme, they are changing the Civil Liability Act. We might recall the government tried this on in another bill about changing the Civil Liability Act, which was defeated previously. I intend to look at the matter again between houses once I receive the advice from the various legal authorities and bodies about this particular matter. But, what they are doing is changing the Civil Liability Act, so instead of being a 60-point system that the court uses to define what style injury you have and where you fit in the compensation scale, if you like, the government are changing it to a 100-point system, but only for motor vehicle accidents.

So, what that means is that, if I injure myself diving off a jetty and I injure myself in a car accident and they are exactly the same injuries, I will be judged on two different point systems and they end up with two different compensation outcomes. I am going to seek further clarification both in committee and in between the houses about how exactly that might work and why we would have different compensation systems. That is the broad brush of this particular legislation.

A cynic might ask: if the cost of living was not such a political issue, would the government be moving to cut the entitlement to injured motorists to create the saving? The CTP scheme has been in place for decades and has not been touched to any significant degree. To my knowledge, other than this matter, there has not been a review of the Motor Accident Commission's operations to look at things like how their own approach to legal matters has added to the cost and whether there are ways to reduce the cost by changing the way the scheme is administered internally, rather than cutting the entitlements to injured motorists.

This government will go down in history as a Labor government that cut entitlements to injured motorists and, under the WorkCover legislation, to injured workers. This is a Labor government doing that; if a Liberal government had tried this approach, you could imagine the outcry from the government. The reality is that the government has got itself into such a political fix that the cost of living is front and centre on the political agenda, mainly through their mismanagement of the desal plant and water prices as the prime examples. From memory, I think water prices have gone up 249 per cent. The government's solution is to bring in this particular measure in regard to the compulsory third-party scheme.

The opposition is going to support the principle of the scheme and the bill because we think that offering better protection to the catastrophically injured is simply the right thing to do. I think the big question mark that still remains for this house and for state and federal governments is: what are you doing for people who are outside the motor vehicle accident scheme? What is the solution for the person who breaks their neck riding a horse or a pushbike and who is not covered by this scheme if a car is not involved? What about those people? My understanding is that about 20 people a year outside motor vehicle accidents, work accidents and medical accidents are catastrophically injured. That is the advice given to me by the government. The big question still remains: what happens to those 20 people a year?

I did ask the government a series of questions in the briefing and, as I say, I received these answers at 5.36 last night, I think it was, after our party room had finished. They have been emailed to my colleagues this morning so that they can be aware of them if they want to contribute to the debate or at least have a better understanding of the scheme. These were the questions I gave the

government and the answers I have received, and I have a copy for *Hansard* if they do not want to follow my spoken word in this matter as it might be easier for them. The question is:

You asked for the number of South Australians who receive catastrophic injuries each year through accidents that are not caused by motor vehicles.

The government's response is:

A 2005 report of PricewaterhouseCoopers estimated that the annual number of catastrophic injuries in South Australia by cause was as follows: the motor vehicle injuries, 41; the workplace injuries, 5; medical, 6; and general, 20. PWC have updated the estimates of motor vehicle injury numbers for the modelling undertaken for the scheme's reforms...

The Productivity Commission in their 2011 Disability Care and Support Inquiry report provided estimates of the incremental costs of A National Injury Insurance Scheme (N.I.I.S.). Excluding motor vehicle injuries, the Commission estimates that, as at June 2011, the additional costs of care and support for those who suffer catastrophic injuries would be $43.1 million per annum in South Australia. This is the amount required to fund care and support to those who are not compensated. A no-fault NIIS scheme would also need to meet the costs of care and support to those who would have previously sought damages funded through the medical indemnity and public liability scheme.

It is unclear to me—I only received these last night, so I will be asking the minister questions during the committee stage—exactly what that means. My understanding from this answer is that 41 people a year in South Australia are injured in motor vehicle accidents, and those 41 people will be covered by this new catastrophic care scheme; that five people a year are catastrophically injured in workplace accidents, and they are covered through WorkCover and not part of this new scheme or, indeed, this debate; and that six people a year are catastrophically injured through medical incidents, which I assume is operations gone wrong and therefore they are covered through medical insurance and will not be part of this scheme. That leaves 20 people a year in South Australia who are not covered: they are horseriders, divers and swimmers, if you want to put it in that category.

This information is based on 2005 figures. What I cannot understand is why the government is introducing legislation in 2013 using eight-year-old figures. I find it staggering that there is not a more up-to-date figure; however, that is where we are. There are more up-to-date figures for motor vehicle accidents because they have come from MAC, but I understand the others are still based on the 2005 figures.

What I am not clear about then is the second part of the answer. The Productivity Commission states 'excluding motor vehicle injuries'. The commission estimated that at June 2011 the additional cost of care and support for those who suffer catastrophic injuries would be $43.1 million. I think what I am being told (and I will ask the minister to confirm this) is that the other 20 people—the divers, the horseback riders, the people who are not covered—if they were to be covered somehow, the cost would be $43.1 million a year. I think that is what it is saying, and I will be seeking clarification during the committee stage.

For those who are unclear, the difference between the National Disability Insurance Scheme (NDIS), as the commonwealth government calls it, and the National Injury Insurance Scheme (NIIS) is that the National Injury Insurance Scheme in simple terms is the catastrophic care scheme, the lifetime care authority. That is essentially the National Injury Insurance Scheme. The National Disability Insurance Scheme is a federal scheme that covers the disabled outside of the catastrophic care scheme. That is the difference. The second question, Mr Speaker, is: you asked for the total number of vehicle registrations and the total number of driver's licences. The answer came back that—

The SPEAKER: I did not actually ask for that.

The Hon. I.F. EVANS: Mr Speaker, I am actually quoting from a document which says 'you', as in me. This is a document from the government to me that I received last night, so to quote it accurately, Mr Speaker, the document states:

You asked for the total number of South Australian vehicle registrations and the total number of South Australian drivers licence holders.

The answer came back:

According to the CTP Scheme Actuaries, Brett & Watson Pty Ltd, the total number of vehicle registrations that include a CTP premium is 1,331,114 as at December 2012. According to statistics published at: http://www.sa.gov.au/subject/Transport%2C+travel+and+motoring/Transport+facts+and+figures/Registration+and+licensing+statistics as at December 2012 there was:

- a total of 1,658,333 vehicle registrations in South Australia (includes vehicles that do not pay CTP Premiums such as trailers).
- a total of 1,167,323 licence holders, holding a total of 1,337,471 currently active licences.

The document goes on to state:

> You asked what happens for the year between the Civil Liability Act changes and the LSS Act [changes]—

which is the Lifetime Care Act changes—

coming into force?

> Once the amendments to the *Civil Liability Act* come into effect, motor vehicle accident victims with catastrophic injuries who can establish that someone else's fault caused or contributed to the accident will continue to receive tort law damages for all heads of damage in accordance with the amended provisions about the quantum of damages.

In other words, in simple terms, the current scheme continues for the interim. It continues:

> Once the LSS Act commences the catastrophically injured person could, if he or she wishes, apply to be accepted as a participant in the Lifetime Support Scheme upon payment of a contribution determined by the Lifetime Support Authority: section 6 of the Bill.
>
> In the intervening period the Lifetime Support Authority will be created as a legal entity and systems will be established to allow it to commence providing services once the Act comes into force.

That just raises one aspect of the bill which I did not explain in my earlier contribution. For those people who are catastrophically injured prior to the lifetime care authority system being established and up and running—someone catastrophically injured today, for instance—they will be able to go to the lifetime care authority and make application and prove that they meet the catastrophic injury threshold, and then the lifetime care authority will make a calculation of their lifetime costs of care (and that will vary of course depending on injury, age and environment) and work out a figure and then say to that injured person, 'Well, if you pay us X you'll be accepted into the scheme.'

What might happen is that a whole range of communities gather around people in this position to raise enough money to buy them into the scheme; that may well be the outcome. We support that and have no objection to that concept; that, subject to a proper analysis of their costs, they should be able to buy into the scheme.

Even under this proposal, under different provisions in the bill, if people are injured in workplace accidents WorkCover will also be able to go to the scheme and there will be a similar process. It may well be that the individuals concerned think that they might be better served under this new scheme than the WorkCover scheme, and there is a process where, as I understand it, they can buy in, so the scheme is flexible to that point. The document continues:

> You asked if any other jurisdictions have a discount such as our proposed 20% discount on damages for economic losses.
>
> Most jurisdictions have some statutory limitation on damages for economic loss, for example:

- The Victorian scheme will not cover the first 5 days off work, and then will pay 80% of weekly earnings up to a maximum of $1170 per week. Future loss of earning capacity is paid at a maximum of $991. Victoria also has a range of durations for payment of income replacement, based on injury severity;
- The Queensland scheme pays out income loss at a maximum of 3 times Average weekly earnings;
- The NSW scheme caps economic loss benefits at a maximum of $4236 per week;
- The Tasmanian scheme will not cover the first 7 days off work, and then will pay 80% of pre-injury wages up to a maximum of 3 times Average Weekly earnings, for a maximum 5 years.

> Under the current South Australian scheme damages for loss of earning capacity are not awarded for the first week of incapacity and total damages are not to exceed a prescribed amount. The prescribed maximum was originally $2.2 million but is CPI indexed annually and is now $3.0 million Any damages awarded for loss of future earnings or other future losses are discounted by 5%. This is required by sections 54 and 55 of the *Civil Liability Act*.

The reason we asked that question is that, as part of the changes to the scheme, to make the scheme more affordable, the government is proposing a further discounting by 20 per cent on the damages paid for economic loss. If the house wants to get a better understanding of this issue, there will be some questions about that in the committee stage but, essentially, in regard to economic loss, the person injured makes a claim for economic loss and the instructions by the legislation to the court are that there is basically a double discount: one of 5 per cent and then a further one of 20 per cent, as a way of containing costs to the scheme.

The reason I asked whether any other schemes had a similar amount of discount was because I wanted to know roughly where our scheme sat in relation to how generous or ungenerous the scheme was. The document goes on to the next question we asked:

You asked whether the nominal defendant or Motor Accident Commission can recover from the owner and driver of an uninsured vehicle jointly and severally under the current legislation? You also asked about the nominal defendant.

The Nominal Defendant is a person appointed by notice published in the *Gazette* by the Minister to whom administration the Motor Vehicles Act 1959 is committed (section 116A of the Motor Vehicles Act). 'The Nominal Defendant' is the name used as the defendant's name when a person sues for damages for personal injuries alleged to have resulted from a motor vehicle accident when (a) the identity of the driver of another motor vehicle alleged to have been involved in a motor vehicle accident is not known and cannot be found upon due inquiry (section 115 of the Motor Vehicles Act); or (b) a motor vehicle alleged to be involved in a motor vehicle accident is not insured as required by the Act (section 116 of the Motor Vehicles Act). Any damages agreed or awarded to the plaintiff are paid out of the compulsory third party insurance fund.

Recovery

The answer to your question is yes, in some circumstances.

I will remind you of the question: whether the nominal defendant or the Motor Accident Commission can recover from the owner and the driver of an uninsured vehicle jointly and severally under the current legislation. The answer is yes, in some circumstances.

The compulsory policy of insurance set out in Schedule 4 of the Motor Vehicles Act insures owners, drivers and passengers. The policy includes several warranties by the registered owner. These include that 'The owner of the vehicle warrants that no other person will, with his or her knowledge or consent (which will be presumed in any proceedings in the absence of proof to the contrary) drive or use the vehicle, or do or omit to do anything in relation to the vehicle, contrary to any of the paragraphs of clause 2'. Clause 2 includes things like driving a vehicle that is overloaded or unsafe or unroadworthy or in a damaged condition or driving when not licensed to drive or driving while intoxicated.

Nowhere does it mention unregistered in that answer.

Section 124A of the Act gives the approved insurer (i.e. Motor Accident Commission) a right to recover from the insured person, which includes the owner and driver, any money that is paid or costs that has incurred in relation to a claim in certain circumstances. The circumstances include, among other things, breach of the insurance warranty by the owner of the vehicle that prejudices the insurer. The Court is to decide the amount that is just and reasonable for the Motor Accident Commission to recover from the owner or driver.

Section 116 of the Motor Vehicles Act gives the nominal defendant a right of recovery against the driver or a person liable in respect of the acts or omissions of the driver if the driver of an uninsured vehicle is wholly or partly to blame for the accident.

The Lifetime Support Authority would have the right to recover against the owner or the driver or both if the injury was caused: (a) by the fault of the owner or driver of the vehicle, and—

so if it is the fault of the driver they can still claim against the owner—

(b) the vehicle is uninsured.

So, if the vehicle is uninsured the Lifetime Care Authority is going to have the capacity to claim against the owner and the driver of the vehicle.

However, an owner will not be liable if the owner establishes that another person was driving without the owner's consent. A driver will not be liable if he or she establishes that he or she was driving with the authority of the owner or had reasonable grounds for believing and did believe that he or she was authorised by the owner. See clause 45, which is modelled on the Motor Accidents (Lifetime Care Support) Act 2006 (NSW).

In addition, clause 46 of the Motor Vehicle Accidents (Lifetime Support Scheme) Bill 2013 would give the authority the same rights of recovery as the Motor Accident Commission and the nominal defendant under sections 116 and 124A of the Motor Vehicles Act.

The next question I asked was:

You asked what checks and balances are in the bill to ensure that the LSS—

which is the lifetime care authority, as I call it—

is fully funded and the costs of the services provided by the LSS will be contained.

The reason I asked this question is it is an interesting long-term issue for the parliament to consider. The way this lifetime care authority is going to work is that it will get actuarial advice about the lifetime cost of the scheme. They then get a recommendation from the actuary, the actuary makes a recommendation to the authority to say that the levy needs to be X to fully fund it,

then the authority recommends to the minister and the minister can sign off on the levy at whatever rate the minister wants.

From memory, there is a process that if the minister goes against the recommendation he has to table it in the house. I made the point to the people giving me the brief that I think the timing of all that allows a minister to set a low levy before the election and table the document after the election; so, they get all the benefit before the election and the criticism after the election, but that is the process, as such.

Come back to the cost of the scheme. This scheme is going to provide the care and medical requirements of the scheme and the medical costs are—in part, at least, a substantial part—set by an agreement between the health minister and the lifetime care authority. There is a whole range of charges that they are going to establish. So the question I asked is: given that the scheme is going to be 100 per cent funded, where is the control of costs? Can the Minister for Health set costs that mean the health department makes a profit, a surplus, out of the scheme?

If the scheme is set up so that the motorist is to pay to fully fund the scheme, and the scheme then oversees the cost, who oversights the issue of trying to keep that levy as low as possible to meet the needs but without unfairly burdening the motorist? The question is about the control of the medical costs, when government is essentially signing off with government about the costs. In relation to the answers to those questions, the answer was:

> Numbers of participants. You asked how the number of participants in the scheme was estimated and whether the cost of the levy would rise significantly for the year after a single major incident.

For instance, a bus turns over and 25 people somehow are catastrophically injured in the one incident: how does the setting of the levy work? The document continues:

> The answer is that allowances have been made in the modelling to guard against such an occurrence.

That may well be true but, of course, the opposition has not been provided with the modelling. It continues:

> PricewaterhouseCoopers have provided the costings for the Lifetime Support Scheme. They have estimated 37 participants per annum, based on:
>
> - comparisons of the incidence of serious injuries in [New South Wales] and South Australia;
> - the assumed numbers of claims in the [New South Wales] Lifetime Care and Support Scheme...;
> - identification of numbers of catastrophic injuries in the current fault-based scheme.

The document later states:

> A number of other statistical sources
>
> In the existing fault-based CTP scheme, an average of 14.2 claims per annum were identified for the period 1 January 2006 to 30 June 2010. Numbers varied between 11 and 20 a year. The [New South Wales Life Time Care Support Scheme] experience is that claims are split around 50-50 between at-fault and not-at-fault. [PricewaterhouseCoopers] concluded that this might indicate a degree of conservatism in their estimate of 37 per annum.
>
> The modelling also includes an allowance for the costs of reinsurance which would include reinsurance against a large event that caused multiple injuries. Injuries caused by a terrorist act would not be covered by the scheme.

Costs: section 27 of the bill requires that the lifetime support authority 'pay for all necessary and reasonable expenses' in relation to 'the assessed treatment care support needs of participants'. 'Treatment, care and support needs' is defined under section 4 of the bill. Those needs must be related to motor vehicle accidents. I will come back to this in a second.

The LSS rules—which is the South Australian scheme—will establish detailed criteria regarding what will be considered necessary and reasonable in the circumstances, and set monetary and other limits where appropriate. The LSS rules are made by the Governor, on recommendation of the authority—not the minister, not the cabinet, but by the authority—and must be laid before both houses of parliament, and are subject to disallowance. So, it seems we have a rather unique situation where the authority will be going to the Governor recommending the rules, and the parliament will have the opportunity to disallow them, but not the cabinet.

According to section 16 of the bill, the lifetime support authority must keep the LSS rules under review and provide advice to the minister as to the efficiency and effectiveness of the scheme. Ultimately, the minister, the government of the day, and the parliament in relation to

making of the rules, will need to strike the appropriate balance between the needs of the people with catastrophic injuries and the motorists who fund the scheme.

Funding provisions in the bill: section 43 of the bill requires that the authority determine an amount that is required to be contributed to the fund to cover the present and likely future liabilities of the authority, and to meet other payments from the fund. The authority's determination must be made in accordance with the report of an independent actuary. The minister may impose in relation to the authority determination by a notice in the *Gazette*. The minister is also able to make the determination of the required fund contribution but, where his or her determination is inconsistent with the authority's determination, then the authority must include a report of this matter in its annual report, and I will come back to that in a second.

The government considers that, ultimately, it should be able to determine the amounts contributed to the scheme by the motorists, but that this must be informed by independent advice from the authority, and an independent actuary, subject to making transparent decisions which depart from the independent advice where the levy announcements are made in advance of the release of the authority's annual report. The responsible minister will be able to be questioned in parliament regarding the basis of any such levy setting arrangement and it is the government's intention that the scheme should operate on a fully-funded basis, and to be costed on this basis.

That answer covers a couple of topics that I want to go back to and examine a bit more. We have not seen the scheme's rules that set out the level of care, the length of care, and the type of care that is going to be covered by this scheme. The scheme pays for all necessary and reasonable expenses. Each of those can be contested: what is reasonable and what is necessary? There is a process of review for the applicant—the person who is catastrophically injured—which is at no cost for them. The scheme pays for the review, and then if they are not happy with that, they can go to the court. From memory, when it goes to court, the applicant has to cover their own costs at that point, but the initial independent review set up by the authority is at no cost to the applicant. They can have reviews about what is necessary and what is reasonable care?

The necessary and reasonable care is about the extra care needed as a result of the injury. It is not about any pre-existing injury or pre-existing condition or pre-existing circumstance. What is necessary and what is reasonable; those questions are asked by the authority as a result of the accident. There are clauses within the provision in the bill that deal with gratuitous services—that is, people volunteering to help—and I will deal with that in the committee stage. From memory, there is a six-hour provision over a six-month period in relation to gratuitous services and whether they will be paid and at what rate, but again I will come to the detail of that in the committee stage.

The people covered by the scheme have the right to contest it and appeal through the court if they think they are not getting reasonable or necessary care. The care may include things like home renovations that are necessary, or indeed workplace renovations that are necessary, so that the person can lead a normal life as far as practicable. It may well be that the scheme needs to pay some of those costs that are reasonable and necessary.

In relation to the funding provisions, I guess that answer highlights the point I made earlier that, while the government says they want this scheme fully funded, the reality is the process they have set in place does not guarantee that. It only really says that the government has a policy that it is going to be fully funded. Well, the government has a policy about WorkCover being fully funded and it is not within a bull's roar. In fact, one of the cynics quipped that maybe once this is up and running WorkCover could apply to become part of the scheme.

The issue also becomes that if the minister does not accept the actuarial advice given to the authority then recommended through to the minister, it is not the minister who has to report it to the parliament. It is tucked away in the annual report which is tabled in the house, if it is on time, in late September. The elections are always in March, so the decision can be taken in February or March to announce a cut to the lifetime care authority levy rate and it is not until six months later that we would get the opportunity to question the minister about the matter in the parliament. As we all know, just because you ask a question, it does not necessarily mean you get an answer that would be helpful to your cause.

In the bill there are a series of opportunities for the person who was catastrophically injured or indeed their representative, guardian, etc. to make applications for reviews, and I will cover this more in committee. We asked the question: is there anything preventing the charging of application fees? For instance, could the authority have an application fee to join the scheme? Could the authority have an application fee for a review or an application fee about court processes? The

answer is that there is no provision in the bill authorising the charging of application fees, but—and I will test the minister in committee—I do not think there is a clause preventing it either.

The government's bill charges stamp duty on the levy at the rate of 11 per cent. We asked whether there was GST on the stamp duty. The answer is:

> A general question was raised as to whether GST applied to stamp duty. Under section 78.5 of the A New Tax System (Goods and Services Tax) Act 1999 the value of a taxable supply of an insurance policy is worked out as if the price of the supply were reduced by the amount of any stamp duty payable under a State law or Territory law in respect of supply.
>
> The Lifetime Support Scheme is not being established as an insurance scheme. The levy that funds the scheme is intended to be structured so that it does not attract GST—

and that is going to be 'subject to an ATO ruling'. We asked about the commitment to the National Disability Insurance Scheme (NDIS) and the National Injury Insurance Scheme (NIIS), trying to get clarity around what has been decided and what has not. The answer to the question was that COAG signed an intergovernmental agreement for the National Disability Insurance Scheme launch in December 2012. It states:

> This agreement covers the period of the launch. All parties have agreed to continue work on the policy for the full NDIS scheme.

I interrupt the answer here to say that the COAG agreement simply covers the time at the period of the launch. The intergovernmental agreement on the NDIS launch contains a number of commitments in relation to a national injury insurance scheme, the NIIS. In simple terms, I am calling that the catastrophic care scheme. The answer continues:

- All States endeavour to agree minimum benchmarks to provide no-fault, lifetime care and support for people who are catastrophically injured in motor vehicle accidents prior to the commencement of the NDIS launch. The Federal Government has now written to jurisdictions seeking formal agreement, responses have been requested by the end of March.
- If a host jurisdiction is unable to implement minimum benchmarks prior to or during launch, that host jurisdiction will be responsible for 100 per cent of the cost of participants in the NDIS who are in the NDIS because they are not covered by an existing or new injury insurance scheme that meets the minimum motor vehicle benchmarks.

I will come back to this in a minute. It continues:

- All jurisdictions endeavour to agree minimum benchmarks to provide no-fault, lifetime care and support for people who are catastrophically injured through workplace accidents, medical accidences, criminal and general accidents (occurring in the home or the community) by the commencement of the NDIS full scheme. The timeframes for this work is currently being considered by the Heads of Treasuries.
- Noting that a new Agreement will be agreed with all jurisdictions for the NDIS full scheme, the Commonwealth's position is that on commencement of the NDIS full scheme individual jurisdictions will be responsible for 100 per cent of the cost of participants in the NDIS who are in the NDIS because they are not covered by an existing or new injury insurance scheme that meets the minimum benchmarks for motor vehicle accidents, workplace accidents, medical accidents, and criminal and general accidents (occurring in the home or the community).

What that means, as I understand it, is this: the federal government and the state government have agreed to set up this National Disability Insurance Scheme trial in South Australia and, indeed, a number of other states. In South Australia, the trial for the National Disability Insurance Scheme is for children, and the agreement is that, if the government has not put in place a lifetime care authority for a no-fault insurance scheme for the catastrophically injured involved in motor vehicle accidents by the time the trial for the National Disability Insurance Scheme is set to start, the commonwealth government is not going to pay the costs of the national disability scheme trial. That will be a hit to the state budget. From memory, the trial was $20 million. I might have that figure wrong, but it was certainly a substantial number.

So, what the Gillard government is saying is that, unless the state parliament sets up this lifetime care authority system, it intends not to honour its agreement to fund the National Disability Insurance Scheme trial for children in South Australia; it is going to make the state government pay for it. That is how I understand that answer.

Secondly, it also makes this point: that in the future, when the NDIS full scheme comes into play, whenever that is, if there are other people who are outside the motor vehicle accident lifetime care scheme we are debating today—these are the horseriders, the bike riders, the jetty divers—not covered by a similar scheme, the host jurisdiction (South Australia) will be responsible for 100 per cent of the cost of participants in the NDIS who are in the NDIS because they are not

covered by the existing or the new injury scheme. The way I understand that is that the federal government is going to charge us for the horseriders, the divers and the footballers who are injured by breaking their neck and who are not part of this scheme.

What you are going to have is catastrophically-injured people under WorkCover cared for by South Australia, catastrophically-injured people injured in motor vehicle accidents cared for by South Australia, people catastrophically injured through medical accidents covered by South Australia, and people who are injured on horseback, diving off jetties, or in any other way, are somehow covered by the commonwealth and we will be charged for it. So the question comes: will they be better off, and will it be cheaper for the South Australian taxpayer, if they are under our scheme? Would the approximately 20 people a year I referred to earlier who missed out on all these schemes be better off under our scheme?

Have the actuaries been asked that question, and if so, what is the advice? We do not know; we have not seen it. What is crystal clear is that either we set a scheme up ourselves and pay for it or we are going to be charged by the commonwealth to pay for it, so at some point down the track, the South Australian community is going to pay for it. It is a matter of how we are going to pay for it and when that kicks in. I will ask the minister this and he might want to answer: when does the National Disability Insurance Scheme kick in for everyone? I do not think a date has been set. This could be four, five, 10 years away, while those 20 people who are catastrophically injured simply have no cover.

The other question I asked was when the final ISV table will be available. The ISV table is the table that is still being negotiated. I understand they are using a table from the Queensland scheme, where they set out essentially the points structure for the type of injury you might have. If you drop a brick on your toe, you might be one point; if you break your neck it is 99 points. In between that, a table has been developed about an agreed points structure that guides the court to deliver the outcome the government wants. It is a way of controlling costs, if you like.

Under non-motor vehicle accidents, under the Civil Liability Act, there is a 60-point system and there is going to be a 100-point system. The reason I asked for the ISV table is that the law groups believe that is the key to the way the whole scheme works. Their view as I understand it is, how do you judge whether the scheme is fair if you do not know where the injury is going to land on the points system? They asked us to try to get a copy of this ISV table, and the answer is:

> The ISV table that was released with the White Paper in November was based on the Queensland table with modifications made to enable a 15 point threshold for some heads of damages.

The way I understand that is you have to get past the 15 points before you come into the scheme.

> Since then, consultation has been occurring with the South Australian medical specialists to adapt the table where they think necessary to a South Australian context.

The way I understand that is that apparently South Australia has a different way of interpreting some injuries and their impact from Queensland and we are going to adjust the ISV tables to South Australianise, if you like, the points and the injuries.

> As a consequence of the consultation with the Legal Professional Associations the points thresholds for heads of damages has changed—

how they have changed, I am not sure—

> and further medical advice is being sought to further ensure clarity around the thresholds. Once that consultation is complete—

here we are debating the legislation and the consultation is still not complete—

> the final table will be made available as regulations to be laid before Parliament once the legislation has passed. It is anticipated that the consultation be concluded in the next few weeks.

In other words, the points table that the law groups think is central to the argument will not be completed until the law is passed. I think that is the wrong process, but I cannot change that. I think it does take away our capacity to make real judgement about that issue if we do not have the information before us. I asked them to analyse for me all the claims made by Senator Xenophon in a *Sunday Mail* article about this particular issue. The paper says:

> You asked for an analysis of each of the claims made by Senator the Hon. Nick Xenophon in his *Sunday Mail* opinion piece of the 10 March 2013.

The reason I am going to put this on the record is that I know that members of parliament are going to get letters as a result of Mr Xenophon's questions, and members will be able to say that that

question was asked in the parliament and here is the actual circumstance, as per the legislation that the government have advised. So, the members of parliament can at least show that they have taken that matter up and followed the issue through. The answer goes on:

> Below are each of the claims made by the Senator and an analysis of these. The answers provided relate to the Injury Scale Value (ISV) Table which was published on the website in conjunction with the White Paper [which] is currently undergoing consultation.

In other words, the answers we are being given are being given based on the injury scale value that we are not going to use because the consultation is not yet finished. So, while the answers give us some guidance, I think members need to be aware that the answers that we are being given are based on injury scale values that the government are not going to use, as they are still out for consultation. The answer highlights:

> Some of the categories may change in the final table.

The first claim from Senator Xenophon is:

> You won't get a cent for *pain and suffering* if your skull is fractured and you have 'minimal brain damage'.

The analysis is:

> There is an entitlement for damages for future loss for any level of brain injury as defined in the ISV table. However, if the brain injury is so minor and fully resolves, it is classified as a minor head injury. It is this category that is referred to in the article.
>
> The claim appears to be in reference to Item 9: Minor head injury, other than a skeletal injury of the facial area (0-5 points). It features—'Uncomplicated skull fracture' or other injuries 'from which the person fully recovers within a few weeks'; or at worst, 'associated concussive symptoms which last less than 6 months.
>
> Note: It is important to understand that the minimal brain damage referred to in this category is usually the result of concussive effects with or without an uncomplicated skull fracture. Post concussive symptoms are generally headaches and reduced concentration for a limited that resolve.

I think there is a word missing there. I think it is 'for a limited time that resolve' but it says 'for a limited that resolve'.

> Therefore, a person with this injury would receive compensation for all medical/treatment costs and have an entitlement to compensation for lost wages/income.
>
> By definition, one would not be entitled to damages for future losses for a minor injury that resolves (that is for example for pain and suffering) as there is no permanent impairment.
>
> However, where there are *'minor problems persisting that prevent a restoration of normal function.'* a person would generally align with the next Injury severity (item 8: Minor Brain Injury (6-20 [points])) whereby there is an entitlement for future loss.

I guess this just highlights why having this point system finalised prior to the debate might have actually been useful for the house. The second claim by Mr Xenophon was:

> You won't get a cent for *pain and suffering* for many types of permanent facial scarring.

The analysis response is:

> This claim appears to be a reference to:
>
> Item 22: minor facial scarring (0-5 points), which features 'a single scar able to be camouflaged,' 'almost invisible linear scarring' or whereby small scars occur the overall effect of the scars is to mar, but not markedly to affect, appearance and an adverse psychological reaction is minor'...;A person with this injury would be eligible to receive all medical/treatment costs and an entitlement to past income loss if applicable. They would not be eligible to receive compensation for non-economic loss (pain and suffering).
>
> Or, item 21: moderate facial scaring (6-10 points) which features 'scarring, the worst effects of which will be reduced by plastic surgery that will leave minor cosmetic damage', and 'any adverse psychological reaction is small or having been considerable at the outset, has greatly diminished.'
>
> If the injuries are assessed at more than 7 [that is, 7 points] then they will be eligible for medical/treatment costs and past income loss, as well as damages for any loss or impairment of future earning capacity as a result of the injuries. They would not be entitled to damages for non-economic loss.

This brings in the question of whether, if the injury scores above seven, or seven and below, apparently that particular matter as to where the threshold kicks in was part of the negotiation with the various law groups. Why pick seven and not eight; why pick seven and not 10 has not been made clear, but essentially seven is the threshold point for a number of these claims. Claim 3 might be of interest to some of the male members in the house. Mr Xenophon claims:

For blokes out there, losing both of your testicles could mean zero compo, and definitely nothing if you only lose one.

The Hon. L.R. Breuer interjecting:

The Hon. I.F. EVANS: That has sparked the interest of the member for Giles. It is something she is trying to come to grips with as part of the argument. The analysis answer is this:

This claim appears to be a reference to Item 45: Loss of both testicles (5-37 points) and Item 46: Loss of 1 testicle (2-10 points).

It is a theoretical possibility that no compensation for future losses is payable, although there is compensation payable for past losses (i.e. up until the claim is settled). However, it is not anticipated that any claimant will not be compensated for future losses given the range from 5 to 37 points. Loss of one testicle will entitle the injured person to medical/treatment costs and past income loss, and could entitle loss of future earning capacity compensation.

The question I ask is: if a young male loses his capacity to father a child, is he compensated for the loss of that ability? I would ask the minister to put that on the record, because I think that, while the injury itself is severe, for a young married guy or a young person with their family years ahead of them to lose the capacity to father a child, the scheme might need to properly deal with that issue. The next claim from Mr Xenophon was:

If you've sustained a so-called 'minor' bowel or bladder injury with long-term effects, you could probably forget about any damages for that, too.

The analysis answer is:

This claim appears to be a reference to Item 67: Minor Bowel Injury (3-6 points) and Item 71: Minor Bladder Injury (3-6 points). These item descriptors in the ISV table are being revised as a result of the consultation because it contains a drafting error. This item description currently states that there will be minimal ongoing problems under the minor severity category, while the next severity category states that there will be no ongoing problems. The table will be altered to make it clear that Item 67 refers to injuries that have no ongoing sequelae.

The next claim by Mr Xenophon is:

You'll also cop it in the neck if your spine is injured. Even if you have a crush injury, you may still miss out.

The answer is:

A spinal crush injury may be classified as extreme, serious or moderate. A moderate spinal (crush) injury is accommodated within Item 80: Moderate Cervical Spine Injury—fracture, disc prolapse or nerveroot compression or damage which has a point range of 5-15 points. This item, allows for the injury to be assessed as being of a severity above 10 points and thereby the injured person is eligible for damages for non-economic loss (pain and suffering) and for loss of future earning capacity, as well as for past losses. The impact of the injury on the injured person's life will be taken into account when determining the point level of the injury.

However, a soft tissue injury with objective evidence but no radiological evidence (include the injury known as whiplash) will fall under Item 81: Moderate Cervical Spine Injury—soft tissue (5-10). A person may be eligible to receive damages for loss of future earning capacity in addition to the medical/treatment costs and lost income.

Where there is no objective evidence then Item 82: Minor Cervical Spine Injury (0-4) applies and a person remains eligible for compensation for medical/treatment costs and lost income. A person would not be entitled to receive non-economic loss for injuries falling under items 81 and 82.

The next claim by Mr Xenophon is:

If you are a chef or winemaker and you partially lose your sense of taste or smell, you can't get more than 5 points, even though you'll be stuffed trying to continue your job.

The answer provided is:

Under Item 35: Partial loss of smell or taste, or both, a person with this injury would only be eligible to claim for damages for medical/treatment costs, and past loss of income. This item is under review as a consequence of the consultation.

I cannot tell you what the answer is, but it is being reviewed. The next claim by Mr Xenophon is:

If you are doing hard physical work, a shoulder injury that knocks you out for up to 18 months with "considerable pain" will also get you zip for your loss of wages.

The answer is:

This claim appears to be a reference to Item 91: Minor shoulder injury (0-5)—Its features are a soft tissue injury with considerable pain from which the injured person "makes an almost full recovery in less than 18 months"; or a "fracture from which the injured person has made an uncomplicated recovery".

A person with this injury will be eligible to claim for past loss of income, and medical/treatment costs. As the injury has fully or almost fully recovered in 18 months, the claimant would not be entitled to damages for future losses. This item is under review.

That is as a result of the consultation. That was the end of Mr Xenophon's questions. I asked, 'How long does a worker get paid under the WR&C Act?' This particular question relates to how payments under this scheme compared to payments under WorkCover. The answer is:

Under the section 35 of the Workers Rehabilitation and Compensation Act 1986 an eligible injured person may receive weekly payments up and until they turn 65 years of age. If they are over 63 they will receive two years.

Medical costs continued to be paid, as long as the injury is assessed to be reasonable throughout the lifetime of the injured person.

'How much money will be needed for the set up costs for the LS Authority?' is my next question, and the answer provided was:

Prior to the eligible intake date of 1 July 2014 it is anticipated that the main costs will be associated with:

- establishing the legal entity and the Board;
- employing and accommodating staff up to three months prior to operations commencing (estimated 6 FTEs);
- establishing an appropriate information technology system.

The upfront costs could amount to $400,000 plus the information technology system which would be paid for over time from the Levy. It is anticipated that these start-up costs will be loaned to the Authority and will later be paid from the fund.

In other words, there is a $400,000 cost to establish it. Because the scheme has no money until the levy is collected, the Treasurer will lend the money and the fund will then pay back the Treasurer, at some point, that $400,000. I asked about actuarial advice as follows:

Actuarial advice regarding the costings underpinning the Bills has been requested through the Economic and Finance Committee.

That was subject to my very early comments in this debate. Mr Speaker, you were on the Economic and Finance Committee I think at the time when we requested this information, and you will be pleased to know that the response was:

The information will be provided to the committee shortly.

May I suggest, Mr Speaker, that that will be available to the committee after this bill has passed this house. Thanks a lot. I asked the question:

You referred to section 27(1) of the bill and asked whether a participant in the Lifetime Support Scheme would have to pay for services and goods before the Authority would have to pay for them.

In other words, my question relates to the fact that it talks about them paying for the costs that have been incurred in reasonable care and necessary care. The word 'incurred' seems to indicate that the claimant, the person under the scheme, would have to pay the costs then seek reimbursement, otherwise why would they be paying costs that are incurred?

Under the scheme there is an arrangement whereby they can come to an agreement with the person in this scheme about the payment of certain future costs, and I am assuming that is how most of the transactions will occur. However, the answer from the government is:

This provision of the Bill is identical with section 11A(1) of the New South Wales Motor Accident (Lifetime Care and Support) Act 2006. The previous version of the provision of the New South Wales Act was section 6(1) and the words that are relevant to your question are the same. The Court of Appeal of the Supreme Court of New South Wales has interpreted this provision in a case about payment for gratuitous care provided by a relative in the case of *Daly v Thiering* [2013] NSWCA 25 (20 February 2013). The Court treated the words 'expenses incurred' as meaning expenses that the participant has met or is legally obliged to meet. It follows from this that the participant does not have to pay first.

In addition, section 27 of the Bill provides for agreements between the Authority and the participant under which the Authority could pay money in advance to the participant to cover expenses of assessed needs for a period of time.

The way I understand that answer that has now been given is that there is a court case out of New South Wales that means that, if the scheme is obligated to pay it under the scheme, the expense does not have to be incurred first. As a process which is allowed under the bill the authority will be able to make an agreement with the injured party about certain costs they are going to pay in

advance. So, that gives some detail on the background both as to the changes to the compulsory third party scheme and also the setting up of this new lifetime support authority.

There are a number of changes which I will be examining in the committee stage of the bill. Of particular interest is the way that the government is changing the way that damages are assessed. I should make the point that in the lifetime care authority scheme you can be a permanent member of the scheme or you can be a temporary member of the scheme. It is possible for you to go to the scheme and say, 'Look, all the medical advice is that for six or seven years I am going to be, in effect, catastrophically injured,' and then through treatment or medical procedure you then recover to a point where you no longer have to be in that scheme and you can exit out of the scheme. So there will be the capacity to be defined as a permanent member of the scheme and a temporary member of the scheme.

The bill also makes changes to the way in which the quantum of damages is assessed. The government says it is going to be a more methodical approach, with greater rigour in the assessment of these damages. This is government talk for, 'The courts aren't doing what they're told, so we are going to try to redefine it and narrow down the language so that the courts do not give such generous findings for those people who seek damages.' The second reading speech explains it this way:

> The courts will take into account the usual discount for the vicissitudes of life, but would be required to not take into account anything that has less than a 20 per cent chance of occurring and anything for which the court cannot evaluate the chance of it occurring.

As the parliament knows, I am no lawyer—I am just a humble builder—but the way I understand this is that currently the court, in looking at damages, takes into consideration anything that might occur in the future, regardless of its chance.

So, if there is a 1 per cent chance that the injured person might have become a brain surgeon, for example, the court feeds that into its assessment of the level of damages that person might get. The government is now saying, 'No, if it's less than 20 per cent, the court doesn't count that.' So, if you had a 15 per cent chance of becoming an AFL footballer, bad luck: you need to get to a 21 per cent chance. It is trying to reduce the damages payment.

It also cannot take into account anything the court cannot evaluate. If the court cannot properly evaluate whether you are going to reach or might have reached a certain potential in life, they simply can put no value on that at all—no value on that at all. What happens then, once the court reaches a figure, given that they have already tightened the assessment of damages and contracted that by 20 per cent, the court applies a further 5 per cent discount because the participant is going to get that cheque up-front.

They are going to get $100,000, $120,000, or whatever the figure is going to be, up-front, and so the court automatically under the legislation discounts whatever the payment was going to be by 5 per cent—and my understanding is this 5 per cent discount currently exists. The previous 20 per cent discount I talked about did not exist, but this 5 per cent discount already exists. The court goes on to make other deductions required by the act of common law. For example, in contributory negligence, if you somehow contributed to your own injury (this is under the CTP scheme), then ultimately there is a further discount there.

After all that—after contracting eligibility by 20 per cent, by taking off 5 per cent because you got a cash up-front payment, by then adjusting it or minimising it because you have contributory negligence—just for good measure they are then going to discount it by a further 20 per cent. And the reason for that? There is not one given, but my understanding is that the reason they are doing it (and this is not given in the second reading speech) is simply to make the scheme affordable.

In the government's own language, the scheme is unaffordable and too generous to the injured and the government want to make it less generous. What they are essentially doing is capping the cost of the scheme by capping the number of injured people who can come into the scheme because they are lifting the injury threshold to a new point. Not only are they doing that but they are discounting the damages that injured motorists are going to get as a result of these accidents. That is how they are driving down the cost of the scheme. As I said earlier, this must be the only Labor government in history that has cut entitlements to injured workers and entitlements to injured motorists.

The bill will also introduce a rather unique measure, which I understand is on the recommendation of the RAA, which is no-fault compensation for medical and ongoing care costs

for children who are under the age of 16 at the time of the accident. As a result we will have a split scheme. For those over 16 you are going to have an at-fault scheme and for those under 16 you are going to have a no-fault scheme within the compulsory third-party scheme. The government claims this provision will ensure that children will receive immediate support for their medical care needs following a vehicle accident without having to determine fault or contributory negligence. The government claims this will lead to better recovery and health outcomes.

The bill also sets out new provisions for medical assessment and the accreditation process for CTP insurance claims. These are intended to reduce bias, avoid excess numbers of costly reports, and increase quality and objectivity of the assessments. They will be dealt with through regulations ultimately and therefore disallowable by the house.

The other way that they are cutting the cost of the scheme is to cap lawyers' costs or at least to restrict lawyers' costs compared to what they are under the current scheme, and I have no doubt that is one of the reasons why many lawyers were up in arms over the issue, not just on the basis of the principle of compensation to injured motorists but also on the basis of the impact on law firms. We have already had some law firms write to us saying they expect to lay off 20 to 30 staff as a result of the reforms proposed under this legislation, so there will be an employment impact throughout the legal fraternity based on the letters we have received.

The way they are going to cap the lawyers' costs is that the bill provides that no costs will be awarded if the amount of damages awarded is $25,000 or less and they will be capped at the Magistrates Court's scale if the award is between $25,000 and $100,000, regardless of the court in which the proceedings are issued. If it is under $25,000, no legal costs at all. If it is between $25,000 and $100,000 you are going to get the Magistrates Court's scheduled fee, whatever that is, regardless of whether you are in the Supreme Court or another higher court; it doesn't matter.

The government claims that results of the reforms will be monitored and, if the CTP insurance premiums exceed a prescribed percentage of state average weekly earnings, the minister would be required by the bill to have part 4 of the Motor Vehicles Act reviewed and a report laid before both houses of parliament. It does not tell us what the prescribed percentage is going to be, so I am assuming what they are saying there is that, if the CTP insurance premium gets above a certain percentage of the average wages throughout the state, that would trigger a review on the basis that the scheme might be becoming unaffordable. I think that is what it means. One might question why they have not done that with some of the other government charges, like water.

I think that sets out a reasonably detailed assessment of the legislation. The opposition, as I say, are supporting this measure despite the fact that it is far from perfect. We are supporting it because we think that the principle of setting up a lifetime support scheme is one worth supporting. The federal opposition is supporting the National Disability Insurance Scheme, as is the federal government. Part of that scheme requires states to deal with catastrophic care—setting up a no-fault scheme for those who are catastrophically injured in motor vehicle accidents.

As I say, the issue that is missing in this debate ultimately is what happens to all those people who are outside of the scheme. What we now know, through questioning of the government, is that sometime in the future—five, 10 years—when the national disability scheme is set up at the federal level, if there is not a scheme in place at the state level then the state government of the day is going to be charged by the commonwealth government to deal with those 20 people a year who fall outside this scheme.

We ultimately will have an amendment to go to committee, but I understand some other learned colleagues of mine who may be from the legal fraternity might be able to put some more meat on the bones in relation to this particular legislation. Mr Speaker, I will make sure that the answers given to me by the government are distributed to members' pigeonholes over the luncheon break so that members can take them back to their offices and assess the answers in due course.

Mrs VLAHOS (Taylor) (12:46): I would like to speak today about the cost of living and the compulsory third-party insurance scheme, which has become increasingly unaffordable. Since 2000, South Australia's premiums have grown at a rate of over 5 per cent per annum, well in advance of the general rate of inflation for this period. For a two-car family in the metropolitan area, the cost of compulsory third-party premiums now exceeds $1,000 a year and, indeed, for the people in Taylor, who are very car dependent because they live in the outer metropolitan area, this is an issue of cost of living and is why I am speaking today.

Western Australia has a similar fault-based scheme to ours, and a two-car family in Perth would only be paying $540 in CTP premiums. In Brisbane, a two-car family would be paying only around $648 per annum. So why are South Australians not getting value for money from this expensive scheme? The government does not believe they are, and we are committed to addressing the scheme and the other areas where we can make a real difference to the cost of living of South Australian families.

The government is currently addressing cost-of-living pressures through its seven strategic priorities. An affordable place to live is a continuing priority for the government not only for basic reasons for families, such as those in Taylor, but also for the broader economic future of the state and our development. The state government, along with other levels of government, is working to help achieve this. We aim to make South Australia an affordable and attractive place to live, work and do business. Managing household expenses, like electricity, gas and water bills, is a challenge for many people in my electorate. Where we live and our weekly shopping and transport costs can also add to our household expenses.

The state government has in place a range of initiatives to help households, including the initiatives contained in this bill that are aimed at reducing the cost of motor injury insurance premiums and ensuring that more motorists seriously injured in accidents will be able to receive the just and right lifetime care and support they deserve. But why has this scheme become so expensive? I mentioned that before. Last year, minor injuries accounted for 90 per cent of the claims. Statistics published by the government's CTP green paper indicate that around one-third of the compensation payments each year—in excess of $100 million a year—go to claimants who have had little or no time off work. Families are paying higher premiums to fund these payments.

The minister has identified that another drain on the CTP fund is the legal costs, which have risen around 50 per cent since 2005. Families are also paying for these costs. Under these reforms, legal costs will not be reimbursed for minor injuries where claims are less than $25,000 and will be capped at the Magistrate's Court scale for claims between $25,000 and $100,000. Legal fees are a significant part of compulsory third-party costs, and this will be reduced.

Overall, South Australian motorists are paying for a scheme which has witnessed a reduction in the proportion of payments that are being paid directly to benefit accident victims or their dependents. This proportion has fallen from 85 per cent in 2006-07 to below 80 per cent recently. This does not seem to be a value-for-money proposition for the premium paying public such as my electors in Taylor. At the same time, we are paying for an expensive scheme that does not cover everyone injured in vehicle accidents. In particular, the CTP insurance scheme does not necessarily protect everyone who suffers from life changing, catastrophic injuries in vehicle accidents.

If the vehicle accident was entirely the injured person's own fault or if no-one was at fault, the CTP scheme does not provide compensation and the injured person, their family and the taxpayer will ultimately need to shoulder the burden of providing lifetime care to the injured person. Where the burden of care for a loved one falls onto the family member or their broader family collective, their ability to earn income has been severely constrained, affecting their material wellbeing, their whole family and their broader family network.

The new lifetime support scheme fixes this shortcoming for very seriously injured people, but there is a cost associated with this, and the affordability of the CTP scheme must be addressed at the same time. Reducing the burden of high premium costs on motorists is of the greatest importance to this government as part of the 'affordable place to live in' strategic priority, as I have mentioned before. This will make the insurance scheme fairer for all South Australians, as well as easing the burden on South Australian motorists and taxpayers, such as my electors in Taylor. The key objective is to achieve better recovery, rehabilitation and care for injured motorists, whilst making CTP insurance more affordable.

I support the government's proposed changes to the CTP scheme because I believe the vision for South Australia needs to be continued, to be a liveable place for our whole population. We must ensure the people of South Australia enjoy a high quality of life, regardless of their income, and help them make choices that enable them to live this. This includes controlling their own finances, and those in financial hardship need support to manage these essential cost-of-living pressures. I believe these reforms enable this to occur and create a fairer system, and I support the bill for my electors for these reasons.

Mr GRIFFITHS (Goyder) (12:51): I also wish to make a contribution to this bill. I acknowledge the effort made by the member for Davenport as the lead speaker for the opposition not only in supporting this bill but also in putting before the house a very clear understanding of the issues involved in the bill. He provided us with a set of answers that were provided to him following a briefing opportunity, and he asked a lot of questions that had been asked by others outside of this chamber about the issues affecting people.

Like everybody here, I think there is a place for society to accept responsibility for assisting people who suffer from a catastrophic injury. Especially as this bill relates to people involved in car accidents, there is an appropriate level of work to be done. Whilst I support the bill, I express my frustration about the provision of information as it has been given to people. I declare my interest in being a member of the Economic and Finance Committee, only for the last three or four-month period and some periods prior to that also, so I missed out on some of the work that the committee did about this scheme and the request for actuarial advice, and the support that was given by the government for the advice to be provided.

When I read the briefing paper provided by the member for Davenport on Sunday morning before going to a community function—it was not a criticism of the member for Davenport, but I made a note against the briefing paper 'where is the information'? My frustration stems back to that. Where is the information that allows us, who have not had the opportunity yet to be briefed fully upon it, to read something, understand it, consider what its implications are and then form an opinion?

The member for Davenport provided a good four or five pages on it. He has taken the opportunity over the last hour and a half provided to him to read into the official *Hansard* a lot of the responses that have been received only in very recent times about the issues that he raised in the briefing opportunity. If that information had been made available earlier or if we had delayed the debate on this bill for another week and a half or two weeks, as I think the member for Davenport gave a commitment previously to ensure it was debated fully within the next sitting week, a much higher level of intellectual discussion would have taken place in the chamber—and that is what this place is meant to do.

I have read the information that has been provided to me, listened intently to the contribution made by the members for Davenport and Taylor in supporting the bill and had a look at the second reading explanation from the Minister for Health relating to this bill. This bill is important, therefore it is really important that as many members as possible have some level of intellectual knowledge about it, their head wrapped around it and the ability to communicate it to their community, because it is those people who will challenge us. Those are the people who will be aware of an instance where they will want an answer from us. That is why it was appropriate that the member for Davenport took a reasonable amount of time to read into the *Hansard* the answers provided to the questions that he posed as part of the briefing last week.

I am very lucky not to know anybody in my life who has suffered a catastrophic injury as a result of a car accident, and I am probably quite unique in that. I do have a very close personal friend who about six weeks before his 18th birthday jumped off a jetty—which was an example provided by the member for Davenport—and suffered a quadriplegic injury. I had to drive his car home from that coastal town (to his parents' home) that night and relay the story to his mother, who had rushed out knowing something was wrong. Mums must have a sixth sense, because she rushed out asking what had happened to her son.

I have had the opportunity to visit Hampstead—and he was there 32 years ago—and to see the impact that this level of injury is having on people and talk to him about the change in his life and, indeed, about the level of support required. So I understand the need for an agreement to exist across state and federal governments and for an effort to be made on a collaborative basis to try to get a system in place that provides a level of surety for the future needs of those people.

It is no doubt very difficult when looking at actuarial advice and trying to determine the life expectancy of a person and their level of injury as a result of a catastrophic accident, but it is really important that we put that in place. I understand and accept the fact that society has a responsibility there, so for that intended purpose I fully support the bill.

I am also very agreeable to the member for Davenport's suggestion about the amendment. Like a lot of people, I think the delay in the introduction of this bill until 1 July 2014 instead of an earlier date is a shame, because the actuarial advice provided to me which went back to 2005 and which referred to, I think, 41 motor vehicle accidents resulting in what is defined as catastrophic

injury in that calendar year, highlights the need for such a bill to be introduced, legislated and enacted as quickly as possible. So the target date set by the opposition as part of an amendment that has been tabled of 1 October, I believe, as the last date by which it has to be in place is a good move. I hope the minister recognises that and entrusts his staff members who are working on this to try to get it happening as quickly as possible.

This is not a political game that we are playing here: this is about real people who are going to be impacted. This will potentially impact probably 25 to 30 people, and it is an absolute tragedy that that many people will be impacted by it, but it enforces the need to ensure that the legislation is enacted and put in place as quickly as possible.

I recognise that a lot of the work undertaken here has been based upon the New South Wales experience. As it has existed for some time, there is a level of knowledge about how it works, the projections on how the numbers are calculated, the level of care that is required by people, and the potential impact it will have upon the public of South Australia and the 1.3 million-odd people who have driver's licences.

While none of us want to see it happen and we are all focused on a reduction in accidents and deaths on our roads, the reality is that it will occur here. I am pretty sure that it is a good move. I know that it is a good move. The debate that occurred in the portfolio room and within our joint party yesterday, even with the frustration with the level of information available, allowed us to be very comfortable about the fact that it is appropriate. So the minister has done the right thing in that regard.

I recognise that there have been quite a few revisions of the original green paper put out a bit over 12 months ago. A lot of legal argument has taken place on that. As I understand it, a level of agreement exists now. It was originally intended to be three bills; it has now been brought down to one. There are frustrations about the provision of information, but it has got us to a situation where at least some level of debate is able to occur. So as soon as we have as many people as possible stand up and we get this resolved, the better for everybody.

I also look forward to the committee stage of this bill and the opportunity to question some sections of it, where we raise questions on behalf of people. That is what we all do: we come into this place trying to make sure that we get the best outcomes. It is not until—and I have had other examples posted to me in recent days—we look at likely scenarios and start to question individual words within clauses in bills and acts that we think of possible scenarios. That is what the committee stage allows for.

I have read some material and heard some things from the member for Davenport when he was previously looking after environment, and I think a five or eight hour contribution was made. I am pretty confident that there will be a bit of a forensic examination made here, but that will allow the chamber to actually understand this bill far better than it otherwise would. I look forward to the swift passage of this bill through the second reading and committee stages.

Debate adjourned.

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

SUMMARY OFFENCES (FILMING OFFENCES) AMENDMENT BILL

His Excellency the Governor assented to the bill.

FERGUSON, MR D.M.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:01): I move:

That the House of Assembly expresses its deep regret at the death of Donald Mervyn Ferguson, former member of the House of Assembly, and places on record its appreciation of his long and meritorious service, and that as a mark of respect to his memory the sitting of the house be suspended until the ringing of the bells.

I rise today to honour the contribution to public life of the late Donald Mervyn Ferguson, who passed away peacefully after a short illness on Saturday 9 March, aged 76. I personally extend my sympathies and best wishes to his immediate and extended family. They deserve to feel very proud of his contribution to this state.

Donald Mervyn Ferguson is remembered as a hardworking and devoted local member who represented the interests of the people of Henley Beach with diligence and integrity. He was first elected to this place in the 1982 state election, when he defeated Mr Bob Randall in the seat of Henley Beach. He was again re-elected in 1985 and 1989.

It was during this period that I recall meeting Don. In fact, I was at my grandmother's place and he was doorknocking in Fulham Gardens. He was an old-style politician who did his business door to door, and I am sure that that was one of the things that stood him in great stead with the electorate.

Following a redistribution, the seat of Henley Beach was abolished in the lead-up to the 1993 state election. In that election, Don unsuccessfully contested a position in the Legislative Council. Of course, he was no orphan in 1993; there was a lot of that going on at that time.

During his 11-year career in this place he was a member of the Public Accounts Committee, the Economic and Finance Committee, and the Joint Committee on Subordinate Legislation. He was Deputy Speaker and Chairman of Committees from February 1986 to October 1989 and again from October 1992 to November 1993.

Donald Mervyn Ferguson was born in Adelaide on 7 August 1936. Before entering parliament he was proudly involved with the trade union movement. He held a number of positions with the Printing and Kindred Industries Union before becoming state secretary.

A glimpse of Don's maiden speech in December 1982 showed him to be thoughtful and conscientious. The issues he raised in that speech were close to his heart, and many of them are still relevant today. He spoke about the state's manufacturing industry and his wish for the manufacturing sector to become more internationally competitive. Don was very unlucky never to serve as a cabinet minister. In a three-week period in 1988, Don missed out on a cabinet post by a single vote on two occasions. In late July 1988, John Klunder was appointed minister for forests after he defeated Don 19 votes to 18.

Members interjecting:

The Hon. J.W. WEATHERILL: That's right. There's a community of interest being held here. Unfortunately for Don, a fortnight later, Bob Gregory defeated him by the same margin and was appointed minister of labour and marine.

In 1987, well before live streaming and YouTube, Don called for the speaker of the house to consider a proposal for a dial-a-debate telephone service offering unabridged recordings of the day's proceedings. Don said the debates should join dial-a-prayer, sports relays and recorded pop music as the daily telecom service in the interests of open government. John Trainer, who was speaker at the time, said that he was not sure about the level of public demand for such a service. As a result, Don's proposal never eventuated.

He fought the 1989 election campaign while battling cancer, a condition from which most of his constituents had no idea he was suffering. In a *Sunday Mail* article, he admitted that his fight with the potentially fatal disease, and struggle to keep an election campaign going, had been an enormous strain. With just two workers, Don began a direct mail campaign, knowing his doorknocking ability would be almost nonexistent after the election date was announced. 'We put out 22,500 letters,' he told the *Sunday Mail*. 'It was a hell of a job.'

His efforts in that election campaign were rewarded when the Labor Party formed a minority government with the support of two Labor Independents. In 1990, the fragile nature of the Bannon government on the floor of parliament was highlighted when Don was taken to hospital after collapsing during a caucus meeting. However, as the true fighter Don was, he was back in parliament the next day proclaiming he was 'fit as a fiddle' and that there would be no by-election.

Don was committed to the western suburbs and was passionate about the issues that were important to working people and families in his electorate. He was a man who stood firm to his beliefs and his conscience and pursued what he believed was best for this state. I would like to take this opportunity to extend my sincere condolences to Don Ferguson's family. I am sure they are greatly saddened by his passing, yet they can feel very proud of the many decades of work he carried out for others. May he rest in peace.

Honourable members: Hear, hear!

Mr MARSHALL (Norwood—Leader of the Opposition) (14:07): I rise to second this motion on behalf of the South Australian Liberal Party, and I offer our most sincere condolences to

the family of the late Don Ferguson, the former Labor member for Henley Beach (the electorate now known as Colton) from 1982 to 1993. Don was one of those great local members—always in touch with what was going on in his electorate, never too busy to speak with residents, and happy to lend his support to those grassroots issues affecting the Henley Beach community.

He was also strong on the environment, protecting open spaces, and ensuring the development and progress of his electorate was done in a diligent, respectful and appropriate manner. Another of Don's great attributes was his high ability to cut through, get the message across, and get the job done.

He was not one for political jargon. He preferred plain English to convoluted phrases, and regularly campaigned for the need for contracts and government documents to be written in a language that people can actually understand. He even went so far as to suggest the introduction of legislation, which, sadly, never made it through.

Don also shared one of my great passions, which is a love of manufacturing. He recognised its significance to our state's export base and saw it as the key to unlock our future and vast potential. Don also knew that manufacturing did not stop at our city boundaries, and that it is intrinsically linked with our regions. In 2013, Don's views on manufacturing are as relevant as ever.

Unfortunately, Don was forced to confront some serious health challenges towards the end of his term as a parliamentarian, yet at no time did he let this deter him from his duties as a politician. Indeed, very few people knew just how ill he was. He even managed to endure the rigours of a state election campaign while undergoing intensive chemotherapy.

It is very clear from looking over Don's achievements and parliamentary record that he was a hard worker, and a no-nonsense man who refused to grandstand or big note himself. He just wanted to get on with the job and serve the people of Henley Beach. With these words, I endorse the motion and pass on the opposition's condolences to the family of Don Ferguson at this sad time.

The Hon. P. CAICA (Colton) (14:09): I rise to briefly speak to this condolence motion for Don Ferguson. As was mentioned, on 6 November 1982 Don was elected the member for Henley Beach. He contested and won two more elections in 1985 and 1989, and resigned just before the 1993 election, as the Premier mentioned, to contest a Legislative Council seat and, unfortunately, was not successful at that attempt.

He was an excellent local member, and well connected to the community that he represented in this parliament. On any review of Don's parliamentary career, it can be seen that the many issues that he advocated upon were wide and broad. These were issues that had at their heart the welfare and the wellbeing of the electorate and the constituents that he represented so well for more than a decade. Just to briefly mention a few, and the Premier mentioned a couple of them, Don advocated for an extension to the time of daylight saving in 1984. He saw the value in daylight saving and the benefits of extending its period. It took some time but that extension now exists and, clearly, Don had a good idea that was ahead of its time.

Don also advocated for contracts to be free of gobbledygook and written in plain English, and I focus on this issue because it was Don who always spoke in plain English. You would not die wondering what Don had said. He always spoke in a way so that everyone and anyone could understand what was being said.

As mentioned, in 1989 Don was diagnosed with lymphoma, a form of cancer that at that time claimed 80 per cent of its victims and, while fighting this disease, he contested the November 1989 election. He saw no need, as was mentioned, to let others know of his battle. He informed his sub-branch which, under Don's leadership, implemented a very professional and, at that time, very innovative direct mail campaign, as it was impossible for him to undertake the doorknocking that had underpinned his two previous successful campaigns.

Don not only beat his cancer and won that election in 1989 but, importantly, won another 24 years, continuing to live in the electorate with the community he represented so well, and remained through that time a valued member of that community.

This morning, by chance, I had the opportunity to speak with the former local member for Henley Beach, and now current councillor, Bob Randall, and I asked him about Don, bearing in mind that it was Don who defeated him in the 1982 election. Bob said that Don was a good fellow and, importantly, looked after his area very, very well, and that is something that is recognised by all the people who not only voted for Don but who Don represented during his time here.

Don Ferguson was first and foremost a good bloke, a decent human being, who rose from a trade union background to become a member of parliament, and whose unwavering interest during his time as a local member was his area and the people who lived in his electorate. This interest in the local area remained with him to his passing through the many things that he participated in, but I particularly highlight his and Joan's long involvement with the Henley and Grange Historical Society.

Like me, Don never forgot what a privilege it was and is to represent your community in this parliament. Reading his inaugural speech to the parliament, he said what an honour it was to follow in the footsteps of Glen Broomhill, and this is where I have the additional privilege of following in the footsteps of Don Ferguson, an outstanding local member of our area.

To his wife, Joan, to Karen and Kevin, to Mark and Liz, and to his grandchildren, Hannah, Declan, Hamish and Callum, I offer my sincere condolences. He was an outstanding local member. Vale Don Ferguson.

The Hon. S.W. KEY (Ashford) (14:13): I had the privilege of attending Don Ferguson's funeral on Friday and I have to say that it was absolutely packed. There were a number of people there from the trade union movement, in particular, and also from the greater labour movement, as well as former members of parliament, and the ALP. Don's family was very obvious at this funeral. Kevin Hamilton, a former member of this house, spoke very eloquently with regard to Don Ferguson's contribution as a local member, but I was also reminded of my knowing of Don Ferguson which was, interestingly, not so much as a member of parliament but more as a trade union official.

I remember that in my time at Trades Hall, and before that at the Working Women's Centre, Don Ferguson was the sort of union secretary who would make sure that he was inclusive and also that the Printing and Kindred Industries Union (PKIU) was there not just for their male members but also for their female members. I know that very early on at Trades and Labor Council meetings one Betty Fisher was a delegate for the PKIU at what would be very much a male-dominated Trades Hall meeting. She was also a mother of the chapel, as Don was the father of the chapel before he became state secretary for the PKIU in 1980.

In 1980 he assisted the Working Women's Centre by doing very direct things. For example, at one stage we were broken into when we had our very famous office in Gilbert Place, and he came along and changed the locks and organised the security. He was not even on our management committee, but he heard that we had had this terrible break-in, so he came along and made sure that we were all safe and that we were okay.

He did many things over the years, including ensuring that our banner on Labor Day marches ended up getting wheels. He organised wheels for our banner so that we did not have to lug the banner but could actually wheel it along. It was slightly embarrassing because we were the only banner with wheels, but Don made sure that we were supported. He was one of those people at Trades Hall meetings who showed a lot of common sense and really good leadership. I can remember many meetings where we might have 30 different unions represented, but he would come up with a sensible way forward, which is particularly important.

Later on, when he had retired from being a member in this place, he was one of the people who joined me in setting up the Trade Union Choir. I have to say that he not only had a marvellous voice but he was also very keen. He did his homework in between gigs and practices, and he was one of the few people who could sing the *Internationale* in Mandarin beautifully. Most of us struggled, but Don made sure he did his homework so that he could lead us in the singing, and he even impressed our teacher at the time. I might say that we did not sing the *Internationale* in Mandarin very often because it was so difficult, but we did do a very good version of *Cosi Sikelele*, which, as people know, is the ANC standard and national anthem.

He was a great birdwatcher, and it was something that my husband, Kevin Purse, and he would talk about. They would discuss different places where you could look for different native birds and some of the problems associated with some of our birds not being around any more. He was also a great supporter of and had a lot of interest in Aboriginal culture. I remember that when he first got very sick and was identified as having cancer I sent him a card of a native bird. He explained to me that in Aboriginal language that was actually a symbol of death, and he thought I should know this because if I was going to send these sorts of cards to people who were ill they may actually know that this probably was not the right icon to attach to the card.

An honourable member: Was it a willy wagtail?

The Hon. S.W. KEY: It wasn't a willy wagtail, no. I remember that very keenly and thinking that, also being an admirer of native birds, I must make sure that I sent the right one to the right people for the right occasion.

He was a great friend and supporter. In later years, he and Betty Fisher would spend a lot of time talking on the phone, and they would also ring me. Don would quite often ring up and talk to me about the latest things that were happening in the Labor Party. Sometimes he was positive, sometimes he was not, but he continued to be a great supporter. I will very much miss him, as I know Kevin will. My condolences to Joan and the family and friends. I know there were many friends, certainly there on Friday, who celebrated his life—people from this place and also from the trade union movement.

Mr VENNING (Schubert) (14:19): I rise to support the motion of the Premier, in condolence for the death of Don Ferguson, 76, member for Henley Beach. I have many fond memories of Don: his humour, his wit and his voice. He and the Hon. Terry Hemmings were great entertainers. Almost without fail, at 7pm after dinner—we did use to sit late in those days—the Fergie and Terry show would happen in this house. How standing orders allowed that I do not know, but it was sort of irrelevant to the issue before the house. But, sir, it filled the benches, I can assure you, and all of us were victims. We all took our turn to be victims of these terrible two. I remember mine with great fondness—that is where the 'Lion of the Barossa' started from.

Of course, he could sing with a beautiful voice. He was a very affable person with friends on both sides of this house. He made me feel very welcome when I arrived here in 1990. He was very good at his job. Even among those on the other side of the house, he certainly taught me; I observed very carefully how he was able to work his electorate. He worked hard and he served well. I bought a house in his electorate, and he was one of the first people to visit it. I have had other Labor MPs there too, but we will not deliver on that yet. Mr Kevin Hamilton and his wife, Maureen, are mutual friends, and I think Steph said that he was very close to them. I join all members in expressing our sincere condolences to his family and his friends, including Kevin and Maureen.

The SPEAKER (14:21): I served in the 1989 to 1993 parliament with Don Ferguson. He was thoughtful and balanced—as the member for Ashford said, he used a lot of common sense—and was suitably pessimistic about our political chances, especially at that time. He came from the Printing and Kindred Industries Union and from a small group of unions that were marshalled for the Labor machine by Geoff Virgo. That was a doomed but highly disciplined Labor caucus.

Don had won the seat of Henley Beach from Bob Randall (now a councillor on the Charles Sturt council) at the 1982 election, and his victory was essential to John Bannon forming a Labor government after that election. I vividly remember sitting next to him in the refreshment room, agonising over our chances of surviving at the 1993 election, and he said to me, 'Young man, when you are planning your doorknocking, take out the polling booth results from the last election, identify the booth catchment where you have your best two-party preferred result and go and doorknock that area. You can always squeeze more out of it.' Vale Don Ferguson.

Motion carried by members standing in their place in silence.

[Sitting suspended from 14:24 to 14:33]

CITY FRINGE DEVELOPMENT

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition): Presented a petition signed by 459 residents of Dulwich, Rose Park and greater South Australia requesting the house to urge the government to consult with affected residents concerning mixed-use, medium-to-high density multi-storey buildings on Fullarton Road, Greenhill Road and Tudor Street.

PAPERS

The following papers were laid on the table:

By the Speaker—

Local Government Annual Reports—Renmark Paringa Council Annual Report 2011-12
Rules made under the following Acts—
Adelaide Park Lands—Adelaide University Lease

By the Attorney-General (Hon. J.R. Rau)—

Summary Offences Act—Road Block Establishment Authorisations pursuant to Section 74B Quarterly Report 1 October 2012—31 December 2012
Regulations made under the following Act—
Criminal Law Consolidation—Prescribed Occupations

By the Minister for Planning (Hon. J.R. Rau)—

Climate Change and Sustainability—Modelling Framework for Strategic Responses for New and Existing Areas Technical Report August 2008
Greater Adelaide Economy and Employment Background—Report September 2008
Greater Adelaide Transit Corridors Study—Report October 2008
Housing Affordability: Planning Strategy for Greater Adelaide—Technical Report September 2008
Investigations for Mount Barker—Report December 2008
Metropolitan Adelaide Residential Development Criteria Study—Report August 2008
Planning Strategy for Greater Adelaide Activity Centre Review—Technical Report September 2008
Urban Growth Expansion of Greater Adelaide—Report June 2009
Water Security, Urban Development and Population Growth—Technical Report September 2008

By the Minister for Business Services and Consumers (Hon. J.R. Rau)—

Regulations made under the following Act—
Liquor Licensing—Dry Areas—Coober Pedy Area 1

By the Minister for Transport and Infrastructure (Hon. A. Koutsantonis)—

Railways Agreement—Second Amending Agreement between the Commonwealth of Australia and the State of South Australia 28 February 2013

By the Minister for Mineral Resources and Energy (Hon. A. Koutsantonis)—

Regulations made under the following Act—
Petroleum and Geothermal Energy—General

By the Minister for Manufacturing, Innovation and Trade (Hon. T.R. Kenyon)—

Local Council By-Laws—
Port Pirie Regional Council—No. 6—Cats

By the Minister for Tourism (Hon. L.W.K. Bignell)—

Natural Resources Management Board—
Adelaide and Mount Lofty Ranges Annual Report 2011-12
Alinytjara Wilurara Annual Report 2011-12
Eyre Peninsula Annual Report 2011-12
Kangaroo Island Annual Report 2011-12
Northern and Yorke Annual Report 2011-12
SA Murray-Darling Basin Annual Report 2011-12
South Australian Arid Lands Annual Report 2011-12
South East Annual Report 2011-12
Natural Resources Management Council—Annual Report 2011-12

By the Minister Assisting the Minister for the Arts (Hon. C.C. Fox)—

Art Gallery of South Australia—Annual Report 2011-12
South Australian Film Corporation—Annual Report 2011-12

ANSWERS TO QUESTIONS

The SPEAKER: I direct that the following written answers to questions be distributed and printed in *Hansard*.

INDIGENOUS PROGRAMS, GRANTS AND FUNDING

419 Dr McFETRIDGE (Morphett) (18 September 2012). What Indigenous programs, grants and funding were provided by each Department or Agency under the minister's portfolio for 2011 and in each case, were these funds recurrent, current, operational or capital expenditure?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development, Minister for Multicultural Affairs): I have been advised of the following:

In the 2010-11 financial year the then Department for Education and Children's Services provided over $86 million in funding for Aboriginal programs, grants, and associated operational costs.

Of the $86 million, $12.8 million was dedicated to capital expenditure, nearly $73.4 million was recurrent funding which included over $20 million in targeted grants to schools, and $590,000 was dedicated to operational expenditure.

Aboriginal program expenditure 2010-11	
Capital expenditure: $12,800,000	
BER: Aboriginal specific schools	$9,200,000
Aboriginal Children and Family Centres	$3,600,000
Recurrent expenditure: $73,353,434	
Centrally coordinated research and development, and program management	$1,382,854
NP Communities Making a Difference (AKA Low SES)—Aboriginal Turn Around Team	$601,000
Wiltja Hostel	$2,146,643
SA Aboriginal Sports Training Academy	$721,000
Targeted funding provided directly to schools	$63,572,962
Regional based inclusion resources	$4,928,975
Operational expenditure: $590,077	
Pitjantjatjara Yankunytjatjara Education Committee (PYEC)	$590,077

REFUGEE SERVICES

431 Mr GARDNER (Morialta) (18 September 2012). With respect to 2012-13 Budget Paper 4, Volume 1, pg 227, 'Refugee Service Recoveries'—

What is the detailed breakdown of the $600,000 income revenue?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development, Minister for Multicultural Affairs): I have been advised of the following:

The $600,000 revenue relates to cost recoveries from the Commonwealth for services provided by Families SA for children and young people under the care of the Federal Minister for Immigration.

GOODS AND SERVICES SALES

439 Mr GARDNER (Morialta) (6 November 2012). With respect to 2012-13 Budget Paper 4, vol. 1, p. 222—Program 3: Care and Protection—

(a) what are the details on the sale of goods and services received under this program for 201-13; and

(b) why was there a reduction in the sale of goods and services from $2.6 million in 2010-11 to the estimated result of $521,000 in 2011-12?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development, Minister for Multicultural Affairs): I have been advised of the following:

(a) Income reflected as 'Sales of Goods and Services' primarily relates to recoveries from agencies for services funded by Families SA but not provided;

(b) Actual 2010-11 Sales of Goods and Services reflected one-off grants recoveries of $2.1 million from non-government agencies for services not delivered during that financial year. This level of grant recoveries was not expected to reoccur in 2011-12.

PUBLIC SECTOR EMPLOYEES

In reply to **Mrs REDMOND (Heysen)** (20 June 2012) (Estimates Committee A).

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts): I have been advised of the following:

The tables which hold the information relevant to the above question have been published and can be found at http://www.oper.sa.gov.au/page-57.

HIGH COURT DECISION, WORKING PARTY

In reply to the **Hon. I.F. EVANS (Davenport)** (21 June 2012) (Estimates Committee A).

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts): I have been advised of the following:

A working party has been established with representatives from the Department for Education and Child Development, the Crown Solicitor's Office and the Department of Treasury and Finance.

PUBLIC SECTOR LEAVE ENTITLEMENTS

In reply to the **Hon. I.F. EVANS (Davenport)** (21 June 2012) (Estimates Committee A).

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts): I have been advised of the following:

In accordance with the *Public Sector Act 2009*, the Commissioner for Public Sector Employment has issued a determination in relation to the application of attraction/retention allowances. Chief Executives may exercise their discretion and typically utilise such allowances to attract and/or retain individual employees:

- in skill shortage/specialist areas including information and communication technology, forensic pathology, finance, medical, engineering and mining;
- in country and remote locations; and
- when it is necessary to match the market rate for equivalent private sector roles.

The *Public Sector Skills and Experience Retention Entitlement* proposed in the 2012-13 Budget papers is distinct from the attraction/retention allowance and it is not an individual based allowance. Rather, this measure is aimed at providing an additional incentive for experienced employees to remain in the public sector.

The productivity benefits of such a measure would be difficult to measure precisely. However, within the context of the budgetary pressures outlined within the 2012-13 Budget and a tightening labour market, the loss of these employees would result in the loss of experience, corporate knowledge and potentially hinder the transfer of skills within the public sector.

Therefore the new leave retention entitlement seeks to maintain this knowledge and experience.

ADELAIDE RAILWAY STATION

In reply to **Ms CHAPMAN (Bragg—Deputy Leader of the Opposition)** (16 October 2012).

The Hon. C.C. FOX (Bright—Minister for Transport Services, Minister Assisting the Minister for the Arts): I am advised:

The Adelaide Railway Station was closed during the quietest time of the year, between January 2 and February 3, 2013, for coordinated and accelerated major rail and project works. This included track upgrade and electrification works within the Adelaide Rail Yard.

During this time, the Outer Harbor and Grange line trains terminated at Woodville, with passengers then alighting and then boarding a bus substitute service from Woodville Station through to Adelaide.

Passengers who would normally catch a train at stations between Woodville and the Adelaide Railway Station boarded a bus substitute service or alternatively they could choose to use the regular Adelaide Metro bus services or a tram service.

Tailored substitute bus services matched as closely as possible, the train timetables they replaced. Services were designed to ensure all stations along the rail line were serviced where possible, with a mixture of express, limited stop and all stopping services.

Temporary timetables were released mid-November 2012, and passengers were encouraged to contact the Adelaide Metro InfoLine on 1300 311 108 for assistance in planning individual journeys if required.

As well as bus substitute services, a number of regular Adelaide Metro bus services were available from Stop 21, Port Road, Woodville, which is 550 metres from Woodville Station. These routes, including the 150, 155 and 157, are Go Zones and offer commuters a service every 15 minutes between 7.30am and 6.30pm Monday to Friday and every 30 minutes at night, on weekends and public holidays until 10.00pm.

The train journey from Grange to the City is approximately 22 minutes, with Grange to Woodville being approximately 8 minutes and Woodville to the City approximately 14 minutes. The bus journey from Woodville to the City takes approximately 24 minutes.

During the month-long closure of the Adelaide Railway Station, travelling on trains or substitute buses covering trains was free of charge. This was in recognition and appreciation of the way commuters have cooperated with upgrade disruptions.

SOUTH AUSTRALIAN MUSEUM BOARD

In reply to **Mrs REDMOND (Heysen)** (31 October 2012).

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts): I have been advised of the following:

1. Shares held and traded by the South Australian Museum Board have been acquired by Board administered funds (i.e. non-government appropriated funds). In September 2012, in response to the Auditor-General's findings, the South Australian Museum Board wrote to the Treasurer seeking approval to continue to acquire, hold and/or deal with shares.

The business of share trading by the South Australian Museum Board is carried out in accordance with the South Australian Museum Board Investment Policy and is overseen by the Board appointed investment manager JBWere. As at 30 June 2012, the South Australian Museum Board held shares in a diverse investment portfolio including blue chip mining and banking shares.

The portfolio holdings of the South Australian Museum Board at 30 June 2012 total $1,204,373.

The investment returns of share holdings and trading by the South Australian Museum Board has significantly outperformed the South Australian Financing Authority Cash Management Fund investment product for the 2011-12 financial year.

PUBLIC SERVICE CODE OF ETHICS

In reply to the **Hon. I.F. EVANS (Davenport)** (13 November 2012).

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts): I have been advised of the following:

The enclosed letter was sent out by the Commissioner for Public Sector Employment on 25 January 2012 to all Chief Executives reinforcing the importance of the Code of Ethics for all South Australian government employees. [Letter Provided to Member]

Also attached is a guideline issued in December 2010 to assist employees and agencies of the Public Sector to determine behaviour, primarily in relation to the receipt of gifts and benefits in the course of employment activities but also in relation to the giving of gifts by public sector employees to others. [Attachment Provided to Member]

ECONOMIC STATEMENT

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:35): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.W. WEATHERILL: Last Friday, I had the pleasure of releasing the government's economic statement. This statement is a comprehensive examination of the state's economy, beginning with our past economic development, the current economic context in which we find ourselves and identifying the economic opportunities of the future. We have endured challenging economic times. The global financial crisis has suppressed economic growth around the world and governments have responded in various ways to meet these challenges.

The timing of the government's economic statement could not be more important. The global financial crisis has exacerbated what has been a significant structural shift in global economic output over the past 20 years. Europe and North America are seeing their proportion of global economic output diminish against the high growth economies of China, India and the ASEAN nations.

Informed by independent economic modelling, the statement is a candid assessment of our state's economic prospects. It describes the scenarios that the changing global economy could present, from a scenario characterised by high demand for our resources through to a risky world of multiple economic shocks. Under all scenarios, our state's economy is predicted to grow, but how much we grow depends on what we do now.

In the economic statement, I have set out the four areas the state government will focus on to make the most difference. The first is advanced manufacturing: developing more innovative and productive manufactured goods so that our manufacturers are competing on value rather than unit cost. The second is extending our efforts to grow the mining sector with a focus on mining services, to ensure the broader economy captures the value of increased mining activities. The third is to take advantage of growing global concerns about food security and food integrity and promote our premium food and wine products to the global market and their production from our clean environment. Last, the creation of a vibrant city that attracts and retains skilled workers, that projects the values of our state to the world, and that provides exciting lifestyle and career opportunities for our young people.

But achieving these opportunities for growth will be challenging. There are things that we must change to do better. South Australia must become more outward-looking—to be open to the economic opportunities afforded by export markets and to embrace the change and technologies that will help us become more productive. We must also build on our culture of creativity and innovation, those essential elements which allow businesses to become more productive. Increasing productivity will allow business to produce goods and services from their input costs, and also to add greater value to these goods and services. As an economy, we also need to be competing on value, rather than unit cost, where lower cost countries, especially in our region, are proving tough to compete with.

Finally, we need to reassert the role of partnerships between strong government and a strong business sector, backed by a strong community. In South Australia, we have a strong history of identifying and driving opportunities for economic development. It includes Sir Thomas Playford's success in creating a successful manufacturing sector in concert with the creation of the South Australian Housing Trust for its workers. It includes Don Dunstan's success in developing our creative industries through the arts, and it includes this government's success in securing the Air Warfare Destroyer contract for our defence manufacturing sector and driving the growth of our mining sector.

I believe that in South Australia there will always be a role for government in driving economic development, and that role is to do so in partnership with business and the community. This is something this government strongly believes in and has a track record of delivering—that is the South Australia I have backed in this economic statement.

VISITORS

The SPEAKER: I would like to welcome to the parliament representatives of the Novosibirsk region of the Russian Federation—Mr Vasily Yurchenko, Governor of Novosibirsk; Kirill Kolonchin, Deputy Chairman of the Novosibirsk Regional Government; Mr Georgy Ivaschenko,

Minister of Agriculture of Novosibirsk; and Mr Andrey Roketskiy, General Director of the Investment Promotion Agency of Novosibirsk.

I would also like to welcome students from Burc College, who are guests of the member for Little Para. Salaam alaikum.

WIND FARMS

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:40): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.W. WEATHERILL: Wind energy is one of our most cost-effective forms of renewable energy and plays an important role in reducing greenhouse gas emissions. Every megawatt hour of wind energy cuts about one tonne of greenhouse gas emissions. Apart from the environmental benefits, wind farms also bring in vital investment to our state. According to the Clean Energy Council, South Australia has attracted almost $3 billion in capital investment, which has translated to 842 direct jobs and 2,526 total jobs.

This investment creates economic activity and jobs in rural and regional areas and the development of South Australia's skills and expertise. In addition to the direct employment generated by the construction and operation of a wind farm, there are flow-on effects to the wider community. Local retail and services benefit from the increased economic activity near wind farms, and it is estimated that an additional two indirect jobs are created for every direct construction and maintenance job.

It is important that policy on wind farms strikes the right balance between listening to the community's concerns and supporting this important industry. This government has created an investment-friendly environment for wind farm development through an efficient and transparent planning regime, but over the last two weeks I have been approached by a number of industry stakeholders who are genuinely concerned about the impact non-evidence based policy proposals are having on the investment environment for renewable energy projects in South Australia.

Just last week, we saw the Australian Industry Group, the Australian Petroleum Production and Exploration Association, the Clean Energy Council and the Energy Supply Association of Australia come together saying that kneejerk policies are undermining the development of energy projects, including renewable energy projects, putting at risk jobs and economic growth.

The government remains committed to providing ample opportunity for investment in wind energy in South Australia, while listening to community concerns. Renewable energy, like all electricity infrastructure, is a long-term investment which requires stable policy. By changing the goalposts, we risk losing billions of dollars of investment in South Australia, along with the thousands of jobs that go with it. Imposing a moratorium on wind farm development would put substantial investment at great risk. South Australia cannot afford poorly thought-out policy proposals that put at risk the health of the environment, as well as the health of our economy.

For this reason I intend to suspend standing orders tomorrow at 11am to allow the debate on the value of the wind industry to the state and associated issues. Bipartisan support for the motion, I will move, will give certainty needed by wind energy industry investors and reinforce South Australia as a leading investment destination for renewable energy projects.

Members interjecting:

The SPEAKER: Arising from that ministerial statement, I call the Minister for Transport to order, also the leader, deputy leader and the member for Morialta. Deputy Premier.

MOUNT BARKER DEVELOPMENT

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (14:46): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.R. RAU: On Tuesday 5 March the Ombudsman released a report of his Investigation into the Procurement of Growth Investigation Areas (GIA) study. This GIA study was initiated following the 2008 State Planning and Development Review to assist the development of

the 30-Year Plan for Greater Adelaide. The Ombudsman has made a number of findings which reflect adversely on the procurement process by which the GIA study was commissioned and managed. This is clearly a matter of concern to me.

It is of great importance that public faith in the planning process is strengthened by the government's response to the Ombudsman's report. The selection of Mount Barker as a growth area was evidence-based and was not criticised by the Ombudsman. I note the Ombudsman's findings that conflicts of interest in relation to the Mount Barker investigation were not properly managed. It is incumbent on me as minister to address this. Today I advise the following:

1. I have directed my department to ensure that the internal procurement processes of the department are thoroughly reviewed in light of the Ombudsman's finding.

2. The planning department has significantly increased its capacity to deliver in-depth technical advice since 2008. This has significantly reduced the need to engage consultants and hence the risk of future conflict of interest issues of the nature identified by the Ombudsman.

3. I also note that planning is now part of the broader Department of Planning, Transport and Infrastructure and operates under that department's procurement process.

4. I recently announced the appointment of an independent expert panel on planning reform, led by Mr Brian Hayes QC, to undertake a review of the Development Act, which will be 20 years old this year. Issues arising from the Ombudsman's report are within the remit of the panel's terms of reference. I have written to the panel to draw these matters to their attention.

5. I also note that the 30-year plan as a volume of the planning strategy is by law due for review by no later than February 2015.

This process will overlap with the work of the expert panel on planning reform which will report by the end of 2014. Given the overlap between the statutory time frame for the reviewing of the 30-year plan and the work of the expert panel, I will be seeking advice from the panel on the appropriate process for undertaking the statutory review of the 30-year plan.

The notion that the Ombudsman's findings should compel us now to abandon the 30-year plan or past rezonings is absurd. The plan remains, as it always has been, a policy strategy subject to ongoing monitoring and refinement. It is important in any debate to distinguish between areas in which the rezoning process has already been completed and undisturbed areas identified for possible future growth in the GIA. In the areas already rezoned, legal processes have existed to review or overturn any rezoning decision. This has not occurred in this case.

The Ombudsman's report concerns the procurement process. The choice of Mount Barker for rezoning is not questioned. As for the land identified for potential growth over the next 30 years, I want to make it perfectly clear that the government will proceed with extreme care to ensure the absence of conflicts of interest. We will also ensure that all requirements will be met to enable rezoning work to work smoothly, particularly infrastructure requirements. It is important to note paragraph 141 of the Ombudsman's report, which states:

> I accept that Planning SA staff acted in good faith; that there was no intent to undermine the procurement process in seeking the capability statements; and that there was no intent to deceive the APU [being the Accredited Purchasing Unit].

I have reflected upon the report and have had the benefit of discussing it personally with the Ombudsman. This has reinforced to me that the issue at hand arises substantially in the context of the then PIRSA procurement process. I have discussed this matter with my colleague, minister O'Brien. We believe that the matters need to be brought to the attention of the procurement board. As such, the minister has asked the board to review their arrangements, particularly with the Department of Planning, Transport and Infrastructure and Renewal SA.

The Ombudsman has indicated to me that he has written to the Office of Public Integrity Establishment Team and provided a copy of his report, with a view to their consideration of what might be done about his expressed concerns regarding apparent maladministration. That having been done, there is no need for me to repeat the exercise. In other words, the matter is already in the hands of the OPI.

I also note, at paragraph 159, that the Ombudsman states:

> Despite my views above, I comment that I found no evidence to suggest any substantive unfairness to any of the potential consultants or any capricious decision-making by Planning SA, as a result of Planning SA not communicating the evaluation criteria in the letter requesting capability statements, or the weightings.

Finally, having considered his report, I agree with the Ombudsman that the GIA report should be released. Accordingly, today I table the GIA report and all the technical working papers that were inputs into the development of the 30-year plan and the Mount Barker rezoning. These reports will confirm what the government has always maintained: that these were technical, analytical inputs into the 30-year plan and were not determinative of policy. Policy is determined by the government.

Mr Speaker, the steps I have outlined show the government's determination to address the issues the Ombudsman has identified in his report.

PARLIAMENTARY COMMITTEE ON OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION

The Hon. S.W. KEY (Ashford) (14:55): I bring up the 15th report of the committee, entitled 'Briefing report into South Australia's ageing workforce: implications for work health and safety, rehabilitation and compensation'.

Report received and ordered to be published.

QUESTION TIME

STATE ECONOMY

Mr MARSHALL (Norwood—Leader of the Opposition) (14:57): My question is to the Treasurer. Is the Treasurer confident that state final demand can grow at the required 5.1 per cent in the second half of 2012-13 to achieve this year's overall state final demand growth estimate as outlined in the Mid-Year Budget Review in December?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:57): I thank the honourable member for his question. This is clearly an attempt to cover up for the mistake he made in the debate on Friday, where he confused state final demand and gross state product. Let's not return to unhappy moments.

What we are confident about is that we will continue to grow, and that was the burden of the economic statement that I published on Friday. What we did was look at our past and analyse where we are at the moment. Under any scenario, even the most pessimistic scenario, South Australia continues to grow.

One thing we have heard from those opposite is that, even in the face of comprehensive evidence to the contrary, they want to maintain their pessimistic view about South Australia's future because it suits their interests. But the problem is the momentum of this community is working against them, because the momentum is for a—

Mr PENGILLY: Point of order, sir.

The SPEAKER: I presume the point of order will be that the Premier is not responsible for the opposition's momentum or lack thereof.

Mr PENGILLY: Along those lines, sir. He is debating the matter.

The SPEAKER: Premier.

The Hon. J.W. WEATHERILL: I wasn't actually reflecting on their momentum—or, inertia, I might say. It was rather the momentum that is building within the South Australian community, which is being reflected in the positive sentiment which is showing up in our economic indicators. We are seeing positive business sentiment; we are seeing positive consumer confidence. We are seeing it reflected in things like extraordinary box office sales in our festival events during this last month—something we did not see, except in periods prior to the global financial crisis, when we had our last very substantial surge.

So, we are confident that the real metric—the thing that we generally measure economic growth by, which is state final product—will grow strongly this year. I must say I cannot find a particular economic house or financial institution which is projecting anything other than growth for the South Australian economy during the course of this year. It is only the Liberal Party that is projecting the South Australian economy to contract. I must say—

Mr PENGILLY: Point of order: standing order 98.

The SPEAKER: Yes; the Premier is not responsible to the house for the Liberal Party's predictions, so I ask the Premier to, perhaps, segue back towards the substance of the question, which was 5.1 per cent growth, I think.

The Hon. J.W. WEATHERILL: Can I say that there would be a sure and certain way that the result that those opposite forecast is achieved, and that is if we were to adopt their economic policies; the policies of contraction which are being rejected all around the world.

Mr PISONI: Point of order: debate.

The SPEAKER: I think I anticipate the member for Unley. Is the Premier finished? The Premier has finished his answer. The member for Port Adelaide.

MURRAY-DARLING BASIN PLAN

Dr CLOSE (Port Adelaide) (15:00): My question is to the Premier. Can the Premier inform the house about the status of the basin plan?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (15:01): I thank the honourable member for her question. Of course, the basin plan, as I am presently informed, has not had a motion for disallowance moved in respect of it, in either house of the federal parliament, and so that means that by the close of sitting this evening the Murray-Darling Basin Plan will come into operation as a matter of law. This is a very substantial day in the history of the life of the nation and, in particular, for South Australia.

I want to pay tribute, in particular, to all of those who brought us to this day. I want to start by singling out the member for Colton, former minister for water resources and environment, who played an extraordinary role in this regard. I also want to acknowledge all of those around this state, and all of those in the South Australian community who stood up, together with the government and decided to make our voice heard around the nation: irrigators and environmentalists standing together, and country and city standing together, seeking to promote the importance of restoring 3,200 gigalitres of water to this river.

The federal government committed to and passed legislation that established a $1.77 billion fund to recover an additional 450 gigalitres of environmental water for the basin and to address constraints that impede water delivery. Added to that is an extra couple of hundred million dollars for industry adjustment here in South Australia, so over $2 billion of resources have been made available to secure the health of the river and ensure that the benefits are shared in South Australia but that the burdens are not unfairly falling on South Australia. That is the measure of the success of this campaign, if you want to reduce it to dollar terms.

Members interjecting:

The Hon. J.W. WEATHERILL: Well, those opposite scoff, and I know they scoff because they were lead in our saddlebags, frankly, but they do scoff.

The Hon. P.F. Conlon: They wanted to accept something less.

The Hon. J.W. WEATHERILL: Exactly. They wanted to settle for 2,750. That was the—

The Hon. P.F. Conlon interjecting:

The SPEAKER: The member for Elder is warned for the first time.

The Hon. J.W. WEATHERILL: We were asked to drive the Mazda and we rejected that in favour of a first class Statesman. Can I say that the extra water will have environmental benefits including keeping the Murray Mouth open, flushing salt from the system, and providing the environmental flows to our precious River Murray wetlands and flood lands. We will also ensure this benefits river communities and industries who rely so heavily on this river. Critically, the plan is backed by investment to strengthen regional industries and communities.

I went to the Riverland, I took seriously their concerns about the future viability of their industries, and we have extracted very substantial industry adjustment funds for our state. Communities will have the opportunity to access the Australian government's $100 million basin-wide plan funding, with $25 million being earmarked for South Australia, in addition to our own $20 million Riverland Sustainable Futures Fund. Benefits will extend to recreation, tourism, commercial fishing, as well as a range of cultural and social pursuits.

The basin will continue to have a premium food and wine industry using the most advanced and efficient irrigation techniques in the world. I want to acknowledge something about South Australia in this regard, and it is this: we have always realised that we live at the end of this river. We have understood that we have to assert ourselves to ensure that South Australia's interests are protected—

Members interjecting:

The Hon. J.W. WEATHERILL: —and that is why we have achieved this. We have achieved this through an extraordinary struggle on behalf of all South Australians together.

The SPEAKER: The Premier's time has expired. And arising from that answer, I call to order, and warn for the first time, the members for Chaffey, Heysen and Hammond.

Mr Pederick: Thank you, policeman.

The SPEAKER: Thank you for your expression of appreciation, member for Hammond. The Leader.

STATE BUDGET

Mr MARSHALL (Norwood—Leader of the Opposition) (15:05): My question is to the Treasurer. Why should the public believe Labor's promise to return to surplus at the end of the forward estimates when Labor has forecast a surplus at the end of the forward estimates in eight out of eight years, but has only delivered a surplus in one out of those eight years?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (15:05): I thank the honourable member for his question, and the simple answer is he can look at our record.

Members interjecting:

The Hon. J.W. WEATHERILL: The record is this—

Mr Marshall interjecting:

The SPEAKER: The leader is warned for the first time.

The Hon. J.W. WEATHERILL: The record is this: we delivered surpluses in every year from 2002-03 to 2007-08, and then again in 2009-10. And during that period we paid down general government debt in 2007-08, so that there was no general government sector debt by 2008. In fact, we accrued net financial assets. We also over that period cut taxes and we gave significant relief in relation to payroll and land tax, and we embarked on an extraordinary program of infrastructure investment. We had seen that run down very considerably under the previous government and so we have invested in significant infrastructure.

We have also improved services in health, policing, education and child protection. But when the global financial crisis hit in 2008 it had a massive effect on our revenues. There was about a $3 billion cut to our revenues over the forward estimates from 2011-12, and we have had to grapple with that. We made two fundamental decisions in response to that. We have maintained our investments, at some risk to our rating, but we have maintained that investment because it was the right thing to do at the time, and this is becoming accepted across the world.

The austerity measures that those opposite would advance are discredited. We also embarked upon, at the same time, a series of savings initiatives to bring the budget back into surplus. Those savings have been designed to maintain front-line service delivery and to limit the impact on the community as far as possible, and to date we have achieved nearly all of our savings targets.

An honourable member interjecting:

The Hon. J.W. WEATHERILL: Well, you can laugh, but—

Mr Marshall: That's just not true. What about the Mid-Year Budget Review?

The Hon. J.W. WEATHERILL: Well, the Mid-Year Budget Review grappled with this question.

Members interjecting:

The Hon. J.W. WEATHERILL: If perhaps rather than interrupting you would like to hear the facts: we actually budgeted for a 3,206 reduction in full-time equivalents. We actually achieved 3,154, so very close to our target, and to the extent that we had to reverse certain savings we put in other savings to make up the difference. So, we have undertaken a prudent set of financial measures. We have accepted our responsibilities about trying to trim where we need to, to make sure that we can retain our financial credibility within the parameters we set for ourselves, but we are also not prepared to put a massive contraction into the South Australian economy, in a way which is rejected by almost every serious commentator in the international marketplace.

We are now seeing that the policies that were advanced by the UK Treasurer are being walked away from. There is a widely held belief that the austerity measures in the United Kingdom have confined that country to a much slower recovery than would otherwise be the case, and there is widespread condemnation of austerity measures across Europe. We are not even in the same situation as those countries that would demand the austerity measures that those opposite are calling for. It is nonsense politics walking away from the economy at the very time it needs to be supported. You simply sit there in international opinion out on your lonesome if you are promoting these policies of austerity, when we are trying to sensibly manage our economy.

Mr PISONI: Point of order: the Premier is debating the answer.

The SPEAKER: Yes, he probably is. I think the Premier is finished. The member for Mount Gambier.

MOUNT GAMBIER HOSPITAL

Mr PEGLER (Mount Gambier) (15:09): My question is to the Minister for Health and Ageing. Can the minister update the house on his recent trip to the South-East and, in particular, on the plans to redevelop the Mount Gambier hospital?

The Hon. J.J. SNELLING (Playford—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for Defence Industries, Minister for Veterans' Affairs) (15:10): Last week, I had the honour to open stage 1 of the N.F. McDonnell & Sons $12 million sawmill redevelopment. They hope to increase annual log output, from 33,000 cubic metres in 2010 to 150,000 cubic metres by 2015, and increase employment, from 41 to 96.

Members interjecting:

The Hon. J.J. SNELLING: I hear the member for Finniss calling out, 'So what?' Well, I actually think it is very important to the people of the South-East that the forestry industry in the South-East is thriving.

Mr PENGILLY: Point of order.

The SPEAKER: Minister for Health, be seated.

Mr PENGILLY: Just for the record, I said no such thing.

The SPEAKER: It would be better to seek leave to make a personal explanation and perhaps that at the end of question time. Minister for Health.

The Hon. J.J. SNELLING: If I misheard the member for Finniss, I apologise to him, but perhaps he shouldn't interject during the answers.

The SPEAKER: That would be asking a lot.

The Hon. J.J. SNELLING: That may be asking too much, sir. A great family business for nearly 70 years, N.F. McDonnell & Sons has not only survived but prospered. During my trip to the South-East, I also travelled to Mount Gambier and Millicent to meet with doctors, nurses and hospital staff. I am pleased to update the house that construction on the $26.7 million redevelopment of the Mount Gambier hospital is set to begin next month. It was the second time in two months that I've been to the beautiful South-East and, once again, saw first-hand the benefits of Labor's investment in country hospitals in this important region.

The redevelopment of the Mount Gambier hospital—the state's largest country hospital—will provide increased acute-care capacity, including expanded mental health, palliative care, rehabilitation and general medical services. The emergency department will be expanded by 12 additional spaces to accommodate more people and improve patient flow. Improvements will include more consulting rooms and an expansion of dental services. The redevelopment will also

bring benefits to the local community, not only by improving health services but also to the local economy, with more than 100 workers expected to work on the redevelopment during construction.

It's a fantastic project and one of many Labor investments in country health that I look forward to seeing as I visit our state's towns and regions. I would also like to thank the hospital staff, doctors and nurses of the Mount Gambier and Millicent hospitals for their hard work and their dedication. I always appreciate the opportunity to hear from our front-line hospital staff about their important work in our state's hospitals.

STATE BUDGET

Mr MARSHALL (Norwood—Leader of the Opposition) (15:12): My question is to the Treasurer. Can the Treasurer confirm that he is still committed to the fiscal targets contained in last year's budget, and can he update the house on progress towards those targets?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (15:13): The Mid-Year Budget Review updated the targets that are contained in the last financial statement. So, we have had the budget. It's been updated by the Mid-Year Budget Review, where there have been additional revisions to the targets that have been mentioned.

If you look across the forward estimates, in 2015-16, which is the projected surplus that we had in the budget, there is still a projected surplus. It was $512 million in the budget and it's $468 million in the Mid-Year Budget Review, so we do remain committed to the fiscal targets that we set for ourselves.

I have given the house some information about how we're going in relation to the savings task which underpins the fiscal targets and the financial targets that we've set ourselves. They're progressing well and, of course, in the budget more will be revealed about where we are in relation to our revenue projections and the budget measures and the effect that that will have on the overall aggregates.

STATE BUDGET

Mr MARSHALL (Norwood—Leader of the Opposition) (15:14): Supplementary, Mr Speaker.

The SPEAKER: Yes.

Mr MARSHALL: Given that the Premier and Treasurer has made it clear that he is going to stand by the fiscal targets contained in the May budget last year, how is the Treasurer going to reduce general government debt by approximately $1 billion to ensure that the net debt to revenue ratio is below the 50 per cent mark set in those fiscal targets?

The SPEAKER: That is not a supplementary. The Treasurer.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (15:15): If that is the question that he is referring to, the 50 per cent debt to revenue ratio target, we already published in the Mid-Year Budget Review that in the final year of the forward estimates that would be exceeded for a period and then the year beyond the forward estimates we would return within that target range of below 50 per cent. So, it is certainly our intention to maintain that objective. Once again, we will address this question in the budget and you will see how we have treated those matters.

ECONOMIC STATEMENT

Mr HAMILTON-SMITH (Waite) (15:15): My question is to the Premier. Did he, as Premier and Treasurer, consult fully with the members of the Economic Development Board before finalising the economic statement released last Friday and, if so, with whom and when?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (15:15): I thank the honourable member for his question. Can I say I was very grateful to receive the assistance from the chair of the Economic Development Board, Mr Raymond Spencer, who organised a series of round table meetings for me to speak to a very large cross-section of the senior business leaders in South Australia. That process was incredibly valuable in assisting me in compiling the economic statement for South Australia. Their input finds its reflection in the decisions that we made in coming to a landing on the economic statement.

I should also say that I was very grateful to be assisted by Mr Michael Keating AC, who undertook the modelling which we relied upon to reach the conclusion that South Australia's economic growth will occur under any scenario, even the most pessimistic scenarios for the future of our state. So, we have two very significant representatives on the board of the EDB. Indeed, EDB members participated in a number of these round tables that occurred across South Australia, and I was very grateful for their input into that process.

Can I make it very clear that this is a government economic statement. This is our expression of where we believe the economy is at this point in history and where it needs to be in the future. We make no bones about the fact that this is not an Economic Development Board document. It is a document of the South Australian government and it is a document of which I am very proud as it sets out a vision for the future of this state, and I think a very strong vision for a robust, diverse and successful economy.

ECONOMIC STATEMENT

Mr HAMILTON-SMITH (Waite) (15:18): Supplementary. Given the Premier's answer to the question, can he clarify whether he showed a copy of the draft or the document to the EDB before making it public?

The SPEAKER: That is a supplementary. The Premier.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (15:18): I did not send a final draft to any bodies outside of government. This is a document which was seen by cabinet and finalised by the government. It is not a proper document to be sent to any outside agency, although I must say elements of the document have been seen (appropriately) by relevant agencies that could assist us with elements of it. Can I say that this has been a document that has been produced over the last three months or so.

On 15 October, I announced to a CEDA conference that it was my intention to prepare this document. I invited a very wide range of input. I certainly sought input for that from the Economic Development Board and I was very grateful for the input they provided, but it is not their document. I did not seek their endorsement, nor did I provide them with a copy of the document seeking their endorsement.

SCHOOL MAINTENANCE

The Hon. S.W. KEY (Ashford) (15:19): My question is directed to the Minister for Education and Child Development. Can the minister please provide the details and an update on how government schools are receiving more money for maintenance?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development, Minister for Multicultural Affairs) (15:19): I thank the member for Ashford for her question. Last year, the state government announced $32 million in two stages for its maintenance funding for schools and preschools program. We are currently in the process of delivering $16 million as part of the first round. This has so far benefited 261 schools and 164 preschools. I think it is worth noting that Plympton Primary School in the member for Ashford's electorate has received $20,582 for new carpets and interior and exterior painting from this program.

As was announced by the Premier, the government has agreed to bring forward the second stage of this program to give a much needed boost to our building and construction industry. This ensures we are able to provide jobs to local people in the industry who may otherwise not be involved in some of the large scale projects currently underway in South Australia. Currently, the Department for Education and Child Development has around $336 million worth of active infrastructure projects, which I am told are generating something like 2,000 jobs. Bringing the second round forward means that $16 million allocated—

The SPEAKER: Point of order from the member for Davenport.

The Hon. I.F. EVANS: With due respect to the minister, she is not answering the substance of the question. The question was about more money for school maintenance. What the minister is addressing is bringing forward already announced money—the same amount of money brought forward. It's not more money. We want to hear about if there's money than is already announced.

The SPEAKER: No, member for Davenport, I call you to order. That is a transparently bogus point of order.

The Hon. I.F. Evans: There's not one extra dollar she's talking about.

The SPEAKER: In your opinion. In fact, I wrote down the question: 'How are schools receiving more money for maintenance?'

Members interjecting:

The Hon. J.M. RANKINE: They are. They wouldn't get it under you.

The SPEAKER: The Minister for Education.

The Hon. J.M. RANKINE: Thank you, sir. Bringing the second round forward means that $16 million allocated for late 2013 and early 2014 will now be available from the middle of this year. Schools and preschools are using the extra funding to make a number of improvements. Some examples of this include $2.6 million being spent at 294 sites for school painting, $1.47 million at 177 sites to upgrade carpets and floor coverings and $1.7 million being spent at 179 sites for general building repairs.

To ensure funding is delivered as quickly as possible, approvals are made on an ongoing basis, with applications for the first round set to conclude on 2 April. Schools have been receiving regular memos and updates encouraging them to take advantage of this extra funding. In addition to round 1 applications, schools and preschools are able to apply for round 2 funding up until 30 June this year. The maintenance funding for schools and preschools program comes in addition to the normal school breakdown maintenance funding. This currently allocates around $18.3 million to schools and preschools each year.

In recent years, the government has worked to cut out the red tape by removing processes, so schools now have an annual breakdown allocation put directly in their bank accounts. This ensures less money is spent on administration, meaning more funds to go where they are needed most. Schools are now given an allocation based on key factors such as enrolment and distance away from Adelaide to fund the maintenance of essential infrastructure that breaks down, such as air conditioning or plumbing. These projects build on the commonwealth's excellent Building the Education Revolution program that injected $944 million into our public schools and preschools.

The SPEAKER: The member for—

Mr PISONI: I draw you to the sessional orders.

The SPEAKER: Well, which one in particular?

Mr PISONI: Time, sir.

The SPEAKER: No, the minister has three quarters of a minute on the clock, and that is not adding on time for interruptions.

The Hon. J.M. RANKINE: This is another example of the state government working in partnership with business and the community to upgrade school facilities for all children and to keep South Australians in jobs.

ECONOMIC STATEMENT

Mr HAMILTON-SMITH (Waite) (15:24): My question is to the Premier and Treasurer. How does the government plan to fund the clusters of co-located firms and competitors mentioned on page 72 of the economic statement? In particular, are we to see Persian 'bazaars and open-air souqs'—quoted on that page of the statement—as a 'classic example' of the model we should be aspiring to?

The SPEAKER: Best not to end a sentence with a preposition, member for Waite.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (15:24): I thank the honourable member for his question and I am flattered that he has actually taken the time to read the economic statement.

Members interjecting:

The SPEAKER: I call the member for Unley to order.

The Hon. J.W. WEATHERILL: I am a little surprised that the member for Waite is so quick to actually disparage some of the good work that was done by the former Liberal government in this regard. Bio Innovation SA is an example of a cluster which we document in that same section

of the document, to which we have added Techport, an extraordinarily important cluster. Edinburgh Parks, of course, is another very important cluster; and at Tonsley Park we are in the process of building a vibrant—

Members interjecting:

The Hon. J.W. WEATHERILL: The Leader of the Opposition laughs at Tonsley Park. Actually, the reason he finds that curious and something of a matter of hilarity is because he doesn't actually understand the role of government.

The Hon. I.F. EVANS: Point of order, sir: the Premier is not responsible for the Leader of the Opposition.

The SPEAKER: In the pause that point of order has given me, I warn the Leader of the Opposition for the second and final time. I warn the Minister for Transport for the first time. I think the Premier can hardly be confined in his answer to clusters mentioned on page 72 of the document. I think that would be an artificial constraint so I will allow him to range more broadly.

The Hon. J.W. WEATHERILL: The clusters that we talk about have been ones that have been emerging over a number of years but have been accelerated under the life of this government, because we understand that at the heart of modern manufacturing is going to be the collaboration that exists between tertiary institutions, skill centres and businesses. They can be brought together for the mutual benefit of each of those organisations in the one place, and that is what these precincts are all about.

You have seen more recently the announcements that we have made concerning North Terrace. SAHMRI—proximate to a first-class, nation-leading and, I would beg to say, world-leading tertiary hospital which will form a precinct—will be another source of collaboration which will drive innovation in our health and medical sciences area.

We have also seen the creation of a hub within the South Australian CBD, in the centre of the city, a creative hub for young entrepreneurs to come together so that they can share and collaborate with one another.

The modern notions of economic growth are about collaboration. They are not just about the devil take the hindmost, let it rip, close your eyes, take your hands off the wheel and expect that somehow economic growth flows. That has been a completely discredited idea about economic growth. The truth is that we can use the excellence in our tertiary sector to match that with our bright young entrepreneurs. We do need to encourage greater commitment to innovation.

That sits at the heart of the economic statement and these various clusters, whether they be in the wine and food sector, whether they are in the creative industries, or whether they are in our medical technology industries, and increasingly now we are exploring clusters in the South-East around adding value to fibre, through the good work that was done by the former treasurer.

We are looking at clusters within the Riverland region to try and bring our food manufacturing sectors together. This is a great opportunity for growth for us and, rather than those opposite making fun of them, they should get in behind them and support this important means of growing our economy.

ECONOMIC STATEMENT

Mr HAMILTON-SMITH (Waite) (15:30): My question is again to the Premier and Treasurer. Why has his economic statement failed to outline any new detailed and funded plans to address 10 key problems which have been identified by business in SA, including excessive state taxes and charges, counterproductive mining and carbon taxes, the failure and costs of WorkCover, uncompetitive utilities costs, declining labour productivity in key sectors, the burden of state debt and unfunded liabilities, red and green tape, planning law reform, population decline instead of growth, and government inefficiency?

The SPEAKER: The member for Waite's question is so open ended that I hope he will not interject on the Premier as the Premier attempts to come to grips with it. The Premier.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (15:31): Thank you, Mr Speaker. Can I say the economic statement addresses—

Mr Gardner interjecting:

The SPEAKER: I warn the member for Morialta for the first time.

The Hon. J.W. WEATHERILL: Can I say that the economic statement addresses each and every one of those issues—each and every one of those issues. In relation to the business costs environment, which comprises half the list that the member for Waite mentions, KPMG tells us that of all capital cities looked at we are the most competitive around the nation.

Ms Chapman interjecting:

The Hon. J.W. WEATHERILL: Well, let's laugh at KPMG. Of course, they know better. These are the people that supply their own economic forecast for the future of the economy and now they are going to tell KPMG they don't know how to actually measure business costs. This is the height of arrogance. They think they can just throw out these allegations about our economy and challenges in front of it and somehow people are going to accept their version of the world. Well, the truth is that we have the most competitive business environment in the nation of the capital cities that were analysed by KPMG.

In relation to population growth, we addressed this question. We addressed the question of population growth squarely, and the truth is that population growth is fundamentally affected by two factors, the ones that at least we can have some influence over. It is influenced by other factors that are very difficult to shift, but among those things we can have real influence over is, of course, the commonwealth migration policy, and when we did have preferred status we did see a substantial influx into the state and we did see a strong correlation of economic growth.

We continue to advocate with the commonwealth to ensure that we get our fair share of migrants into South Australia because they are also, rather than being drivers of economic growth in their own sense, the source of the entrepreneurs which will grow and make the changes we need to make in our economy. It is estimated in the economic statement that about 50 per cent of our exporters are actually migrants and an even greater proportion of our entrepreneurs are migrants to this state.

It is an extraordinary source of vitality and growth for our nation, and that is why we support the openness of our state, the invitation to people to be here in South Australia. We do address the question of government efficiency. What we do say is that we are committed to an efficient and productive public sector. That's why we have a public sector renewal process—because we believe we need to accept the responsibility through innovation within the public sector, just as we are suggesting they should occur in the private sector.

To talk about taxation, the share of taxation as a proportion of the economy is lower now than when we came to government in 2002. So, this nonsense of the burden of taxation across this economy is an absurdity. We have prudently lived within our means; we try to do more with less, and that is what we are attempting to do. But what we won't do is mug this economic recovery by withdrawing the role of the public sector from the growth of this state.

Ms Sanderson interjecting:

The SPEAKER: I call the member for Adelaide to order. The member for Lee.

MINERAL AND PETROLEUM EXPLORATION

The Hon. M.J. WRIGHT (Lee) (15:34): My question is to the Minister for Mineral Resources and Energy. Can the minister inform the house how mineral and petroleum exploration is tracking in South Australia?

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Transport and Infrastructure, Minister for Mineral Resources and Energy, Minister for Housing and Urban Development) (15:34): I thank the member for Lee for his question, and I can inform him; yes, I can. I am pleased to inform the house that the state's resources sector—

An honourable member interjecting:

The Hon. A. KOUTSANTONIS: —yes, we can—continues to go from strength to strength, a sector that has seen significant growth over the last decades through the hard work of industry, a diligent Public Service and the supportive policies of this Labor government. Growth in this sector is a perfect example of government partnering with a sector to drive economic growth across this state.

As we began the new year, South Australia saw a record number of exploration licences, higher than the heights set before the global financial crisis, and now we see a record exploration

spend. Mineral and petroleum exploration expenditure in South Australia has, for the first time, reached a record $602.6 million, a clear sign of the confidence of the global resources industry in the state of South Australia. Spending on minerals exploration in South Australia within the 12 months to December alone totalled $311.6 million. This is the fifth consecutive quarter in which the 12-month spend on mineral exploration in this state exceeded $300 million.

This government recognises that exploration in South Australia is a key element to ensure we continue to tap our full mineral potential, and that is why we partner with industry through our world-renowned PACE 2020 program. From these figures it is clear that South Australia remains an attractive destination for exploration spending. Demand for our state's rich resource wealth is at an all-time high, as our state's minerals fuel the growth in the emerging middle classes of China and India.

This government will continue to foster exploration. We recognise the role of government collaboration in fostering industry development. Our investment in pre-competitive data has seen the South Australian geological database consistently ranked number one for investment attraction. To keep ahead of the pack this government has allocated $2 million to fund new pre-competitive surveys designed to identify prospective areas within the Gawler Craton. It is an area that, I believe, will herald an era of world-class discoveries.

This is truly an exciting time to be involved in the resources sector in South Australia; a sector that is providing investment, a sector that is providing jobs, a sector that is creating a prosperous South Australia. It is a pity that the opposition would rather cut the public sector workers in DMITRE, the same public sector workers that support our economic growth.

The Hon. I.F. Evans: Point of order: 98, debate.

The SPEAKER: I think the minister has finished.

Members interjecting:

The SPEAKER: Much as I do not wish to brave the censure of the minister's mother, I warn him for the second time.

30-YEAR PLAN FOR GREATER ADELAIDE

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:37): My question is to the Minister for Planning. Has the minister checked departmental records to see whether any other consultants acting for developers were used to prepare government documents to support the 30-year plan?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (15:37): No.

30-YEAR PLAN FOR GREATER ADELAIDE

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:37): My question is again to the Minister for Planning. Has the minister checked government records to see what developers, planning consultants and/or lobbyists the former planning minister met with while developing the 30-year plan?

The SPEAKER: I am not sure that the Minister for Planning is responsible to the house for former ministers, but if the minister wishes to answer he may.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (15:38): Mr Speaker, I would like to clarify something. I am not quite sure what the member for Bragg is on about, but we received a report from the Ombudsman on 5 March. I have been considering that report, and I have provided a statement to the house in respect of that report. I would invite her to read the contents of that statement. That will assist her in understanding exactly what I have been doing in relation to the Ombudsman's report.

30-YEAR PLAN FOR GREATER ADELAIDE

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:38): I have a supplementary question.

The SPEAKER: If, indeed, it is a supplementary.

Ms CHAPMAN: Given that there is no reference in the tabled material today and in the ministerial statement as to whether the minister has checked the records for other developers meeting with the former planning minister, I ask him to confirm whether he has. There is nothing in his statement.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (15:39): There is a slight air of unreality about this questioning. It is questioning me with indignation about whether I have done something which—

Ms Chapman interjecting:

The Hon. J.R. RAU: Excuse me—

The SPEAKER: I warn the member for Bragg for the first time.

The Hon. J.R. RAU: You asked the question; I will give you an answer. The indignation in the question is whether I should have been doing this. It seems necessary for me to actually read out a bit of my statement.

The SPEAKER: No, that is before the house.

The Hon. J.R. RAU: Can I then say: the answer she seeks lies within the pages of this document.

POLICE OFFENCE STREAMING MODEL

Ms BETTISON (Ramsay) (15:40): My question is to the Minister for Police. Can the minister inform the house about what is being done to lessen the amount of paperwork for police and keep more officers on the beat?

The Hon. M.F. O'BRIEN (Napier—Minister for Finance, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:40): One of the best examples of how SAPOL is freeing up police resources for front-line activity is the offence streaming model trial that is currently under way in the Holden Hill Local Service Area.

Those reported for minor offences were previously personally served by police with a summons to attend court. This often required a number of visits by police. Further, information was generally only provided to them about the alleged offence at that first court appearance. Adjournments were often sought in order for the accused to consider the charge. This was a time and resource intense process for police and the courts.

The offence streaming model trial is a program which has revolutionised the charging and prosecution process for our police officers. This is achieved by using a court attendance notification, which is basically a call and text to the accused individual with the details of their court appearance and information about how they can collect a summary of evidence if they wish. Those who fail to attend court are issued with a summons. It is a practical and modern-day response which speeds up the judicial process for those charged with a less serious and less complex matter.

With this program running alongside the Early Resolution Court at the Holden Hill Magistrates Court, I can report some very encouraging preliminary figures. SAPOL is reporting good results, with 60 per cent of all matters brought before the Early Resolution Court being resolved on the first appearance. Court attendance notifications have also been well received by the public, with a more than 96 per cent attendance rate for the first court appearance.

This initiative takes away the requirement for summonses to be served for minor matters, leading to less paperwork for police. What these provisional results are showing is that the program is not only bringing offenders to court faster but it is also leading to higher rates of resolution on first appearance. It has been found that the provision of a summary of evidence to the accused offender is one of the main reasons that matters are being resolved in the first instance rather than being adjourned.

The use of phone and text reminders has proven to be a great way of increasing efficiency in this area. It also allows for accused individuals to seek clarification of issues of penalty and process which may arise, leading to a reduction in related stress and anxiety. I am very encouraged by the preliminary results of the offence streaming model trial and I look forward to the full findings.

Public sector renewal is not simply jargon. It is a commitment to doing things better. I know Commissioner Burns shares the government's commitment to renewing the public sector, and this project has been an outstanding example of that renewal and a great way to keep our police officers on the beat where they are needed most.

BUILDING INDEMNITY INSURANCE

The Hon. I.F. EVANS (Davenport) (15:43): My question is to the Minister for Finance. When the minister stated last Friday that the government had reached an agreement on underwriting the building indemnity insurance scheme, was the minister correct, or was the Premier correct when he said on the same day that no agreement had been reached?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (15:44): The answer to the question is that I was correct but, in substance, the minister and I were saying much the same thing. From 1 July, the arrangements that QBE have provided for people to get insurance for building a new house, which is an essential and required component of legislation, will come to an end, so we have to be in a position to ensure that insurance is offered from that point, and the government will do that.

There are some propositions, and some of them are quite advanced—perhaps not quite as advanced as the Minister for Finance thought, but they are certainly well advanced—and we do expect to come to a conclusion about those matters. But the government won't let this system of underwriting fail. We will make sure that there are appropriate arrangements put in place, and those steps will be finalised soon.

TAFE SA

Mr PISONI (Unley) (15:45): My question is to the Minister for Employment, Higher Education and Skills. Can the minister inform the house of how many TAFE staff will be made redundant as a result of TAFE SA's announcement that it will amalgamate into a single body?

The Hon. G. PORTOLESI (Hartley—Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy) (15:45): I would like to thank the member for Unley for this question. As the member is well aware, this parliament last year approved legislation, supported by those on that side, to make TAFE a statutory corporation, and that became effective on 1 November. TAFE is now in the process of commencing a significant reform process.

The member for Unley would be aware that TAFE is now chaired by Mr Peter Vaughan. The TAFE board made statements a number of weeks ago that further detailed the reform process, and in that statement there was a reference to, potentially, over an 18-month period (I don't have it with me, so I am happy to come back and check) up to 150 people. Can I say that that figure needs to be balanced against what I believe will be a need to increase recruitment in TAFE to reflect the increasing enrolments in TAFE as a result of our very popular Skills for All initiative.

This is an issue that is very much on my mind. It's an issue that I am working closely on with TAFE and the board, and I also acknowledge the PSA and the AEU, and I'm working with them also. Everyone acknowledges that Skills for All is a very exciting initiative and that training is very important to the future of our state—and that was acknowledged in the economic statement. Everyone I have spoken to acknowledges that reform needs to occur in TAFE, but it is about how you get there. I thank those opposite for supporting the TAFE legislation last year, and I look forward to working with them.

TAFE SA

Mr PISONI (Unley) (15:48): Supplementary, if I may, sir. What mechanism has the government used to give TAFE its independent statutory corporation status since 1 November, given that facilitating legislation has not passed the parliament?

The Hon. G. PORTOLESI (Hartley—Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy) (15:48): I believe the member is referring to consequential legislation that has not passed in the other house but, again, I am happy to talk with the member further because I don't quite understand his question—because TAFE is effective 1 November 2012. It is effective; it is operational.

TAFE SA

Mr PISONI (Unley) (15:48): Supplementary, if I may, sir. The question was: how is TAFE effective when the subsequent amended bill hasn't gone through the parliament that was prepared to allow TAFE to be—

The SPEAKER: Yes, we've got the question. Minister.

The Hon. G. PORTOLESI (Hartley—Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy) (15:49): Well, TAFE is running, and this parliament supported legislation. What are blocked in the other house are consequential amendments.

Mr Pisoni: Which are needed for TAFE to be on its own—so what have you done?

The SPEAKER: I warn the member for Unley for the first time.

The Hon. G. PORTOLESI: TAFE is operational, it is working, and it became a statutory corporation on 1 November. It was supported by those opposite. I believe the member for Unley is referring or alluding to consequential amendments in the upper house that would seek to lock out the AEU. There was a conference scheduled this afternoon to try to resolve that matter, which I understand was not able to go ahead. I was certainly prepared, but other members were not able to go ahead. In any case, TAFE is operational and effective, and training is being delivered to South Australians.

TAFE SA

Mr PISONI (Unley) (15:50): My question is again to the Minister for Employment, Higher Education and Skills. If TAFE is an independent statutory corporation, why is her department—DFEEST, that is—handling the TAFE tender process for the first aid training for TAFE SA students and staff? A government press release dated 4 October last year stated:

> The establishment of TAFE SA as a statutory corporation will separate the roles of TAFE as the provider of training from the Department of Further Education, Employment, Science and Technology (DFEEST) as the funder and purchaser of training from both TAFE SA and private training providers.

The Hon. G. PORTOLESI (Hartley—Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy) (15:51): That is correct. You are assuming that those two activities are mutually exclusive; they are not. TAFE became a statutory corporation on 1 November last year. There may well be agreements around particular courses, but I am happy to take those details and give you a report back.

FLINDERS UNIVERSITY

Mr SIBBONS (Mitchell) (15:51): My question is to the Minister for Science and Information Economy. Can the minister please inform the house about the likely benefits of the research partnership between Flinders University and a Chinese company?

The Hon. I.F. EVANS: Point of order. I believe the question is out of order; it is hypothetical—'the likely benefits'.

The SPEAKER: No, that is not the meaning of hypothetical. The member for Stuart. We have not had a point of order from you for a long time.

Mr VAN HOLST PELLEKAAN: I believe the question is out of order because it contained argument. Standing order 97—'the likely benefits'.

The SPEAKER: 'The likely benefits or otherwise'.

Mr VAN HOLST PELLEKAAN: I do not believe that is what the member said.

The SPEAKER: Perhaps the member would rephrase the question. The member for Mitchell.

Mr SIBBONS: Would you like me to rephrase the question, sir?

The SPEAKER: Would you, please?

Mr SIBBONS: Thank you, sir. Can the minister please inform the house about the likely benefits or other benefits—

Members interjecting:

Mr SIBBONS: —or otherwise—of a research partnership between Flinders University and a Chinese company?

The SPEAKER: I think that has clinched it. Minister.

The Hon. G. PORTOLESI (Hartley—Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy) (15:53): South Australian universities and research organisations have demonstrated time and time again the enormous economic potential that can flow from collaboration with industry. The Premier mentioned earlier Bio Innovation SA. That is a fantastic example of this very thing. If you speak to universities and researchers—and I was meeting just recently with the DVCs of research and the Premier's Science and Industry Council—they will tell you that one of the key challenges for our research community is transforming their knowledge and the fruits of their research into commercial opportunities.

I am very pleased that this state government is supporting this collaboration, this connection between industry and researchers, especially in our priority areas of advanced manufacturing and the development of premium food and wine, two priorities detailed in the economic statement. That is why last week I was very pleased to join Flinders University researchers and Chinese industry leaders from the Gather Great Ocean Group, a Chinese company, to launch a new lab at the Flinders University Centre for Marine Bioproducts Development. I was very pleased that this Chinese company has invested about $450,000 into this venture. This company is China's second largest that makes products from macroalgae, more commonly known as seaweed.

I am advised that seaweed is a fantastic natural resource. I am told that this research can potentially transform the bounty of our ocean into high-value products such as foods fortified with extra nutrients, medicinal compounds, cosmetics and environmentally-friendly agricultural chemicals.

The Hon. A. Koutsantonis: Botox.

The Hon. G. PORTOLESI: Botox, maybe. I don't know about Botox. The Flinders Centre for Marine Bioproducts Development undertakes research into macroalgae. There are tons and tons of kelp that wash up on our southern beaches like Beachport. Most importantly, this centre specialises in transforming their research into products and services. This is putting into practice commercialisation opportunities.

I would like to take this opportunity to congratulate the director of the centre, Professor Wei Zhang, and his colleague, Professor Chris Franco, for their work in getting this project off the ground. I would also like to acknowledge our Chief Scientist actually, Professor Don Bursill, because he has been heavily involved in this project.

An honourable member: Hear, hear!

The Hon. G. PORTOLESI: Hear, hear! I'd also like to acknowledge our friends and colleagues from China: Mr Shipeng Wu and Mr Charles Wu from the Gather Great Ocean Group. My Chinese is not so good. I look forward to receiving them in our great state into the future and I look forward to more fruits of this collaboration.

DISABLED PRISONERS

Dr McFETRIDGE (Morphett) (15:56): With a few seconds to go on the clock, I might have to slow down a bit here. My question is to the Minister for Disabilities. Why are some people with disabilities, even though they have not been found guilty of an offence due to mental impairment, being held in prisons—more specifically, being held in protected areas with sex offenders? The Public Advocate reported that there is a specific matter of a person with a disability being held in prisons because of a lack of forensic facilities in a protected area with sex offenders.

The Hon. J.J. SNELLING (Playford—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for Defence Industries, Minister for Veterans' Affairs) (15:57): I know about the particular matter the member for Morphett refers to. I don't think it's appropriate for me to canvass in the chamber the issues of the particular individual involved, but it is an issue which has been brought to my attention. It is a matter which I am looking seriously into.

GRIEVANCE DEBATE

ECONOMIC STATEMENT

Mr HAMILTON-SMITH (Waite) (15:57): I rise to draw to the house's attention the glossy brochure released by the government last week, entitled Economic Statement 2013. This document is nothing more than a discussion paper. At its core, what it does is talk about the problems, talk about the issues and offer nothing new, nothing of substance, not a single new policy which is funded, nothing which has not already been announced. It offers absolutely nothing more than what we have had already.

It is a very, very disappointing effort from the Premier and the Treasurer, being the one person. I think, frankly, at this point in the electoral cycle, with one year to go to an election, the government could have done far, far better. The people of South Australia deserved a plan. The difference between this document—this 'economic statement'—and a plan is simply this: a plan tells you what the government is going to do, when it is going to do it, how it is going to do it and how much it will spend doing it. You will not find any of that in this 'plan'.

I note that the Premier has tried to have a bet each way. His document defines itself as a statement and makes no mention of identifying itself as a plan, yet the Premier was on radio Monday morning and in a debate on Friday saying, 'We have put out our plan. Where is your plan?' Well, this is not a plan. It follows, of course, a long list of glossy brochures that sit in corners in ministers' offices at the moment gathering dust, going back to the beginning of this government's life in 2002—we have had it all.

The statement broadly identifies areas of economic strength and potential, the obstacles to success and priorities for government and business. But, of course, it does not provide any answers, it does not provide any solutions and it does not provide a road map as to what the government will do to breathe life back into this staggering economy. It makes certain observations that are irrefutable. Yes, we need to be a smarter economy. Well, surprise, surprise. Yes, we need to be innovative. Yes, we have identified four areas that are very important: growing advanced manufacturing, premium food and wine, realising the benefits of the mining boom and a vibrant city of Adelaide.

Well, hello, that is the grand revelation of this government after all of these years in office, that these four issues are very important. You will not have any argument from over here, it is just that there is more. We are back to the thinking of the A.D. Little report of the early 1990s about clusters, as if the internet and interconnectivity had never arrived. We talk about mining and a boom that is, frankly, not happening in this state at all; exploration yes, but boom no. Roxby Downs has collapsed. What they say in this document is in total contrast to what they presented to this parliament in the Roxby Downs indenture bill, where they rolled over and gave BHP whatever it wanted without requiring any of the benefits to be extended to the South Australian economy.

The offerings on premium food and wine and a vibrant city are shallow. Can I just remind the house that almost everything in the government's vibrant city agenda was ours, from the stadium to City West to livening up the city to new planning rules, it all came from over here. I remember it well because I was announcing the policies, and they were a squint not a vision. Now they are a central plank of this government's plan for the future. Well, thank you, I look forward to being in the credits.

The role of government in the economy. There is quite a gap opening up between the government's view of what it should be doing (a very socialist approach) and our view of what should be going on, which is one of supporting and sustaining the private sector. There is nothing in here on the tough issues. The 10 tough issues I mentioned today, the ones that are costing businesses money and holding back the economy, are not addressed at all. You will not go near labour productivity, debt or taxes, you will not go near the real problems. It is a shallow document, a very poor effort, and for a Premier and Treasurer to put it forward (nothing more than another Rann-esque glossy brochure) is a great disappointment to business. We know what they think of it, we know what they said. They said it was a failure and it is.

Time expired.

ROYAL SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

Mr SIBBONS (Mitchell) (16:02): Established in London in 1824, the RSPCA is believed to be the world's first organisation to focus entirely on animal welfare. The RSPCA started up in South

Australia about 50 years later in 1875, all the while working to protect animals from cruelty and giving care and treatment to many thousands of sick and injured animals, in particular those who have been abandoned.

As well as aiming to prevent cruelty to animals, promoting their care and providing rescue and welfare services, the RSPCA in South Australia works to raise awareness about the treatment of animals throughout the community, improve animal welfare legislation and enforce that legislation. The RSPCA in South Australia responded to almost 2,233 reports of cruelty and performed 1,602 rescues involving 5,400 animals in 2011-12. The society cares for more than 9,000 animals each year across four shelters.

The work is guided by the five freedoms for animals: freedom from hunger and thirst by ready access to fresh water and a diet that maintains full health and vigour; freedom from discomfort by providing an appropriate environment, including shelter and a comfortable resting area; freedom from pain, injury or disease by prevention through rapid diagnosis and treatment; freedom to express normal behaviour by providing sufficient space, proper facilities and company of the animal's own kind; and, finally, freedom from fear and distress by ensuring conditions and treatment which avoid mental suffering.

I found a recent visit to the Lonsdale RSPCA shelter to be both a sad and a heartwarming experience—sad because the shelter is packed to the rafters with abandoned and unwanted animals, heartwarming because the shelter has restored these animals to health and now, well-fed, groomed, desexed and vaccinated, all they need is a loving home.

The benefits of pet ownership for the elderly, families and children are well documented, and I would like to encourage anybody who is considering opening their home and their heart to a companion animal to go down to the RSPCA Lonsdale shelter and adopt a friend. The Lonsdale shelter is a fine example of the important work the RSPCA does. As well as catering for adoptions, surrenders and reuniting strays, it also offers such services as animal boarding facilities.

I have spoken previously in this place about the benefits of volunteering, and I would also like to take this opportunity to thank the dedicated RSPCA volunteers for all their commitment to animal welfare. New volunteers are keenly welcomed by all at the RSPCA, and roles range from being a foster carer to animals in need to maintenance work, driving and working in one of the organisation's thrift shops. Following a review of its volunteer program, RSPCA SA will be soon promoting new roles and opportunities on its website.

In line with the aims of the RSPCA is a new parliamentary committee I am really proud to be serving on. This committee is investigating the laws governing the trade in companion animals such as dogs and cats. The committee's goal is to look at ways in which our state laws and regulations can be improved, with the aim of eliminating cruelty and reducing the number of unwanted animals being euthanased.

Many domestic animals are destroyed every year, and this is something that needs to be addressed both by we as politicians and by the community. I hope that the work of this committee can contribute to making our state a safer, healthier place for our animals—just as the RSPCA does day in, day out.

EXPORT INDUSTRY

Mr WHETSTONE (Chaffey) (16:07): I rise today to speak about small exporters, particularly in the electorate of Chaffey in the Riverland. The phasing-out of the new AQIS inspection fees last year has seen the cost of registering a packing shed increase from around $500 to over $8,500. This fee increase shows the impact of the government's decision to move to full cost recovery and removal of the rebate for the AQIS inspections.

Understanding that this is a federal issue, it appears that this state government is willing to stand by and watch small and low volume exporters forced out of an industry. Last week we listened to the Premier, with his economic statement, talking about high value food and wine. These businesses are the people who are high value food and wine exporters, yet we have the Minister for Agriculture and the Premier standing by and watching them forced out of the exporting world.

Under new charges, packing sheds must pay for export inspections for protocol markets, particularly Japan, USA and New Zealand. In the Riverland, a number of small businesses have sheds that pack for only two to three months to export markets. As I said, the cost to renew the establishment registration charge has gone from around $500 to $8,500. It is unworkable. These

unbelievable fee hikes are costing small exporters out of business, many of whom will only realise the extent of new registrations midyear. The state government should be lobbying federal counterpart minister Ludwig, who appears to have little or no regard for small exporters.

It has been reported that already 75 per cent of the Sunraysia table grape growers are now not registered for exports due to the rise, and this will put added supply pressure on the domestic market. A prominent lime exporter in the Riverland, known as the Lime King, has missed his export window to New Zealand this year. Another exporter I have had calls from found that exporting his sugar plums to China is now unviable due to regulatory costs, and a family business in Loxton, Linspan, which runs their own packing shed and exports their own fruit, said that the fee increase means that the small to medium sized packing sheds will need to reduce exports, expand their business or close down completely. This poor attitude from government, 'either get bigger or get out', is just not on.

Minister Gago has written to one of the exporters, a local grower, to answer his questions around the inspection fee problems and has given him incorrect advice on these AQIS charges; an AQIS authorised officer removing the need to pay for the federal government's inspection. That is not correct, minister. It is absolutely outrageous that a minister could give incorrect advice to an exporter, to jeopardise that export business. The AQIS authorised officer is not accepted by protocol markets.

Why is the state Labor government not sticking up for small export businesses and does not know the legislation? They have invested time, costs, risks—it has taken many years to set up and establish these markets and we are putting exports into the hands of the big players rather than making it a fair playing field for everybody, including the small exporters; high value crops for high end markets. In the Riverland we have got nearly 4,000 small businesses which will all be impacted in one way, shape or another by these export regulations.

The minister has given the wrong advice to a small exporter who has taken the time and, as I said, the risk, cost and effort to get a niche market, and he cannot afford these escalating costs. The government could be costing him out of his export business. This type of regulation is geared towards the bigger businesses and, guess what, Mr Deputy Speaker? Who was sitting around the table and negotiating the legislation? Yes, that is right: it was the big business, the big end of town, that gave the advice. This regulation must not continue.

Another issue in the online establishment registration is the cost of the software, which is extremely expensive for these small businesses. This window of export opportunity is open for only small periods of time during the harvest season, and these small businesses are forced to pay the same charge as these bigger businesses and it is forcing them to the wall.

INTERNATIONAL WOMEN'S DAY

Ms BEDFORD (Florey) (16:12): Continuing my remarks regarding the recent celebration of International Women's Day on 8 March, I pick up on the hardworking women colleagues who have been and remain an inspiration to me. Another former colleague is Jane Lomax-Smith, who has such wide ranging interests and expertise that every conversation with her is a lesson in something. Historically I have come to admire Muriel Matters, and it is no coincidence that many of the women I have already mentioned are part of the Muriel Matters Society and share with me the dreams and aspirations that unite us now and united so many different women a century ago.

Muriel was a South Australian-born activist who went on to become the first woman to 'speak' in the House of Commons. Through her story I have come to learn a great deal and meet so many wonderful people as I speak to groups all over the state and further afield nationally and internationally; people like Elizabeth Crawford from London who wrote the women's suffrage bible and is universally acknowledged for her research in this area. Through her I have been able to re-establish Muriel's work on the world stage.

Another historian and academic is Jill Liddington, who has written some marvellous, enlightening and very readable books on various aspects of the women's struggle. At the Museum of London I have come to know and admire Beverley Cook for her extensive knowledge, not only of the collection, but of women's history in general. Her generosity enabled the exhibition here in Parliament House in Adelaide of Muriel's belt and chains and her Holloway Prison badge—a world first exhibition appreciated by many in the know.

They are just a few of the many people who have been truly helpful. Another I would particularly like to mention is an expat herself, V. Irene Cockcroft, who has been a wonderful and

supportive mentor. A historian who is always busy, she has never hesitated in her encouragement and assistance. Irene is curating a much-anticipated exhibition on one of the world's most famous suffragists, a person who underwent imprisonment and force-feeding and died enacting the protest that is being commemorated this year.

On 4 June 1913, Emily Wilding Davison ran onto the racecourse at Epsom and under, many say coincidentally, the path of the King's horse, Anmer. She died four days later of her injuries, and her burial was preceded by a huge procession in London. Some claim Emily was only trying to disturb the race and had very little likelihood of finding the King's horse in the field as it came around a turn near where she was standing. Indeed, the train ticket in her pocket indicated that she had every intention of returning home.

To answer these questions and more, you could either commence your own research or attend a much anticipated event, now well into the planning and presentation stage. Emily Wilding Davison is the subject of Irene Cockcroft's exhibition 'Dying for the Vote' at Bourne Hall Museum in Ewell, Surrey, UK between May and July this year, and Irene will be kind enough to include Muriel Matters in this exhibition. The Museum of London has agreed to loan their portion of the grille and a belt and chains, giving Muriel and South Australia worldwide publicity.

British women are planning many activities around the Davison centenary. And, as the many centenaries of women's rights around the suffrage cause throughout the world begin to come along, none will be more important than the 2018 centenary of limited women's suffrage in the UK. Through the work of the Muriel Matters Society, the role played by so many Australian women in the UK struggle will be part of the celebration. Those women were happy to lend a hand, as must all of us be.

This International Women's Day, the UNIFEM IWD breakfast saw around 2,400 women gathered to hear an inspiring speaker and network. This is a once a year opportunity for many women to get together and take away a bagful of information, as many groups and organisations provide details of their role in the community for the organisers to distribute. This is an enormous task, compiling all of this information, and thanks go to the willing hands that make this happen.

Another important event was hosted by the South Australian International Women's Day Committee, now in its 75th anniversary year. This event held a lunch for around 400 women and featured the Gladys Elphick and the Irene Krastev awards, recognising the contributions of many women in our community from many walks of life. Often they have had to overcome great difficulties themselves in their efforts to help others. Gladys Elphick was a champion of Aboriginal women, while Irene, a person who I came to know and admire in her lifetime, worked tirelessly for the multicultural community.

Many of those attending these functions are veterans to some degree of the struggle, with names like Betty Fisher, Lowitja O'Donoghue and Shirley Peisley coming to mind. They remain true and continue to inspire, while others—young people—are just realising their place in the world. I want to commend the work of the people who make these functions possible and congratulate them on bringing to life the stories that have inspired women for generations. This becomes harder as women's studies courses and resource centres are 'mainstreamed' not only here, the home of so many proud achievements, but also in London where we have recently seen the women's library or Fawcett Collection relocated to another facility.

While we celebrate so many achievements, we must stand in solidarity with the women all over Australia and the world who do not enjoy our privileged lifestyle and safety. An average of 40 per cent (and up to 70 per cent in come countries) of women globally are likely to be beaten, raped, abused or mutilated in their lifetime. So, it is no wonder that the UN has placed women's rights and world peace together. A saying I have always remembered is: the greatest thing a man can do for his children is to love their mother. Domestic violence is one of the social issues the Muriel Matters Society will hopefully make the centre of research in the not too distant future.

COUNTRY FIRE SERVICE

Mr PENGILLY (Finniss) (16:17): I would like to make a few comments today in relation to Country Fire Service activity in my electorate. Just recently we had a couple of fires which could have had disastrous consequences if they had not been attended to so quickly. Last week, I had a fire in the Myponga forest, which potentially could have done devastating damage to the Southern Fleurieu. I place on record my appreciation to the volunteers of the CFS who attended that fire, and also to the air support wing, particularly the helicopter which proved to be critical. It was an enormous effort.

Only today I had a volunteer in for lunch, who was at the fire—and I will come to that issue in a minute. This fire occurred with a north-north easterly wind on a fairly warm day and could have been catastrophic if it had not been brought under control. It was an enormous effort by firefighters down there, so I pay tribute to the Southern Fleurieu group for the work they did.

The other fire that I have had in the last couple of weeks, indeed the last sitting week, was at Cygnet River on Kangaroo Island. That potentially was a disastrous fire also. It kicked off from a vehicle accident on the Saturday night, an act of madness by the person involved, I might add. The wind picked it up, a very, very strong south-westerly change, and it went into the hamlet of Cygnet River into high gum country.

Once again, if it had not been for the outstanding effort of the local volunteers it could have had absolute tragic consequences. I would say that I was concerned. My property is nearby, and I actually rang my wife and told her, 'Load the dogs up and get out of it and go out and come back when it's safe,' but as it turned out, the wind did not go around in our direction, but it made me feel more comfortable.

What I really want to add about this is that I am very worried about where volunteering in the CFS is going. The average age of volunteers is increasing rapidly. The gentleman I had in today for lunch—he and his wife are both actively involved—was at the fire, and he is 70 in a few weeks. I know other 70 year olds who go to fires regularly. We are losing the young people from the bush, and those of us who have been volunteers forever and a day have to give up eventually.

I actually did the roster on Sunday myself—as I normally do when I happen to be on the island on a Sunday—and it worries me where the volunteers are going to come from. More to the point, what worries me is the overbearing bureaucracy that has crept into the CFS. Let me say that I think this will spell the end for volunteerism in the CFS if we are not very careful. There is no common sense or reasoning about what is taking place.

I can tell the house that at the Signet River fire volunteers spoke to me afterwards and said, 'This is crazy.' They were told to put GPS coordinates on every tree they put water on, and they were told to put GPS coordinates on when they left to go to fill up for water—note everything. These people are volunteers; they are not paid personnel. In my view, people up the hierarchy are just trying to create protection for their collective backsides by crossing every t and dotting every i in an effort to ensure that in the future they are not held responsible for something that may or may not happen.

Many of the people who volunteer in the CFS are farmers or come from farming communities, and they are over all this; they are completely over it. They want to go to a fire, they want to put the fire out, and they want to go home. They do not want all this nonsense that is taking place. They do not need it, and if the government does not take some notice of this it will be seriously held to account when there are few, if any, volunteers left in the service of the CFS.

They are struggling. It is difficult, and I bring it to the attention of the house probably not for the first time or the last time. However, I do pay tribute to the volunteers at those two particular fires, who did an outstanding job in protecting the community, buckshee.

SOUTH AUSTRALIAN AVIATION MUSEUM

Dr CLOSE (Port Adelaide) (16:22): On Monday, the South Australian Aviation Museum at Port Adelaide officially welcomed a retired F111, a gift from the South Australian government. It actually arrived on Sunday, and I understand that it may have got a little lost on St Vincent Street—which is sight I would have paid money to see. Yesterday, there was a breakfast for members and volunteers to come and celebrate its arrival and watch the commencement of the bolting of the wings, and so on, back onto the plane, ready for display.

The plane will be huge, literally as well as figuratively, as a drawcard for the Port. I encourage everyone to take its arrival as a reminder and an excuse to get down to the Port and have a look at the brilliant Aviation Museum, and then take in one or more of the other attractions. The Aviation Museum is one of three in a row on Lipson Street, the others being the Maritime Museum, very near my office, and the Railway Museum, right next door to the Aviation Museum. These two work closely together and for special occasions, such as the Port Festival, a train runs back and forth between them to allow visitors to seamlessly enjoy both museums.

The Aviation Museum may be slightly less renowned than the Railway Museum—no doubt not least because there is no Thomas the Tank Engine equivalent to grab young children's imaginations—but it is an outstanding museum experience and building in popularity. The arrival of

the F111 will, I am confident, make it one of the great tourism sites in South Australia. The museum has really been running since 1984 and first moved to the Port two years later. Since then, it has been in a couple of locations, moving to Lipson Street in 2006. It is fully accredited by the History Trust and run by volunteers.

What I think I like most about the museum, apart from its outstanding contribution to the attractions of the Port for visitors and locals, is the shed out the back, where the blokes—and I am willing to be corrected if it is not all blokes, but it always has been when I have been there—get their hands dirty cleaning up the planes and keeping the engines working. The knowledge and skills in that shed are so impressive, and I think it is hugely important that we keep those skills alive in our community.

For me, the strength of the museum is that it caters so well for young kids through to serious aviation buffs. If you are interested in aviation history or in particular kinds of planes, or you just want to come and listen to really loud engines being cranked up, you will love the museum—the last experience being offered at regular open cockpit days. When Old Smokey gets going, you need ear plugs (which are supplied) and probably a wipe down afterwards, but it is well worth it for the experience.

For children, the overwhelming attraction of the museum is the number of planes you can climb in, press buttons on and generally lose yourself in imagining that you are really flying. My children love going there, and force me to sit in the back of a little plane while they fly it up-front or sit in one of the passenger planes while they serve invisible meals. I recommend that everyone drop into the museum, open from 10.30 to 4.30 every day, admire the F111, enjoy the rest of the museum and then have a look around the rest of the port.

WORKCOVER

Mr VENNING (Schubert) (16:25): I seek leave to make a personal explanation.

Leave granted.

Mr VENNING: During a speech to this house on Tuesday 5 March regarding WorkCover, I implied that I had sent correspondence to the minister. I also implied that I had not heard back from minister Snelling. After my staff read *Hansard*, they informed me that we, indeed, had received correspondence back. So, in the interests of fairness, I wish to correct the record and apologise to the minister, and I hope he can assist.

CRIMINAL LAW CONSOLIDATION (CHEATING AT GAMBLING) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

MOTOR VEHICLE ACCIDENTS (LIFETIME SUPPORT SCHEME) BILL

Adjourned debate on second reading (resumed on motion).

Dr CLOSE (Port Adelaide) (16:26): I support the government's proposed changes to the CTP scheme because I think that creating a no-fault insurance system which will provide lifetime care for people who are catastrophically injured in car accidents will dramatically improve the lives of those South Australian families that are tragically affected by those sorts of accidents each year. I also support the reforms because they will ease the cost of living pressures for South Australian motorists by reducing CTP premiums. Reductions to class 1 premiums are estimated to create savings of around $145 in total over the next two years.

Throughout the last few decades, because of changes to road safety laws and public awareness campaigns, the rate of tragic accidents on our roads has been improving. But there are still many lives affected by accidents each year and, when we talk about the tragedy of the road toll, we think of the people who die on our roads and we do not always think about the people who live and are so severely injured that they have to be cared for forever.

These are the people who, after the horror of the crash, have to live with very serious brain injuries, who become quadriplegic, or are permanently blind, badly burnt or have multiple amputations. These people need care and support for the rest of their lives. For their families, they are often not only struggling with the grief of losing the enjoyment and care of their relationship but they are also providing ongoing and demanding personal care.

If the accident victim is unfortunate enough to have been the driver in a one-car accident, there is no-one to sue and, therefore, no financial compensation to help pay for this care and

support. Family members find themselves having to give up work to provide full-time care that they cannot afford to pay for. The injury can then lead to family poverty as well.

Even if they were able to receive compensation through compulsory third party insurance, this money comes as a lump sum and has been shown often not to be enough to provide for lifetime care. In fact, the government's green paper on the CTP reform proposals said that about 20 to 35 per cent of all accident victims spend the whole lump sum within two years and 90 per cent spend it within five years.

This creates long-term negative effects, as those who suffer serious injuries can have a reduced ability to work and those who are catastrophically injured are not able to work at all. Financial support for services is therefore picked up by government services. This is often also compensated for by voluntary services from friends, families and neighbours to fill the need. Although a victim should be focusing on recovery and rehabilitation with the comfort of ongoing care, it is often the financial challenges that worry accident victims the most.

The changes in this bill mean that people with catastrophic injuries will be provided with care and support for the rest of their lives, regardless of who was driving. This will be of enormous benefit to both the injured person and their families. The no-fault lifetime support scheme will provide treatment, care and support but not income support for people with catastrophic injuries.

However, if someone else was at fault in the accident, catastrophically injured people would still be able to sue for economic loss. This no-fault approach is particularly important for the wellbeing of family carers. The Productivity Commission has found significant differences in physical and mental health between carers and non-carers in our community. They said three things: that carers are almost twice as likely to be in poor physical health than the general population; that around half of female carers and almost a third of male carers had also suffered from a depressive episode of at least six months since they had begun caring; and that many families caring for people with disabilities experience relationship breakdown.

The no-fault catastrophic care system set up in this bill is socially very significant but so are the reductions in premiums for motorists arising from these reforms. I understand that people will receive less compensation for more minor injuries under this bill, but we have to balance affordability of the scheme with fairness. I am told that about a third of compensation payments each year (in excess of $100 million a year) goes to claimants who have had little or no time off work.

These payments mean cost of living pressures for all. We must cover medical expenses, and we have to get people healed and back to their lives and work, but we need a scheme that is fair and that balances the needs of our community. The government has worked hard to balance these competing priorities. A no-fault scheme for people with very serious injuries and a reduction in compensation for more minor injuries means both a fairer and more affordable system for everyone.

Ms BETTISON (Ramsay) (16:31): I support the government's current reforms to the CTP scheme because I believe that it creates a fairer and more affordable system for treating and assessing those who are injured in motor vehicle accidents. One of the key aspects of the CTP reforms is the use of the 100 point injury scale. Similar to the model used in Queensland, the injury severity values (ISV) table will align injuries within a point range of according to how severe they are. The injury scale values will allow for the use of objective medical evidence to be used in determining the impact on a victim's life, ensuring that injuries and impairments of the body are measurable, and also allowing for subjective measurements.

The table assigns each type of injury a point range and a doctor makes an assessment according to the table using objective medical evidence. Once the point range has been identified, it is then worked out where the person falls in the range. This depends on both the severity of the particular injury and its effect on the individual person. It allows you to take into account that someone who has a moderate shoulder injury is a hairdresser having difficulty keeping her arms up to do hair all day.

I am told this injury scale has undergone thorough consultation with highly regarded medical specialists to ensure that the ISV table is a fair and workable standard. This assessment tool is designed so that different doctors should reach the same outcome looking at the same evidence. This table will be used to ensure that our compensation system is able to distinguish between the minor injuries that will heal over time and the injuries that leave ongoing impairment. The current system needs changing. We know this because currently the threshold for payment

damages for non-economic loss—that is, pain and suffering, loss of enjoyment of life, loss of expectation of life and disfigurement—is very low, leading to unsustainable levels of compensation being paid.

The reforms in this bill will introduce new thresholds which limit the access to future damages to those claimants with injuries who can objectively prove they have had a loss. These changes will mean that access to damages for non-economic loss will require an ISV score of more than 10 points. The amount to be awarded is determined by a prescribed scale set out in the Civil Liability Act. It carries a maximum of $300,000 and access to damages for future care and gratuitous services will also require an ISV score of more than 10 points.

Access to damages for loss of future earning capacity will require a score of more than seven points. This is because people with particular occupations are more affected by certain injuries than others. This lower threshold for future loss of earning capacity allows for the plumber to receive compensation for an injury that would affect his or her ongoing income but would not bother a desk worker. It is important to know, however, that everyone will get their medical and treatment costs paid. It is things like cash payments for pain and suffering that will be reduced with these reforms to make the scheme more affordable.

Probably one of the most prevalent claims in motor vehicle accidents is whiplash. A person who suffers minor soft tissue whiplash injury which falls in the zero to four point range will not be compensated for future losses or non-economic loss if there are no objective signs to support the reported symptoms. If objective signs of the injury that support the ongoing symptoms are present, a person is most likely to be classified as having a moderate cervical spine injury and therefore may be eligible for loss of future earning capacity.

If the spine injury results in structural damage that causes a permanent impairment, and there are other objective signs and radiological evidence, then it could be classed as a moderate cervical spine injury. This includes a fracture, disc prolapse or nerve root compression or damage that has a point range of five to 15. With this point range, a person may be eligible for all types of compensation, including pain and suffering payments.

It is the intention of the ISV table to strike a balance between determining objective medical evidence of permanent impairment, while also accounting for the impact of a particular injury on that particular person's life, i.e. the disability. Though an important element, the table is one part of the broader reforms being introduced. There will be a new medical accreditation and referral system which will govern the process for accrediting health practitioners, allocating assessment appointments, quality control and frequency of medical reports, and the use of the ISV table by accredited specialists.

This will help to simplify the system and, rather than the insurer and injured person having to get multiple competing medical reports, a medical assessment referral will be made to the next doctor on the list, who will be accredited in the use of the table. This will help to deal with the long debated difficulty of competing medical reports. These are important reforms that will ensure that we create a more fair and just system for all South Australians. I support the bill.

The Hon. R.B. SUCH (Fisher) (16:36): I support this bill and commend the government for introducing it. I think it is a pity it was not introduced a long time ago, but better late than never. Despite some concerns raised, mainly by lawyers, I believe this measure is fair, reasonable and, hopefully, likely to diminish the amount of money spent on lawyers in challenging or contesting any of these payments for compensation and injury.

Some concerns have been raised that the threshold in relation to the whole person impairment may be very high, and the other criticism—once again from lawyers—is that people may be reluctant to get legal advice because of the restriction or cap on legal fees. I think what would be useful is that this scheme be reviewed after a period of time; I am sure good government should do that anyway. I do not know whether the minister has that in the bill.

I did not see any specific review time frame in the bill, but I think it will not take long to show whether or not this proposition is going to work and be fair and reasonable. I think it will be, but I guess time will be the test. I welcome it, I think it is a good initiative, and it may save motorists some money. But I think the main thing is that it will, hopefully. ensure that people who are injured as a result of a car accident are justly treated in terms of compensation. I support the bill.

Ms BEDFORD (Florey) (16:36): I have been asked to put on record a few remarks. I believe that many South Australians would actually be quite shocked to learn that under our current

scheme not everyone is covered if they are unfortunate enough to be involved in a motor accident. Those who are injured through their own fault or where no-one was at fault, such as hitting an animal on the road, are simply not compensated through our current scheme, while others who suffer serious injuries which require lifetime care may be denied compensation, or they are provided lump sum compensation that is inadequate.

Each year, about 40 per cent of catastrophically injured accident victims are left without compensation. We are not talking about a small percentage, an outlying percentage or an exception to the rule when we speak of people not being covered: we are talking about almost half of all catastrophically injured motor accident victims, who are not covered by our current scheme—this is not acceptable. This means that those who are injured and suffer catastrophic injuries requiring ongoing care and support who are not covered must rely on disability support programs and family and friends—a heavy burden indeed for all involved.

This bill will end this shortcoming. This bill will bring about, from 1 July 2014, the introduction of a no-fault scheme. Not only will this scheme guarantee lifetime support and care for every South Australian who is catastrophically injured in a motor vehicle accident in South Australia, but the no-fault scheme will also meet the necessary costs in relation to medical treatment, rehabilitation, ambulance services and domestic assistance that result from such injuries.

This new scheme has already been embraced by vital groups in the medical, disability and legal professions. The government is taking this action to reduce everyday cost-of-living pressures and ease burdens placed on families supporting catastrophically injured South Australians. The introduction of this bill into parliament means an easement in the cost-of-living pressures for all South Australian families is on the way. The cost of our current CTP scheme is unsustainably high.

Since the year 2000, our premiums have grown by over 5.3 per cent—a higher rate than any other state or territory in Australia. Legal costs in relation to the scheme have increased by over 50 per cent since 2005, low economic loss payments are 53 per cent higher per vehicle than both Western Australia and Queensland, while payments for economic loss of earnings are 157 per cent higher per vehicle than in Western Australia. We also have a higher rate of claim: 144 per cent higher than in Western Australia and 132 per cent higher than in Queensland. This bill will rectify that.

Cost of living is a large concern for our community in South Australia. This bill will ensure that, over the next two years, the average South Australian will stand to reduce their expenditure by around $140. However, even if this bill did not bring about such a significant saving for every South Australian, it would still be one of the most vital bills to be introduced into this parliament. This bill will tackle the fundamental issue that our current CTP scheme is exposed to. I commend the bill.

Mr SIBBONS (Mitchell) (16:42): I rise to also support the Motor Vehicle Accidents (Lifetime Support Scheme) Bill 2013. The government has produced a reform package designed to improve the affordability of compulsory third-party insurance and provide better care and support to people who suffer catastrophic injuries in road accidents, and I would like to explain why these reforms are socially important. This is an important piece of social policy reform, providing not only adequate but better care, treatment and support to victims of motor accidents and their families.

Currently, many families experience extreme emotional, social and financial hardship when a loved one is involved in a motor vehicle accident. All too often, inadequate and ill-timed financial support means that victims and their families lose their businesses and livelihoods, with all future plans put on hold. This is to ensure that, in the short term, families are able to assist with recovery and rehab and also, in the long-term, to provide care and support.

The Productivity Commission's 2011 final report into Disability Care and Support highlights that people with disabilities and their carers are among the most disadvantaged groups in Australian society. This can be seen through measures of social isolation and financial status, as well as personal wellbeing. This disadvantage is linked to a lack of sufficient support.

The report goes on to say that, while provision of support is generally lacking, it is also inequitable. The support people receive is influenced by where they live and the cause of their disability. There are significant unmet needs for disability services in Australia, and this has been the case for decades. It affects a wide range of everyday activities including self-care, mobility, communication and transport.

The responsibility of this unmet need often falls upon the families. Where there is no-one else to sue for being at fault in an accident the current CTP insurance system fails these severely injured people. It fails them at their most vulnerable, and this is why we need reforms creating a fairer system. Under these reforms catastrophically injured motor vehicle accident victims will receive lifetime care and support, including rehabilitation, irrespective of fault. Their immediate medical needs will be met from the time of the accident.

Currently, if somebody is catastrophically injured and another driver is found to be wholly or partly at fault, the compensation from CTP insurance is paid to the injured person as a one-off lump sum. This is intended to cover all future needs. However, this compensation might not be enough to fund a lifetime of care. There are several reasons for this, including that it is impossible to predict accurately a person's future needs. Large sums might be mishandled or mismanaged, and the economic conditions affecting investment of the money might change.

Furthermore, the amount awarded might be reduced by legal, medico-legal and other costs of litigation that are not covered by the award of party-party costs, or the amount may be reduced because of the person's contributory negligence. Furthermore, those whose accident was entirely their own fault, or no-one was at fault, receive no compensation or support for their catastrophic injuries and their lifetime needs. This not only impacts the victim, but their family as well, and I will explore further the impacts on families.

For many, lifetime support and care is provided by a spouse, parent or even children. Family members often quit their jobs and become the primary caregiver. Meanwhile, as medical and household bills start to pile up, so does the emotional stress on those victims trying to undergo the process of rehabilitation. The loss of independence can have a huge impact on victims; for example, a young adult who requires 24-hour care in all activities of daily living may have to move back into the family home for a lifetime of care and support. Sometimes, this also means families in rural areas have to relocate to be closer to services, displacing them from their social networks and support base.

Before their accidents, catastrophically injured people lead normal lives, with relationships and networks that are all too often lost after their accidents. This does not, however, need to be the case. A better, fairer system will provide for faster recovery, both physically and emotionally. For those families, whether they are in the midst of raising their children or preparing for retirement, these changes will mean better support; hopefully avoiding the all too common experience of loss of friends and social networks, inability to participate in full-time work, the selling of physical assets and superannuation.

These reforms mean that in the future people who are catastrophically injured will receive: the provision of appropriate care hours affording the spouse the opportunity to work and time to look after the emotional needs of themselves and their children; the provision of ongoing therapy to avoid future medical issues that may involve further surgeries; appropriate housing and quality of life; and assistance with social activities.

Families will have more choice; more choice for their loved ones and more choice for rehabilitation. This does not mean that families will no longer care for their loved ones, but it will give them more freedom to choose how much support they are able to provide and how much they rely on the scheme to arrange supports. Assistance from the scheme will assist in diminishing the emotional burden on the family as well as the financial and physical burdens.

This system will provide and support community participation and inclusion, including employment, for people with disabilities. Those living with catastrophic injuries will be able to participate and build networks, interacting with other individuals, not-for-profit organisations, local councils, businesses and community health centres. We must ensure that we are able to support those who continue to make a contribution to our society, and we owe it to them to ensure this reform is passed.

Delivering those reforms will provide a fairer system not only for those who suffer injuries in motor vehicle accidents but for their families as well. This will mean a fairer deal for the appropriate 40 injured people and their families who will enter the scheme each year. So, I ask all to support this bill.

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (16:50): I rise to speak on the Motor Vehicle Accidents (Lifetime Support Scheme) Bill. Having regard to the usual forensic manner of which the member for Davenport examines these things, I will not traverse the issues

that have been raised by him, and quite rightly seeking some response from the government as to the applicability of this new scheme.

Essentially, the Motor Accident Commission is an instrumentality in this state, which has the responsibility to provide for a number of things, including the promotion on road safety in the state, and which provides an annual report to this parliament. I suppose in substance it is South Australia's compulsory third party insurer, and provides for approximately $330 million a year in compensation to road crash victims.

The CTP insurance is built into our registration process, and that provides, of course, for persons injured in road crashes. It is largely a fault scheme, and there are aspects of this bill which propose to introduce a no-fault scheme for those who are able to be eligible as catastrophically injured. The motor injury claims are managed under contract to Allianz Australia, and there are approximately, according to the annual report, 6,000 claims a year.

The other role particularly, of course, is for the board of the Motor Accident Commission to ensure that it manages the investment fund, which is now close to $3 billion in investments for this entity and to also, as I think I pointed out, have a role in advice and managing the state's road safety communication program.

Just as an aside, I note in the annual reports, it also seems to fund public transport for major events like the Clipsal race. I am not quite sure how that fits into its strategy, but, in any event, it has obviously got some extra jobs to do. But it does spend I think some $10 million a year on road safety commercials and advertising to assist all of us to drive more safely on the roads.

I do not wish to be raising the Motor Accident Commission as it currently states for any other reason other than to highlight to the parliament that this is an entity which appears to be run very well. It is one which, you would have to say in reading its annual report, you would struggle to see why the government announced that there would be a review of the Motor Accident Commission and the CTP fund operation in this state at all, because certainly on its own records—for example, in its 2010 report, it had an annual profit of $238.5 million with net assets of $165.4 million. By 2011, it was $131 million, with net assets of $238.5 million. In 2012, the net assets were up to $397 million.

The claims were continuing, they were being processed. The net asset of this entity continued to accumulate, it was continuing to make a profit even in what we see as the instability of the global investment market which seems to have challenged just about every other government or semi-government entity in the state, let alone the private investors, and yet this is an entity that has continued to do very well and financially has ensured that that remains stable.

What is extraordinary is that I noticed that in the 2010 report, under section 5 of the Motor Accident Commission Act, a direction, dated 19 May 2010, was given to the board by its minister (the Treasurer) directing an increase of CTP premiums for premium class 1 be set at $476 per annum from 1 July 2010 and premiums for all other classes of motor vehicles to be set by applying the class relativities used in the calculation of the 2009-10 in force premium relativities. The 2011 report reports another increase and in the 2012 report I was stunned to read, and I quote:

> However, the rising medical, care and legal costs to the CTP scheme are a major concern, somewhat neutralising the benefit of the reduction in road casualties. These rising claim costs together with unstable investment markets necessitated a further increase of 4.7% to the Class 1 CTP premium, effective from 1 July 2012.

So, in an environment in which the MAC are reporting to the parliament that they are having an increasing capital base and they are retaining their role, of course, in the significant claims, they have still seen fit to significantly increase the CTP premiums, of course under ministerial direction. It just seems to me that this is an entity which is doing very well, it has plenty of resources and yet it reports to us last year of the new announcement—which has come as a result of the COAG agreement—that is, that consistent with the federal government's proposal to introduce a national disability insurance scheme, which is probably the least descriptive of the wording used, it is essentially to provide for the support of the disabled to a far greater extent than they have now. It is a $6 billion or $8 billion annual exercise if the federal government takes up that initiative recommended by the Productivity Commission, but it is a significant commitment and it is disappointing that we have not had the dollars to flow with it.

We have a couple of programs that are out there which are available for states to sign up to, conditional upon what the real nub of this bill is, that is, to sign up to a no-fault scheme to provide long-term care for those catastrophically injured. Quite simply, if we do not, then we will not

get a share of the NDIS trials and that, I think, is offensive enough. In any event, if we are going to have the prop-up Bill Shorten campaign and actually pass legislation to provide for it, and this legislation, let us just consider what the government here has done to achieve that. It has signed up, it has agreed with the federal minister that this is what it is going to do, it has then sent out an issues paper for consultation, which I think is entirely inconsistent when it has already signed up for this. It is not—

The Hon. J.J. SNELLING: Vickie, you've got it completely wrong.

Ms CHAPMAN: Well, I may. The minister interrupts to say I have got this completely wrong. It concerns me that in the environment in which the government claims it needed to review the whole CTP scheme, it has put out the green paper, or whatever it is, the first time around and what we find, before they came to the white paper, is that they have signed a commitment to Bill Shorten to prop him up. That is what has really happened here.

It does concern me that what is happening is not that we, as many members of this parliament have said, do not recognise the importance of securing adequate care and support for those who are catastrophically injured. I have heard various reports that it could be six, it could be 20 people a year and, naturally, it could vary in any one year.

However, obviously there are people out there who are victims of accidents in which they have been catastrophically injured but who do not have adequate support. No-one here in the parliament would disagree with that. Sadly, there are a lot of other people who have accidents who do not get the same attention as is proposed to be prescribed in this bill. What concerns me is that, having had a well-run entity, we then had this extra commitment for the feds to be able to secure funds, so what does the government do?

They need to be able to commit to this without it costing any more, and there are two ways they have really identified they are doing it, and one is to cut out the entitlements of a number of claimants who are eligible under the current legislation. Other members, including the member for Davenport, have illustrated the difficulties in identifying what threshold that needs to achieve, what the new threshold will be, and who will be excluded (who are currently covered), and the inequities relating to that, and the second area is to apply a new levy.

How do they sell it to the public? How do you sell it to the general public as a good initiative, as a combination, to deal with the catastrophically injured, to cut out some of those who currently have legal entitlements and to be able to put up with a new levy? What you do is promise in advance that you are going to get a discount in the current obligation. I do not doubt for one moment, having read the RAA's submission in support of this legislation, that they were welcoming and enthusiastic in embracing the offer to have at least a $100 reduction in the first year and a net of about $45 in the second year of operation for all its road users. That was a welcome aspect.

I suppose they took the view in the end that they have a lot more members who have to pay the insurance every year, relative to the number of their members who are at risk of injury or who are injured and who under this scheme may miss out, but, nevertheless, they have signed up to it. My concern is that the real purpose of progressing this type of legislation is one which is under question. I cannot see why, on the financial material that has been presented by the board over the last three or four years, it was necessary to have reform. I can see where the government have signed up to try to prop up their federal colleagues, and it does concern me that they are taking away from one to provide for another.

However, if the government were really serious about the plight of those who are catastrophically injured, why would they wait until 2014 to introduce this initiative? That is what I cannot understand. How can they possibly stand here and say, 'We're really keen to progress this'? There are people every year who are in this situation—there are relatives who are burdened with the support, the distress and the pain of having to cover that—and yet they are prepared to hold out until 2014 before this is available.

If it was an entirely new initiative, and it was an entirely new structure that was necessary and we needed to develop a model upon which to deal with it, then perhaps we would say that we needed some lead time, but we are asked every day in this parliament to progress bills in a hurry. I think one of the marine bills is coming up shortly, and they want to push that through on 1 July 2013 because it is what they agreed upon at COAG. So we are all going to be rushing through to deal with that this week, and yet on this one they say that they can provide some of it to be operative 1 July 2013 but that they are going to put off until 2014 the other side—that is, the

application of a levy for the provision of the new scheme for the lifetime support initiative, the establishment of the authority and the necessary things.

I make the point here because it is not something that is new; this is already replicated in other jurisdictions. New South Wales has one that is already operational and, from the reading of the bill, it seems to be one that has been plucked across as the model for this scheme. So it is not new. We have the opportunity to progress this in a manner that will allow for the provision of support much earlier than the government proposes so, if it is genuinely bona fide in its commitment to assisting those who are catastrophically injured, then bring it on.

Clearly, the only reason for the government not advancing it at the same rate as the rest of these apparent initiatives is because of the election. The government does not want to lose the benefit of being able to go out there, as it has several times already, as usual presuming what the parliament is going to do, of course, and making promises that this will be a major cost saving for road users who are required to pay registration on motor vehicles.

That is the real reason; they want to be able to offer a carrot prior to the election and then whack them at the other end after the election if they are successful. They know they will not be feeling the pain of that, and if they are not successful at the next election then they will just expect the new government to take that pain. They want to be able to say to the public of South Australia, 'We care.' I say that if they care, support the amendment to bring forward the application for catastrophic injury to be effective from 1 July this year.

Mr PEGLER (Mount Gambier) (17:06): I find this place works in some weird and wonderful ways.

The Hon. J.J. Snelling: It works.

Mr PEGLER: It does work, but it seems to take months, if not years, to develop a bill to come before this parliament, and then when it comes before the parliament a little over a week later we are debating the bill. I give credit to the government, though; it has consulted with the Independents and has made people available if we had any questions.

There are two main changes that this bill effects, and the first one is the catastrophic life care. I feel that this, and the supports to the compulsory third party insurance, should be implemented at the same time. It is the wrong way to go, where people will see a drop in their insurance and then a rise in their insurance 12 months later. As far as I am concerned, both these changes should happen at the same time.

I certainly support the changes. I think the changes to compulsory third party are a step in the right direction. There is no doubt that third party insurance is becoming far too expensive in this state and, in making it harder for those small claims, in particular I support the fact that there will be no possibility of people claiming legal fees if they are awarded under $25,000 and that the legal fees for between $25,000 and $100,000 will be quite a bit less. Of course, this will not be popular with a lot of our lawyers, but I think it is a great step in the right direction.

I support the changes to the lifetime support scheme. I believe it is a step in the right direction. In my own electorate of Mount Gambier probably almost 80 per cent of all accidents are caused by kangaroos, and many of our constituents would not realise that, if they do hit a kangaroo, or dodge a kangaroo and run off the road, they are not supported through the compulsory third party scheme. So for those people who become severely injured, this is a great step in the right direction. Of course, when those people are injured it is often extremely hard on their families and they have no recourse because they cannot sue the kangaroo. I will certainly watch the questions in the committee stage with interest, but at this stage I indicate that I will support the bill.

The Hon. J.J. SNELLING (Playford—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for Defence Industries, Minister for Veterans' Affairs) (17:09): The reforms to compulsory third-party insurance are significant and important for two major reasons. These reforms provide for a no-fault scheme to care for people who have been catastrophically injured in motor vehicle accidents as well as making compulsory third-party premiums more affordable for South Australian motorists in the long-term.

On Tuesday 5 March, I informed the house about the government's intended reforms. While doing so, I informed the house about the anticipated savings arising from these changes and improvements in the performance of the scheme being nearly $150 over two years for class 1 motorists, and said that this would apply to every South Australian motorist. I note that, as

members know, there are many different rates for CTP premiums, depending on the class of the vehicle. If premium relativities for each class of vehicle remain the same, the saving on next year's premium will be 20 per cent of the current premium paid. Then, in the following year, for those relativities that remain the same, it would be an 8 to 9 per cent reduction on current premium levels before inflation.

These are significant savings. For vehicles that pay more than class 1 premiums (such as taxis and many classes of goods-carrying vans and trucks), the dollar figure saving will be proportionately more and, for vehicles that currently pay less (such as district 2 passenger vehicles and motorbikes), the savings will be proportionately less in dollar terms. This is before any changes to relativities, which are regularly reviewed and can change premiums paid in varying classes as a result of their different accident histories.

I also wish to provide information to the house in response to claims made by Senator Xenophon about compensation eligibility under the scheme. The senator made a number of claims about compensation not being payable for certain injuries, and I want to set the record straight. The senator was referring to the Injury Scale Value table that was released for consultation with the government's white paper on the reforms. That table is still in consultation with South Australian medical experts, and the final version will be made as regulations.

I note, however, despite the wording in the senator's article which refers to people getting 'zero compo' or 'missing out entirely', under these reforms no-one loses an entitlement to compensation for their treatment and medical expenses, and all claimants will still receive some compensation for past time off work. What these reforms do is prevent people getting 'payouts' on top of that for the most minor injuries on the scale. The need to limit damages in some way to make CTP schemes affordable has long been accepted by most jurisdictions. Despite the senator's claims, these reforms are necessary.

The senator claimed that people will not get a cent for pain and suffering if your skull is fractured and you have 'minimal brain damage'. The senator is actually referring to the category in the table called a minor head injury. The injury is described as an uncomplicated skull fracture or other injuries from which the person fully recovers within a few weeks or, at worst, has associated concussive symptoms which last less than six months.

It is important to understand that the minimal brain damage referred to in the medical description of this category is usually the result of concussive effects. Post-concussive symptoms are generally headaches and reduced concentration that resolve over time. It is appropriate that people receive compensation for their medical and treatment costs and lost wages or income while their injuries heal. However, we must be realistic about what compensation payments we provide through a compulsory insurance scheme that must also be affordable for South Australian motorists.

Senator Xenophon made the same claim about what he called permanent facial scarring. In fact, he appears to be referring to an injury which features 'a single scar able to be camouflaged', 'almost invisible linear scarring' or where, if small scars occur, the 'overall effect of the scars is to mar, but not markedly to affect, appearance'. Again, a person with this injury would be eligible to receive all medical and treatment costs and would have an entitlement to past income loss if applicable.

If, however, the injury is scarring where the worst effects will be reduced by plastic surgery that will leave minor cosmetic damage, they may also be eligible for compensation for any future loss of income. This kind of inflammatory approach is used by the senator for each of the injuries he describes. For example, he says 'You'll also cop it in the neck if your spine is injured. Even if you have a crush injury, you may still miss out.'

A spinal injury that includes a fracture, disc prolapse or nerve root compression or damage has an ISV scale point range of 5 to 15 points. Therefore, if it is significantly affecting the person's life, they are likely to be assessed as above 10 points and receive compensation for all heads of damage.

The government has intentionally taken an approach which allows for the differences between both injuries and people to be taken into account. However, a soft tissue injury with no radiological evidence, including the injury known as whiplash, can receive up to 10 points. A person may be eligible to receive damages for loss of future earning capacity in addition to the medical and treatment costs and lost income, but will not be entitled to pain and suffering damages. This is

a deliberate decision. Pain and suffering money awarded to whiplash injuries that heal, cost the scheme a lot of money.

I note Senator Xenophon's declaration of interest indicates that he is receiving substantial financial benefit from the personal injury law firm Xenophon and Co. While I understand that in the past Mr Xenophon's clients may have been receiving thousands of dollars to compensate for the sort of injury mentioned above, the scheme, and every South Australian who pays motor registration, simply cannot afford this type of award.

As I have said, Mr Deputy Speaker, under these reforms, everyone who was previously entitled, will still be entitled to their medical and treatment expenses and compensation for time they have lost off work. Like in Victoria and Tasmania, the maximum compensation for lost wages will be 80 per cent of pre-injury income. The government has consulted about these reforms and chosen an approach which is fair and, importantly, makes this compulsory insurance more affordable as part of our work to ease cost of living pressures for South Australians.

Can I also respond to some of the issues raised by the member for Davenport. The member for Davenport was concerned about when the actuarial advice was to be provided to the Economic and Finance Committee. I can advise that the advice has been provided to the committee by the Department of Treasury and Finance. He asked when the final ISV table would be released. As the opposition leader has been advised, the ISV table is undergoing consultation to ensure that it is appropriate in the South Australian environment.

The member for Davenport suggested that the ISV table should be already completed and is in some way being hidden. In fact, the opposite is true. The table has been widely and carefully consulted with the medical and legal professions. The ISV table is based on a document of the same name used in Queensland. A version accompanying the draft legislation was made public in November of last year which contained very few changes from the Queensland document. Consultation has since commenced with the medical community (including specialists in psychiatry, orthopaedics, neurology, rheumatology, plastic surgery, etc.) to assist in providing clarity around the descriptions in each injury item to assist parties in clearly identifying where particular injuries lie on the scale; point ranges are being considered and adjusted according to appropriateness; the language in the table is being reviewed for consistency with the AMA 5 guides (upon which the table is based); and the table is being reviewed for appropriateness in the South Australian context.

As a result of consultation with the legal community leading to changes to thresholds, there will also need to be some adjustments made to the table to provide clarity around the thresholds. Medical advice is being sought on these changes and they will also be subject to consultation with legal professional associations as well as other community groups. A list of the likely areas where adjustments for this purpose are being considered has already been provided to the legal professional associations. The government is committed to good faith consultation with the Law Society, Bar Association and Australian Lawyers Alliance on all the regulations under this bill, and that includes consultation on the ISV table which will form part of the regulations.

The member for Davenport also asked why there will be a different injury point system for motor vehicle accidents compared to other civil liability systems. The government is making changes to the CTP scheme to contain costs and the use of a new injury assessment system is part of that approach. The ISV table approach was chosen because it allows the ability to assign particular values to injuries whilst also allowing for variation within a band that takes account of the effect of that injury on the individual.

We are tackling motor vehicle accident compensation because it is an unavoidable cost for most South Australians. CTP insurance is unavoidable for motorists and, therefore, warrants special treatment to ensure its affordability. The member for Davenport has also queried why the no-fault scheme is not being expanded to cover all catastrophic accidents regardless of cause. In 2011, the Productivity Commission estimated that including all such injuries in the scheme would require more than $43 million per annum. This is for the additional costs of care and support for those who suffer catastrophic injuries and are not currently compensated. In addition, a system would need to be established to use compensation, which is currently provided through medical indemnity and public liability insurance, to fund care and support costs under a similar scheme.

As part of national discussions regarding the National Injury Insurance Scheme (NIIS), work is underway to consider the complexities involved in funding a universal no-fault catastrophic care system. However, these reforms are about what motorists pay as part of their ability to register their cars to deal with the accidents that happen on our roads. This is not the funding mechanism

for a more universal system, but I am very pleased that both the government and the opposition have accepted that, when paying for our car registration, people should have this form of no-fault compensation scheme for accidents on our roads.

In his speech, the member for Davenport also reached the conclusion that the NDIS launch for children will not be funded by the commonwealth if the no-fault scheme is not operational by the date it is due to start, and the Deputy Leader of the Opposition was confusing herself on this issue as well. This is simply not true. The commonwealth's funding of the South Australian NDIS launch is not contingent on the no-fault scheme becoming operational. As the information that was provided previously to the member for Davenport states, COAG signed an intergovernmental agreement on the NDIS launch in December 2012. This agreement covers the period of the launch. In South Australia, the launch relates to children. All parties have agreed to continue work on the policy for the full NDIS scheme.

The intergovernmental agreement requires that the state pay the full cost for any person who falls to the NDIS because they are not covered by a no-fault motor vehicle scheme after the launch commences. In South Australia, this will apply to children aged zero to five covered by the NDIS for the first year. This bill provides that all children under 16 years injured in a motor vehicle accident will receive medical treatment and support on a no-fault basis from 1 July 2013. In South Australia, if the legislation is passed in time, any shortfall against the benchmarks is not likely to be a significant issue.

Also in relation to the NDIS, the member for Davenport questioned the timing of the full NDIS scheme rollout. In South Australia, the NDIS will be launched on 1 July 2013 for children. This launch will be rolled out over three years and the age cohort expanded each year. This will help shape the development of a national launch, and detailed implementation arrangements for the full scheme are currently being discussed between all governments.

I also foreshadow that the government will not be supporting the amendment moved by the member for Davenport which seeks to bring the entire bill into operation by 1 October this year. I have sought advice from my agency and this is not practically feasible. The agency advises me that it is very simplistic to claim that we need only to copy the New South Wales scheme. There are many factors which have influenced the chosen implementation date for the Lifetime Support Scheme. As the member for Davenport himself raised, attention must be paid to ensuring costs are contained and the scheme is efficient. No-fault scheme expenses require best possible case management to ensure there is not a blowout in claim expenses and that proper guidelines and procedures are followed.

It is important at inception that we get it right. It is more important to commence the LSS when properly prepared, rather than commence a poorly implemented approach adversely affecting services and costs and preventing South Australians from properly benefiting from reforms which are intended to increase affordability. Once the legislation is passed, I am advised by the department that up to 12 months are required to: determine an appropriate claims management model, incorporating decisions on approach and strategy that outlines written procedures and is supported by sound information technology, business workflow, and accounting systems and tools; and design and establish an appropriate workforce to manage a no-fault scheme and to case manage the LSS participants. This includes progressive resourcing levels, skills mix, recruitment and, importantly, training and supervision.

Service provider tenders and contractual arrangements, incorporating service standards and existing stakeholder consultation, are two other bodies of work that will take an estimated six months. The Department of Planning, Transport and Infrastructure has also advised a required 45 weeks or 10 to 11-month period to implement the ICT and associated changes required to introduce the proposed LSS levy, which is different from the CTP premium. The government will also develop the models alongside the NDIS launch rollout and use any lessons learnt from this to ensure the Lifetime Support Scheme is well managed.

For these reasons the government will not be supporting the opposition's amendments. However, I will be careful in monitoring the establishment of the authority and scheme to ensure South Australians get the best possible scheme. I thank all members. This is a significant piece of legislative reform. An enormous amount of work has gone into it. I thank all members for their contributions to the debate and support for the bill, and I commend the second reading to the house.

Bill read a second time.

In committee.

Clause 1 passed.

Clause 2.

The Hon. I.F. EVANS: I move:

Page 5, line 6—Delete 'This' and substitute 'Subject to subsection (2), this'

This is the amendment I referred to in my second reading contribution. The purpose of this amendment is to bring forward the commencement of what I call the catastrophic care scheme, the lifetime support scheme. What my amendment says is that that particular scheme should come into operation no later than 1 October this year, which gives the government any time between now and then to have that scheme up and running. I note the minister's second reading contribution. The opposition believes that six months is adequate to get the scheme up.

We see no reason why if the current scheme is so bad that we need to change it we should delay it any longer than necessary. I think most people can see through the government's argument. What it is really doing is bringing forward the saving to the driver before the election and increasing the cost to the driver after the election. I do not think that is really in the best interests of the catastrophically injured. We recognise there must be some time required to set up the authority.

The government in its own second reading explanation and answers to my question, which I have read in, explained at length how it has been over in New South Wales looking at the system. I do not accept for a second the government's argument that it cannot get this authority up and running within six months. There is a live model over in Sydney, and you could certainly, in my view, have this up and running within the six-month period. The opposition will be standing by its amendment.

Mr BROCK: I would like to also speak on this here. I also congratulate the member for Davenport for moving this amendment and, before I do, I would like to congratulate the government for bringing this back into the system. I will speak in favour of the amendment. I certainly cannot understand why we cannot bring both systems in together, because I have a concern that, if there is an issue in the interim period, there is no coverage there. Certainly I am happy to give the government time to be able to get everything in place and, as the member for Davenport has indicated, if this amendment giving a provision to the act is not in by 1 October, then it will come into operation on that day. I certainly support this amendment.

The Hon. J.J. SNELLING: The government is opposed to the amendment, firstly for the reasons I have already outlined in my reply in the second reading. The advice from my agency is that a significant amount of work needs to be done in order to establish a new agency which is going to take responsibility for those catastrophically injured in motor vehicle accidents.

I should make quite clear that in the 12 months from 1 July—basically from the operation of the tort reforms to the establishment 12 months later of the no-fault scheme—people catastrophically injured in car accidents will still be covered, but they will be covered under the old rules, so on a fault basis. So, they will still have essentially the same access to compensation that they do at the moment. They will be able to sue on a fault basis for that 12 months.

We envisage, but at this stage we are still looking at whether it will be possible for those people in that 12 months who are injured to actually buy into the no-fault scheme on 1 July 2014. More work needs to be done on that. Obviously, we need to get proper actuarial advice and make sure that however they were buying into it was properly covering the costs we would anticipate. But my advice in the department is it is simply not possible for us to have up and running by October a new agency to do this.

I should also point out that generally when we do adjustments to motor vehicle registration and compulsory third party premiums, they are done on a financial year basis. So, potentially, we would have the introduction of the tort reforms and the subsequent decrease in CTP premiums applying from 1 July, and then, a matter of months later, another adjustment with a new levy having to come into place in October. I do not think it is necessary, and, in any case, my very strong advice from the agency and from the Department of Planning, Transport and Infrastructure is that at the end of the day you have to put in place the ICT requirements to implement the new levy and that they need the full 12 months in order to do it.

The Hon. I.F. EVANS: As the mover of the amendment, I think I get a right of reply. I just want to make this point to the house. What the Minister has said is quite right in relation to the

12 month period in the government's proposed scheme between 1 July this year and 1 July next year, that they would remain covered, but they would remain covered under the scheme which the Minister says is so bad we need to change. So, the 10, 12, 15 or 20 people who are going to be catastrophically injured in that period—the ones that swerved to miss the kangaroo and are not covered by the scheme—are going to be left in exactly the same position that we are trying to fix through this legislation.

Now, the Minister is quite right in saying that they might be able to buy in, but they are not a special class of injured, as, under the Minister's own legislation, every person who is currently catastrophically injured has the right to buy in. Even before we debated this legislation, if they were catastrophically injured five years ago, under this legislation the government is giving them a right to go to the authority and argue the case to buy in. The authority would do the calculation and come up with a figure and then there would be a decision made by that person as to whether they can afford to buy in.

So, that exact same circumstance will be in place for those people that are going to be catastrophically injured between 1 July this year and 30 June the next year under the government's proposal, which is to leave those people hanging with the bad scheme, the one we are trying to change. That is exactly what the government are proposing. So, the opposition's amendment says no.

The opposition's amendment indicates that we accept the fact there needs to be change. We think that, if you can set up an ICAC in six months and you've got a New South Wales model to copy, in relation to the premiums, minister, I don't believe it's beyond the wit of the government in the Department of Transport, if they know that the premium has to be adjusted, because the new levy is coming in on 1 October. So they've got a 10 month levy to be calculated and added on to the legislation.

If the legislation needs to be changed in the other place to allow that to happen on 1 July, then we will get parliamentary counsel and draft it so there is one adjustment on 1 July for the car registrations and the 10th month levy for this particular scheme It is not beyond the wit of the parliament to design the registration fee so that it takes into account not a 12-month levy the first year but a 10th-month levy.

The opposition is not going to front those families, in that 10th-month period, that are going to have people become catastrophically disabled and say, 'The reason that you are in the bad scheme is because the government could not deliver this scheme within six months.' So, the opposition offers that in rebuttal. We will be standing by our amendment.

The committee divided on the amendment:

AYES (20)

Brock, G.G.	Chapman, V.A.	Evans, I.F. (teller)
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.	Redmond, I.M.	Sanderson, R.
Treloar, P.A.	van Holst Pellekaan, D.C.	Venning, I.H.
Whetstone, T.J.	Williams, M.R.	

NOES (24)

Atkinson, M.J.	Bedford, F.E.	Bettison, Z.L.
Bignell, L.W.K.	Breuer, L.R.	Caica, P.
Close, S.E.	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, A.	Rankine, J.M.
Rau, J.R.	Sibbons, A.J.	Snelling, J.J. (teller)
Thompson, M.G.	Vlahos, L.A.	Weatherill, J.W.

Majority of 4 for the noes.

Amendment thus negatived.

The CHAIR: Mr Evans, do you wish to proceed with your second amendment?

The Hon. I.F. EVANS: The second amendment standing in my name is consequential and, as I have regrettably lost the first amendment, I will not proceed with the second amendment.

Clause passed.

Clause 3.

The Hon. I.F. EVANS: Other members of the opposition may indicate at various stages that they wish to ask questions. This clause is the interpretation clause of the bill, and I notice that there is no definition of 'motor vehicle' in the legislation. There is a definition of 'motor vehicle' in the Motor Vehicles Act. I wonder whether the minister thinks there is a flaw in the bill and whether the words 'motor vehicle' need to be defined.

The Hon. J.J. SNELLING: I advise that the answer to the question of the member for Davenport lies in subclause (2):

(2) Other words and expressions used in this Act have the meaning assigned to them in section 5, or Part 4, of the Motor Vehicles Act 1959, unless the context otherwise requires or the LSS Rules provide otherwise.

So, essentially, it is 'motor vehicle' as described elsewhere.

Mrs REDMOND: Following on from that, does the minister consider it necessary to have a definition of 'road race', as that terminology appears in clause 24 or 25 of the bill? It is also not defined in the definitions, and I just wonder whether it might be appropriate to consider that.

The Hon. J.J. SNELLING: 'Road race' is defined in the Motor Vehicles Act in part 4.

The Hon. I.F. EVANS: The clause to which the minister refers, subclause (2), and to which he referred in answer to my first question on this clause, states:

(2) Other words and expressions used in this Act have the meaning assigned to them in section 5, or Part 4, of the Motor Vehicles Act 1959, unless the context otherwise requires or the LSS Rules provide otherwise.

Does that mean that the LSS rules can assign a different definition to the Motor Vehicles Act for 'motor vehicle' or 'road race'? Can the LSS rules actually assign a different meaning?

The Hon. J.J. SNELLING: I suppose they could, but I cannot see why the meaning of motor vehicle or road race might be changed through the use of the LSS rules and, in any case, they have to be tabled in parliament and would be subject to disallowance.

The Hon. I.F. EVANS: On the disallowance issue the minister raises, the LSS rules I am assuming will be tabled as a regulation—the whole set of rules—and therefore the only option the parliament will have will be to disallow the whole rules or none of the rules; is that correct?

The Hon. J.J. SNELLING: That is right, you cannot amend regulations. The whole system would be inoperative were the parliament to disallow. The whole thing would not operate without the rules if a disallowance motion was successful.

The Hon. I.F. EVANS: I thank the minister for clarifying that. What I was trying to get on the record was that the parliament's only choice with regard to the LSS rules would be to reject in total or accept in total so, if the LSS rules do assign different meanings for any reason, the reason they might do that, for instance on 'road race', is to try and constrain the definition to constrain the cost. What is a road and what is a race? The definition of 'road race' in the Motor Vehicles Act is relatively broad. For instance, three farmers racing down a private road or a track: does that become a road race, or does a road race have to be a race for profit or for prize?

The Hon. J.J. SNELLING: I am advised that three farmers racing down a farm track would not be a road race.

The Hon. I.F. EVANS: Can the minister confirm whether a race, as defined, has to be for a prize?

The Hon. J.J. SNELLING: The act provides:

road race means any contest—

(a) that tests the speed or reliability of motor vehicles or the skill or endurance of their drivers or navigators; and

(b) that—

(i) is declared to be an event to which section 33 of the *Road Traffic Act 1961* applies; or

(ii) takes place on a race track established or adapted for the purpose of such contests;

That is the definition of road race under the Motor Vehicles Act 1959.

Mrs REDMOND: Can I take it then, minister, from that definition that a road race between two Subarus down Magill Road, for instance, is not a road race?

The Hon. J.J. SNELLING: Yes, the member for Heysen is correct.

The Hon. I.F. EVANS: In my last question on this clause, minister, clause 3(3) refers to the Motor Vehicles Act section 99(4) which deals with the conditionally registered farmers vehicles. I want to check that SAFF had been consulted regarding this change and whether there is any impact on the conditionally registered farmer's vehicles that are covered under section 99(3). Clause 3(3) provides:

Without limiting subsection (2), section 99(3), (3a) and (4) of the Motor Vehicles Act 1959 will apply in relation to this Act in order to determine whether a bodily injury is to be regarded as being caused by or arising out of the use of the motor vehicle.

I want to get on the record that there is no change to the conditionally registered farmer's vehicles proposed in this bill.

The Hon. J.J. SNELLING: There is no change. I am happy to put that on the record.

Clause passed.

Clause 4.

Mrs REDMOND: The definition in clause 4 of the treatment, care and support needs is quite prescriptive and goes from (a) to (m), including a couple of fairly general provisions in (l) and (m) of such other kinds of treatment and things which are either prescribed by the regulations or determined by the authority. I wonder if the minister could give some indication of why then there is a provision in subsection (2) to do with excluded care and support needs. What is in contemplation as being excluded given such an extensive list of prescriptive inclusions?

The Hon. J.J. SNELLING: Essentially because of the breadth of things that may be able to be covered under the scheme, it is necessary to have the ability by regulation to exclude certain things. For example, you will notice education and vocational training is one of the things that is covered. Obviously there is education and vocational training and then there is education and vocational training that may be of a more frivolous education and vocational training.

It provides the ability through the rules which have to be tabled in the parliament for certain types of things to be excluded. Another example might be certain experimental types of treatment that might be provided that the authority may need to exclude. You will notice that there is a fairly broad coverage there and it provides the ability for certain things under that to be excluded. But as I say, it has to be done through the rules subject to the normal parliamentary scrutiny.

The Hon. I.F. EVANS: Can I check my understanding, minister? In clause 4(2) it provides:

Despite subsection (1), but subject to subsection (1)(m), the treatment, care and support needs of a participant do not include any treatment, care, support or services declared by the LSS Rules to be excluded treatment, care and support needs.

I want to get it on the record that it is not possible for the LSS Rules to exclude treatment, care and support needs that are actually outlined in the act between subclauses (a) to (m).

The Hon. J.J. SNELLING: I may have missed the point the member for Davenport is trying to make. Subsection (2) basically allows, under the rules which have to be tabled to the parliament, certain types of treatment, care and support to be able to be excluded.

The Hon. I.F. EVANS: So, the question is: can they exclude any of the care, support or service that the act specifically says is included; that is, under (a), (b), (c), (d), (e), (f), (g) and (h)? Can the rules actually say that, 'Even though the act names these, we have the power to exclude them and, therefore, for some reason we are going to exclude them'?

The Hon. J.J. SNELLING: No, it cannot override those provisions in the act. It can provide for certain types; so, for example, under paragraph (b) certain types of dental treatment might be excluded, but the rules could not provide for blanket exclusion of dental treatment; or, under vocational education and training, certain types of education and vocational training could be excluded, but education and vocational training as a class could not be excluded under the rules.

So, the rules cannot override the provisions of the act, but what they can exclude is certain types of sub-classes under these provisions. I have just been given an example from New South Wales, of things which are not funded. I am quoting from the New South Wales authority. This is excluded:

- services that are of no clear benefit to a participant;
- services for a condition that existed before a motor accident or that is not a result of a motor accident;
- services that the participant accessed, was assessed as needing, or was on the waiting list for prior to the motor accident; or
- education expenses levied by the educational institution, including school fees, fees for excursions or school camps, stationery and uniforms, that are the responsibility of the parent or guardian. The Authority will fund the additional expenses that are required as a result of the motor accident injury.

So, under this New South Wales example, they exclude things, essentially, which are arising from some pre-existing condition.

Progress reported; committee to sit again.

LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

The Hon. J.J. SNELLING (Playford—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for Defence Industries, Minister for Veterans' Affairs) (17:58): Obtained leave and introduced a bill for an act to introduce a bill for an act to amend the Legal Practitioners Act 1981; and to make related amendments to the Fair Work Act 1994, the Freedom of Information Act 1991 and the Legal Services Commission Act 1977. Read a first time.

The Hon. J.J. SNELLING (Playford—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for Defence Industries, Minister for Veterans' Affairs) (17:59): I move:

That this bill be now read a second time.

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

Leave granted.

The Legal Practitioners (Miscellaneous) Amendment Bill 2013 seeks to modernise the regulation of the legal profession in South Australia and provide greater harmonisation for South Australian practitioners than otherwise exists. The Bill makes substantial improvements to the disciplinary system, with a view to improving the system for both consumers and practitioners. Particular focus has been given to increasing the protections available for consumers of legal services in South Australia.

The Bill makes amendments to the *Legal Practitioners Act 1981* to include relevant elements of the Legal Profession Bill 2007, which became deadlocked and lapsed during the last Parliament. This includes dealing with cost disclosure, trust accounts, incorporated legal practices, community legal centres and the Court's power over practising certificates.

Substantial amendments are made to the disciplinary system, including replacing the present Legal Practitioners Conduct Board with a Legal Profession Conduct Commissioner, with increased powers. It is also intended to enact a system of mentoring to provide early intervention in practices where there are signs of trouble, without waiting for formal complaints to arise. As proposed in the 2007 Bill, it is intended to establish a Register of Disciplinary Action, a public database of practitioners who have been disciplined for professional misconduct.

Discipline of lawyers

Using provisions that were proposed in the 2007 Bill, the draft Bill provides a new procedure for the Supreme Court to deal with practitioners who pose an immediate risk to the public. The Court, if satisfied that a ground exists, may decide to amend, suspend or cancel a practitioner's practising certificate. An application can be made to the Court by the Law Society, the Legal Profession Conduct Commissioner or the Attorney-General. Further, the Bill identifies certain events, including bankruptcy or being convicted of a serious offence, which trigger an obligation on a practitioner to explain to the Court why he or she is still a fit and proper person to practise law, failing which the certificate may be amended, suspended or cancelled. In addition, in a case where the Supreme Court believes it necessary in the public interest to immediately suspend a practitioner's certificate, it can do so of its own motion (or on application of the Society, Commissioner or Attorney-General) for up to 56 days.

Consistently with these new powers, section 15 of the Act is amended to make clear that it is a requirement for admission that the person must be fit and proper to practise the law.

The Bill replaces the current definitions of unsatisfactory conduct and unprofessional conduct with the definitions from the 2007 Bill of *unsatisfactory professional conduct* and *professional misconduct* (apart from a slight

change of wording which does not affect the meaning). These definitions are already in use around Australia. They are also the definitions proposed in the new National Law which is under discussion.

The definitions capture a wider range of conduct than do the present provisions. In particular, it is made clear that conduct that is not connected with the practitioner's practice can still amount to professional misconduct, even if it is not a criminal offence or a particular type of criminal offence. Instead, the test is whether the conduct shows that the person is not fit and proper to practise law.

The Bill proposes to abolish the present Legal Practitioners Conduct Board and the position of Director. In their place, there is to be a Legal Profession Conduct Commissioner. As well as taking over the powers and duties of the present Board, it is proposed that the Commissioner have new powers to make binding decisions imposing sanctions without the consent of parties in some cases, and to impose a wide range of disciplinary sanctions with the consent of the practitioner. This is expected to reduce the demand on the Tribunal and to avoid the need for Tribunal proceedings where there is no dispute that the practitioner has acted wrongly.

In any case where it appears to the Commissioner that there is evidence that someone may have committed a criminal offence, the Commissioner must notify the Crown Solicitor as soon as possible.

Also, in recognition that practitioners sometimes get into trouble through mental illness or substance abuse, provision is made for the Commissioner, in a disciplinary matter, with the practitioner's consent, to impose a requirement for the practitioner to be medically assessed and to undergo treatment.

The Commissioner is also given the power to make binding determinations in overcharging complaints where the amount in dispute is no more than $10,000.

It is proposed to broaden the range of matters that may be dealt with by the Tribunal constituted of one member. The Commissioner may, in laying a complaint of professional misconduct, specify that he or she does not seek to have the practitioner struck off and does not seek a suspension longer than three months or a fine greater than $10,000. In that case, as well as where the proceedings before the Tribunal allege only unsatisfactory professional conduct or on appeal from a determination of the Commissioner under section 77K, the Tribunal can be constituted of a single member.

It is proposed that Tribunal be able to stay any charge or proceeding for good reason, including where the practitioner cannot adequately take part in the proceedings, for example, serious ill health. During a stay, the practitioner's right to practise is suspended until either the completion of disciplinary proceedings or the Supreme Court orders that their right to practise be restored. This recognises that there might be some situations where it is not reasonably practicable to complete the proceedings for some time and the public can be adequately protected by preventing the practitioner practising in the meantime.

Maximum penalties for disciplinary infractions are to be increased. The present maximum fine that may be imposed by the Tribunal of $10,000 becomes $50,000, except in the case of a former practitioner, where it is increased from $5,000 to $25,000. The maximum suspension of a practising certificate is to be increased from 6 to 12 months.

In addition, as a preventative measure, new provision is made for a system of professional mentoring. The Society or the Commissioner can enter into an arrangement with a practitioner that he or she receive mentoring from a suitably experienced practitioner for up to six months, with the possibility of extension. It is intended that the mentor will have access to the practitioner's files and will provide advice and guidance to the practitioner so as to both improve the practitioner's skills and protect his or her clients. Failure to comply with a mentoring agreement would, itself, be conduct capable of constituting unsatisfactory professional conduct or professional misconduct.

As proposed in the 2007 Bill, there is to be a public register of disciplinary action taken against lawyers.

Further, the Legal Profession Conduct Commissioner will be able to apply directly to the Supreme Court to have a practitioner struck off the roll on the ground of an indictable offence or for some other reason. Also, it is made clear that the Commissioner, the Society or the Attorney-General may move the Court in its inherent jurisdiction over legal practitioners, for disciplinary action.

Community legal centres

It is proposed to insert into the Act the provisions of the 2007-Bill which dealt with community legal centres. This will make clear that a practitioner who is employed in such a centre is nonetheless subject to all the professional obligations and retains all the privileges of a practitioner. Consequently, it is to be an offence for anyone to attempt to induce a practitioner employed at a community legal centre to act contrary to his or her professional obligations.

Fidelity fund

The Bill renames the guarantee fund as the Fidelity Fund and permits payments to be made in advance in a case of hardship where there is a reasonable prospect that the claim will ultimately be paid, but subject to a right of recovery if the claim in fact fails. The Bill also permits the fund to be applied to the expenses of the Board of Examiners and the Tribunal as well as the payment of honoraria to members of LPEAC, along with other amendments to reflect the changes made by the Bill.

Incorporated legal practices

The Bill permits incorporated legal practices to operate in South Australia but restricts the practice so that it may not provide any service, or conduct any business, that does not involve engaging in legal practice. Unlike company practitioners under the current Act, incorporated legal practices will not be required to hold a practising certificate.

Any incorporated legal practice wishing to engage in legal practice in South Australia must give notice to the Supreme Court of its intention to do so. Company practitioners currently operating in South Australia will be required to give notice to the Supreme Court of their intention to continue to engage in legal practice in South Australia as an incorporated legal practice. This will ensure the Supreme Court has a comprehensive register of companies providing legal services in this State.

An incorporated legal practice must have at least one legal practitioner director at all times, who is responsible for the management of legal services in the practice and must ensure appropriate management systems are implemented and maintained so that legal services are provided in accordance with professional obligations of legal practitioners and other obligations in the Act or regulations, or the legal profession rules.

It is an offence for an incorporated legal practice to be without a legal practitioner director and the practice must not provide legal services while in default of this provision. It is also an offence for a person to cause or induce or attempt to cause or induce a legal practitioner director or another legal practitioner providing legal service on behalf of the incorporated legal practice to contravene the Act, regulations or any other professional obligations.

The Society may conduct an audit of the compliance of the practice with the requirements in the Act, regulations and legal profession rules as well as the management of the provision of legal services. This maybe conducted whether or not a complaint has been made. The Society, the Commissioner and the Attorney-General will also have the power to apply tho the Supreme Court to ban a corporation from providing legal services in this jurisdiction.

Trust money and trust accounts

The Bill introduces the provisions proposed in the Legal Profession Bill 2007 dealing with trust money and trust accounts. The new provisions introduce the concept of 'controlled money' and 'transit money', allowing a practice to deal with trust money in accordance with instructions of the client other than depositing the money into the general trust account. Other provisions deal with protection of trust money, prohibition on intermixing, prohibition on deficiencies, reporting irregularities and keeping of trust records. The provisions also introduce more detailed provisions for investigations and examinations of trust records and activities.

The Bill allows the Society to make a determination that money is not trust money for the purposes of the Act and sets out the obligations on a practice to notify a client that their money is not to be treated as trust money.

As well as ongoing audit requirements, practitioners will be required to report trust account irregularities to the Society, even if giving such notice may incriminate the practitioner.

Costs disclosure and adjudication

The Bill inserts into the Act the provisions that were proposed in the Legal Profession Bill 2007, specifying what lawyers must tell their clients about the cost of their work. At the moment, there are professional conduct rules about this but they do not have the force of law. The proposed provisions are similar to those in use around Australia. They seek to ensure that clients engaging legal practitioners will be properly informed about what costs they will have to pay, to the extent that that is possible at the outset of a matter. The Bill provides a safe harbour whereby the practitioner can be assured that they have met certain of the costs disclosure requirements by using a standard form. These provisions are designed chiefly to protect more vulnerable clients and do not apply, for example, where the client is the government or a large company or partnership, or where the firm has tendered for the work.

The provisions also seek to ensure that clients know of their rights to negotiate a costs agreement, receive a bill, request an itemised bill, be notified of substantial changes, receive progress reports and avenues available to challenge a bill.

The Bill covers the making and setting aside of costs agreements. It also makes clear that conditional cost agreements are lawful but contingency fees, that is, where the lawyer shares in the award, are not.

The Bill also sets out the processes for making an application for adjudication of costs to the Supreme Court, including the powers of the Court, the criteria for adjudication and the cots of adjudication.

Investigatory powers

The Bill includes new extensive investigative powers for the conduct of complaint investigations, trust account investigations and examinations and compliance audits of incorporated legal practices.

There are powers to require production of documents and giving of information as well as entry and search powers for trust account and complaint investigations. The provisions also set out additional powers of investigators when conducting an investigation or audit in relation to incorporated legal practices.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Legal Practitioners Act 1981*

4—Amendment of section 5—Interpretation

A definition of *associate* is added in connection with the insertion of proposed new section 5A, which defines the terms *associate*, *legal practitioner associate* and *principal* in relation to law practices.

The definition of *Board* is deleted because of the proposed replacement of the Legal Practitioners Conduct Board with the Legal Profession Conduct Commissioner. A definition of *Commissioner* is also inserted in connection with this amendment.

The existing definition of *community legal centre* is amended to make it clear that the definition includes the Aboriginal Legal Rights Movement but does not include the Legal Services Commission.

The deletion of the definition of *company* and the insertion of a definition of *corporation* reflect a simple change in terminology. In connection with these changes, definitions of *Director* and *officer* are also inserted, reflecting the terminology used in the *Corporations Act 2001* of the Commonwealth. A definition of *related body corporate* is also included.

The definition of *guarantee fund* is to be deleted because of the proposal to rename the fund as the *Fidelity Fund*.

The definition of *fiduciary or professional default* is amended to make it clear that the term applies in relation to incorporated legal practices in addition to firms.

The measure amends a number of clauses relating to legal practice, and inserts related definitions of *law practice*, *incorporated legal practice*, *legal practitioner* and *practitioner* and *legal practitioner director*. The definition of *practise the profession of the law*, *legal practice* or *practise* is amended to ensure that it extends to an incorporated legal practice. A definition of *legal services* is inserted, and defined as meaning work done, or business transacted, in the ordinary course of engaging in legal practice. A definition of *sole practitioner* is introduced and defined as a legal practitioner who practises the profession of the law on his or her own account.

A proposed definition of *jurisdiction* defines the term to mean a State or Territory of the Commonwealth.

A definition of *legal profession rules* is also inserted. The term is defined as meaning the professional conduct rules of the Law Society of South Australia, and any other rules prescribed by the regulations for the purposes of the definition.

A new definition is introduced to clarify the *professional obligations* of legal practitioners and incorporated legal practices, which are not defined under the current Act. These are defined to include—

- duties to the Supreme Court; and
- obligations in connection with conflicts of interest; and
- duties to clients, including disclosure; and
- ethical rules required to be observed by legal practitioners.

A definition of *professional misconduct* is inserted to reflect the proposed new regime for defining professional misconduct. The terms *unprofessional conduct* and *unsatisfactory conduct* are to be deleted. The term *unsatisfactory professional conduct* is defined by reference to new section 68. A definition of a *show cause event* is also inserted to clarify the provisions relating to practising certificates under proposed new Part 3 Divisions 2A to 2C. The term *unrestricted practising certificate* is inserted consequential on amendments relating to practising certificates.

A definition of *professional mentoring agreement* is inserted. The definition refers to new section 90B of the principal Act, which provides for the entering into of professional mentoring agreements.

A new definition of *Regulator* is to be added. *Regulator* is defined to mean, in relation to this jurisdiction, the Commissioner, and in other jurisdictions, a person or body corresponding to the role of Commissioner in this jurisdiction. The definition of *regulatory authority* is amended to replace the reference to the Board with a reference to the Commissioner, consequential on the establishment of the office of Legal Profession Conduct Commissioner. The introduction of the new defined term *corresponding disciplinary body* is consequential on the proposed amendments to Part 6 of Division 1, which relates to unsatisfactory professional conduct and professional misconduct, and Part 6 Division 6, which relates to the publicising of disciplinary action.

A definition of *serious offence* is introduced consequential on the insertion of new provisions relating to unsatisfactory professional conduct and professional misconduct. *Conviction* is defined as to include a formal finding of guilt.

The terms *trust account* and *trust money* have been replaced with definitions contained in proposed new Schedule 2 of the principal Act.

The section as amended will also provide that nothing in the Act or the legal profession rules affects the exercise by the Director of Public Prosecutions, the Crown Solicitor or a prosecutor instructed by the Director of Public Prosecutions or the Crown Solicitor of any discretion in the context of a prosecution.

5—Insertion of section 5A

Proposed new section 5A, inserted into the principal Act by this clause, contains definitions of terms relating to associates and principals of law practices. The proposed provision defines the terms *associate*, *legal practitioner associate* and *principal* in connection with law practices.

6—Amendment of section 6—Fusion of legal profession

This clause makes a minor amendment to section 6 of the principal Act so that reference is made to 'King's Counsel' and 'Senior Counsel' in addition to 'Queen's Counsel'.

7—Amendment of section 8—Officers and employees of Society

8—Amendment of section 12—Minutes of proceedings

The amendments made by these clauses are consequential on the change in designation of the Executive Director of the Society to Chief Executive.

9—Amendment of section 13—Society's right of audience

The first amendment made by this clause is consequential on the proposed insertion of sections 68 and 69 into the principal Act by clause 41 of this measure.

The section as amended will also require the Society to notify the Attorney-General if it appoints a legal practitioner to appear before a court, commission or tribunal.

10—Amendment of section 14AB—Certain matters to be reported by Society

The amendments made by this clause are to some extent consequential on the deletion of Part 3 Division 5 of the principal Act, relating to trust accounts and audits. A new Division has been substituted. Proposed new Division 5 states that the provisions in Schedule 2 apply to law practices in respect of trust money and associated matters.

Section 14AB of the principal Act outlines the Law Society of South Australia's reporting obligations. The proposed amendment substitutes a reference to the appointment of an inspector under Division 5 of Part 3 (relating to trust accounts and audits) and replaces it with a reference to 'an investigator or external examiner under Schedule 3' (which contains provisions related to investigations and external examinations).

The provision is also amended to replace references to the Board with references to the Commissioner.

References to 'unprofessional or unsatisfactory conduct' are also replaced with references to 'unsatisfactory professional conduct or professional misconduct'.

11—Amendment of section 14B—Establishment of LPEAC

This clause amends section 14B of the principal Act to add two additional positions to the Legal Practitioners Education and Admission Council, being the Dean or acting Dean of the faculty of the school of law at the University of South Australia and the presiding member of the Board of Examiners.

12—Amendment of section 14C—Functions of LPEAC

Under section 14C as amended by this clause, LPEAC will be permitted to prescribe categories of practising certificates and the limitations on the practise of the profession of the law that apply in relation to the prescribed categories.

13—Amendment of section 14E—Procedures of LPEAC

This clause is consequential on the proposed amendment to section 14B. It increases the quorum of LPEAC from 7 to 8.

14—Amendment of section 15—Entitlement to admission

This clause amends section 15 of the principal Act, which outlines a person's entitlement to admission to the profession. The current provision states that a person must satisfy the Supreme Court that he or she is of good character and that he or she has complied with the rules of the Supreme Court relating to admission and the rules made by LPEAC with respect to admission. The proposed amendment replaces the good character requirement with a requirement that the person be a 'fit and proper person to practise the profession of the law'.

This clause also inserts a new subsection (1a), which states that the Supreme Court must refer each application for admission by a person whose name has been removed from the roll of legal practitioners to the Attorney-General, the Commissioner and the Society. Each of theses bodies is entitled to be heard by the Court on the application.

15—Amendment of section 16—Issue of practising certificate

This clause amends section 16 of the principal Act by deleting subsections (2) to (4) and subsection (6). Subsections (2), (3) and (4) relate to applications by companies for practising certificates. The section as proposed to be amended will state only that where an admitted and enrolled legal practitioner applies to the Supreme Court for a practising certificate, the Court will issue such a certificate, subject to the Act.

The section as amended will also permit a person to apply for a particular category of practising certificate (if LPEAC has made rules prescribing different categories).

16—Amendment of section 18—Term and renewal of practising certificates

This clause inserts a new subsection (2a) into section 18 of the principal Act. The provision relates to the term and renewal of practising certificates. The proposed new subsection provides that if the Supreme Court is satisfied that any particulars appearing on a practising certificate are incorrect, the Court may cancel the practising certificate and issue a replacement.

17—Insertion of Part 3 Divisions 2A to 2C

This clause inserts proposed new Divisions 2A, 2B and 2C into Part 3 of the principal Act. These Divisions include provisions relating to the amendment, suspension and cancellation of practising certificates.

Division 2A—Amendment, suspension or cancellation of practising certificates

20AB—Application of Division

Proposed new section 20AB states that Division 2A does not apply in relation to matters referred to in new Division 2B.

20AC—Grounds for amending, suspending or cancelling practising certificate

Under proposed section 20AC, the following are grounds for amending, suspending or cancelling a practitioner's practising certificate:

- the holder of the certificate is not a fit and proper person to hold the certificate;
- if a condition of the certificate is that the holder is or has been limited to legal practice specified in the certificate—the holder is engaging in legal practice that he or she is not entitled to engage in.

20AD—Amending, suspending or cancelling practising certificates

Proposed section 20AD sets out the circumstances in which the Supreme Court may, on application by the Attorney-General, the Law Society or the Commissioner, make an order amending, suspending or cancelling a practising certificate.

Subsection (2) sets out the procedure by which an application must be made, including setting out the order sought, the grounds for making such an order, giving the holder of the certificate an opportunity to make written submissions to the Court, and the Court's duty to give the holder written notice of the terms of and reasons for the order.

20AE—Operation of amendment, suspension or cancellation of practising certificate

This proposed section applies where there has been an amendment, suspension or cancellation of a practising certificate. It provides that the change in the certificate takes effect either on the day that notice is given to the holder, or at a day specified in the notice, whichever is later. If the change in the certificate occurs because the holder has been convicted on an offence, the holder may apply to the Supreme Court for a stay of the order until the time to appeal against the conviction expires, or if an appeal is made, until the appeal is resolved. If the conviction is then quashed, the amendment or suspension ceases to have effect, and for a cancellation, the certificate will be restored as if it had been suspended.

20AF—Revocation of amendment, suspension or cancellation of practising certificate

Proposed new section 20AF provides that the holder of a certificate that has been amended, suspended or cancelled may make written representations to the Registrar of the Supreme Court and the Court must consider those submissions. This proposed provision also gives the Supreme Court the power to revoke the amendment, suspension or cancellation whether or not such written representations have been made.

Division 2B—Special powers in relation to practising certificates—show cause events

20AG—Applicant for practising certificate—show cause event

Proposed new section 20AG applies where a show cause event has happened in relation to an applicant for a practising certificate after the person was first admitted. If a show cause event has happened in this way, the applicant must provide the Supreme Court with a written statement setting out the particulars of the event and explaining why, despite the show cause event, the applicant considers him or herself to be a fit and proper person to hold a certificate. Subsection (4) provides that the written statement must also be served by the applicant on the Commissioner and the Law Society, who are in turn empowered to make submissions to the Court.

20AH—Holder of practising certificate—show cause event

This proposed provision is similar to proposed new section 20AG, but applies if a show cause event occurs in relation to a holder of, rather than an applicant for, a practising certificate. The holder must provide a notice and written statement to the Supreme Court within a specified time frame. It also provides that a notice and written statement provided under the section must be served by the holder on the Commissioner and the Law Society.

20AI—Refusal, amendment, suspension or cancellation of practising certificate—failure to show cause

This proposed provision provides that the Supreme Court may refuse to issue or renew, or may amend, suspend or cancel, a practising certificate if an applicant or holder has failed to provide a written statement as required, or where the applicant or holder has provided the required statement but the Court

does not consider that the applicant or holder has shown that he or she is a fit and proper person to hold a practising certificate in spite of the show cause event. The Supreme Court is required to provide the person with written notice of this decision.

Division 2C—Further provisions relating to practising certificates

20AJ—Immediate suspension of practising certificate

Despite Divisions 2A and 2B, the Supreme Court may, on application by the Attorney-General, the Commissioner or the Law Society, immediately suspend a practising certificate if it considers the suspension to be necessary in the public interest. The suspension may be made on any of the grounds on which the certificate could be cancelled under Division 2A, on the ground of the happening of a show cause event in relation to the holder or on any other ground that the Court considers warrants an immediate suspension.

The proposed provision also sets out requirements in relation to giving notice of the suspension to the holder of the certificate and states that the Court must consider any written representations made by the holder to the Court.

20AK—Surrender and cancellation of practising certificate

This proposed provision provides that a holder of a practising certificate may surrender the certificate and that the Supreme Court may cancel the certificate.

18—Amendment of section 21—Entitlement to practise

This clause substitutes subsection (1) and removes the reference to a company that holds a practising certificate, as well as circumscribing the application of the section to local and interstate legal practitioners. Subsection (2) is also amended. Subsection (2) provides an inclusive list of activities which, if the practitioner is acting for a fee or reward on behalf of another person, constitute the practice of the profession of law. The clause deletes the reference to the preparation of 'a memorandum or articles of association...of a body corporate' and replaces it with a reference to the constitution of a body corporate.

An evidentiary provision is also inserted, so that in proceedings for an offence against subsection (1) of section 21, a certificate purporting to be signed by the Chief Executive of the Society and stating that a person is not a local legal practitioner or not an interstate legal practitioner is, in the absence of proof to the contrary, prima facie evidence of that fact.

19—Amendment of section 23AA—Employment of disqualified person

This clause makes a minor amendment to section 23AA by replacing references to the Board with references to the Commissioner.

20—Amendment of section 23B —Limitations or conditions on practice under laws of participating States

This clause amends section 23B(4), which currently states that a contravention or non-compliance with the section is unprofessional conduct. The clause as amended will refer instead to professional misconduct.

21—Amendment of section 23D—Notification of establishment of office required

This clause makes a minor amendment to section 23D(4) by deleting the reference to Board and replacing it with a reference to the Commissioner.

22—Insertion of Part 3 Division 3B

This clause inserts a new Division 3B into Part 3. The proposed new Division contains a number of provisions relating to community legal centres.

Division 3B—Provisions relating to community legal centres

23E—Community legal centres

Proposed new section 23E provides that a community legal centre does not contravene the Act merely because it employs legal practitioners to provide legal services or has a contractual relationship with a person to whom such legal services are provided. The regulations may modify or exclude provisions of the Act from applying to community legal centres or the legal practitioners employed by them.

23F—Obligations and privileges of practitioners who are officers or employees

Proposed new section 23F makes it clear that legal practitioners who provide legal services on behalf of community legal centres are not excused from their professional obligations, and retain their professional privileges. It also states that the regulations may make further provisions in connection with this.

The new section also provides that the law relating to client legal privilege and other legal professional privilege is not affected by the fact that the services are provided on behalf of a community legal centre.

New subsection (4) states that a legal practitioner may disclose matters to the officers of the centre for any proper purpose, and this will not affect the operation of legal privilege.

23G—Undue influence

New section 23G prohibits a person from causing or inducing, or attempting to cause or induce, a legal practitioner who is providing legal services on behalf of a community legal centre to contravene the Act, regulations, legal professional rules or professional obligations. It imposes a maximum penalty of $50,000.

23H—Application of legal profession rules

This proposed new section makes it clear that the legal profession rules apply in the same way to legal practitioners providing legal services on behalf of community legal centres.

23I—Costs

This proposed new section states that if legal assistance is provided to a person by a community legal centre, the centre is subrogated to the rights of the assisted person to costs in respect of that legal assistance.

23—Substitution of Part 3 Division 4

This clause substitutes Division 4 of Part 3, which currently contains provisions regulating legal practice by companies. Under the Act as proposed to be amended, this Division is substituted for a Division with the same heading containing a section stating that the provisions set out in Schedule 1 (relating to incorporated legal practices) apply in relation to a corporation that engages in legal practice in South Australia.

24—Substitution of Part 3 Division 5

This clause substitutes Division 5 of Part 3 of the Act, which currently contains provisions relating to trust accounts and audits. This Division is to be replaced with a Division entitled 'Provisions regulating trust money and trust accounts', which will contain substituted section 25. The section states that the provisions set out in the Schedule, which regulate trust money and trust accounts, apply in respect of trust money and associated matters, as specified in clause 4 of that Schedule.

25—Amendment of section 39—Delivery up of legal papers

This clause amends section 39 by substituting a new subsection (1). The subsection currently states that a legal practitioner could be ordered by the Supreme Court, on application by any person, to deliver up legal documents. The proposed new subsection (1) extends the power to make the order to any court and also extends the application of the subsection to incorporated legal practices.

This clause also amends subsection (3) of the provision consequential on the changes to subsection (1).

26—Substitution of Part 3 Division 8

This clause substitutes Division 8 of Part 3 of the Act, relating to recovery of legal costs. This Division is to be replaced by a new Division 8 entitled 'Costs disclosure and adjudication'. New section 41 states that the provisions set out in Schedule 3 apply in relation to the recovery of legal costs and adjudication of legal costs.

27—Amendment of section 43A—Interpretation

This clause amends section 43A (which sets out definitions of terms for Division 9, relating to the appointment of supervisors and managers), so that the definition of legal practitioner includes an incorporated legal practice.

28—Amendment of section 48—Remuneration etc of persons appointed to exercise powers conferred by this Division

This clause amends section 48(3) of the principal Act, which states that where a supervisor or manager is appointed under the Act, he or she will be entitled to remuneration, allowances and expenses, subject to those being taxed and settled by the Supreme Court, if an application is made by the Attorney-General. This clause replaces the term 'taxed' with 'adjudicated'.

29—Substitution of heading to Part 3 Division 10

This clause changes the heading to Division 10 of Part 3 from 'Restriction on practice by bankrupts etc' to 'Restriction on practice if corporation wound up'.

30—Amendment of section 49—Supreme Court may grant authority permitting director to practise

This clause amends section 49 by deleting paragraph (a) of subsection (1), which provides that a person who has become bankrupt must not practice the profession of the law without the permission of the Supreme Court. Paragraph (b) of subsection (1) applies in the same way to a person who is or has been a director of an incorporated legal practice during the winding up of the company. This clause amends that paragraph to reflect the change in terminology to corporation and to change the reference to 'incorporated legal practitioner' to 'incorporated legal practice'.

This clause also amends subsection (1a) of the section, which relates to the grant of an authority to practice on application by the legal practitioner. The proposed amendment removes the reference to a practitioner who 'is or is about to become bankrupt' so that the subsection applies to a legal practitioner who has been 'a director of an incorporated legal practice', and to change the reference to 'incorporated legal practitioner' to 'incorporated legal practice.'

This clause also proposes to insert new subsection (1b) into section 49, providing that an application for an authority under the section must be served on the Commissioner and the Society, each of whom is entitled to be heard by the Supreme Court on the application in accordance with the rules of Court.

31—Amendment of section 50—Supreme Court may authorise personal representative etc to carry on legal practice

This clause makes a minor consequential amendment to section 50 by replacing the reference to 'a company that is a legal practitioner' with a reference to an incorporated legal practice.

32—Amendment of section 51—Right of audience

Section 51 outlines the classes of persons who are entitled to practise in South Australian courts and tribunals. This proposed amendment makes minor changes, making a consequential amendment by deleting the reference to a legal practitioner employed by the Board and replacing it with a reference to 'the Commissioner and a legal practitioner employed by the Commissioner'.

33—Amendment of section 52—Professional indemnity insurance scheme

Currently, under section 52, a professional indemnity scheme established by the Society may operate for the benefit of legal practitioners. Under the section as amended by this clause, a professional indemnity scheme may also operate for the benefit of law practices. This clause also amends section 52 by adding to the definition of legal practitioner in subsection (5) an 'interstate legal practitioner'.

34—Substitution of section 52AA

This clause substitutes section 52AA, relating to professional indemnity insurance required by interstate practitioners, which states that the person or practice must not engage in legal practice unless there is an approved professional indemnity insurance in force. The penalty for interstate legal practitioners remains at $10,000, but a new penalty of $50,000 is added to apply to other cases. The section is also amended so that it applies to incorporated legal practices.

The new section defines *approved professional indemnity insurance* and also *prescribed practitioner or practice*.

35—Substitution of section 53

This clause inserts a new section 52B into the principal Act. Under the new section, the regulations may provide that specified provisions of Part 4 Division 1, and any other provisions of this Act, the regulations or the legal profession rules relating to that Division, do not apply to incorporated legal practices (or a specified class of incorporated legal practices) or apply to them with specified modifications.

New section 53, dealing with the obligation to deposit trust money in the combined trust account, applies to law practices rather than, as is the case under the current section, legal practitioners.

36—Substitution of heading to Part 4 Division 3

Division 3 of Part 4 of the principal Act relates to 'the legal practitioners' guarantee fund'. The heading to the Division is to be changed to 'Legal Practitioners Fidelity Fund' to reflect the proposed change of the name of the fund.

37—Amendment of section 57—Fidelity Fund

Minor consequential amendments are made to this section. The term 'guarantee fund' is replaced with 'Fidelity Fund', and 'Board' is changed to 'Commissioner'. In addition, subsection (4), which outlines the purposes for which money in the Fidelity Fund may be applied, is substituted.

The changes are mainly consequential, including references to the Commissioner, the new processes for investigating complaints, conducting audits and bringing proceedings, investigations and examinations, processing claims, and the appointment of a supervisor or manager. The purposes are also extended to expenses incurred by the Board of Examiners in addition to expenses incurred by members of LPEAC, the Board of Examiners and the Tribunal. The substituted provision will also authorise application of money in the Fidelity Fund for the purpose of the payment of honoraria, approved by the Attorney-General, to members of LPEAC.

38—Amendment of section 60—Claims

Section 60 is amended to make it clear that, in determining whether there is a reasonable prospect of recovering the full amount of a loss for the purposes of the section, potential action for the recovery of the amount that would not be taken by an ordinarily prudent, self-funded litigant is to be disregarded. Subsection (5) is consequentially amended so that it applies to incorporated legal practices as well as to interstate legal practitioners.

39—Insertion of section 64A

This clause inserts new section 64A into the principal Act. The new section provides that the Law Society may, in its absolute discretion, make payments to a person making a claim against the Fidelity Fund on advance of the determination of the claim, provided that it is satisfied that the claim is 'likely to be allowed' and that 'payment is warranted to alleviate hardship. The remaining subsections outline the process for making advance payments under this provision.

40—Amendment of section 66—Claims by legal practitioners and incorporated legal practices

This clause makes consequential amendments to section 66(1), making it clear that the application of the section extends to claims by incorporated legal practices in addition to claims by legal practitioners.

41—Substitution of Part 6 Divisions 1 and 2

Part 6 of the Act deals with investigations, inquiries and disciplinary proceedings. This clause amends the Part by replacing provisions relating to the Legal Practitioners Conduct Board with provisions establishing the office of Legal Profession Conduct Commissioner. The new provisions also provide definitions of the terms 'unsatisfactory professional conduct' and 'professional misconduct'.

Division 1—Preliminary

68—Unsatisfactory professional conduct

Proposed section 68 provides a definition of 'unsatisfactory professional conduct'. Under the proposed definition, unsatisfactory professional conduct includes conduct of a legal practitioner occurring in connection with the practice of law that falls short of the level of competence and diligence that a member of the public is entitled to expect of a reasonably competent legal practitioner.

69—Professional misconduct

Proposed section 69 provides a definition of 'professional misconduct'. Professional misconduct includes—

- unsatisfactory professional conduct of a legal practitioner, where the conduct involves a substantial or consistent failure to reach or maintain a reasonable standard of competence and diligence; and
- conduct of a legal practitioner whether occurring in connection with the practice of law or occurring otherwise than in connection with the practice of law that would, if established, justify a finding that the practitioner is not a fit and proper person to practise the profession of the law.

70—Conduct capable of constituting unsatisfactory professional conduct or professional misconduct

Proposed section 70 provides examples of conduct capable of constituting unsatisfactory conduct or professional misconduct. The matters encompassed by the proposed new section include the following:

- contraventions of the Act, the regulations or the legal profession rules;
- the charging of excessive legal costs;
- convictions for serious offences, tax offences and dishonesty offences;
- the insolvency of a legal practitioner;
- disqualification of a legal practitioner from being involved in the management of a corporation;
- failure to comply with a compensation order;
- failure to comply with the terms of a professional mentoring agreement entered into with the Society.

Division 2—Legal Profession Conduct Commissioner

Subdivision 1—Legal Profession Conduct Commissioner

71—Legal Profession Conduct Commissioner

Proposed new Division 2 of Part 6 contains provisions relating to the creation of the new office of Legal Profession Conduct Commissioner. Subdivision 1 of the proposed new Division sets out clauses relating to the office of Commissioner, establishing the position of Commissioner, and stating that the Commissioner will be appointed by the Governor and is an agency of the Crown. The new section also sets out the eligibility requirements for the appointment of a Commissioner.

72—Functions

Proposed new section 72 sets out the functions of the Commissioner, which are to—

- investigate suspected unsatisfactory conduct and professional misconduct; and
- take action against a practitioner following an investigation or to lay charges before the Tribunal; and
- receive and deal with complaints of overcharging; and
- arrange for the conciliation of complaints; and
- commence disciplinary proceedings against legal practitioners in the Supreme Court on the recommendation of the Tribunal; and
- carry out other functions assigned to the Commissioner under the Act.

73—Terms and conditions of appointment

Proposed new section 73 sets out the terms and conditions of employment of the Commissioner. The Commissioner is to be appointed for a term not exceeding five years, with eligibility for reappointment after expiration of that period. Subsections (2) and (3) of the new clause set out the grounds on which the appointment of a Commissioner may be terminated and subsection (4) specifies the circumstances in which the Commissioner may resign.

74—Acting Commissioner

Proposed new section 74 specifies the circumstances in which the Minister may appoint a person to act as the Commissioner during a period for which the Commissioner is absent from or unable to discharge additional duties, and gives the Minister the power to specify the terms and conditions of such an appointment.

75—Honesty and accountability

Proposed new section 75 makes it clear that the Commissioner and Acting Commissioner are senior officials for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*.

76—Staff of Commissioner

This proposed section states that the Commissioner may appoint staff to assist in carrying out the Commissioner's functions.

77—Delegation

Proposed new section 77 sets out the Commissioner's powers to delegate the Commissioner's functions or powers under the Act, and states the required formal aspects of the delegation.

Subsection (2) sets out a number of limitations on the Commissioner's power to delegate certain types of determinations.

77A—Exchange of information between Commissioner and Council

Proposed new section 77A states that the Commissioner and the Council may enter into an arrangement providing for the exchange of information relating to legal practitioners provided that the arrangement is reduced to writing and approved by the Attorney-General.

Subdivision 2—Investigation of unsatisfactory professional conduct and professional misconduct

77B—Investigations by Commissioner

This proposed section sets out the Commissioner's powers to make an investigation into the conduct of a current or former legal practitioner. Section 77B gives the Commissioner power to investigate current and former practitioners on the Commissioner's own initiative, provided that the Commissioner has reasonable cause to suspect that the practitioner has been guilty of unsatisfactory professional conduct or professional misconduct.

Subsection (2) provides that the Commissioner is required to make an investigation if directed to do so by the Attorney-General or the Society, or if a complaint has been received about the practitioner.

Subsection (3) clarifies that the Attorney-General and the Society cannot make such a direction without reasonable grounds for suspicion.

77C—Closure of whole or part of complaint

This proposed new section sets out the circumstances in which the Commissioner may close the whole or part of a complaint without further investigation or further consideration of its merits, including—

- where the complaint is vexatious, misconceived, frivolous or lacking in substance; or
- where the complainant has not cooperated with the investigation into or conciliation of the complaint; or
- where the subject matter of the complaint has already been investigated, or would be better investigated by the police or other investigatory or law enforcement body; or
- where the subject matter of the complaint is the subject of civil proceedings except insofar as it is a disciplinary matter; or
- where the Commissioner does not have the power to deal with the complaint; or
- where the Commissioner is satisfied that closure of the complaint is otherwise in the public interest.

77D—Notification of complaint to practitioner

Subsection (1) relates to the notification procedures which apply when the Commissioner has received a complaint about a practitioner or former practitioner. Under proposed paragraph (a), on receipt of a complaint the Commissioner may notify the practitioner of the complaint or, alternatively, provide him or her with a summary. If the Commissioner decides to investigate the complaint, the Commissioner must, as soon as practicable, give the practitioner or former practitioner a summary or details of the complaint

and a notice informing the practitioner of his or right to make submissions. Paragraph (c) provides that this must occur before the Commissioner makes his or her determination.

Subsection (2) sets out the corresponding procedures applying where the Commissioner has decided to make an investigation into the conduct of a practitioner on the Commissioner's own initiative, or where the Commissioner has been directed to make an inquiry by the Attorney-General or the Society. These procedures are subject to proposed section 77F, which sets out a number of exceptions to the requirement for notification of a complaint. Subsection (3) of the proposed new clause provides that the practitioner has 21 days following the receipt of a notice to provide submissions, or such other length of time that the Commissioner reasonably believes to be warranted in the circumstances.

77E—Submissions by legal practitioner

This proposed new provision sets out the procedures applying to a practitioner's right to make submissions to the Commissioner. The Commissioner has the discretion to extend the period in which submissions may be made and is required to consider the submissions within the period specified in the notice before deciding what action is to be taken. The Commissioner may consider submissions received after this point.

77F—Exceptions to requirement for notification of complaint

The procedures applying to notification of a complaint to a practitioner contained in proposed section 77D are subject to the exceptions outlined in proposed provision 77F.

This section provides that, in certain circumstances, the Commissioner is not required to give a practitioner a summary or details of a complaint or the reasons for an investigation or notice regarding the right to make submissions. For example, the Commissioner is not required to do so if he or she reasonably believes that to provide this information would prejudice the investigation, adversely affect an investigation by another agency, place a complainant at risk of intimidation or harassment or prejudice court proceedings. In these circumstances the Commissioner may postpone giving the information until it is appropriate to do so or may give the practitioner the notice and a statement of the general nature of the complaint or reasons for investigation.

Subdivision 3—Action following investigation

77G—Interpretation

This proposed Subdivision sets out the procedures to be followed after the investigation of a practitioner, whether as a result of a complaint or on the Commissioner's own initiative. This new clause introduces a definition of the term *complainant* as used within the proposed new Subdivision. For the purposes of the Subdivision, the definition includes a person who has made a complaint, and the Attorney-General or Society if one of those bodies has directed that the investigation occur.

77H—Report on investigation

This proposed section, equivalent to current section 77 of the principal Act, states that where the Commissioner is satisfied that there is evidence of professional misconduct by a practitioner, the Commissioner must make a report to the Attorney-General and the Society. It further provides that if the Commissioner comes into possession of information suggesting that a criminal offence may have been committed, that information must be passed to the Crown Solicitor. If the Crown Solicitor or other prosecution authority requests material relevant to such an investigation or prosecution, it must be provided by the Commissioner. The Crown Solicitor or other authority then has the power to take any action appropriate to the commencement of criminal proceedings.

77I—Commissioner to notify persons of suspected loss

This proposed section, equivalent to current section 77AA of the principal Act, provides that if during the course of an investigation the Commissioner has reason to believe that a person has suffered loss as a result of the conduct of a practitioner or former practitioner, the Commissioner may notify the person.

77J—Powers of Commissioner to deal with certain unsatisfactory professional conduct or professional misconduct

Proposed new section 77J deals with the Commissioner's powers following an investigation into a practitioner's unsatisfactory professional conduct or professional misconduct. Pursuant to proposed subsection (1), where the Commissioner is satisfied that there is evidence of unsatisfactory professional conduct, the Commissioner may—

- determine not to lay a charge before the Tribunal, but instead reprimand the practitioner or make various orders (order him or her to redo the work investigated at no costs or reduced fees, or pay the costs of having the work redone), or order him or her to undertake education, training or counselling or be supervised, or order a fine up to $5,000. The Commissioner is also empowered to impose specified conditions on the practitioner's practising certificate;

- with the consent of the practitioner—determine not to lay a charge to the Tribunal, but instead require the practitioner to undergo a medical examination, receive counselling, or participate in supervised treatment or rehabilitation. If the Commissioner believes the legal practitioner may be suffering from an illness, mental impairment, disability, condition or disorder; the practitioner may be required to enter into a professional mentoring agreement or submit to orders with respect to the examination of the practitioner's files and records for a period as specified in the order. The Commissioner may also order a fine not exceeding $10,000, suspend the practitioner's practising certificate for a period not exceeding 3 months, or order a specified payment to a client or other person, or order the practitioner to do or refrain from doing a specified act in connection with legal practice.

Proposed subsection (2) relates to investigations into professional misconduct. The Commissioner is also empowered to make the orders detailed above in connection with a charge of professional misconduct if the practitioner consents to the course of action.

A key difference is that a fine of $20,000 rather than $10,000 may apply, the practising certificate may be suspended for up to 6 months, instead of 3, and the Commissioner also has power, under paragraph (f), to impose conditions on the practising certificate requiring that the practitioner complete further education or training or receive counselling.

Subsection (3) makes it clear that if the Commissioner proposes to exercise a power under subsection (1) or (2), the Commissioner must provide any complainant of the details of the proposal and invite him or her to make submissions. The Commissioner is required to take these submissions into account. Subsection (4) provides that the Commissioner may take into account previous action relating to the practitioner, and any other findings relating to the practitioner by the Tribunal, the Supreme Court or any other corresponding disciplinary body. The remainder of the section sets out the procedural requirements which flow from these provisions

77K—Appeal against determination of Commissioner

Proposed section 77K outlines the procedure by which a practitioner, or, in the case of a complaint, the practitioner or the complainant, may appeal to the Tribunal against a determination of the Commissioner.

77L—Commissioner must lay charge in certain circumstances

This proposed clause states that if the Commissioner is satisfied following an investigation that there is evidence of unsatisfactory professional conduct or professional misconduct, but he or she does not believe that the conduct can be adequately dealt with under proposed section 77J (which sets out the Commissioner's powers), the Commissioner must lay a charge before the Tribunal, unless it would be in the public interest not to do so.

77M—Commissioner to provide reasons

This proposed section makes it clear that where the Commissioner has determined not to investigate a complaint or has decided to close a complaint, or where the investigation has not yielded any evidence of unsatisfactory professional conduct or professional misconduct, the Commissioner must provide the complainant and practitioner with written reasons for such a determination.

This requirement also applies where there is evidence of unsatisfactory professional conduct or professional misconduct in circumstances where the conduct cannot adequately be dealt with under section 77J (the Commissioner's powers), and yet it would not be in the public interest to lay charges before the Tribunal.

Subdivision 4—Complaints of overcharging

77N—Investigation of allegation of overcharging

Proposed Subdivision 4 relates to complaints and investigations into allegations of overcharging against practitioners.

This proposed provision states that the Commissioner must investigate complaints of overcharging if they are brought within 2 years of a final bill being issued. The Commissioner may require the practitioner to pay a reasonable fee for the investigation. The Commissioner may require the practitioner to make a detailed report in relation to the relevant bill or to produce relevant documents. The Commissioner may also arrange for a costs assessment by a legal practitioner. At the conclusion of the investigation, the Commissioner has a range of powers following a finding that there has been an overcharging. If the amount in dispute is $10,000, the costs have been assessed by a legal practitioner and the Commissioner has given the parties details of the assessment and an opportunity to make submissions (and has had regard to any submissions made), the Commissioner may make a determination as to whether or not there has been overcharging and, if so, the amount overcharged. The determination is binding on (and enforceable by or against) the legal practitioner and the client unless the Supreme Court has adjudicated and settled the bill.

Subdivision 5—Conciliation

77O—Commissioner may conciliate complaints

This section provides for the conciliation of complaints by the Commissioner.

42—Amendment of section 80—Constitution and proceedings of Tribunal

This clause amends section 80 of the principal Act. The section specifies the constitution and proceedings of the Tribunal. A consequential amendment to subsection (1) will change the reference from 'unprofessional conduct' to 'professional misconduct'. Subsection (1a) currently states that where proceedings allege only unsatisfactory professional conduct, the Tribunal may consist of just one of its members, appointed by the presiding member. Proposed new subsection (1a) extends this to circumstances where—

- the proceedings are an appeal against a decision of the Commissioner under new section 77J; or
- the proceedings concern an allegation of professional misconduct, but the Commissioner has indicated to the Tribunal that the alleged misconduct does not warrant an order that the practitioner be struck off, an order that his or her practising certificate be suspended for more than 3 months or an order to pay a fine of more than $10,000; or
- the Tribunal is dealing with a procedural or interlocutory matter.

43—Amendment of section 82—Inquiries

Section 82 of the principal Act is concerned with proceedings before the Tribunal. This clause proposes a number of minor amendments to section 82 that are consequential on the change in terminology from 'unprofessional or unsatisfactory conduct' to 'unsatisfactory professional conduct' or 'professional misconduct', and to reflect the establishment of the position and powers of the Commissioner. The proposed changes also state that charges must be laid before the Tribunal within three years of the alleged conduct unless the charge is laid by the Attorney-General or the Tribunal allows an extension of time.

Subsection (6), which relates to the Tribunal's powers when it is satisfied that a practitioner is guilty of misconduct, is to be amended by an increase in the period for which a practising certificate can be suspended from 6 months to 12 months. The maximum fine that can be ordered if a former legal practitioner is found to have engaged in professional misconduct while he or she was a legal practitioner is to be increased from $10,000 to $50,000. If a former legal practitioner is found to have engaged in unsatisfactory professional conduct while he or she was a legal practitioner, the maximum fine is to be $25,000. If the Tribunal is constituted of only one member because of an indication by the Commissioner under section 80(1a)(a), lower maximum penalties apply.

44—Amendment of section 84—Powers of Tribunal

This clause proposes a minor amendment to subsection (1) by replacing the reference to the Tribunal's power to require the preparation of 'a bill of costs in taxable form' to 'an itemised bill' to reflect the insertion of new Schedule 3, relating to costs disclosure and adjudication.

45—Insertion of section 84C—Stay of proceedings

New section 84C proposes that the Tribunal will have the discretion to stay proceedings if it thinks fit.

46—Amendment of section 85—Costs

Section 85 of the principal Act gives the Tribunal power to make costs orders against any applicant or person whose conduct has been subject to inquiry as it thinks just and reasonable. This clause proposes the insertion of a new subsection (1a), which states that where a practitioner accused of misconduct has refused to consent to the exercise of a power of the Commissioner under section 77J and is found guilty, and the Tribunal considers the refusal to have been unreasonable, the practitioner may be ordered to reimburse the Commissioner for the costs to the extent that they have been unreasonably incurred.

47—Insertion of section 88A—Supreme Court's inherent jurisdiction

This clause proposes the insertion of new section 88A into Division 5 of Part 6, which relates to disciplinary proceedings before the Supreme Court. The proposed provision makes it clear that the Part does not derogate from the Court's inherent jurisdiction to control and discipline legal practitioners. This is currently stated in section 89(3) of the principal Act and is consequentially removed from there.

48—Amendment of section 89—Proceedings before Supreme Court

Currently, under section 89, when the Tribunal has conducted and inquiry and recommended that disciplinary action be commenced in the Supreme Court, those proceedings can be commenced by the Commissioner, the Attorney-General or the Society. The proposed insertion of subsection (1a) provides that where the Commissioner is of the opinion that the name of a legal practitioner should be struck off the role, for example because the practitioner has been found guilty of a serious offence, the Commissioner may commence proceedings in the Supreme Court without first laying a charge before the Tribunal. The proposed new subsection would also provide that where a practitioner is informed that Supreme Court proceedings are intended to be pursued, the legal practitioner may inform the Court that he or she consents to having his or her name struck off the roll of legal practitioners. In that case, the Court may order that the practitioner's name be struck off the role despite the fact that disciplinary proceedings have not been instituted.

49—Amendment of section 89A—Court may order interim suspension of legal practitioner or impose interim conditions

This clause makes a minor consequential amendment. The amendment is necessary because of the establishment of the office of the Commissioner.

50—Substitution of Part 6 Division 6

This clause proposes the deletion of Division 6 of Part 6 of the principal Act, relating to lay observers, and its replacement with a new Division related to the publicising of disciplinary action.

Division 6—Publicising disciplinary action

89B—Definitions

This provision defines the disciplinary action to which the new Division applies, and also establishes the Register of Disciplinary Action.

89C—Register of Disciplinary Action

This proposed new provision provides that the Commissioner is to maintain a Register of Disciplinary Action. The clause sets out what is to be included in the Register, the particulars to be included when information is incorporated into the Register, and the availability of the Register for public inspection.

89D—Other means of publicising disciplinary action

This proposed provision gives the Commissioner the power to publicise disciplinary action in any way the Commissioner sees fit.

89E—Quashing of disciplinary action

This section provides that a reference to disciplinary action that has been quashed by appeal or review must be removed from the Register and the results of the appeal or review published with equal prominence by the Commissioner.

89F—Liability for publicising disciplinary action

This section defines a number of protected persons, including, for example, the Society, the Council, the Commissioner and the Crown, who are protected from liability in respect of anything done in relation to exercising the powers of the Commissioner or publicising disciplinary action, under the proposed new Division.

90—General

This proposed section provides that the new Division is subject to orders of the Supreme Court in relation to disciplinary action, and orders of corresponding disciplinary bodies and other courts and tribunals, so far as those orders prohibit or restrict the disclosure of information.

51—Amendment of section 90AF—Local legal practitioners are subject to interstate regulatory authorities

This clause makes a minor amendment consequential on the change in terminology from 'unprofessional conduct' to 'professional misconduct'.

52—Amendment of section 90A—Annual reports

Minor consequential amendments are made to this provision flowing from the replacement of the Board with the Commissioner.

53—Insertion of Part 6 Division 8

This clause proposes the insertion of a new Division into Part 6 of the principal Act, relating to professional mentoring agreements.

Division 8—Professional mentoring agreements

90B—Professional mentoring agreements

This proposed new section establishes the conditions under which the Society or the Commissioner may enter into a professional mentoring agreement for the appointment of a professional mentor for a practitioner. It sets out the role of the professional mentor and his or her reporting obligations. The section also deals with the form of the agreement and the term, appointment and remuneration of the mentor.

54—Substitution of section 95D

This clause substitutes section 95D, which relates to the service of notices and documents. The provision provides detail about the formal requirements of service of notices and documents.

55—Amendment of section 97—Regulations

Section 97 of the principal Act makes a consequential amendment by removing a reference to companies holding practising certificates under the Act. Subsection (3) currently specifies types of further regulations that could be made under the Act with the concurrence of the Society. The proposed substituted subsection (3) authorises the making of provisions of a saving or transitional nature consequent on the amendment of the principal Act by another Act.

56—Insertion of Schedules 1 to 4

This clause inserts four new Schedules.

Schedule 1—Incorporated legal practices

The provisions of Schedule 1 regulate incorporated legal practices. The Schedule is based on national model legislation concerned with the regulation of such legal practices. However, the Schedule differs from the model provisions in that clause 2 of the Schedule prohibits an incorporated legal practice from providing a service or conducting business that does not involve engaging in legal practice. Contravention of clause 2 is a ground for banning an incorporated legal practice under clause 21.

The Schedule deals with matters such as eligibility to be an incorporated legal practice, requirements for legal practitioner directors, obligations of such directors, professional indemnity insurance and auditing of incorporated legal practices.

Schedule 2—Trust money and trust accounts

Schedule 2 is based on national model provisions dealing with the regulation of trust money and trust accounts.

Trust money is money entrusted to a law practice in the course of or in connection with the provision of legal services by the practice to which the practice is not wholly entitled. Trust money includes—

- money received by a law practice on account of legal costs in advance of providing legal services (other than a retainer); and
- controlled money received by the practice; and
- transit money received by the practice; and
- money received by the practice, that is the subject of a power, exercisable by the practice or an associate of the practice, to deal with the money for or on behalf of another person.

The definition does not include money received by a practitioner in the course of mortgage financing.

The Schedule requires law practices to have their trust records for a particular financial year externally examined as soon as possible after the end of that year. The provisions of the Schedule deal with matters such as investigations of the affairs of law practices, external examinations and approval of authorised deposit-taking institutions.

Schedule 3—Costs disclosure and adjudication

The costs disclosure provisions are based on national model provisions, with some minor variations. Application for an adjudication of costs is to be made to the Supreme Court. Clause 41 provides that the Court's power to adjudicate and settle a bill may be exercised by the Registrar of the Court. The costs of an adjudication are to be determined by the Supreme Court. Consistently with the model provisions, unless the Court orders otherwise, the law practice to which the costs are payable (or were paid) is to pay the costs of the adjudication if—

- on the adjudication the costs are reduced by 15% or more; or
- the Court is satisfied that the practice failed to comply with Part 3 of the Schedule (Costs disclosure).

However, if an application for an adjudication of costs is made after the Commissioner has made a determination in relation to the costs under section 77N, the applicant is required to pay the costs of the adjudication unless the Supreme Court orders otherwise.

Part 3 of the Schedule makes provision for the disclosure of costs to clients by law practices. Disclosure to a client is not required to be made by a person engaged only as a barrister for the purposes of the client's matter. However, if a law practice intends to retain a barrister on behalf of the client, it must disclose to the client the basis on which the barrister's costs will be calculated, including whether a recommendation as to barristers' costs applies to the legal costs.

Schedule 4—Investigatory powers

The provisions of Schedule 4, setting out investigatory powers under the Act, are also based on national model provisions, though there are some variations. For the purposes of the Schedule, an investigator is—

- an investigator or external examiner under Schedule 2 (Trust money and trust accounts); or
- the Commissioner or a person authorised by the Commissioner to investigate a complaint or the conduct of a legal practitioner or former legal practitioner; or
- a person conducting an audit under Schedule 1 clause 19 in relation to an incorporated legal practice.

Schedule 1—Further amendments of *Legal Practitioners Act 1981*

The amendments made by Schedule 1 replace the term 'guarantee fund' with 'Fidelity Fund' throughout the Act, as required.

Schedule 2—Related amendment and transitional provisions

Part 1—Amendment of *Fair Work Act 1994*

1—Amendment of section 152A—Inquiries into conduct of registered agents or other representative

The amendment made by this clause to the *Fair Work Act 1994* is consequential on the replacement of the Board with the Legal Profession Conduct Commissioner.

Part 2—Amendment of *Freedom of Information Act 1991*

2—Amendment of Schedule 2—Exempt agencies

This clause amends Schedule 2 of the *Freedom of Information Act 1991* to add the Legal Profession Conduct Commissioner to the list of exempt agencies under that Act.

Part 3—Amendment of *Legal Services Commission Act 1977*

3—Amendment of section 26—Commission and trust money

4—Amendment of section 31—Discipline of legal practitioner employed by Commission

The amendments made by these clauses to the *Legal Services Commission Act 1977* are consequential on changes to be made to the *Legal Practitioners Act 1981*.

Part 4—Transitional provisions

5—Interpretation

Part 4 includes transitional provisions. This clause defines a number of terms used in the transitional provisions. The *principal Act* is the *Legal Practitioners Act 1981*.

6—Practising certificates

This clause makes it clear that Divisions 2A to 2C of Part 3, inserted into the principal Act by section 17 the amending Act, apply in relation to practising certificates whether issued before, on or after the commencement of section 17.

7—Deficiencies in trust accounts

Clauses 23 and 24 of new Schedule 2 apply to trust money whether the money was received before, on or after the commencement of those clauses.

8—Combined trust account

This clause provides that an ADI that was an approved ADI within the meaning of section 53 of the principal Act before the substitution of that section will be taken to be an approved ADI for the purposes of section 53 as inserted.

9—Costs

New Schedule 3 applies to a matter if the client first instructs the law practice in the matter on or after the commencement of the Schedule. Part 3 Division 8 of the principal Act continues to apply to a matter if the client first instructed the law practice in the matter before the commencement of Schedule 3.

However, if Part 3 Division 8 of the principal Act applies to a matter because of this clause, the Division will cease to apply to the matter on the first anniversary of the commencement of Schedule 3. The Schedule will then apply to the matter.

10—Fidelity Fund

The legal practitioners' guarantee fund continues in existence as the Legal Practitioners Fidelity Fund.

11—Claims against Fidelity Fund

Subsection (1a) of section 60 of the principal Act does not apply in relation to a claim for compensation served on the Society before the commencement of the subsection.

12—Investigations

An investigation may be undertaken under Schedule 2 Part 3 of the principal Act in relation to an aspect of the affairs of a law practice whether the investigation relates to matters that occurred before or after the commencement of the Schedule.

13—Transfer of functions from Board to Commissioner

This clause provides for the transfer of the functions of the Board to the Commissioner. The Commissioner is to assume the conduct of investigations and proceedings commenced by the Board but not completed before the day on which the amendments relating to the establishment of the office of Commissioner come into operation.

14—Application of principal Act as amended to complaints, investigations, disciplinary proceedings and conduct

The principal Act as amended will apply in relation to—

- complaints received by the Commissioner or for which the Commissioner has assumed the conduct; and

- investigations commenced or continued by the Commissioner; and
- disciplinary proceedings commenced by the Commissioner, the Society or another person or for which the Commissioner has assumed the conduct.

The principal Act as amended also applies in relation to conduct that occurred before the commencement of the new definitions of misconduct. However, the Act as amended will apply to such conduct as if—

- 'unsatisfactory professional conduct' were replaced with 'unsatisfactory conduct' wherever occurring; and
- 'professional misconduct' were replaced with 'unprofessional conduct' wherever occurring'; and
- 'unsatisfactory conduct' and 'unprofessional conduct' had the same respective meanings as in the principal Act as in force immediately before that commencement.

15—Transfer of employment

This clause provides for the transfer of the staff of the Board to the office of the Commissioner.

16—Contracts, etc

This clause provides that all assets, rights and liabilities of the Board are transferred to the Commissioner.

17—Continuing obligation of confidentiality

Under this clause, the duty of confidentiality imposed under repealed section 37 and the duty of confidentiality imposed under repealed section 73 of the principal Act will continue to apply.

Debate adjourned on motion of Hon. I.F. Evans.

RESIDENTIAL TENANCIES (MISCELLANEOUS) AMENDMENT BILL

The Legislative Council agreed to the bill with the amendments indicated by the following schedule, to which amendments the Legislative Council desires the concurrence of the House of Assembly:

No 1. Clause 4, page 7, lines 15 and 16 [clause 4(8), inserted definition of statutory charges, (b)]—Delete 'the *Waterworks Act 1932* or the *Sewerage Act 1929*' and substitute 'the *Water Industry Act 2012*'

No. 2. New clause, page 8, after line 9—After clause 5 insert:

5A—Amendment of section 12—Membership of Tribunal

Section 12—after subsection (3) insert:

(3a) Before a person is appointed (or reappointed) as a member of the Tribunal, the Minister must consult confidentially about the proposed appointment with a panel consisting of—

(a) a nominee of the Law Society of South Australia who has expertise in tenancy law; and

(b) a nominee of the Attorney-General; and

(c) a nominee of the House of Assembly appointed by resolution of that House; and

(d) a nominee of the Legislative Council appointed by resolution of the Council; and

(e) the Commissioner for Public Sector Employment,

(and for the purposes of the consultation must inform the members of the panel of all persons short-listed for appointment).

No. 3. Clause 22, page 11, lines 36 and 37—Leave out all words in these lines.

No. 4. Clause 23, page 12, lines 24 to 37 and page 13, lines 1 to 9 [inserted section 49]—Delete inserted section 49 and substitute:

49—Residential tenancy agreements

(1) A written residential tenancy agreement entered into after the commencement of this section must—

(a) state clearly in a prominent position at the beginning of the agreement that—

(i) the agreement is a residential tenancy agreement; and

(ii) the parties to the agreement should consider obtaining legal advice about their rights and obligations under the agreement; and

(b) set out—

(i) if an agent is acting for the landlord—the agent's name, address and telephone number, and, if the agent is registered as an agent under the *Land Agents Act 1994*, his or her registration number under that Act; and

(ii) the landlord's full name and address for service of documents (which must not be the agent's address for service); and

(iii) if no agent is acting for the landlord—the landlord's telephone number; and

(iv) the tenant's name; and

(v) the address of the residential premises; and

(vi) the terms of the agreement, including—

(A) the amount of rent payable; and

(B) the interval between rental payment times; and

(C) the method by which rent is to be paid; and

(D) the amount of the bond; and

(E) any agreement reached as to responsibility for rates and charges for water supply; and

(F) responsibility for insurance of the premises and the contents of the premises; and

(G) any other terms of the agreement (including, for example, terms in relation to pets or responsibility for repairs); and

(c) be dated and signed by the parties to the agreement; and

(d) comply with any other requirements prescribed by the regulations.

(2) A provision of a residential tenancy agreement that does not comply with subsection (1) that requires the tenant to pay a bond is unenforceable.

(3) A landlord must not enter into a residential tenancy agreement unless the landlord or an agent acting for the landlord has first given the tenant a written guide that explains the tenant's rights and obligations under such an agreement and is in the form approved by the Commissioner for the purposes of this section.

Maximum penalty: $2,500.

Expiation fee: $210.

(4) The matters specified or agreed in a written residential tenancy agreement entered into after the commencement of this section may not be varied unless the variation is in writing and dated and signed by the landlord and tenant.

(5) A landlord under a written residential tenancy agreement must keep a copy of the agreement, and any variation of the agreement, whether in paper or electronic form, for at least 2 years following termination of the agreement.

Maximum penalty: $2,500.

Expiation fee: $210.

(6) If a landlord (or an agent acting for a landlord) invites or requires a tenant or prospective tenant to sign a written residential tenancy agreement, the landlord must ensure that—

(a) the tenant receives a copy of the residential tenancy agreement when the tenant signs it; and

(b) if the agreement has not then been signed by the landlord, a copy of the agreement, as executed by all parties, is delivered to the tenant within 21 days after the tenant gives the agreement back to the landlord or the landlord's agent to complete its execution.

Maximum penalty: $5,000.

Expiation fee: $315.

(7) Subject to subsection (2), a failure to comply with this section does not make the residential tenancy agreement illegal, invalid or unenforceable.

No. 5. Clause 26, page 13, after line 19—After subclause (2) insert:

(3) Section 52(3)—delete 'or in premises adjacent to those premises'

No. 6. Clause 29, page 14, after line 10—After subclause (3) insert:

(3a) Section 55—after subsection (2) insert:

(2a) Despite subsections (1) and (2), the rent payable under a residential tenancy agreement may be increased at any time by mutual agreement between the landlord and the tenant.

No. 7. Clause 30, page 14, after line 21 [clause 30(1)]—After inserted paragraph (fa) insert:

(fb) if the rent was purportedly increased under section 55(2a)—whether the tenant was put under undue pressure to agree to the increase; and

No. 8. Clause 35, page 16, lines 31 to 39 and page 17, lines 1 to 10 [clause 35(9)]—Delete subclause (9) and substitute:

(9) Section 61(3)(a)—delete '$150' and substitute '$250'

No. 9. Clause 42, page 20, after line 39—Delete subclause (1) and insert subclause as follows:

(1) Section 70—after subsection (1) insert:

(1a) It is a term of a residential tenancy agreement that a landlord will not unreasonably withhold his or her consent to an alteration or addition to the premises that is necessary to ensure the provision of infrastructure or a service of a prescribed kind.

No. 10. Clause 46, page 24, line 1 [clause 46(2)]—Delete 'Section 73(2)—delete subsection (2)' and substitute:

Section 73(2) and (3)—delete subsections (2) and (3)

No. 11. Clause 46, page 24, line 2 [clause 46(2), inserted subsection (2)]—Delete 'subsection (3)' and substitute :

subsections (3) and (4)

No. 12. Clause 46, page 24, line 18 [clause 46(2), inserted subsection (3)(b)]—Delete '14' and substitute '30'

No. 13. Clause 46, page 24, after line 19—After subsection (2) insert:

(3) Section 73(4)—delete 'must, as soon as is reasonably practicable after obtaining the benefit of the water security rebate amount, ensure that an amount borne by a tenant under an agreement under subsection (2) or under subsection (3)(b)' and substitute:

must ensure that an amount borne by a tenant under an agreement under subsection (2)(a) or under subsection (2)(b)(i)

(4) Section 73(6), definition of *water security rebate amount*—after 'those rates and charges' insert:

(whether before or after the commencement of this definition)

No. 14. New clause, page 25, after line 38—After clause 51 insert:

51A—Amendment of section 80—Notice of termination by landlord on ground of breach of agreement

Section 80(2)—after paragraph (c) insert:

and

(d) if the tenant gives up possession of the premises—

(i) the landlord is entitled to compensation for any loss (including loss of rent) caused by the termination of the tenancy (but the landlord must take reasonable steps to mitigate any loss and is not entitled to compensation for loss that could have been avoided by those steps); and

(ii) the Tribunal may, on application by the landlord, order the tenant to pay to the landlord compensation to which the landlord is entitled under this paragraph.

No. 15. New clause, page 30, after line 23—After clause 63 insert:

63A—Amendment of section 96—Forfeiture of head tenancy not to result automatically in destruction of right to possession under residential tenancy agreement

Section 96—after subsection (1) insert:

(1a) An order under subsection (1) must be served on the tenant and takes effect—

(a) in the case of an order made in favour of a mortgagee—30 days after the day on which it is served or at such later time as is specified by the court or the Tribunal; and

(b) in any other case—at such time as is specified by the court or the Tribunal.

(1b) If an order of a kind referred to in subsection (1a)(a) is made, the tenant—

(a) is not required to pay any rent, fee or other charge in respect of his or her occupation of the residential premises in the period following service of the order; and

(b) is entitled to compensation for any rent paid in respect of that period.

(1c) The Tribunal may, on application by the tenant, order a person to whom rent has been paid to pay to the tenant compensation to which the tenant is entitled under subsection (1b).

No. 16. Clause 66, page 34, after line 25 [clause 66, inserted Part 5A]—After inserted section 99B insert:

99BA—Extra-territorial operation of Part

(1) This section applies if—

(a) a person does an act, or makes an omission, outside the State in relation to personal information—

(i) about a person who resides in the State; or

(ii) relating to, or arising from, the occupation of residential premises in the State; or

(iii) entered into a residential tenancy database for reasons relating to, or arising from, the occupation of residential premises in the State; and

(b) the act or omission would constitute an offence against a provision of this Part if it were done or made by the person within the State.

(2) The person commits an offence of the same kind as that mentioned in subsection (1)(b) and may be charged with and convicted of the offence.

STATUTES AMENDMENT (APPEALS) BILL

The Legislative Council agreed to the bill with the amendments indicated by the following schedule, to which amendments the Legislative Council desires the concurrence of the House of Assembly:

No. 1. New clause, page 2, after line 9—Before clause 4 insert:

3A—Amendment of section 5—Interpretation

Section 5(1), definition of *Full* Court—delete the definition and substitute:

Full Court has the same meaning as in the *Supreme Court Act 1935;*

No. 2. Clause 7, page 4, after line 11—After inserted subsection (3) insert:

(4) The decision of the Full Court when constituted by 2 judges is to be in accordance with the opinion of those judges or, if the judges are divided in opinion, the proceedings are to be reheard and determined by the Full Court constituted by such 3 judges as the Chief Justice directs (including, if practicable, the 2 judges who first heard the proceedings on appeal).

No. 3. Clause 10, page 4, after line 28—After inserted subsection (2a) insert:

(2b) The decision of the Full Court when constituted by 2 judges is to be in accordance with the opinion of those judges or, if the judges are divided in opinion, the proceedings are to be reheard and determined by the Full Court constituted by such 3 judges as the Chief Justice directs (including, if practicable, the 2 judges who first heard the proceedings on appeal).

WILDERNESS PROTECTION (MISCELLANEOUS) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

At 18:01 the house adjourned until Wednesday 20 March 2013 at 11:00.