HOUSE OF ASSEMBLY

Wednesday, 18 June 2014

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

Motions

TANNING BEDS

Ms REDMOND (Heysen) (11:01): I move:

That the regulations made under the Radiation Protection and Control Act 1982 entitled Non-ionising Radiation—Commercial Cosmetic Tanning Services, made on 14 November 2013 and laid on the table of this house on 26 November 2013, be disallowed.

I am moving this motion not because of any love of the tanning industry and desire to assist it but rather because of my concerns about the process in this matter. I should make it clear to the house that I do not use, have never used, and will never use a tanning bed but there is an issue of process.

As you are probably aware, I am a member of the Legislative Review Committee and that committee met earlier this morning. The function of that committee is to consider the regulations of the parliament, and most members, hopefully all members, would be aware that when we deal with legislation in this place, we pass bills which become acts of the parliament and then pursuant to those acts there are frequently regulations made under those acts known as subordinate legislation.

Rather than the parliament as a whole always having to consider all of those, it has delegated to a committee which consists of representatives from both houses and from both sides of the parliament to consider the regulations. When they consider the regulations, there are what are called scrutiny principles. The scrutiny principles on which that committee operates say that under section 12 of the Parliamentary Committees Act and section 10A of the Subordinate Legislation Act there are certain principles that we are supposed to follow and they include the following:

whether the regulations unduly trespass on rights previously established by law or are inconsistent with the principles of natural justice, or make rights, liberties or obligations dependent on non-reviewable decisions;

whether the regulations contain matter which, in the opinion of the Committee, should properly be dealt with by an Act of Parliament;

whether the objective of the regulations could have been achieved by alternative and more effective means;

I will not read the rest of them but I think those ones are particularly relevant to the point that I want to make this morning, that is, that these regulations dramatically change the ability of certain businesses in South Australia to continue to do what has until now been a lawful operation. Up until now, we first had unregulated use of tanning beds and, for obvious reasons, there is a public health concern about the use of tanning beds.

This parliament, and a number of other parliaments around the country, introduced changes to the legislation by saying, 'Okay, we'll introduce some controls and regulations.' In particular, we made it so that in this state you could not run a commercial tanning operation and allow its use by anyone under the age of 18 or anyone with what is known as skin type 1—that is, a fair skin that is likely to burn and not tan. I understand that those regulations have been pretty much complied with.

The regulations that came before the committee—the first committee meeting of the year, once the new parliament formed—which purported to be in place and operational, basically say that, 'As of 14 January, these things are going to be unlawful altogether.' It seems to me that there is a legitimate debate to be had, but the appropriate place for that debate to be had was, indeed, in this chamber.

The regulation is simply made by a minister without any consultation with the rest of the chamber and without any consultation with the other place. By the stroke of a pen, the minister simply puts his signature to a proposed regulation and thereby makes unlawful something which is currently lawful. For instance, under our current tobacco industry regulations there are definite requirements about the packaging of cigarettes and the fact that there have to be warnings on cigarette packages, and all sorts of awful things—they have to be in plain packaging—and then we have moved to not

even having the cigarettes on display. The equivalent thing would be if the minister came in, having made a regulation, and simply passed a regulation without coming into the chamber to say that it is now unlawful to sell cigarettes in South Australia.

This regulation has that effect on a currently legitimate business, and although they have not contacted me—I have had no discussions with anyone from the tanning industry—I have been handed a piece of paper by someone who has been contacted, and they advise that there are 10 professional salons in Adelaide that represent over 90 per cent of the industry. They have over 100,000 South Australian clients on their database and they employ over 70 staff. According to them, they implement best practice and comply with all regulations. The statement goes on to say:

> The majority of these owners will lose their homes and go bankrupt with unpaid leases and other financial commitments as the government renders their business worthless at the end of this year.

Because the effect of the regulations is that they will commence at the end of the year. In fact, they go on to say that they have been trying to have a conversation, and I quote:

> This group of salon owners have repeatedly tried to start a conversation with the government regarding the future of their industry for the last two years, but to no avail.

My concern is primarily with process. I believe that this is a legitimate health issue that is capable of proper consideration by this house. The best way for it to be considered would be for the parliament to appoint a select committee so that we could call witnesses before it from both the people in the tanning industry and the other people to whom I will refer in a moment, and that is the public health authorities and so on who have a very contrary view, of course. We could hear that evidence in a bipartisan way and come to some conclusion. The select committees that I have worked on in this parliament over the past 12 years have generally come to unanimous conclusions after hearing evidence so that they could put a proposal to the parliament as to what might be the appropriate way to go.

It may well be that it would come to the conclusion that there should be a total ban on the commercial use of tanning beds. I suspect there is a broader issue because I do not think there is any control at the moment on the private use of tanning beds. If young girls who want to have these tans and who are currently using commercial beds then use them in a totally unregulated manner in their own homes, I suspect we might be creating a bigger problem than the one this is no doubt seeking to solve.

I am not an expert on the science. I have read some of the articles that have been provided and indeed one of the articles that I have read is from a thing called the *American Journal of Public Health* and they have written a whole article about the role of public health advocacy in achieving an outright ban on commercial tanning beds in Australia.

That article is actually quite positive about the right to ban them, and about the fact that South Australia and Australia lead the world in doing some of these things. It may be an entirely appropriate thing. My objection is simply that a minister has done this by regulation rather than by letting the parliament consider all the evidence and come to a conclusion. I suspect, from the reading I have done about the issue, that the conclusion might well be that we should go to the next incremental step. We introduced, I think, maybe voluntary regulations in the first instance and then we made it compulsory—no-one under 18 and no-one with type 1 skin.

I suspect that the next reasonable step might be to make it no-one under 30 or 35 and with type 2 skin, the reason being that there appears to be some evidence, from the bit of international reading I have done on the topic, that the incidence of the melanoma, which is complained of from the tanning bed opponents, seems to increase with lower age start of the use of tanning beds, as well as intensive use of tanning beds.

So, I suspect that there is a need for a broader brush than the age 18 and the current skin type of type 1, but I do not know enough about it to make that determination. I simply say that the only reasonable thing to do would be to have a proper debate on it through a process, preferably I think a select committee.

When this came before the committee, one of the other things that puzzled me was that it is under the management of the EPA. That struck me as an odd place to put something which to me is clearly a public health issue. The report that came to the committee indicated that in fact 490 submissions were received in relation to the proposal to introduce this ban. No information was

provided to us about the nature of the submissions received. I suspect that a large proportion of them were in fact opposed to the proposal, but I wanted to know.

So, I issued, as quickly as I could after that particular Legislative Review Committee meeting, a freedom of information request to the EPA seeking information, and to speed things up I said specifically that I was not looking for details of who put in the submissions but basically just wanted to know what the submissions said. That went in on 4 June. On 5 June they sent an acknowledgment, which we received on 10 June, and in the meantime we received an email from them and a discussion with them in my office in Stirling, and they said that it would be a massive job to get out the 490 submissions but offered us, in the first instance, a summary. We said yes. That was on 5 June. We said, 'Yes, a summary will be fine; we are prepared to accept that just so we get a sense of what the submissions are saying'.

I suspect that a lot of the submissions relate to things from the tanning industry and the fact that they have a very significant business issue with what this will do to them financially. I think, in the interests of the scrutiny principles referred to as the principles for the Legislative Review Committee (and particularly the one that says 'the principles of natural justice'), that it is unreasonable to say that these companies currently operating will suddenly be told, 'No, what you are doing is unlawful, you no longer can operate, regardless of the financial consequences'.

I point out that, if this was to happen in other areas—there is obviously a public health argument and it is probably well made. However, surely we would then have to look at all the other public health arguments and say, 'Well, if it's the case that tanning beds have a public health cost to us, then smoking has a public health cost—we better ban that before we do it, because that cost is much greater'. Gambling has a much greater public health cost. Alcoholism has a much greater public health cost and driving cars has a much greater public health cost and, accordingly, if there is to be some sort of natural justice, it seems that we need to consider these public health issues, but I do not think we should be abandoning the function of this parliament by allowing a regulation to go through that takes away someone's currently lawful right to earn a living.

My understanding has always been that regulations must actually just regulate, not totally ban. I refer members to the consideration of the various cases on the principles of freedom of interstate trade in constitutional law, where the High Court on numerous occasions said that, no, a state cannot ban something as a mechanism of controlling interstate trade. They can regulate it, but they cannot ban it, was in essence the sense of the case law. I do not think I really have much more to say about it.

I do not intend to go through the detail of the many articles that I have tried to get my head around, other than to say that I think there is a public health issue and it is worthy of proper debate. My objection is simply to the process that has not taken place, and therefore I move to disallow the regulations, simply because I believe that this is an appropriate forum in this house, or through a select committee, for us to have a legitimate proper debate, come to a sensible conclusion and take into account the issues that face the businesses that are currently running lawfully but which will otherwise be put out of business by the stroke of a pen simply on the say-so of a minister.

The Hon. P. CAICA (Colton) (11:15): Every member of parliament has a right to disallow motions with respect to regulations that are being made, but I find the member for Heysen's freeballing—and I say freeballing on the basis that I am sure that the significant majority of people sitting on her benches disagree with her approach to this matter—the most foolish and reckless thing that I have witnessed since I have been here.

I do have a bit of background in this area, and a lot of foolish and reckless things have occurred in this place. I was the then minister for sustainability, environment and conservation, and with John Hill we announced back in October 2012 that the government had decided to ban the commercial use of solaria from December 2014. There was argument about why we did not do it immediately, but of course we were giving businesses an opportunity to transition to a world without solaria here in South Australia. Again, it was not anything that had come out of the blue. What we had seen was an enormous amount of evidence provided by scientists, particularly showing that there is, quite simply, no safe way of using solaria.

The member for Heysen also pointed out that there was a form of regulation. It was essentially a self-regulation; she mentioned age and she mentioned type 1 skin type. Quite simply, that self-regulation was not working; it was obvious. It was obvious that there were operators who

were abiding by that self-regulation, but there were enough that were not. That was evidenced in various media reports—on those TV shows that I do not normally watch—which chased people into solaria and identified people who were not suitable to do it, who were certainly not suitable under a self-regulation process, and who should have been identified as such. There is no safe way to use them. There is significant research. I am not going to detail that research, but research has been conducted here in South Australia, in Australia and across the world.

The governments of New South Wales and Victoria have also announced that they will ban commercial use of solaria from December 2014, and I am glad that the member for Heysen has acknowledged that. There is obviously—and I use the word obviously, because that is what she used—a public health argument. It seems to me that there are occasions when the government of the day has to act, act accordingly and act decisively. That was the reason that this was announced at that particular time, with, as I have said, a period of time leading up to it to ensure that those businesses would be able to transition to business without the use of solaria.

As I said, it is happening in Queensland, Victoria and New South Wales. I understand that discussions have also taken place in Tasmania. I am not sure of the status of those discussions, but again, they are in line to ban the public use of solaria. I am not going to detail all the research that is available, but there are volumes of it. The research shows that one in six melanomas in Australian young people aged 18 to 29 years would be prevented if solaria were shut down.

With respect to the effect on businesses, as I have said, it was announced back in 2012 with effect in December 2014, to allow those businesses to transition. Also, affected businesses were referred to the small business contact service to provide them with any information and assistance in changing their business practices. Up until that time, that is December 2014, the regulatory and licensing arrangements and requirements for solaria under the Radiation Protection and Control Act 1982 will remain, and that is why it falls under the umbrella of the EPA, as you would expect.

I think the member for Heysen used the word 'puzzled' and that 'puzzled' related to the process more than anything else. I think this house is puzzled by the fact that she is disallowing a regulation that is aimed at protecting young people, ensuring that the industry if there is such a thing—and I know there is a beauty industry. I tend to—

Ms Redmond: You've been there.

The Hon. P. CAICA: I have been to the solaria, yes, but I can tell you I come from a Latin background so I tend to get brown anyway.

Members interjecting:

The DEPUTY SPEAKER: Do you need protection, member for Colton? Do you need protection because there are interjections?

The Hon. P. CAICA: No, it's fine. I slip, slop and slap, that is the protection I take! As I said, people can make fun of this and I am not making fun of it. It is a serious issue and the reason the government took decisive action was because of the seriousness of this issue. What I said earlier stands, and I stand by that, it is foolish and reckless for the member for Heysen to come in here and look to disallow a regulation that is aimed specifically at protecting the people she purports to represent in South Australia, the people we all represent in South Australia.

The government provided a time frame of just over two years from the original announcement to give owners and operators sufficient time to make changes to their business to avoid financial loss. The lead time was to enable affected businesses just over two years to make the changes to their businesses to avoid a financial loss. As I said, the Cancer Councils in all states of Australia have called for a ban on solaria in all states and territories, and it is pleasing to note the progress.

In June 2013, the ACT announced it would ban all commercial solaria from 31 December 2014. On 4 February 2012, the New South Wales government announced the same ban effective from the same date. The Victorian government, on 13 December 2012, announced it would ban commercial solaria from the same date. On 31 December 2014, Queensland did the same thing. I am not quite sure of the status of Tasmania but I would be very surprised if they have not gone down the same road. Why did they go down this road? Because they found, as we did in South Australia, that the way by which the states were trying to put in uniform self-regulation of this industry was not working. The risks were too high.

Ms Redmond interjecting:

The Hon. P. CAICA: The reckless, freeballing member for Heysen interjects, but quite simply she is out of kilter. She is out of kilter with, I believe, this parliament. She is out of kilter with the people of South Australia, and I am flabbergasted that she has moved a motion to disallow this particular regulation. It is beyond my comprehension at the very least.

Ms Redmond interjecting:

The Hon. P. CAICA: I can hear a noise—yap, yap, yap, yap, yap. The simple fact is that she has lost the plot and I think there is evidence of that. The most recent evidence we have seen—let us push the 'utterly corrupt' assertion—

Mr Picton: Push that away.

The Hon. P. CAICA: Push that away for the moment if that is not evidence that she has lost the plot. This motion is evidence that the member for Heysen has lost the plot. I urge the house not to support this disallowance motion, to make sure that we as a parliament act decisively as the minister in another place has done, and that we do the right thing by the people of South Australia to ensure that in December of this year the ban is in place on the commercial use of solaria.

Dr McFETRIDGE (Morphett) (11:24): Can I say that, as the health spokesperson for the Liberal Party in this house, we will not be supporting this motion; but, having said that, I see on the *Notice Paper* today that there are 147 regulations listed that can be disallowed. The member for Heysen in her speech has talked about the process. I urge every member of the fourth estate, the spectators and commentators out there to read the member for Heysen's contribution on this. It is about the process.

The member for Heysen does support and acknowledge the issues around the use of solaria; no doubt about that whatsoever. I just urge everyone to read her contribution about the process and consider the fact that there are 147 regulations on here. We should be looking at all of them to make sure the process is right. This is a particularly emotive issue and it has been raised in the public, and we see it in the media today. Read the contribution. As I say, the Liberal Party will not be supporting this motion.

Mr PICTON (Kaurna) (11:25): Firstly, I would like to acknowledge the words from the member for Morphett. I think that it is a very principled position of the opposition to not be supporting this motion from the member for Heysen and for them to turn their backs on the member for Heysen's motion, because it really is a disgusting motion to be brought before this parliament. This is an important issue on fighting cancer. This is an issue that should be bipartisan across this chamber.

For me this is an passionate issue, particularly skin cancer. My grandfather died from skin cancer some 35 years ago, not involving solarium beds then, obviously. We need to do everything we possibly can to prevent skin cancer from occurring in South Australia. We have very clear evidence before us as a parliament that solariums and sunbeds in South Australia and across Australia and the world only seek to cause damage. There is not a positive health effect that comes from them; there is only damage.

If you look at what the World Health Organisation has said, they have classed UV emitting tanning devices as carcinogenic to humans, putting solaria in the same category as exposure to asbestos. That is the sort of product that the member for Heysen is saying we should remove regulations from in South Australia, that we should remove regulations—

Ms Redmond: No, I did not say that.

Mr PICTON: Well, that you are disallowing the regulations.

Ms REDMOND: Point of order, Deputy Speaker. The member for Kaurna is alleging that I asserted that I wanted to remove all regulation on solaria in South Australia. I have never said that. My motion is to disallow the currently proposed regulation. If the member for Kaurna cannot actually understand what it is that I am moving then I wonder why he is making a contribution at all.

The DEPUTY SPEAKER: Yes; we are not sure what point of order you are raising.

Mr Gardner: 137.

The DEPUTY SPEAKER: 137; we are still not sure it is a point of order, but we will draw the member for Kaurna back to the debate and ask him to be careful.

Mr PICTON: Absolutely, Deputy Speaker. There are regulations that this government has put in place to ban sunbeds in South Australia. The member for Heysen is coming in saying, 'Let's get rid of those regulations.' I do not understand how it could be any different from that. You are saying that we should remove those regulations that ban sunbeds.

Mr Gardner: The Deputy Speaker is not saying that, Chris.

The DEPUTY SPEAKER: We are just asking that there be no interjections. That is what I am asking, so if we could just listen to the member for Kaurna we can get some rulings.

Mr PICTON: Well, let us look at the evidence. The evidence says that the risk of melanoma increases by 75 per cent if the use of tanning devices starts before the age of 30. Research also indicates that the use of solaria increases the risk of health effects on users. Overexposure to UV radiation serves a central role not only in the development of skin cancer but also in eye conditions and suppression of the immune system; so, we have a device that is enormously damaging to the people who use it, particularly young people. One in six melanomas in Australian young people aged 18 to 29 years would be prevented if solariums were shut down. This is a regulation that will save lives in South Australia.

We only have to look at the evidence from other states to see that it is not just this government and not just this state that is moving in this direction, but Labor and Liberal governments across the nation are moving in this direction. In February 2012, the New South Wales government announced it would ban commercial solaria from 31 December 2014. On 13 December 2012, the Victorian government announced it would ban commercial solaria from 31 December 2014. In October 2013, the Queensland government announced a ban on commercial solaria effective 1 January 2014.

So, it is not just Labor, it is not just South Australia, it is states across the country and it is Labor and Liberal who are moving on this, just not the member for Heysen. The member for Heysen says this is all a matter of regulation, it is all a matter of process that she has brought this matter to debate. I completely object to that. I think that this is really part of her libertarian agenda that she wants to bring to this place. She is anti regulation and anti good regulations like these that can have a positive effect on the health of South Australians.

Members interjecting:

The DEPUTY SPEAKER: Order! One speaker only, thank you.

Mr PICTON: I think this is the danger when people talk very broadly about reducing red tape. I am supportive of reducing red tape when it is in the right circumstances. Yesterday in this house, we saw a bill to remove red tape for travel agents. There has been a very old piece of legislation dealing with travel agents that is not needed any more so this government is bringing forward legislation to remove that. Here we have a regulation that will actually save lives, and the member for Heysen is bringing forward a proposition to remove that regulation.

Removing all regulation is not good. There are some very good regulations that this parliament needs to support in a bipartisan manner, and I think it is really embarrassing to see the depths to which the member for Heysen has fallen in this place. Only weeks ago we were discussing and debating, and the Speaker was deliberating, whether she was going to be referred to a privileges committee over her scandalous assertion that the Electoral Commissioner was corrupt, and now we are seeing this—

Mr PENGILLY: Point of order, Madam Deputy Speaker.

The DEPUTY SPEAKER: I know the member for Finniss will have a point of order.

Mr PENGILLY: The matter is relevance. I have no understanding why the member for Kaurna would raise the issue that was discussed in here two weeks ago when the member for Heysen has something completely different on the agenda.

The DEPUTY SPEAKER: We will ask the member for Kaurna to wrap up or continue in a definitive mode to the motion.

Mr PICTON: I would just like to finish by referring to the case of a woman in Victoria. Her tragic case was really the one that started this whole move towards regulation of solaria across Australia. Her name was Clare Oliver, and she went to a solarium when she was 19 years old. She got a coupon which offered her a certain number of free solarium visits at a discounted price, and she went for about 10 sessions when she was 19 years old.

When she was 22, she contracted melanoma and, tragically, died when she was 26. She led the cause in Victoria for the first regulations covering this area, and she was pushing for a total ban on solaria. It did not happen in her lifetime, but her mission and legacy will be that across Victoria, New South Wales, Queensland and, luckily, South Australia, there will be a ban on solaria.

The Hon. T.R. KENYON (Newland) (11:33): If you have the opportunity to stop one in six melanomas happening, why wouldn't you take it? If you have the opportunity to reduce the risk of melanomas from sunbed use, which has been estimated to be 20 per cent and rising to 59 per cent for exposure before 35 years of age, why wouldn't you take it? The member for Morphett, I think, is probably the biggest single user of solaria over there—

Dr McFetridge: Pardon me?

The DEPUTY SPEAKER: Yes, I am a bit concerned about that myself.

Ms REDMOND: Personal reflections on members—

The DEPUTY SPEAKER: Yes, I am dealing with that, thank you, member for Heysen, and he is going to withdraw that completely.

The Hon. T.R. KENYON: I am happy to withdraw it, ma'am. It might be in a bottle instead. I am happy to withdraw and apologise. If anyone takes any inference that it is offensive that they would use a solarium, I am happy to withdraw it. If they really think it is offensive that they should use a solarium, they are happy for that to continue but they think it is an offensive thing. They think it is an offensive thing but they do not think it should be allowed to continue.

If you have the opportunity to stop one in six melanomas, in young people particularly, aged 18 to 29 years, why wouldn't you take it? Of course you would. A prudent government has been doing that, and doing it taking into account the needs of businesses to assess their business and to make the necessary adjustment. That is why there was two years' notice.

It was not as though we did it quietly: it was done with a great deal of fanfare. In fact, I remember that it was on the television that night, it was in papers, and I would not be surprised if they wrote to the businesses concerned, as they are all licenced through the EPA. They have all had a long history on this, they all know it has been coming, and two years is an adequate time.

It is something that has happened around the whole country. We have seen the ACT, New South Wales, Queensland—and Tasmania is even making moves in that direction, I am told—all heading in that direction because there is a known threat to health, a known threat to public safety, and prudent governments are taking advantage of that knowledge to regulate for the safety of Australians and particularly young Australians.

In South Australia, the South Australian government is regulating to protect young South Australians, which is exactly the right thing to do. They come in here and talk about process and say, 'It's fine; it might actually be the right thing to do, but let's not do that because we did not go through a process.' There is a saying that patriotism is the last refuge of a scoundrel, but sometimes I think an obsession with process is not far behind it, I have to say. We have the member for Heysen—

Members interjecting:

The DEPUTY SPEAKER: Order! One speaker only, thank you.

The Hon. T.R. KENYON: The member for Heysen is behaving almost Don Quixote-like in her obsession with this, but she is not even tilting at windmills. It is not a windmill she is tilting at: she is imagining a windmill and then tilting at that. She is almost becoming the Ann Bressington of the Liberal Party: every conspiracy theory that exists, she will take it up, bring it into the parliament and talk about it without giving it rational thought about whether there is something behind it or whether there is not. In this case, there is very clearly a public health issue, and hiding behind some obsession with process when clear action over a long period of time has been taken with regard for the businesses involved is ridiculous.

Ms REDMOND (Heysen) (11:37): I am delighted to know that I get a right of reply on this because some of the things that have been said strike me as extraordinary. My whole point is not in any way to promote the use of tanning beds but to promote the fact that in this parliament we are consistently either having to pass legislation because some minister has gone off to a council somewhere and agreed with his colleagues from other states that this is what we are going to do, or to accede to things a minister has passed by way of regulation and expect us to take no action on, even though in its original form the idea was that subordinate legislation would come under the consideration of the whole of the parliament and then the Legislative Review Committee was set up because it got to be too big a process for us to manage any other way.

The member for Newland said, 'If you had the opportunity to save lives, why wouldn't you take it?' That is precisely right, but that is precisely my point: why has this government not, by regulation simply signed off by a minister, banned the sale of cigarettes in this state? Why has this government not banned the sale of alcohol in this state? Why has this government not banned the use of cars in this state? Just taking all the cars off the road, where there is clearly a public health issue, would save 100 lives a year in just this state—far more than we are talking about with solaria—but the government has not done that.

Process is important because, although there were various members on the other side talking about the medical issues (and I deliberately did not go into them), there are equally people who have put the case that we now have vitamin D deficiency. There are people in Europe who are putting the case that a limited amount of vitamin D UV exposure can actually be beneficial to health. I made it clear in my contribution originally that in no way do I seek to assert that I have the medical knowledge. That is why, in my view, what this parliament should be doing is setting up a select committee that can hear the evidence.

We could actually hear from the tanning salon owners and get to the detail of why they say they will lose their houses and why they say two years' notice is not enough and all those things. According to what they have to say, they have been trying to engage with the government for two years and the government has just completely ignored them. They also say that the compensation they have been offered has been the equivalent of, if you owned a cafe, being given a Nespresso machine in compensation. Now, I do not know the truth of that; I have not had an occasion to have it tested by having them in to give evidence.

I believe there is an appropriate process, and I believe that tanning beds do present one of those issues where we need to do something; however, it seems to me to be illogical to simply say that we will ban them from a certain date if we do not also address things such as importation of private tanning beds for individual use, when these young girls who are so keen to get a tan can use a tanning bed at home without any regulation whatsoever.

Why would it not be more appropriate for this government to say, 'You know what? We'll agree to a select committee; we'll appoint a multi-party, both-houses select committee, we'll have a look at all the evidence, and we'll come to some conclusions. We will actually be properly, appropriately evidence-based regulators in this field,' rather than simply say that we are going to just abandon all that in favour of having a regulation.

As I said, I have read the American public health advocacy article. They are, in fact, quite complementary about Australia, but they do say that heightened public awareness led to the number of operators quickly diminishing. Of course, the member for Colton gave no indication, in his address, as to what way the regulations that currently exist were not being complied with.

I accept that voluntary codes generally do not work; that was my argument in relation to the travel industry yesterday, where we are ripping out the consumer protection. Voluntary codes generally will not work. However, we already have regulations that say that if you are under 18 and if you have a type I skin type you are not allowed to use a commercial tanning bed. The former minister, in his address, gave no indication that there had ever been any failure of compliance or any pursuit of any tanning bed operator, in a commercial sense, for non-compliance. So I remain firmly of the view—and I do not care if I am a sole voice; I am more than happy to stand alone on this issue because I do not believe what I am doing is in any way inappropriate—

Time expired.

The DEPUTY SPEAKER: The question before the house is that the motion be agreed to. Those for the question say 'aye'; those against say 'no'. The noes have it.

An honourable member: Divide!

An honourable member: That's not possible.

The DEPUTY SPEAKER: If someone calls for a division I believe it is.

Ms Redmond: The person who lost it has to call the division.

The DEPUTY SPEAKER: It needs to be some who said 'yes'. So the motion is lost.

An honourable member interjecting:

The DEPUTY SPEAKER: Let's just say that I know.

Motion negatived.

Parliamentary Committees

PUBLIC WORKS COMMITTEE: STATE DRILL CORE REFERENCE LIBRARY FACILITY

Ms DIGANCE (Elder) (11:43): I move:

That the 504th report of the committee be noted.

The current State Drill Core Reference Library was established at Glenside in 1978 for the retention of signature drill cores. It was established as part of a vision for South Australia's new mineral precinct, which included the construction of the Australian Mineral Foundation. This facility, managed by DMITRE, is recognised by the minerals and petroleum industry as one of the best purpose-built drill core reference libraries in the world, and is an integral part of the world-leading online geological web application the South Australian Resources Information Geoserver (SARIG).

It is a requirement under several pieces of state government legislation to store drill samples such as the Mining Act 1971 refers to. The current holdings of the State Drill Core Reference Library consist of over 7.5 million metres of core samples notionally valued in excess of $1 billion, in 2013 terms, including drill samples that date back to the 1800s. The samples are held across four sites—Glenside, Thebarton, Moonta and Whyalla—and the library acquires around 30,000 to 40,000 metres of samples annually.

The critical issue facing the current State Drill Core Reference Library is that full storage capacity will be reached in late 2014. It is proposed to establish a new consolidated facility at the Tonsley redevelopment site, at a total project cost of $32.2 million (GST exclusive), which includes a contingency of $3 million. The proposed new facility will comprise not only a new purpose-built library space for the storage of existing core and future core samples but also new data collection and logging areas within the facility, and a new general administration, conference, education and office amenities to support the services within the facility.

It is envisaged that the new facility at the Tonsley precinct will support the expanded use of the facility by students, both secondary and tertiary, with the potential for partnerships to be developed with tertiary institutions that are or will be located in close proximity to the new State Drill Core Reference Library. The proposed facility has the ability to work closely with both TAFE SA and Flinders University, which opens next year, by providing hands-on experience to students.

Establishing this new facility allows for a purpose-built library with a more effective management system for samples, including taking advantage of technology advances in storage that will allow for a more efficient storage system. It will cater for the large quantities of samples that the state holds and the projected expansion, as well as the increased use of the facility by students and industry, and allow the government to further promote the educational aspects of this facility. It will ensure access to all core samples in an efficient and timely manner, given that samples will be located in one location.

This reference library is key to achieving and sustaining growth in an important industry sector in South Australia. The public provision of geoscientific information reduces private exploration costs and risks to the mining and resources industry, and enables explorers to select an area for more detailed exploration using all publicly available information from historical exploration activity.

The Australian government reported in 2011 that there was a significant correlation between resource development and Geoscience Australia's pre-competitive work. This was most directly demonstrated in terms of exploration expenditure and, indirectly, through eventual resources production. Based on this, it could be argued that the public provision of geoscientific information through the State Drill Core Reference Library operations directly contributes to state royalty revenue collections.

The committee was informed that a net capital investment of approximately $15 million is required for this 20-plus year facility, yet over the same period resource royalties to be received by the state are estimated to be a minimum of $6.5 billion. The project is expected to be complete by November 2015 and will provide a consolidated facility with a lifespan of at least 20 years. Given this and, pursuant to section 12C of the Parliamentary Committees Act 1991, the Public Works Committee reports to the parliament that it recommends the proposed public works.

Mr PENGILLY (Finniss) (11:48): The opposition was very comfortable in supporting this project. It was a most interesting project to observe and to hear about at the hearing. I found it fascinating. I really did not know the extent to which we had these records set in stone, so to speak, and I thoroughly enjoyed it. It was very useful information that came across. What really impressed me was the educational capacity that will be advanced by this new facility and the fact that a couple of other small regional libraries—with no staff I might add—will be absorbed. It will be something I look forward to seeing in the future, and both the member for Chaffey and I look forward to going to the opening when that takes place in due course, provided we do not get a couple of days' notice, like footbridges and things like that.

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (11:49): I am a very proud representative for the people of Bragg, and for a long time the core library's current premises were in my electorate. The reason I would like to make a small contribution to this debate is that the government's intention to build a new core library, or drill library—I think it is going to be called something like that now—at a new location was announced some time ago and I think has been advanced through the processes of approval fairly quickly. I had wondered why.

It is always great to have a new project. I think that the harbouring or securing and protection of all our dead bits of dirt that are kept in this core library is important for the geological prospects for the future of the state. All of that is important; I have no issue with that. I would have thought that there might be other priorities as a state, but it was the government's decision to close down the original core library in Glenside, just behind the Glenside Hospital. I think that it was opened by Hugh Hudson, under the Dunstan government.

In any event, the reason I raise it is that it is now clear to me why the government has pushed this through and done the preliminary work to get the core library down to Tonsley. It was originally proposed to be out somewhere near the airport. In any event, it was settled that it go out to Tonsley; this is the report that is now being considered.

This week, we noted that the property on which the current core library is sitting is to be sold—expressions of interest have gone out with it—together with a parcel of land also owned by the Department of Mines I think it is described as presently, with the Z ward of the Glenside Hospital. The Z ward, for those who do not know, was part of the institution of the original Glenside Hospital, which is under state heritage listing. It used to have a moat around it; it was a premises for the secure holding and treatment of patients in times gone by. It has been derelict all the time I have been in parliament (12 years). It has a big fence around it, the mote has gone. It has big signs on it saying that it is under security. That security company does not exist anymore, I might say.

The only people, I think, who have ever shown any interest in it in the last 12 years are people from the Glenside Historical Society and me, because I have never ever seen anyone there. This piece of property adjacent to the core library, together with a strip of open land, has all gone on the market, and the opportunity for expressions of interest closes on 3 July—10 days time or thereabouts.

The Hon. S.W. Key: Put in a bid!

Ms CHAPMAN: The member for Ashford suggests that I put in a bid. I have often thought about that and even buying up the whole of the historical centre of the Glenside Hospital, which went for only a couple of million. The Premier picked that up—he grabbed that pretty quickly—and he put

his precious little Film Corporation in there and the Norwood Arts Centre, of course, which I learnt today have stripped the inside of the old P&O building. They have not left one original cell of what is supposed to be a heritage listed property. They have stripped it down for the facility uses of the Norwood Arts Centre.

Anyway, the member for Ashford has put me off my original contribution, and that is that it is now clear why the government has pushed through this proposal. It has on the market the old core library, with a buyback tenancy lease-back arrangement to 2016, but the prospective purchaser has to buy Z ward—goodness knows what is going to happen to that—and the open space and an L-shaped piece of land. I bring this to the attention of the house. It raises concerns with me.

There has been not a squeak from the government about the announcement to sell off this piece of land and Z ward, the state heritage asset, and I think that we need some answers. So, whoever is out there now responsible with the government for heritage and the future preservation and protection of this asset, I would like to hear from them. I am not sure that we even have a minister for heritage anymore in the current government—

Mr Pederick: Probably Hunter.

Ms CHAPMAN: —but it is possibly Mr Hunter, I am advised. I would like to hear from him as to what is going to be happening because it seems to me that it is very important. The drill core library as it currently stands could, of course, once you have moved out all the bits of dirt (there are little tubes of dirt in there)—it is like a morgue, really—

An honourable member interjecting:

Ms CHAPMAN: Yes. It's like a morgue. You slide out the core and you check out what minerals are in there. It is available for inspection for people in the industry. It is a very important resource. It does not need to be in Glenside, I agree with that.

I was a little bit puzzled by the government's decision to put it down at Tonsley because it seemed that the industry was keen to have it close to the airport or out north so that the people who were involved in the industry, such as the geologists, would be able to get off the plane and come in and access this library, etc., and it would be in a sensible location. However, the government's decision to create the hub at Tonsley to include training facilities to support this area of industry may account for why they have decided to put all of the dirt down there and build a new premises.

If it were cleaned out, it would make a warehouse facility from the current facility, but I am more interested in who is going to buy that land, why it has gone on the market so quickly, and what the conditions are to protect the Z Ward, which is a beautiful three-storey building sitting derelict on that site.

Motion carried.

SELECT COMMITTEE ON A REVIEW OF THE RETIREMENT VILLAGES ACT 1987

Adjourned debate on motion of Dr McFetridge:

That the report of the committee, on a Review of the Retirement Villages Act 1987, be noted.

(Continued from 4 June 2014.)

The Hon. S.W. KEY (Ashford) (11:56): I rise to continue my remarks with regard to the retirement villages select committee report. As I said, I am very pleased that we have got to the stage of the report being handed down. The Minister for Ageing (the member for Ramsay) has responded to the recommendations of that report. As I said in my earlier contribution, I am very pleased to support the comments that were made, particularly by the member for Morphett, in response to those recommendations.

For those of us who are campaigners in the retirement village area, we will continue to try to make sure those changes happen for the better. In the meantime, I have received information from a constituent, Mr Usher, who was the president of the Stuart Grove Retirement Estate, and he raises another matter that I previously raised with the former minister for health and ageing, and also raised with the current minister. It is in relation to the concerns that he has—and this is something that has been raised by other retirement village associations—with regard to lease fees associated with the community centre in the retirement village.

Mr Usher has put together quite a complicated document, but his concern is that the community centre is being considered as a commercial entity in terms of the valuations that are part of the costs of being in a retirement village. He also refers to the case that was brought before the Residential Tenancies Tribunal, prescribing that the administering authority should pay a refund for the period of 13 June to 30 June 2013. Mr Usher believes that this should apply for at least six months in 2013, given that the first request for a meeting with the owner was declined in September 2012. This is something that has been raised by other members in this house; that is, the difficulty in having discussions or negotiations.

I just raise the added issue that I think did not come out from my reading of the select committee inquiry. Those people that were on that inquiry might want to correct me, but there is an issue of other assets that are actually within the retirement village itself. Having had the opportunity to meet and participate in some of the activities in the community centres in those retirement villages, I just put this on notice to the minister. As I said, I have written to her, I think in May this year, raising Mr Usher's concerns on behalf of the Stuart Grove Retirement Estate but it is something that I think we might need to watch and I am sure other members will have received inquiries in this area, also. Congratulations to the select committee participants and also to both the former minister for health and ageing and the current minister for listening to what the select committee had to say.

Time expired.

Debate adjourned on motion of Mr Gardner.

Members

MEMBER'S LEAVE

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (12:01): I move:

That three months' leave of absence be granted to the member for Fisher, Hon. R.B. Such, on account of ill health.

Mr GARDNER (Morialta) (12:01): The opposition supports the motion.

Motion carried.

Bills

STATUTES AMENDMENT (SACAT) BILL

Introduction and First Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (12:01): Obtained leave and introduced a bill for an act to amend the Advance Care Directives Act 2013; the Aged and Infirm Persons' Property Act 1940; the Community Housing Providers (National Law) (South Australia) Act 2013; the Consent to Medical Treatment and Palliative Care Act 1995; the First Home and Housing Construction Grants Act 2000; the Freedom of Information Act 1991; the Guardianship and Administration Act 1993; the Intervention Orders (Prevention of Abuse) Act 2009; the Mental Health Act 2009; the Public Sector Act 2009; the Residential Parks Act 2007; the Residential Tenancies Act 1995; the Retirement Villages Act 1987; the South Australian Civil and Administrative Tribunal Act 2013 and the South Australian Housing Trust Act 1995. Read a first time.

Second Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (12:04): I move:

That this bill be now read a second time.

The Statutes Amendment (SACAT) Bill 2014 seeks to amend a range of acts for the purposes of conferring jurisdiction upon the South Australian Civil and Administrative Tribunal, established by the South Australian Civil and Administrative Tribunal Act 2013. The task of conferring jurisdiction upon the tribunal is a significant undertaking, to occur in five proposed stages over the next two years. This bill comprises stages 1 and 2 of the conferral of jurisdiction upon the tribunal. Stage 1 comprises the work of the Residential Tenancies Tribunal, Guardianship Board and the Housing Appeal Panel,

as well as the appeals presently lying from those bodies to the District Court and is proposed to take effect from the date the tribunal becomes operational in around September of this year.

Stage 2 is comprised of the work of the Public Sector Grievance Review Commission and appeals to the administrative and disciplinary division of the District Court under the Freedom of Information Act, plus appeals to the Magistrates Court under the First Home and Housing Construction Grants Act 2000. It is proposed that these amendments allocated to stage 2 will come into effect in early 2015. I seek leave to insert the remainder of the second reading explanation into *Hansard* without my reading it.

Leave granted.

In summary, this Bill proposes to transfer to the Tribunal:

- functions of the Residential Tenancies Tribunal ('RTT') established under the *Residential Tenancies Act 1995* ('RTA'), and to make related and consequential amendments to the *Retirement Villages Act 1987* and the *Residential Parks Act 2007*;
- functions of the Guardianship Board established under the *Guardianship and Administration Act 1993*, and to make related and consequential amendments to the *Advance Care Directives Act 2013*, *Mental Health Act 2009*, *Aged and Infirm Persons' Property Act 1940*, and *Consent to Medical Treatment and Palliative Care Act 1995*;
- functions of the Housing Appeal Panel ('HAP') under the *Community Housing Providers (National Law) (SA) Act 2013* and the *South Australian Housing Trust Act 1995*;
- functions of the Public Sector Grievance Review Commission ('PSGRC') established under the *Public Sector Act 2009*;
- functions of the Magistrates Court under the *First Home and Housing Construction Grants Act 2000*;
- functions of the Administrative and Disciplinary Division of the District Court under the *Freedom of Information Act 1991*; and
- District Court appeals from the RTT and Guardianship Board.

In addition to conferring jurisdiction on the Tribunal, the Bill proposes to make amendments to the SACAT Act. These amendments correct omissions and further refine appeal mechanisms in response to feedback and advice received since the SACAT Act was proclaimed and the President of the Tribunal, Justice Greg Parker, was appointed.

The general approach taken by the Government to drafting the Bill has been that where provisions in the conferring Act replicate measures in the SACAT Act, the conferring Act provisions are to be deleted. The consequent effect of this is that the SACAT Act and the relevant conferring Act, as amended by this Bill, will operate concurrently in the respective jurisdiction. Consultation has occurred with the affected panels, commissions, tribunals and boards, which has assisted enormously in the drafting process and has enabled ongoing communication during this period of transition to SACAT about the changes that lie ahead.

The Bill (with some exceptions) preserves in each of the conferring Acts that are subject to amendment measures that provide specific functions, processes and powers that are unique or necessary to the respective jurisdiction. If special arrangements or powers are preserved by the amendments to the conferring Acts, and these differ from the provisions of the SACAT Act, existing provisions in the conferring Act will prevail.

Transitional provisions will be inserted into each conferring Statute that is subject to amendment in this Bill. The transitional provisions address the status of directions, orders, applications, referrals, reviews or appeals before and after the amended provisions take effect.

Further, for the RTT, Guardianship Board, HAP and PSGRC, the transitional provisions confirm that these bodies will be dissolved and that any member holding office at this time will cease to hold office and that any contract of employment, agreement or arrangement relating to the office held by that member is terminated. This approach has been necessary to ensure that the recruitment process for members of the Tribunal is done on a merits basis, with openness and transparency, so as to ensure the appointment to the Tribunal of members with appropriate skills for a generalist tribunal that will have a focus on Alternative Dispute Resolution. The Government notes that this was the approach taken with respect to recruitment of members in the Western Australian State Administrative Tribunal, established in 2005, and which the Tribunal has been modelled upon.

Turning now to the main features of the Bill.

Residential Tenancies Tribunal

The RTT is the State's busiest administrative tribunal, hearing upwards of 8,000 matters each year. The RTT primarily makes original decisions and resolves disputes relating to tenancies in privately and publicly owned housing, retirement villages and residential parks. It is important to note that the significant legislative reforms made by the Government recently in the *Residential Tenancies (Miscellaneous) Amendment Act 2013* will largely remain untouched by this Bill.

This Bill amends the *Residential Tenancies Act 1995*, the *Residential Parks Act 2007* and the *Retirement Villages Act 1987* to transfer responsibility for the RTT's functions to the Tribunal.

Amendments to the *Residential Tenancies Act 1995*

In summary, the amendments in this Bill to the RTA are for the Tribunal assuming and amalgamating the roles of the RTT and the Administrative and Disciplinary Division of the District Court when it hears appeals from decisions of the RTT. The powers of the Tribunal, as set out in Part 8 Division 3 of the RTA and the question of representation in proceedings before the Tribunal, will however remain unchanged.

In keeping with the approach to drafting outlined previously, provisions at Part 3, Divisions 1 and 2 of the RTA, which relate to the membership of the RTT and how proceedings are conducted in the RTT are repealed by this Bill. This is also the case with respect to Part 3, Divisions 9 and 10, in addition to Part 8, Division 1 of the RTA. These said provisions address reservations of questions of law and appeals, in addition to miscellaneous provisions regarding entry and inspection of property and contempt.

The measures relating to appointment and functions of bailiffs have required a departure from the current status quo. Currently section 98 of the RTA provides that the Governor may appoint a person to be a bailiff of the RTT. Given the RTT is to be abolished, the Bill proposes that section 98 be deleted and inserted (by amendment) into the SACAT Act. This is necessary to ensure that the President of the Tribunal is responsible for the appointment of any person to the role of bailiff and to provide the necessary flexibility for the functions of bailiffs, and the categories of persons that may be appointed to this role, for future growth.

Amendments to the *Retirement Villages Act 1987*

This Act is subject to consequential amendment in light of the amendments made to the RTA. In summary, the amendments propose that decisions currently made by the RTT under sections 31 and 32 of the Retirement Villages Act will instead be exercised by the Tribunal. This is necessary as the RTT will no longer exist.

The amendment proposed to section 31 of this Act is minor, related to the new appointment mechanism for bailiffs being deleted from the RTA and inserted into the SACAT Act.

The amendment to section 32 proposes to delete subsections relating to arbitration; the ability to make and grounds upon which an application can be declined; the ability to make ancillary and incidental orders; and the criminal offence of failing without reasonable excuse to comply with an order or direction of the RTT. These provisions are to be repealed on the basis that they replicate provisions in the SACAT Act. For the same reason, section 39, which sets out the appeal mechanism under this Act, will also be repealed.

Amendments to the *Residential Parks Act 2007*

This Act is amended in light of the amendments made to the RTA, which aside from consequential amendments, will result in decisions currently made by the RTT resolving disputes about residential parks agreements now being made by the Tribunal.

Housing Appeal Panel

Currently, the jurisdiction of the HAP includes the review of administrative decisions made by the South Australian Housing Trust under the *South Australian Housing Trust Act 1995* and decisions made by community housing organisations or the Minister under the *Community Housing Providers (National Law) (SA) Act 2013* ('National Law Act').

The Bill proposes to amend the *South Australian Housing Trust Act 1995* and the National Law Act for the purposes of the Tribunal assuming the functions of the HAP, which will be abolished. The Bill will preserve the status quo in terms of review rights under these Acts.

The other type of matter that is currently heard by the HAP, which is also proposed to be transferred to SACAT, is appeals against a decision of the Regulator, or an action brought by a community housing provider, as provided in Schedule 1 of the National Law Act. The appeal against these matters to the Supreme Court is preserved in the Bill, as this will generally be about standards and funding of community housing providers.

The *South Australian Housing Trust Act 1995* will be amended to delete section 32B, which establishes the HAP and to make consequential amendments to the definition of 'Appeal Panel'.

Public Sector Grievance Review Commission

Under the amendments proposed in this Bill, the PSGRC will be abolished and its functions transferred to the Tribunal. Accordingly, Schedule 2 is proposed to be deleted and substituted with two provisions relating to the Tribunal hearing matters that fall within the *Public Sector Act 2009.*

Firstly, for the purposes of proceedings before the Tribunal, there is to be a panel of public sector employees nominated by the Commissioner for Public Sector Employment and a panel of public sector employees nominated by public sector representative organisations.

Secondly, in exercising its powers under the SACAT Act for the purposes of this Act, the Tribunal will be constituted by 3 members of whom one will be selected from the panel of nominees of the Commissioner for Public Sector Employment by the President of Tribunal; and one will be selected by the applicant from the panel of nominees of public sector representative organisations. This measure will also retain the current requirements placed upon the

PSGRC, which places an onus to have completed any review within 3 months and in any event, to proceed as quickly as a proper consideration of the matter allows. This preserves the status quo for these types of proceedings.

Amendments to *Freedom of Information Act 1991* ('FOI Act')

Currently, pursuant to section 40(1) of the FOI Act, an agency that is aggrieved by a determination made on a review under Part 5, Division 1 of the FOI Act (by the Ombudsman or Police Ombudsman), may, with the permission of the District Court, appeal against the determination to the District Court on a question of law. Members of the public also have certain appeal rights to the District Court under section 40(2) of the FOI Act. It is proposed that the Tribunal assume the function of the District Court under sections 40(1) and (2) of the FOI Act.

Amendments to the *First Home and Housing Construction Grants Act 2000*

Appeals against decisions of the Treasurer on objections are currently heard by the Magistrates Court. The amendments in the Bill propose that SACAT assume the functions of the Magistrates Court, the consequent effect of which will be that the Court no longer has any functions under the Act.

The Guardianship Board

The Guardianship Board is a State tribunal tasked with making decisions about people with impaired decision-making capacity, including those suffering from mental illness or dementia.

Currently the Board has two separate functions:

- appointing Guardians and Administrators for people with a mental incapacity, pursuant to the *Guardianship and Administration Act 1993*; and
- in certain circumstances, making compulsory treatment orders for people with a mental illness, pursuant to the *Mental Health Act 2009.*

The Board is also proposed to assume dispute-resolution functions under the new *Advance Care Directives Act 2013*, due to commence on 1 July 2014.

The existing legislative scheme, particularly within the mental health review function, is multi-tiered and complex, involving a review by the Board, a review in the District Court and a further review by the Supreme Court. The amendments in the Bill propose that the Tribunal will assume the Guardianship Board's role in making original decisions as well as, in some cases, its ordinary review jurisdiction. In addition the changes to the conferring Acts will enliven the Tribunal's internal review jurisdiction and the further right of appeal to the Supreme Court under the SACAT Act.

Amendments to the *Guardianship and Administration Act 1993*

The Bill proposes to repeal Part 2 Divisions 1 and 2, which relate to the establishment, functions, powers and constitution of the Guardianship Board in addition to providing for various officers of the Board. As stated, these measures will instead be governed by the SACAT Act.

A further significant change is proposed to section 32 of this Act, which currently provides the Board with special powers to place and detain protected persons. There are two limbs to the amendment proposed to section 32, which are necessary in the view of SA Health. Firstly, the amendment clarifies that any reference in the Act to 'residing in a specified place' includes a reference to residing in the place on a temporary basis, for example, a hospital. Secondly, this amendment further refines the restriction on where a patient on the relevant order under this Act can be placed in a hospital according to their clinical need.

Currently the Act at section 32(3)(b) prohibits placement or detention of a person 'in any part of an approved treatment centre under the *Mental Health Act 1993* that is set aside for the treatment of persons with a mental illness.' This amendment proposes that a ward of a hospital or other facility that is an approved treatment centre under the *Mental Health Act 1993* will not be taken to be a part of an approved treatment centre unless the whole of the ward is set aside for the treatment of person with a mental illness. SA Health submits this will provide necessary flexibility whilst ensuring that persons subject to orders under this Act are protected.

Part 6, which relates to appeals and references of questions of law, is proposed to be substituted with modified provisions relating to reviews and appeals. The modified provisions will operate in connection with the application of Part 5 of the SACAT Act.

Part 6A is to be inserted into the Act and modifies certain existing provisions so as to work in conjunction with the SACAT Act. These provisions include the requirement to give notice of proceedings, reasons for decisions and the ability to require persons to submit to a psychiatric or psychological report, a measure currently provided for in section 15 of the current Act.

Amendments to the *Advance Care Directives Act 2013*

The Advance Care Directives Act has been proclaimed to commence operation on 1 July 2014. The amendments to the Advance Care Directives Act propose to transfer the role of the Guardianship Board in resolving disputes under this Act to the Tribunal.

Section 47(b) which concerns priorities being given to wishes of persons who gave advance care directives (ACD) is proposed to be amended. If retained as currently drafted, it would require the Board/Tribunal to take

reasonable steps to notify anyone who has been given a copy of an ACD of its revocation. This was thought to be an impractical requirement that is best addressed by the Tribunal making appropriate directions/consequential orders upon revocation.

Part 7 Division 5, which currently addresses reviews and appeals under the Advance Care Directives Act, will be deleted and substituted with new measures that will operate in connection with Part 5 of the SACAT Act. Part 7A is to be inserted into the Act, with respect to addressing special provisions relating to the Tribunal, such as the requirement to give prescribed persons notice of proceedings, a requirement to provide reasons for decisions and other like measures.

Amendments to the *Mental Health Act 2009*

The amendments proposed to the Mental Health Act are either consequential or related to the conferral of jurisdiction upon the Tribunal, or are at the specific request of SA Health to address current issues that will be of direct benefit to Tribunal efficiency if the opportunity is taken to address them in this Bill.

Firstly, this Bill proposes to remove the onus upon a psychiatrist or an authorised medical practitioner to send copies of a notice to both the Guardianship Board (soon to be Tribunal) and the Office of the Chief Psychiatrist and require that it only be sent to the Chief Psychiatrist. The Chief Psychiatrist will then be responsible for advising the Tribunal. This is necessary to address practical difficulties currently encountered by the Office of the Chief Psychiatrist as a result of dual notifications.

The second major reform proposed is in relation to Part 11, Division 2, which addresses appeals to the Guardianship Board against orders, representation on appeals and appeals to the District and Supreme Courts. This is necessary to operate in conjunction with the SACAT Act. Section 81 of the Mental Health Act will be amended so that it 'plugs into' section 34 of the SACAT Act, with the consequent effect of deleting section 82 (operation of orders pending appeal). Sections 84 and 85 of the Mental Health Act will be deleted and substituted with new measures relating to reviews and appeals that operate in connection with Part 5 of the SACAT Act.

Special provisions relating to the Tribunal will also be inserted into the Mental Health Act by this Bill. These relate to the constitution of the Tribunal for proceedings under this Act, the requirement to give notice and other similar miscellaneous matters. It should be noted that the requirement that the Board (now Tribunal) include a psychiatrist for *Mental Health Act 2009* matters is being deleted from the *Guardianship and Administration Act 1991* at the request of SA Health. This is consistent with the general legislative approach to leave the constitution of the Tribunal for various matters for the President of the Tribunal to determine as appropriate and also affords the desired flexibility for those proceedings under the *Mental Health Act 2009* that may involve only legal or procedural questions and for which a psychiatrist is not needed or suited.

Amendments to the *Consent to Medical Treatment and Palliative Care Act 1995*

The *Consent to Medical Treatment and Palliative Care Act 1995*, has been substantially amended by the *Advance Care Directives Act 2013*, which is proposed to take effect on 1 July 2014. The amendments in this Bill predominately relate to Part 3A of the Act, which sets out a dispute resolution mechanism for 'eligible persons' regarding consent (or lack thereof) and the provision of medical treatment

The key amendment to Part 3A of the Act relates to Division 4, which is proposed to be deleted and substituted with new measures regarding reviews and appeals that are to operate in connection with the application of Part 5 of the SACAT Act.

Amendments to *South Australian Civil & Administrative Tribunal Act 2013*

Since the passage of the SACAT Act in 2013, the Act requires further refinement to address issues arising from the conferring of jurisdiction identified in the drafting of this Bill and to further refine existing provisions in response to feedback received by the Attorney-General's Department.

Firstly, it has become apparent that certain conferring legislation is unclear on whether the jurisdiction being conferred will invoke SACAT's original or review jurisdiction, or there is clarity but it would lead to an anomalous result. It is therefore proposed to amend section 34 of the SACAT Act to insert a definition of a 'reviewable decision'.

Also proposed are a number of amendments to section 71 of the SACAT Act regarding appeals from the Tribunal to the Supreme Court. Firstly, it is proposed to insert into section 71 that the Rules of the Supreme Court may provide that a matter that would otherwise go to the Full Court under subsection (1) will instead go to a single Judge of the Supreme Court, and vice versa. A further amendment will clarify that an appeal to the Supreme Court against a decision of the Tribunal in the exercise of its original jurisdiction may not be instituted under section 71 unless or until a review of the decision has been conducted by the Tribunal under section 70 of the SACAT Act, or unless one of the prescribed exceptions set out in (2b) apply. Thirdly, an amendment to section 71(3) proposes to clarify the nature of the appeal undertaken by the Supreme Court, which will be by way of rehearing, together with an amendment to section 71(4)(c)(i) to clarify the powers of the Supreme Court on appeal.

It is also proposed to insert a new offence into the SACAT Act, being the offence of disrupting proceedings of the Tribunal, which will attract a maximum penalty of a $10,000 fine or imprisonment for 6 months. The offence is designed to address disruptive conduct during Tribunal proceedings by persons who may be present but who are not involved in the proceedings, such as members of the public. This is necessary as current offences in the SACAT Act do not capture conduct by persons who are not parties to the proceedings.

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 *Advance Care Directives Act 2013*

4—Amendment of section 3—Interpretation

These amendments to the definitions are consequential on the transfer of jurisdiction under this Act from the Guardianship Board to SACAT.

5—Amendment of section 27—Substitute decision-maker may renounce appointment

This amendment is consequential on the transfer of jurisdiction from the Guardianship Board to SACAT.

6—Amendment of section 31—Tribunal to be advised of wish for revocation

This amendment clarifies that although the word 'review' is used, a review by the Tribunal under this section will form part of SACAT's original jurisdiction.

7—Amendment of section 32—Revoking advance care directives where person not competent

8—Amendment of section 45—Resolution of disputes by Public Advocate

9—Amendment of section 46—Public Advocate may refer matter to Tribunal

The amendments to these clauses are consequential on the transfer of jurisdiction from the Guardianship Board to SACAT.

10—Insertion of section 46A

This amendment inserts new section 46A.

46A—Public Advocate may refer question of law to Supreme Court

This clause makes it clear that the Public Advocate may refer a question of law for the opinion of the Supreme Court.

11—Substitution of heading to Part 7 Division 3

12—Amendment of section 47—Tribunal to give priority to wishes of person who gave advance care directive

These amendments are consequential.

13—Amendment of section 48—Resolution of disputes by Tribunal

The amendments to this clause are consequential. They also make clear that a review under this section falls within SACAT's review jurisdiction and that a declaration or direction under this section will fall within the Tribunal's original jurisdiction.

14—Amendment of section 49—Tribunal may refer matter to Public Advocate

15—Amendment of section 50—Failing to comply with direction of Tribunal

16—Amendment of section 51—Orders of Tribunal in relation to substitute decision-makers

17—Substitution of heading to Part 7 Division 4

The amendments to these sections and heading are consequential on the transfer of jurisdiction from the Guardianship Board to SACAT.

18—Substitution of Part 7 Division 5

This clause substitutes current section 53 to set out the provisions in relation to reviews and appeals made to SACAT under Part 5 of the SACAT Act.

Division 5—Reviews and appeals

53—Reviews and appeals

The proposed new section sets out who may make an application for an internal review of a decision by SACAT, in addition to matters in relation to costs and appeals of the Tribunal's decision to the Supreme Court.

19—Insertion of Part 7A

This clause inserts new Part 7A to make special provision for proceedings before SACAT under this Act.

Part 7A—Special provisions relating to Tribunal

54—Tribunal must give notice of proceedings

The proposed new section sets out the notice requirements in relation to SACAT proceedings, and allows for matters to be dealt with urgently.

54A—Reasons for decisions

This proposed section provides that SACAT must provide reasons for the Tribunal's decision to certain persons on request.

54B—Representation of person who is subject of proceedings

In addition to the provisions that deal with representation set out in the *South Australian Civil and Administrative Tribunal Act 2013*, the proposed new section provides that a person may be represented in Tribunal proceedings under this Act by the Public Advocate or (except for internal reviews) a recognised advocate, who is defined to be someone recognised by SACAT to be qualified to act as an advocate for the person.

20—Transitional provisions

This clause sets out the transitional arrangements in relation to the transfer of jurisdiction from the Guardianship Board to SACAT. The effect of the provisions is to transfer any proceedings before the Guardianship Board to SACAT to proceed as if they had been commenced before SACAT, and any right to make an application to the Guardianship Board that existed before these amendments, may now be exercised by making an application to SACAT.

Part 3—Amendment of *Aged and Infirm Persons' Property Act 1940*

21—Amendment of section 30—Relationship between this Act and *Guardianship and Administration Act 1993*

This amendment is consequential on the transfer of jurisdiction from the Guardianship Board to SACAT.

22—Transitional provision

This clause sets out the transitional arrangements in relation to the transfer of jurisdiction from the Guardianship Board to SACAT to provide for the provision of a notice with respect to a protection order to be forwarded to SACAT.

Part 4—Amendment of *Community Housing Providers (National Law) (South Australia) Act 2013*

23—Amendment of section 3—Interpretation

This amendment is consequential on the amendment to section 25 to remove the reference to the District Court.

24—Amendment of section 5—Meaning of certain terms in *Community Housing Providers (National Law)* for the purposes of this jurisdiction

This clause substitutes the South Australian Civil and Administrative Tribunal (SACAT) for the Housing Appeal Panel as the appeal body for the purposes of the Community Housing Providers National Law.

25—Repeal of section 14

This clause removes section 14 which sets out the provisions that relate to an appeal for the purposes of the national law. This section is no longer required as the provisions of the *South Australian Civil and Administrative Tribunal Act 2013* (the SACAT Act) will be relied on for the purposes of such an appeal.

26—Amendment of section 25—Appeals

Section 25 provides for an appeal against certain decisions of the Minister and the South Australian Housing Trust. The amendment substitutes the reference to the Administrative and Disciplinary Division of the District Court with a reference to SACAT as the body to which the appeal can be made.

27—Amendment of Schedule 2—Internal disputes

Schedule 2 of the Act sets out the provisions in relation to appeals regarding internal disputes between tenants and the community housing provider. The amendments to this Schedule substitute the references to the body to whom an appeal can be made in relation to certain decisions of the housing provider from the Housing Appeal Panel to SACAT. The amendments also delete those provisions that are no longer required on the basis that the provisions of the SACAT Act will now apply.

28—Amendment of Schedule 3—Repeal, related amendments and transitional provisions

Schedule 3 of the Act sets out the transitional arrangements that apply in relation to the transition of the registration of community housing providers to the national registration scheme. These transitional arrangements provide for an 18 month period in which current community housing providers must transfer to the national scheme and provide that, during this period, provisions of the repealed *South Australian Co-operative and Community Housing Act 1991* may still apply (including the ability to appeal certain decisions to the Housing Appeal Panel). The amendments in this clause amend these transitional provisions to take account of the dissolution of the Housing Appeal Panel under this measure and the transfer of any proceedings that may have been instituted by the transitioning housing providers to SACAT.

29—Transitional provisions

This clause sets out the transitional provisions in relation to any proceedings that may have been commenced in the Housing Appeal Panel under the Act. The effect of the provisions is to transfer any proceedings to SACAT to proceed as if they had been commenced before that Tribunal. Any decisions, directions or orders of the Appeal Panel made before the commencement of these amendments will be taken to be decisions, directions or orders of SACAT. Any right to make an application to the Housing Appeal Panel that existed before the amendments to the Act by this measure, may now be exercised by making an application to SACAT. The transitional provisions also allow for SACAT to receive any evidence before the Appeal Panel and adopt any of its findings, decisions or orders where relevant (including in relation to proceedings that are fully heard), and to take such other steps to ensure the smooth transition of the proceedings to SACAT.

Part 5—Amendment of *Consent to Medical Treatment and Palliative Care Act 1995*

30—Amendment of section 4—Interpretation

The amendments to this section are consequential on the transfer of jurisdiction from the Guardianship Board to SACAT.

31—Amendment of section 14—Interpretation

The amendments to this section are consequential on the transfer of jurisdiction from the Guardianship Board to SACAT.

32—Substitution of heading to Part 3A

The amendments to this section are consequential on the transfer of jurisdiction from the Guardianship Board to SACAT.

33—Amendment of section 18A—Interpretation

The amendments to this section are consequential on the transfer of jurisdiction from the Guardianship Board to SACAT.

34—Amendment of section 18C—Resolution of disputes by Public Advocate

The amendments to this section are consequential on the transfer of jurisdiction from the Guardianship Board to SACAT.

35—Amendment of section 18D—Public Advocate may refer matter to Tribunal

The amendments to this section are consequential on the transfer of jurisdiction from the Guardianship Board to SACAT.

36—Insertion of section 18DA

This clause inserts new section 18DA.

18DA—Public Advocate may refer question of law to Supreme Court

The proposed section provides that the Public Advocate may refer any question of law for the opinion of the Supreme Court. This is consistent with current section 18H.

37—Substitution of heading to Part 3A Division 3

The amendments to this section are consequential on the transfer of jurisdiction from the Guardianship Board to SACAT.

38—Amendment of section 18E—Resolution of disputes by Tribunal

The amendments to this section are consequential on the transfer of jurisdiction from the Guardianship Board to SACAT.

39—Amendment of section 18F—Tribunal may refer matter to Public Advocate

The amendments to this section are consequential on the transfer of jurisdiction from the Guardianship Board to SACAT.

40—Amendment of section 18G—Failing to comply with direction of Tribunal

The amendments to this section are consequential on the transfer of jurisdiction from the Guardianship Board to SACAT.

41—Substitution of Part 3A Division 4

This amendment sets out certain matters in relation to reviews and appeals made to SACAT under Part 5 of the SACAT Act.

Division 4—Reviews and appeals

18H—Reviews and appeals

The proposed new section sets out who may make an application for an internal review of a decision by SACAT, in addition to matters in relation to costs and appeals of the Tribunal's decision to the Supreme Court.

42—Insertion of Part 3B

This amendment inserts new Part 3B.

Part 3B—Special provisions relating to Tribunal

18I—Tribunal must give notice of proceedings

The proposed new section sets out the notice requirements in relation to SACAT proceedings, and allows for matters to be dealt with urgently.

18J—Reasons for decisions

This proposed section provides that SACAT must provide reasons for the Tribunal's decision to certain persons on request.

18K—Representation of person who is subject of proceedings

In addition to the provisions that deal with representation set out in the *South Australian Civil and Administrative Tribunal Act 2013*, the proposed new section provides that a person may be represented in Tribunal proceedings under this Act by the Public Advocate or (except for internal reviews) a recognised advocate, who is defined to be someone recognised by SACAT to be qualified to act as an advocate for the person.

43—Transitional provisions

This clause sets out the transitional arrangements in relation to the transfer of jurisdiction from the Guardianship Board to SACAT. The effect of the provisions is to transfer any proceedings before the Guardianship Board to SACAT to proceed as if they had been commenced before SACAT, and any right to make an application to the Guardianship Board that existed before these amendments, may now be exercised by making an application to SACAT.

Part 6—Amendment of *First Home and Housing Construction Grants Act 2000*

44—Substitution of heading to Part 2 Division 6

This is a consequential amendment.

45—Insertion of section 27A

This clause inserts a new section into the Act, which is in similar terms to the current section 30 of the Act, which is being repealed. This is a consequential amendment that has the effect of removing the reference to the appeal to the Magistrates Court so that it only applies to decisions of the Commissioner.

27A—Objection not to stay proceedings based on relevant decision

This clause provides that if an applicant has lodged a written notice of objection with the Treasurer in relation to a decision of the Commissioner of State Taxation, the Commissioner is able to act as though that decision is correct until the objection is decided. Once decided, the Commissioner must take any necessary action to implement that decision.

46—Substitution of section 28

The current section 28 of the Act provides that a person who is not satisfied with the decision of the Treasurer on the objection against a decision of the Commissioner, may appeal to the Magistrates Court within 60 days. The new section 28 provides that the person may instead seek a review of the Treasurer's decision by SACAT within 60 days.

47—Repeal of sections 29 and 30

These clauses are no longer required as the SACAT Act provides for the powers of the Tribunal in relation to making a decision on a review and in relation to the staying of the original decision.

48—Transitional provisions

This clause provides for rights of appeal under the current section 28 of the Act that exist before the commencement of these amendments, but which have not yet been exercised, to be exercised instead by commencing proceedings before SACAT rather than the Magistrates Court. Any proceedings already before the Magistrates Court will continue to be dealt with by that Court.

Part 7—Amendment of *Freedom of Information Act 1991*

49—Amendment of section 4—Interpretation

These amendments are consequential and operate to remove the definition of the District Court which is no longer required, and to insert a definition of SACAT.

50—Substitution of heading to Part 5 Division 2

This amendment is consequential.

51—Amendment of section 40—Reviews by SACAT

Section 40 of the Act provides that an agency that is aggrieved by a determination made on a review under Division 1 may, with permission, appeal to the District Court on a question of law. The effect of this amendment is to provide that any such review of that determination is to be by SACAT instead. It maintains the requirement for permission and that the review is only to be as to a question of law. It further provides that the question of law must be referred to a Presidential Member of the Tribunal. This clause makes other consequential amendments to the section to substitute references to the District Court with references to SACAT.

52—Amendment of section 41—Consideration of restricted documents

This clause makes consequential amendments to the section to substitute references to the District Court with references to SACAT.

53—Amendment of section 42—Disciplinary actions

This clause makes consequential amendments to the section to substitute references to the District Court with references to SACAT.

54—Transitional provisions

This clause provides for rights of appeal under the current Part 5 Division 2 of the Act that exist before the commencement of these amendments, but which have not yet been exercised, to be exercised instead by commencing proceedings before SACAT (and not the District Court). Any proceedings already before the District Court will continue to be dealt with by that Court.

Part 8—Amendment of *Guardianship and Administration Act 1993*

55—Amendment of section 3—Interpretation

The amendments to this section are consequential on the transfer of jurisdiction from the Guardianship Board to SACAT. The amendments substitute references to the Board with references to the Tribunal and cross-reference certain terms with those in the SACAT Act.

56—Amendment of section 5—Principles to be observed

This amendment is consequential.

57—Repeal of Part 2 Divisions 1 and 2

This clause deletes the provisions of the Act that set up the Guardianship Board and provide for the officers of the Board.

58—Amendment of section 28—Investigations by Public Advocate

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

59—Amendment of section 29—Guardianship orders

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

60—Amendment of section 30—Variation or revocation of guardianship order

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

61—Amendment of section 31—Powers of guardian

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

62—Amendment of section 31A—Guardian to give effect to advance care directive

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

63—Amendment of section 32—Special powers to place and detain etc. protected persons

The amendments in this clause clarify that a ward of a hospital that is an approved treatment centre under the *Mental Health Act 2009* will not be taken to be part of an approved treatment centre unless the whole of the ward is set aside for the treatment of persons with a mental illness. It also clarifies that a person may be taken to reside in a place, even if the person is residing there on a temporary basis.

64—Amendment of section 33—Applications under this Division

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

65—Amendment of section 35—Administration orders

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

66—Amendment of section 36—Variation or revocation of administration order

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

67—Amendment of section 37—Applications under this Division

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

68—Amendment of section 38—Copy of order must be forwarded to Public Trustee

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

69—Amendment of section 39—Powers and duties of administrator

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

70—Amendment of section 40—Administrator's access to wills and other records

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

71—Amendment of section 41—Power of administrator to continue to act after death etc. of protected person

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

72—Amendment of section 42—Power of administrator to avoid dispositions and contracts of protected person

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

73—Amendment of section 44—Reporting requirements for private administrators

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

74—Amendment of section 45—Reporting by Public Trustee

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

75—Amendment of section 46—Remuneration of professional administrators

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

76—Amendment of section 49—Withdrawal of applications

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

77—Amendment of section 50—Criteria for determining suitability for appointment

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

78—Repeal of section 53

This section which deals with the timing of the commencement of orders of the Board is no longer required.

79—Amendment of section 54—Termination of appointment

80—Amendment of section 55—Tribunal must give statement of appeal rights

81—Amendment of section 56—Restriction of testamentary capacity of protected person

The amendments to the Act in these clauses substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

82—Amendment of section 57—Review of Tribunal's orders

This clause makes consequential amendments and clarifies that even though the word 'review' is used in this section, a review of an order by SACAT under this section is in fact an exercise of its original jurisdiction.

83—Amendment of section 61—Prescribed treatment not to be carried out without Tribunal's consent

84—Amendment of section 63—Tribunal's consent must be in writing

The amendments to the Act in these clauses substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

85—Substitution of Part 6

This clause replaces the current provisions in Part 6 which deals with appeals and references of questions of law. The relevant provisions of the SACAT Act will now apply, and the new Part 6 sets out provisions to operate in relation to these.

Part 6—Reviews and appeals

64—Review and appeals

The proposed new section sets out who may make an application for an internal review of a decision by SACAT, in addition to matters in relation to costs and appeals of the Tribunal's decision to the Supreme Court. It also sets out special provisions in relation to particular types of decisions being reviewed in relation to timing.

65—Representation on reviews or appeals

This proposed new section sets out the ability of a person to be represented in relation to a review or appeal under the SACAT Act. This replicates the current provisions of section 73 of the Act.

Part 6A—Special provisions relating to Tribunal

66—Tribunal must give notice of proceedings

The proposed new section sets out the notice requirements in relation to SACAT proceedings, and allows for matters to be dealt with urgently.

67—Reasons for decisions

This proposed section provides that SACAT must provide reasons for the Tribunal's decision to certain persons on request and sets out the time in which the request must be made.

68—Representation of person who is subject of proceedings

In addition to the provisions that deal with representation set out in the *South Australian Civil and Administrative Tribunal Act 2013*, the proposed new section provides that a person may be represented in Tribunal proceedings under this Act by the Public Advocate or (except for internal reviews) a recognised advocate.

69—Tribunal may require reports

This proposed section replicates the provisions of current section 15 of the Act in relation to SACAT to allow the Tribunal to require the provision of psychiatric, psychological or medical reports.

86—Amendment of section 74—Tribunal may give advice, direction or approval

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

87—Substitution of section 82

This clause substitutes a new, updated service provision for the purposes of the Act.

88—Repeal of section 84

Section 84, which is an evidentiary provision, is no longer required as this is provided for in the SACAT Act.

89—Transitional provisions

This clause sets out the transitional provisions in relation to the transfer of jurisdiction from the Guardianship Board to SACAT. The effect of the provisions is to transfer any proceedings before the Guardianship Board to SACAT to proceed as if they had been commenced before SACAT, and any right to make an application to the Guardianship Board that existed before these amendments, may now be exercised by making an application to SACAT. It also preserves the effect of certain orders, directions or determinations of the Board, which will be taken to be those of SACAT. The clause also dissolves the Guardianship Board and terminates the office held by members of the Board, along with any associated contracts of employment or other arrangements or agreements. No right of action will arise against a Minister or the State on account of that termination.

Part 9—Amendment of *Intervention Orders (Prevention of Abuse) Act 2009*

90—Amendment of section 25—Tenancy order

This section provides that a copy of a tenancy order under the Act is to be given to the Registrar of the Residential Tenancies Tribunal. This clause makes a consequential amendment to this section to substitute the reference to the Residential Tenancies Tribunal with a reference to SACAT.

Part 10—Amendment of *Mental Health Act 2009*

91—Amendment of section 3—Interpretation

The amendments to this section are consequential on the transfer of jurisdiction from the Guardianship Board to SACAT. The amendments remove references to the Board and include references to the Tribunal and cross-reference certain terms with those in the SACAT Act.

92—Amendment of section 7—Guiding principles

The amendment to this section substitutes a reference to the Board with a reference to the Tribunal and is consequential on the transfer of jurisdiction to SACAT.

93—Amendment of section 11—Chief Psychiatrist to be notified of level 1 orders or their variation or revocation

The amendments in this clause clarify the requirements as to notification in relation to level 1 community treatment orders.

94—Amendment of section 15—Tribunal to review level 1 orders

This clause makes consequential amendments and clarifies that a review of a level 1 treatment order by SACAT under this section will fall within SACAT's original jurisdiction.

95—Amendment of section 16—Level 2 community treatment orders

These amendments are consequential.

96—Amendment of section 17—Chief Psychiatrist to be notified of level 2 orders or their variation or revocation

These amendments are consequential.

97—Amendment of section 22—Chief Psychiatrist to be notified of level 1 orders or their revocation

The amendments in this clause clarify the requirements as to notification in relation to level 1 inpatient treatment orders.

98—Amendment of section 26—Notices and reports relating to level 2 orders

The amendments in this clause clarify the requirements as to notification in relation to level 2 inpatient treatment orders.

99—Amendment of section 29—Level 3 inpatient treatment orders

The amendments to this section are consequential on the transfer of jurisdiction to SACAT.

100—Amendment of section 30—Chief Psychiatrist to be notified of level 3 orders or their variation or revocation

The amendments to this section are consequential on the transfer of jurisdiction to SACAT.

101—Amendment of section 42—ECT

The amendments to this section are consequential on the transfer of jurisdiction to SACAT.

102—Amendment of section 43—Neurosurgery for mental illness

The amendments to this section are consequential on the transfer of jurisdiction to SACAT.

103—Amendment of section 46—Copies of Tribunal's orders, decisions and statements of rights to be given

The amendments to this section are consequential on the transfer of jurisdiction to SACAT.

104—Amendment of section 48—Patients' right to communicate with others outside treatment centre

The amendments to this section are consequential on the transfer of jurisdiction to SACAT.

105—Amendment of section 70—Transfer from South Australian treatment centres

The amendments to this section are consequential on the transfer of jurisdiction to SACAT.

106—Repeal of heading to Part 11 Division 1

The amendments to this section are consequential on the transfer of jurisdiction to SACAT.

107—Amendment of section 79—Reviews of treatment orders and other matters

This clause makes consequential amendments and clarifies that although the word 'review' is used, reviews by SACAT under this section are an exercise of SACAT's original jurisdiction.

108—Amendment of section 80—Decisions and reports on reviews of treatment orders

The amendments to the Act in this clause are consequential on the transfer of jurisdiction to SACAT.

109—Repeal of heading to Part 11 Division 2

This amendment is consequential on the amendments to section 81.

110—Amendment of section 81—Reviews of orders (other than Tribunal orders)

The amendments to this section are consequential on the transfer of jurisdiction to SACAT and to ensure the consistent use of the terms 'review' and 'appeal' in accordance with the SACAT Act.

111—Repeal of section 82

This clause deletes section 82 which is not required, as the relevant provisions of the SACAT Act will apply.

112—Amendment of section 83—Review of directions for transfer of patients to interstate treatment centres

The amendments to this section are consequential on the transfer of jurisdiction to SACAT and to ensure the consistent use of the terms 'review' and 'appeal' in accordance with the SACAT Act.

113—Substitution of sections 84 and 85

This clause replaces sections 84 and 85 which deals with representation and appeals and inserts new Part 11A.

83A—Reviews and appeals

The proposed new section sets out who may make an application for an internal review of a decision by SACAT, in addition to matters in relation to costs and appeals of the Tribunal's decision to the Supreme Court.

84—Representation on reviews or appeals

This proposed new section sets out the ability of a person to be represented in relation to a review or appeal.

Part 11A—Special provisions relating to Tribunal

85—Tribunal must give notice of proceedings

The proposed new section sets out the notice requirements in relation to SACAT proceedings, and allows for matters to be dealt with urgently.

85A—Reasons for decisions

This proposed section provides that SACAT must provide reasons for the Tribunal's decision to certain persons on request and sets out the time in which the request must be made.

85B—Representation of person who is subject of proceedings

In addition to the provisions that deal with representation set out in the *South Australian Civil and Administrative Tribunal Act 2013*, the proposed new section provides that a person may be represented in Tribunal proceedings under this Act by the Public Advocate or (except for internal reviews) a recognised advocate, who is defined to be someone recognised by SACAT to be qualified to act as an advocate for the person.

114—Amendment of section 101—Errors in orders etc.

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

115—Amendment of section 107—Prohibition of publication of reports of proceedings

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

116—Amendment of section 108—Requirements for notice to Tribunal or Chief Psychiatrist

The amendments to this section substitute references to the Board with references to the Tribunal and are consequential on the transfer of jurisdiction to SACAT.

117—Transitional provisions

This clause sets out the transitional provisions in relation to the transfer of jurisdiction from the Guardianship Board to SACAT. The effect of the provisions is to transfer any proceedings before the Guardianship Board to SACAT to proceed as if they had been commenced before SACAT, and any right to make an application to the Guardianship Board that existed before these amendments may now be exercised by making an application to SACAT. It also preserves the effect of an order, consent or decision of the Board, which will be taken to be those of SACAT.

Part 11—Amendment of *Public Sector Act 2009*

118—Amendment of section 3—Interpretation

This clause makes consequential amendments to insert a definition of 'decision' (so that it has an equivalent meaning to that in the SACAT Act) and to insert a definition of 'Tribunal' as being a reference to SACAT. It also removes the definition of Public Sector Grievance Review Commission, which is no longer required as it is being replaced by SACAT.

119—Amendment of section 25—Public Service employees

This is a consequential amendment to remove the reference to the Public Sector Grievance Review Commission.

120—Amendment of section 49—Remuneration

This is a consequential amendment to remove the reference to the Public Sector Grievance Review Commission and substitute a reference to SACAT.

121—Amendment of section 62—External review

Section 62 provides for an aggrieved employee to apply for the review by 'an appropriate review body' of an employment decision of a public sector agency that directly affects the employee. This clause makes a consequential amendment to remove the reference to the Public Sector Grievance Review Commission and substitute a reference to SACAT in the definition of 'appropriate review body'. This clause also inserts a new subsection to provide that section 71 of the SACAT Act (which provides for appeals against a decision of SACAT to the Supreme Court) does not apply to a decision of SACAT where it is the body that conducts the review under section 62, which maintains the current position under the Act.

122—Substitution of Schedule 2

Schedule 2 of the Act relates to the establishment and proceedings of the Public Sector Grievance Review Commission and the nomination of panel members. This clause deletes the current Schedule 2 as a consequence of removing this Commission and substituting SACAT.

Schedule 2—Special provisions relating to Tribunal

The substituted Schedule 2 provides for the nomination of a panel of public sector employees for the purposes of SACAT proceedings in a similar manner to the current Act in relation to Public Sector Grievance Review Commission proceedings. The Schedule also sets out particular requirements for the constitution of SACAT for the purposes of proceedings under this Act.

123—Transitional provisions

This clause sets out the transitional provisions that provide that a right for a review of a decision by the Public Sector Grievance Review Commission that existed before the commencement of these amendments (but which has not yet been exercised) is to be exercised instead by commencing proceedings before SACAT. However, any proceedings before the Commission commenced before these amendments come into operation will not be affected. The transitional arrangements also provide for the Public Sector Grievance Review Commission to be dissolved by the Governor by proclamation and that members of the Commission or panel constituted for the purposes of Commission proceedings will cease to hold office at that time.

Part 12—Amendment of *Residential Parks Act 2007*

124—Amendment of section 3—Interpretation

This clause makes consequential amendments to various definitions so that the references to bailiffs, the President and Deputy President, and the Registrar and Deputy Registrar align with those persons who hold these offices under the SACAT Act rather than the equivalent officers of the Residential Tenancies Tribunal. It also substitutes the meaning of 'Tribunal' to refer to SACAT rather than the Residential Tenancies Tribunal.

125—Amendment of section 87—Enforcement of orders for possession

Section 87 of the Act provides for the enforcement of orders for possession made by the Residential Tenancies Tribunal by bailiffs. This clause makes consequential amendments to this section to provide for the enforcement by bailiffs, in a similar manner, in relation to orders for possession made by SACAT.

126—Substitution of heading to Part 11

This is a consequential amendment.

127—Repeal of Part 11 Divisions 1 and 2

This clause deletes Divisions 1 and 2 of Part 11, which relate to the Residential Tenancies Tribunal as the relevant provisions of the *South Australian Civil and Administrative Tribunal Act 2013* will be relied upon.

128—Amendment of section 103—Jurisdiction of Tribunal

This is a consequential amendment to ensure that a court can exercise the relevant powers of SACAT under the *South Australian Civil and Administrative Tribunal Act 2013*, as well as this Act in relation to proceedings brought before the court should they exceed the jurisdictional limits of SACAT as set out in this section.

129—Repeal of section 104

This section, which provides for the procedure in relation to applications made under the Act to the Residential Tenancies Tribunal is being deleted as it is no longer required. The *South Australian Civil and Administrative Tribunal Act 2013* and the Rules made under that Act will apply in relation to applications to SACAT.

130—Substitution of heading to Part 11 Division 4

This amendment is consequential.

131—Repeal of Sections 105 to 109

These sections, which provide for prescribed matters before the Tribunal to be referred for mediation by the Commissioner for Consumer Affairs, are being deleted because the mediation process set out in the *South Australian Civil and Administrative Tribunal Act 2013* will apply.

132—Amendment of section 110—Representation of parties in mediation

This amendment retains the substance of this section, which provides for the representation of parties in mediation, and applies it to matters referred for mediation by SACAT.

133—Repeal of section 111

This section, which deals with evidence obtained in the course of mediation, is not required as a similar provision of the *South Australian Civil and Administrative Tribunal Act 2013* will apply.

134—Substitution of Part 11 Division 6

The sections in this Division provide for the procedural and evidentiary powers of the Residential Tenancies Tribunal and are no longer required as the *South Australian Civil and Administrative Tribunal Act 2013* sets out the procedural and evidentiary powers of SACAT. The only provision to be retained is current section 115(2) which is renumbered as section 113. As a consequence the heading of the Division has been amended to reflect the content of proposed section 113.

135—Amendment of section 117—Special powers to make orders

This clause makes a consequential amendment to subsection (2) and deletes those subsections not required on the basis that they are covered by the provisions of the *South Australian Civil and Administrative Tribunal Act 2013*.

136—Repeal of section 120

This section, which provides for the enforcement of orders of the Residential Tenancies Tribunal by registering it in an appropriate court, is no longer required as the provisions of the *South Australian Civil and Administrative Tribunal Act 2013* will apply.

137—Amendment of section 121—Application to vary or set aside order

The amendments to this section retain the ability to apply to the Tribunal to vary or set aside an order, but changes the time within which the application must be made to within 1 month of the order (instead of 3 months) and inserts new subclause (3), so that the time for making such an application runs only from when written reasons for the decision (if requested following the decision) are provided. These amendments are consistent with recent amendments to a similar provision in the *Residential Tenancies Act 1995*. This clause also inserts new subclauses (4) and (5) to clarify that this section does not limit the provisions of the *South Australian Civil and Administrative Tribunal Act 2013* and that proceedings under this section are not intended to constitute a review for the purposes of section 34 or 70 of that Act.

138—Repeal of section 122

Section 122 of the Act is being deleted as the provisions of the *South Australian Civil and Administrative Tribunal Act 2013* in relation to costs will apply.

139—Substitution of section 123

This clause substitutes section 123 and inserts a new section 123A.

123—Reasons for decisions

The current section 123 provides for a person affected by a decision of the Residential Tenancies Tribunal to be provided with written reasons if requested. The substituted clause 123 makes a similar provision in relation to a decision of SACAT.

123A—Time for application for review or instituting appeal

This clause makes clear that the time for making an application for a review or appeal under the *South Australian Civil and Administrative Tribunal Act 2013* runs from the time written reasons are provided if the request is made within 1 month of the decision. This is similar to the provision in current section 125(3) of the Act which is being deleted by this measure.

140—Repeal of Part 11 Division 9

This Division provides for the reservation of questions of law and appeals in relation to Residential Tenancy Tribunal proceedings. These provisions are being deleted as the provisions of the *South Australian Civil and Administrative Tribunal Act 2013* will apply.

141—Amendment of section 126—Representation in proceedings before Tribunal

This amendment makes clear that the provisions as to representation of the parties currently set out in this section also applies to a conference or mediation under the *South Australian Civil and Administrative Tribunal Act 2013.*

142—Repeal of Part 11 Division 11

This Division provides for various procedural powers of the Residential Tenancies Tribunal (such as entry and inspection of property and contempt of the Tribunal) which are no longer required as the relevant provisions of the *South Australian Civil and Administrative Tribunal Act 2013* will apply.

143—Transitional provisions

This clause sets out the transitional provisions in relation to any proceedings that may have been commenced before the Residential Tenancies Tribunal under the Act. The effect of the provisions is, (subject to the directions of the President of SACAT), to transfer any proceedings before the Residential Tenancies Tribunal to SACAT to proceed as if they had been commenced before SACAT. Any decisions, directions or orders of the Residential Tenancies Tribunal made before the commencement of this measure will be taken to be decisions, directions or orders of SACAT. Any right to make an application to the Residential Tenancies Tribunal that existed before the amendments to the Act by this measure, may now be exercised by making an application to SACAT. The transitional provisions also allow for SACAT to receive any evidence before the Residential Tenancies Tribunal and adopt any of its findings, decisions or orders where relevant (including in relation to proceedings that are fully heard), and to take such other steps to ensure the smooth transition of the proceedings to SACAT. Nothing in this clause affects the ability to register an order under section 120 of the Act, or to appeal to the District Court, in relation to orders, decisions or directions of the Residential Tenancies Tribunal made before the commencement of the amendments to the Act by this measure.

Part 13—Amendment of *Residential Tenancies Act 1995*

144—Amendment of section 3—Interpretation

This clause inserts and makes consequential amendments to various definitions to ensure that the references to bailiffs, the President and Deputy President, and the Registrar and Deputy Registrar refer to those persons who hold these offices under the *South Australian Civil and Administrative Tribunal Act 2013* rather than as part of the Residential Tenancies Tribunal. It also substitutes the meaning of 'Tribunal' to refer to SACAT rather than the Residential Tenancies Tribunal.

145—Amendment of section 5—Application of Act

This amendment is consequential and substitutes the reference to the Residential Tenancies Tribunal with a reference to SACAT.

146—Substitution of heading to Part 3

This amendment is consequential.

147—Repeal of Part 3 Divisions 1 and 2

This clause deletes Division 1 of Part 3 which sets up the Residential Tenancies Tribunal and provides for the appointment of its members and the Registrar. It also deletes Division 2 of Part 3 which provides for procedural matters before the Residential Tenancies Tribunal. This is no longer required as the relevant provisions of the *South Australian Civil and Administrative Tribunal Act 2013* will apply.

148—Amendment of section 24—Jurisdiction of Tribunal

The amendment to section 24(1)(c) is consequential and the amendment to section 24(4) is to ensure that a court can exercise the relevant powers of SACAT under the *South Australian Civil and Administrative Tribunal Act 2013*, as well as this Act, in relation to proceedings brought before the court should they exceed the jurisdictional limits of SACAT as set out in this section.

149—Substitution of section 25

This clause substitutes the current section 25 as the provisions of the *South Australian Civil and Administrative Tribunal Act 2013* will apply to applications under this Act. It also inserts new section 25A.

25—Application to Tribunal

This clause retains the effect of section 25(3) of the Act which is being substituted by this clause. It provides that a requirement to give notice of an application under the Act may be directed to an occupier or subtenant of the premises and need not address the occupier or subtenant by name.

25A—Registrar may make orders in certain cases

This clause retains the effect of section 16 of the Act which is being repealed by this measure. It provides that the Registrar or a Deputy Registrar of SACAT may make an order in relation to a tenancy dispute with the written consent of the parties. Such an order will operate as an order of the Tribunal.

150—Substitution of heading to Part 3 Division 5

This amendment is consequential.

151—Repeal of section 31

This section provides for the power of the Residential Tenancies Tribunal to gather evidence and is no longer required as the *South Australian Civil and Administrative Tribunal Act 2013* sets out the evidentiary powers of SACAT.

152—Amendment of section 32—Intervention of designated housing agency

This clause amends this section to remove those procedural powers of the Residential Tenancies Tribunal that are no longer required because they are set out in the *South Australian Civil and Administrative Tribunal Act 2013* in relation to SACAT. The provisions in relation to the intervention of a designated housing agency in SACAT proceedings are retained.

153—Substitution of section 33

The effect of this amendment is to delete subsection (1) of this section, which is covered by the *South Australian Civil and Administrative Tribunal Act 2013* and retain the content of current subsection (2).

154—Substitution of heading to Part 3 Division 7

This clause is consequential.

155—Amendment of section 35—Special powers to make orders

This clause makes a consequential amendment to subsection (2) and deletes those subsections not required on the basis that they are covered by the provisions of the *South Australian Civil and Administrative Tribunal Act 2013.*

156—Repeal of section 36

This section, which provides for the enforcement of orders of the Residential Tenancies Tribunal by registering it in an appropriate court, is no longer required as the relevant provisions of the *South Australian Civil and Administrative Tribunal Act 2013* will apply.

157—Amendment of section 37—Application to vary or set aside order

This clause inserts new subsections (4) and (5) to clarify that this section (which relates to the ability for a party to proceedings before SACAT to apply to vary or set aside an order made in the proceedings), does not limit the provisions of the *South Australian Civil and Administrative Tribunal Act 2013* and that proceedings under this section are not intended to constitute a review for the purposes of section 34 or 70 of that Act.

158—Repeal of section 38

Section 38 of the Act is being deleted as the provisions of the *South Australian Civil and Administrative Tribunal Act 2013* in relation to costs will apply.

159—Substitution of section 39

This clause substitutes section 39 and inserts a new section 39A.

39—Reasons for decisions

The current section 39 provides for a person affected by a decision of the Residential Tenancies Tribunal to be provided with written reasons if requested. The substituted clause 39 makes a similar provision in relation to a decision of SACAT.

39A—Time for application for review or instituting appeal

This clause makes clear that the time for making an application for a review or appeal under the *South Australian Civil and Administrative Tribunal Act 2013* runs from the time written reasons are provided

if the request is made within 1 month of the decision. This is similar to the provision in current section 41(4) of the Act which is being deleted by this measure.

160—Repeal of Part 3 Divisions 9 and 10

Division 9 of Part 3 provides for the reservation of questions of law and appeals in relation to Residential Tenancy Tribunal proceedings. These provisions are being deleted as the provisions of the *South Australian Civil and Administrative Tribunal Act 2013* will apply. Division 10 provides for various procedural powers of the Residential Tenancies Tribunal (such as entry and inspection of property and contempt of the Tribunal) which are no longer required as the relevant provisions of the *South Australian Civil and Administrative Tribunal Act 2013* will apply.

161—Substitution of heading to Part 5 Division 8

This amendment is consequential.

162—Repeal of section 98

This section, which provides for the appointment of bailiffs, is not required as this is provided for by the *South Australian Civil and Administrative Tribunal Act 2013.* (The provisions in relation to bailiffs are being inserted by amendment to the *South Australian Civil and Administrative Tribunal Act 2013* by Part 15 of this measure.)

163—Amendment of section 99—Enforcement of orders for possession

The amendments to this section, which provides for the enforcement of orders of SACAT for possession, are consequential. Subsection (8) is to be deleted as the protection of bailiffs from civil or criminal liability in carrying out their functions will be addressed by the amendments to the *South Australian Civil and Administrative Tribunal Act 2013* in Part 15 of this measure.

164—Amendment of section 101—Application of income

This amendment is of a consequential nature to maintain the current position and is required because SACAT will have proceedings instituted under numerous other Acts and not just those currently dealt with by the Residential Tenancies Tribunal.

165—Amendment of section 106—Definitions

This amendment is consequential on the deletion of section 108(2).

166—Amendment of section 107—Conciliation of dispute by Commissioner

These amendments are consequential. There is provision under the *South Australian Civil and Administrative Tribunal Act 2013* for more than 1 Deputy Registrar.

167—Repeal of Part 8 Division 1 Subdivision 3

This Subdivision provides for the referral of a tenancy dispute by the Residential Tenancies Tribunal to a conciliation conference. This is no longer required as the relevant provisions of the *South Australian Civil and Administrative Tribunal Act 2013* in relation to conferences and mediation required by SACAT will apply.

168—Amendment of section 108A—Functions of Commissioner in conciliation of dispute

This amendment is consequential on the amendments that limit the provisions on conciliation conferences to those referred to the Commissioner of Consumer Affairs under this Act.

169—Amendment of section 108B—Procedure

The amendments to this section limit the reference to 'conciliator' to apply only to conciliation conferences conducted by the Commissioner for Consumer Affairs. The provisions that relate to conferences conducted by SACAT are set out in the *South Australian Civil and Administrative Tribunal Act 2013.*

170—Amendment of section 113—Representation

This clause amends this section to ensure that the provisions relating to the representation of parties apply to conferences and mediation under the *South Australian Civil and Administrative Tribunal Act 2013.*

171—Amendment of section 114—Remuneration of representative

This clause amends this section to ensure that the provisions relating to the remuneration of representatives of parties apply to representation at conferences and mediation under the *South Australian Civil and Administrative Tribunal Act 2013.*

172—Transitional provisions

This clause sets out the transitional provisions in relation to any proceedings that may have been commenced before the Residential Tenancies Tribunal under the Act. The effect of the provision is (subject to the directions of the President of SACAT) to transfer any proceedings before the Residential Tenancies Tribunal to SACAT to proceed as if they had been commenced before SACAT. Any right to make an application to the Residential Tenancies Tribunal that existed before the amendments to the Act by this measure, may now be exercised by making an application to SACAT. The transitional provisions also allow for SACAT to receive any evidence before the Residential Tenancies

Tribunal and adopt any of its findings, decisions or orders where relevant (including in relation to proceedings that are fully heard), and to take such other steps to ensure the smooth transition of the proceedings to SACAT. Any decisions, directions or orders of the Residential Tenancies Tribunal made before the commencement of this measure will be taken to be decisions, directions or orders of SACAT. Nothing in this clause affects the ability to register an order under section 36 of the Act, or to appeal to the District Court, in relation to orders, decisions or directions of the Residential Tenancies Tribunal made before the commencement of the amendments to the Act by this measure. This clause also dissolves the Residential Tenancies Tribunal and provides that members of the Residential Tenancies Tribunal will cease to hold office at that time. Any contract of employment, agreement or arrangement in relation to the office held by a member is also terminated and there is no right of action against the Minister or the State in relation to that termination.

Part 14—Amendment of *Retirement Villages Act 1987*

173—Amendment of section 3—Interpretation

This clause amends section 3 to include definitions so that the references to bailiffs, the President and Deputy President refer to those persons who hold these offices under the *South Australian Civil and Administrative Tribunal Act 2013* rather than the equivalent officers of the Residential Tenancies Tribunal. It also substitutes the meaning of 'Tribunal' to refer to SACAT rather than the Residential Tenancies Tribunal.

174—Amendment of section 31—Termination of residents' rights

This clause makes a consequential amendment to section 31 as 'bailiff' is now defined in section 3 of the Act.

175—Amendment of section 32—Resolution of disputes

This clause removes section 32(3) to (5) (which deal with the arbitration of a dispute), as the relevant provisions of the *South Australian Civil and Administrative Tribunal Act 2013* will apply instead. This clause also inserts a new subsection (3) to retain the requirement of the current Act that the express consent of the parties is required before a matter is referred by the Tribunal for mediation. This overrides section 51(3) of the *South Australian Civil and Administrative Tribunal Act 2013* which provides that a referral may be with or without the consent of the parties. Subsections (6)(b), (7), (10) and (11) are deleted as the relevant provisions of the *South Australian Civil and Administrative Tribunal Act 2013* will apply. New subsection (8a) is being inserted to ensure consistency with the equivalent provisions in the *Residential Tenancies Act 1995* and *Residential Parks Act 2007*, such that an order of the Tribunal that provides for a remedy in the nature of an injunction or specific performance may only be made with the approval of the President or a Deputy President of the Tribunal. The deletion of subsection (13)(b) is consequential on the deletion of the provisions of the Act dealing with the conciliation of a dispute.

176—Repeal of section 39

Section 39, which provides for the appeal of a decision of the Tribunal to the District Court, is being deleted as the relevant appeal provisions in the *South Australian Civil and Administrative Tribunal Act 2013* will apply.

177—Amendment of Schedule 1—Proceedings before Tribunal

The current Schedule 1 of the Act sets out the provisions in relation to proceedings before the Residential Tenancies Tribunal under the Act. This clause amends those provisions to apply to SACAT and takes into account the relevant provisions of the *South Australian Civil and Administrative Tribunal Act 2013*. Clause 3, which provides for a party to apply for the variation or setting aside of an order of the Tribunal, is amended to be consistent with the equivalent provisions in the *Residential Tenancies Act 1995* and *Residential Parks Act 2007*. Such an application must be made within 1 month of the order being made and does not constitute a review for the purposes of sections 34 and 70 of the *South Australian Civil and Administrative Tribunal Act 2013*. Clauses 4, 5, 7 and 8 (which deal with Tribunal applications, the procedural powers of the Tribunal, conciliations and costs) are deleted as the relevant provisions of the *South Australian Civil and Administrative Tribunal Act 2013* will apply. The amendment to clause 9 reflects the fact that the relevant section of the *South Australian Civil and Administrative Tribunal Act 2013* in relation to the referral of a question of law to the Supreme Court will apply, but retains the current provision of the Act in relation to costs in relation to such a referral.

178—Transitional provisions

This clause sets out the transitional provisions in relation to any proceedings that may have been commenced before the Residential Tenancies Tribunal under the Act. The effect of the provisions is, (subject to the directions of the President of SACAT), to transfer any proceedings before the Residential Tenancies Tribunal to SACAT to proceed as if they had been commenced before SACAT. Any decisions, directions or orders of the Residential Tenancies Tribunal made before the commencement of this measure will be taken to be decisions, directions or orders of SACAT. Any right to make an application to the Residential Tenancies Tribunal that existed before the amendments to the Act by this measure, may now be exercised by making an application to SACAT. The transitional provisions also allow for SACAT to receive any evidence before the Residential Tenancies Tribunal and adopt any of its findings, decisions or orders where relevant (including in relation to proceedings that are fully heard), and to take such other steps to ensure the smooth transition of the proceedings to SACAT. Nothing in this clause affects the right to appeal to the District Court (as the right existed before the repeal of section 39 of the Act), in relation to orders, decisions or directions of the Residential Tenancies Tribunal made before the commencement of the amendments to the Act by this measure.

Part 15—Amendment of *South Australian Civil and Administrative Tribunal Act 2013*

179—Amendment of section 33—Original jurisdiction

This amendment is consequential on the amendment to section 34 and also clarifies the action of the Tribunal in the exercise of its original jurisdiction, depending on the nature of the proceedings.

180—Amendment of section 34—Decisions within review jurisdiction

This clause amends section 34 to clarify that for the purposes of the exercise of SACAT's review jurisdiction a reviewable decision is a decision made by the Crown, or an agency or instrumentality of the Crown. However, the provision also allows for flexibility by providing that the regulations can prescribe decisions or classes of decisions or decisions made by prescribed persons or bodies to also fall within, or be excluded from, the Tribunal's review jurisdiction. These may instead fall within the original jurisdiction of SACAT.

181—Amendment of section 39—Principles governing hearings

This clause substitutes section 39(1)(b) in order to clarify that SACAT may adopt any findings, decision or judgment of a court or other tribunal if it considers it relevant to the SACAT proceedings.

182—Amendment of section 43—Practice and procedure generally

This amendment to section 43 clarifies that SACAT may proceed with hearing a matter if a party is not present.

183—Amendment of section 53—Parties

This clause inserts a new paragraph in section 53(1) to make it clear that a person who is a respondent to an application, or a person against whom a claim is being made, or a person who is a party to a dispute before the Tribunal, will be taken to be a party to the proceedings before SACAT.

184—Amendment of section 70—Internal reviews

This clause amends section 70 to enable a decision made by a registrar or other staff member of the Tribunal to be subject to the internal review process under this section. An application for review of a registrar's decision is only with leave of a Presidential member of the Tribunal.

185—Amendment of section 71—Appeals

This clause amends section 71 of the Act which deals with the ability to appeal decisions of SACAT to the Supreme Court. Section 71(1) provides for the constitution of the Supreme Court as either a single judge or the Full Court depending on the circumstances. The amendment to insert new subsection (1a) ensures that the Supreme Court Rules may provide for the Court to be constituted differently to that contemplated by subsection (1). New subsection (2a) provides that before a decision made by SACAT exercising its original jurisdiction, or a decision made by the Tribunal constituted by a registrar or other staff member, can be appealed to the Supreme Court, there must first be an internal review of the decision under section 70 of the Act. The need for an internal review is subject to any Supreme Court Rules, regulations, provisions of a relevant Act, or determination of the President of the Tribunal. The requirement that an appeal of a decision is only by leave of the Court is maintained. New subsection (3a) provides that an appeal to the Supreme Court under section 71 is by way of rehearing and new subsection (3b) makes it clear that the Court may draw inferences of fact from evidence or material before the Tribunal and allow further evidence or material to be presented to it in conducting the appeal. The amendment to subsection (4)(c) removes the ability of the Court to substitute a new decision but retains the ability of the Court to set aside the decision and return the matter to SACAT for reconsideration in accordance with any directions of the Court.

186—Amendment of section 79—Immunities

This clause amends section 79(5) in order to ensure that the protection and immunity provided by this section extends to a person who produces books, papers or documents to the Tribunal.

187—Insertion of section 89A

This clause inserts new section 89A

89A—Bailiffs

This new section provides for the appointment of bailiffs by the President and provides that a bailiff may (but need not be) a public servant or a person appointed under the *Courts Administration Act 1993* or the *Sheriff's Act 1978*. In the exercise of his or her functions, a bailiff is given similar protection and immunity against civil or criminal liability as that of the staff of the Tribunal. This section also provides that the regulations may prescribe fees to be paid in relation to action taken by a bailiff.

188—Amendment of section 92—Annual report

This clause inserts a new subsection to provide for the regulations to prescribe information that must be included in the annual report of the Tribunal to be provided to the Attorney-General.

189—Insertion of section 93A

This clause inserts new section 93A.

93A—Disrupting proceedings of Tribunal

This new section makes it an offence for a person to wilfully interrupt Tribunal proceedings, behave in a disorderly or offensive manner or use offensive language.

190—Amendment of section 95—Regulations

This clause amends the regulation making power in the Act to ensure that the regulations may make provisions of a saving or transitional nature in relation to the vesting of jurisdiction in the Tribunal under another Act and such regulations may operate retrospectively.

Part 16—Amendment of *South Australian Housing Trust Act 1995*

191—Amendment of section 32A—Interpretation

This amendment removes the definition of 'Appeal Panel' and inserts the definition of 'Tribunal' to mean SACAT. It also makes clear that a complaint about a matter that is before SACAT in the exercise of its jurisdiction under another Act is excluded from the operation of Part 3A of the Act.

192—Repeal of section 32B

This clause deletes section 32B which establishes the Housing Appeal Panel and sets out other provisions in respect of the Panel.

193—Amendment of section 32D—Appeals

This clause makes consequential amendments to those provisions of section 32D being retained to substitute references to the Appeal Panel with references to the Tribunal (SACAT). It deletes subsections (3) to (5) which deal with procedural matters in relation to the Appeal Panel as the relevant provisions of the *South Australian Civil and Administrative Tribunal Act 2013* will apply instead. This clause also inserts new subsection (9) which provides that section 71 of the *South Australian Civil and Administrative Tribunal Act 2013* will not apply to a decision of the Tribunal under section 32D. This maintains the current position under the *South Australian Housing Trust Act 1995*, where there is no statutory right of appeal of Housing Appeal Panel decisions to the Supreme Court.

194—Transitional provisions

This clause sets out the transitional provisions in relation to any proceedings that may have been commenced before the Housing Appeal Panel under the Act. The effect of the provisions is, (subject to the directions of the President of SACAT), to transfer any proceedings before the Housing Appeal Panel to SACAT to proceed as if they had been commenced before SACAT. Any decisions, directions or orders of the Appeal Panel made before the commencement of this measure will be taken to be decisions, directions or orders of SACAT. Any right to make an application to the Housing Appeal Panel that existed before the amendments to the Act made by this measure, may be exercised by making an application to SACAT. The transitional provisions also allow for SACAT to receive any evidence before the Housing Appeal Panel and adopt any of its findings, decisions or orders where relevant (including in relation to proceedings that are fully heard), and to take such other steps to ensure the smooth transition of the proceedings to SACAT. This clause also dissolves the Housing Appeal Panel and provides that members of the Housing Appeal Panel will cease to hold office at that time. Any contract of employment, agreement or arrangement in relation to the office held by a member is also terminated and there is no right of action against the Minister or the State in relation to that termination.

Debate adjourned on motion of Mr Gardner.

CIVIL LIABILITY (DISCLOSURE OF INFORMATION) AMENDMENT BILL

Introduction and First Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (12:06): Obtained leave and introduced a bill for an act to amend the Civil Liability Act 1936. Read a first time.

Second Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (12:06): I move:

That this bill be now read a second time.

For more than 20 years the Freedom of Information Act has provided the public with a legally enforceable right to access information held by state government, local government, and the three state universities. The FOI Act is well-utilised by members of the public, including members of parliament and the media, with 12,328 applications made to government agencies in the 2011-12 financial year, of which 85 per cent of information was released in full or in part.

FOI access comes at a cost. In the 2011-12 financial year the estimated total cost of administering the FOI Act was reported to be $10.4 million. Agencies only recovered some $222,000 of this through application fees and charges. This cost, which is considered a conservative estimate, has progressively increased since 2002. This, in part, reflects the increasingly broad and complex nature of FOI applications received by some agencies.

Although the FOI process is often described as the best option of last resort and the objects of the act clearly state parliament's intention that disclosure should be favoured over non-disclosure, some applicants report difficulties in obtaining information they have requested, including time delays and prohibitive costs. Government agencies administering the act report a culture of risk aversion and a reluctance to release information outside of the FOI Act.

One of the barriers to agencies proactively disclosing information outside the act is the lack of protection from legal liability, meaning the proactive publication of information could give rise to a cause of action against the Crown. I seek leave to insert the remainder of the second reading explanation into *Hansard* without reading it.

Leave granted.

Section 50 of the FOI Act provides the Crown with immunity from civil liability for defamation and breach of confidence in respect of the granting of access to a document under that Act.

While public servants are themselves protected from civil liability when exercising (or purportedly exercising) official functions and powers by the Public Sector Act, and the Crown has some protection from defamation in respect of documents issued by agencies for public information purposes, the Crown has no general immunity from civil liability in respect of the release of information outside of the FOI framework.

Understandably, this lack of protection weighs heavily on the minds of public servants when considering whether to release information proactively.

The Civil Liability (Disclosure of Information) Amendment Bill seeks to address this.

The Bill amends the *Civil Liability Act 1936* to provide the Crown with immunity from civil liability in respect of the release by or on behalf of government agencies of information, but only in respect of the publication of information of a prescribed kind, or in respect of the publication of information in circumstances prescribed by regulation.

The need to prescribe the kinds of information, or the circumstances of release, will limit, through Parliamentary scrutiny of the regulations, the scope of the immunity.

I expect that the list of prescribed kinds of information or prescribed circumstances will, at least initially, be quite limited. While the kinds and circumstances of release are yet to be finalised, the Government anticipates the regulations will prescribe only:

- general information about government agencies and their operations, being the type that is commonly sought and released under the FOI Act, such as details of credit card expenditure, travel, mobile phone usage and entertainment expenditure by ministers, their advisers and senior public servants, and information about consultancies, gifts received and agency procurement practices;
- submissions on government policy initiatives;
- information released in accordance with government-wide disclosure policies and information of a non-personal nature that has already been sought and provided to an applicant under the FOI Act.

I should make clear that the Government has no intention of prescribing information of a personal or sensitive nature or information that is commercially sensitive.

Further limiting the immunity provided by the new provision is that the civil liability of the author of the information (for example, the person who provides a document to a government agency) or a person or organisation who re-publishes information released by a government agency (for example, a media organisation) will not be protected by the immunity. It is the Crown and the Crown alone that is protected.

This amendment will not require a government agency to release information or documents. Rather, it will provide the Crown with a degree of legal protection where information or documents is or are released proactively. In so doing, this reform is aimed at encouraging greater proactive release of information by government agencies, thereby reducing the number of freedom of information requests received by government agencies and protecting the Government, and, by extension, the taxpayer, from civil liability arising from the proactive release of information by government agencies.

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 *Civil Liability Act 1936*

4—Insertion of Part 9 Division 12A

This clause inserts new Division 12A into Part 9 of the Principal Act.

That Division contains new section 75A, excluding all civil liability (whether in tort, contract, equity or otherwise) of the Crown arising out of the publication by, or on behalf of, the Crown of information of a kind, or in circumstances, prescribed by the regulations.

The new section does not affect the civil liability of the original author of the information, or a person or body other than the Crown who publishes the information.

Debate adjourned on motion of Mr Gardner.

AUSTRALIAN CRIME COMMISSION (SOUTH AUSTRALIA) (EXAMINATIONS) AMENDMENT BILL

Introduction and First Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (12:09): Obtained leave and introduced a bill for an act to amend the Australian Crime Commission (South Australia) Act 2004. Read a first time.

Second Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (12:09): I move:

That this bill be now read a second time.

This bill amends the Australian Crime Commission (South Australia) Act of 2004. It will remove an amendment to the act that was consequential upon the enactment of the Independent Commissioner Against Corruption Act 2012 on 20 December 2012.

The examination provisions in schedule 2 of the ICAC Act were adopted from the examination provisions in the ACC Act. Section 18(6) of the ACC Act and clause 3(6) of schedule 2 of the ICAC Act are identical, save for the additional words in clause 3(6) that allow the examiner to ask a witness questions about any investigation.

An amendment was made to section 18(6) to give the same power to an examiner under the ACC Act. However, the amendment is not compatible with the cooperative scheme and to give effect to the amendment would require further changes to the ACC Act that were not contemplated. The ACC has requested that the amendment be removed so that the act is consistent with the commonwealth and states' acts. As there was never any intention to affect the national scheme, the amendment should be deleted so that consistency with the commonwealth and states' acts is maintained. I commend the bill to members.

Debate adjourned on motion of Mr Gardner.

Mr GARDNER: Mr Speaker, I draw your attention to the state of the house.

A quorum having been formed:

TRAVEL AGENTS REPEAL BILL

Second Reading

Adjourned debate on second reading.

(Continued from 17 June 2014.)

The Hon. A. PICCOLO (Light—Minister for Disabilities, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (12:14): First, I would like to thank those honourable members who have spoken on this bill. I am pleased that overall people are supportive. From what I hear they are supportive of the legislation, and I also note the comments made by the Hon. Stephen Wade in the other place. I would like to address some of those issues.

In December 2012, it was agreed that the Travel Compensation Fund would not continue to be the primary vehicle for consumer protection in the travel market. There have been both fundamental changes in the market and the introduction of strengthened legislative protections under the Australian Consumer Law. I am also advised that remodelling of the TCF rather than its abolition was considered and not regarded as an option moving forward to deregulate the industry.

PricewaterhouseCoopers conducted a survey in 2009 that found that only 14 per cent of consumers were aware of the TCF. Aside from its negligible public profile, the benefits of the current scheme are declining due to natural attrition linked with changes in the way consumers purchase travel. In fact, I understand that over two-thirds of travel is now purchased through a non-agent situation, so the scheme did not protect those consumers. Notwithstanding that, an extensive national consumer education program will commence on 1 July.

I also understand that the client trust accounts, whether required by statute or not, remain subject to bankruptcy and insolvency laws external to the licensing arrangements in place. As such, I do not consider the trust accounts of travel agents would be any more likely to be vulnerable to claims after 1 July than they are now. It should also be noted that many remittances are now instantaneous, and that is becoming more and more prevalent across the industry.

South Australia had initial concerns with the Travel Industry Transition Plan; however, these have now been addressed with the exception of the mandatory trust accounts for participants of the accreditation scheme. South Australia endorsed the plan in light of the general acceptance of the majority of the states and territories to endorse it.

The government considered that South Australia could have a more substantial and effective influence on the progress of the transition plan through its different stages and contribute to an education campaign and consumer advocacy by endorsing the plan and being part of the entire process. The government also recognises that the agreement to the plan will ensure that travel agents operating in South Australia are not faced with additional red tape and regulatory burdens, as well as ensuring consistency for travel agents who operate nationally.

The COAG Legislative and Governance Forum will oversee the components of the plan; however, this does not include the government being involved in an industry-led scheme. Regulators have been closely involved in the development of the Australian Travel Accreditation Scheme code and charter. I can advise that, on 8 May 2014, the Australian Federation of Travel Agents published a code of conduct and charter for ATAS which is available on the AFTA website.

These documents were reviewed by a national working party made up of representatives from all jurisdictions, as well as Austrade and Choice. Members of the working party are comfortable that AFTA have addressed all their concerns and that the code and charter achieve the best practice objectives.

Voluntary, industry-led regulation has proven to be a flexible, less intrusive means of regulating participants' behaviour. As the owner of ATAS, the AFTA board has some involvement in the scheme's administration. The changes brokered by jurisdictions have minimised this role. All other decision-making is spread between ATAS and the ATAS Code Compliance Monitoring Committee.

The ACCMC is an independent review body established to review and determine consumer complaints and allegations of noncompliance with the ATAS charter and code. The ACCMC can issue binding decisions, including sanctions against a participant. ACCMC members consist of an independent chair, two consumer representatives nominated by the consumer movement, another representative from industry, commerce and government, and the AFTA CEO. They are required to make decisions consistent with the ATAS charter and the ACCMC's terms of reference, which are included in the charter.

When the plan was developed, it was considered that consumers would rely on the Australian Consumer Law for any redress; however, industry has led an initiative to bring to the marketplace a range of insolvency insurances which extend further than the TCF charter. This is a real bonus for the transition to a deregulated model.

Travel intermediaries who wish to become accredited under ATAS have the option of taking out such insurance as a means of protecting against the impacts of a collapse, either of their own business or one of their suppliers. Whether a travel intermediary needs to take out such insurance will depend on the business model and the types of suppliers they deal with. This is one of the reasons why a voluntary approach may be more appropriate to contemporary industry practices.

Other reasons include that the products which are sold by agents may be already covered by an insolvency product, such as the scheduled airline failure insurance scheme. Further, some businesses may already have systems in place ensuring that purchases are protected from any business failure. Purchases made by credit card can also provide protection of a consumer's payment in the event of non-supply for any reason. In this light, caution needs to be exercised before imposing costs on Australian-based businesses compared to their global competitors selling to the same consumers.

Those agents concerned that they may not have insolvency insurance in place can recommend to clients that payment be made by credit card in the short term. I am advised by AFTA that insurance quotes for scheduled airline failure insurance and end-supply failure insurance, the two supply covers, have been available for a number of months now and many businesses have sought quotes.

There are a number of travel agent and insurance products which have been open and available to those agents. Turnaround is usually within a week or two if all requested information is provided by the agent to the insurance broker. A risk assessment is then run across the business before the quote is issued. AFTA and insurance providers are working hard to ensure insurance is in place for agents who have applied.

I understand that it is very hard to estimate what proportion of these will take up the insurance or self-insure at this stage. I believe some travel agents are keeping their cards very close to their chest, while others seek out commercial solutions. I can confirm that both Flight Centre and Travel Counsellors have advised of their own commercial solutions beyond the Gow-Gates offer of insolvency protections.

South Australia should receive approximately 6 per cent of the remaining balance of the TCF. Based on the TCF balance at 31 December 2013, and taking into consideration moneys already allocated to Choice for the consumer endowment program, and the moneys allocated to a national education program, South Australia should receive somewhere between $1.5 million and $2 million. Moneys returned to the South Australian government will at this stage be returned to consolidated revenue.

It is important to note that moneys from the travel compensation fund (up to $3 million) have already been allocated to a comprehensive national education program, which will commence on 1 July. This will be overseen by consumer affairs agencies nationally. The campaign will highlight the changes to the travel environment and help consumers to understand their rights when buying travel.

Each state and territory will support the national campaign locally, incorporating travel messaging into their existing consumer education programs. In recent months, Consumer and Business Services has provided information to the South Australian travel industry about the changes through direct correspondence to all licensed travel agents in the South Australian Tourism Industry Council. CBS has also published information on its website, including frequently asked questions.

I can confirm that the TCF coverage will cease at 1 July 2014; however, the TCF will continue to accept and consider claims until closer to mid-2015 for any claims occurring prior to 1 July 2014. Transitional provisions have been included in the repeal bill to support this position. I conclude by saying that retaining the current licensing regime for travel agents operating in South Australia will only impose additional regulatory burden and red tape compared with other jurisdictions.

Given that many travel agents operate across Australia, it is important that South Australia maintains a competitive business climate and ensures that travel agents operating here are not

disadvantaged. Without a national travel compensation fund, it will be crucial to educate consumers about their rights under the Australian Consumer Law as well as the importance of using reputable travel agents. I commend the bill to the house.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The ACTING CHAIR (Hon. T.R. Kenyon): Member for Heysen, I am assuming that you have some questions. Is there a particular clause you would like to ask questions about?

Ms REDMOND: Yes, primarily about clause 3, which is the repeal of the act.

Clause passed.

Clause 2 passed.

Clause 3.

Ms REDMOND: Minister, I was interested in the comments you just made in closing the second reading debate. My questions really want to explore the effect of the repeal in clause 3 which is, of course, the crucial clause of the act.

You said that the benefits of the scheme are declining due to the way consumers purchase travel. In one sense I agree with you inasmuch as I acknowledge that a vast number of people are now doing their bookings directly. Indeed, the member for Morphett raised questions in his contribution yesterday about why this government is spending $80 million-plus for a contract with Carlson Wagonlit to do our bookings when there is a much cheaper way for us to do it—I accept that.

As it is structured, the scheme was still working appropriately to protect those people who booked through a travel agent in this state. If you get the chance to read my contribution from yesterday—and I understand that you have had illness and so on to deal with, so I accept that you have not read all of our contributions—you will see that my concern is that what we are doing is removing a protection which is working perfectly well at the present time in favour of a scheme which, although there are theoretically some protections, simply will not work in the same way.

I gave an example of someone who had booked a massive holiday to South America by way of a honeymoon. The agent paid the money on, but then two days before the wedding, the customer found out that the organisation overseas had collapsed. However, because of the existence of the travel compensation fund, that person was able to have their entire honeymoon reinstated and all their ticketing done, and so on, within 48 hours. And of course, there are subrogation rights under the legislation.

What I want to get from you, minister, is any sort of assurance that consumers will be as protected—and I am not talking about the ones who are booking online, we are not dealing with them. Will the people who currently go to a travel agent have any recourse in that sort of situation that will enable them, within 48 hours, to get their honeymoon (or whatever it might be) reinstated?

I should indicate that my brother has worked in the travel industry for his whole adult life and has been talking to me about his concerns with this legislation since before it was ever introduced in this state. My concern is that it seems to me that the consumers in this state, as of 1 July, are going to face a major detriment even if they are booked through a travel agent—I am only really talking about the people who are currently booked through a travel agent.

In that circumstance, where those people booked their honeymoon, then two days before the wedding, with the existing scheme that could be sorted, and they could still go on their honeymoon and the travel agents compensation fund under subrogation rights in the act could then pursue whoever afterwards to get back whatever could be got back, but the customer is protected. It seems to me that nothing that I have heard would allow that speed and that restitution to occur, so I am wondering if the minister could detail what steps would be available in that sort of scenario for someone once we get rid of this scheme?

The Hon. A. PICCOLO: I would like to thank the honourable member for her question. There are a couple of things in answer to your specific question. The decision to abolish the fund has already been made, so the fund will not exist at a certain date. That decision was made by a couple of other jurisdictions that decided to withdraw from the scheme. It is a cooperative scheme like all cooperative national schemes, and it only works when all the parties are at the table. As a result of the fund which will be wound up, there is no scheme to access. That is important. So we could not repeal it but we would have a bill, an act, but not a fund to go to.

Secondly, on my understanding, I am advised that in the example you have provided, the current scheme only provided for compensation or insurance protection for when the money was handed over from the consumer to the travel agent before the travel agent actually paid it to the supplier.

Ms REDMOND: No, they paid it when they booked everything.

The Hon. A. PICCOLO: I understand that, but this scheme covers where the travel agent goes bankrupt or does not honour it. I am not sure in your example from where they got their payment, but certainly that was not part of this scheme here. The current scheme, which we are discussing to repeal, essentially relates to situations where the money is tendered to the travel agent but prior to being handed to the supplier themselves.

In terms of your question, it is certainly true under the repeal situation, the deregulated model, that there will have to be a greater awareness by consumers. That is certainly true, and it goes without saying. Also important, though, is that if a consumer goes—and this is where it is important that we educate the consumer about this—to an AFTA member who has gone through ATAS and are accredited, they will have end supply insurance. That is where their protection will come from in the example you have provided.

In short, the answer is: given the circumstances that the fund will not exist from a certain date, this does not actually weaken the protection for consumers to the extent that Australian Consumer Law applies to it.

Ms REDMOND: Following on from the minister's answer, it seems that there are some problems with that response inasmuch as, even if we accept that it is currently only covering the money paid to the travel agent, which is basically to be held in trust, and they have gone belly up, defaulted or whatever, then it still seems to me that, first, accreditation is voluntary. I let the minister know that my information is that at this stage, of all the thousands of agents in Victoria, only 15 have indicated an intention to become accredited. So, voluntary accreditation is the first problem. The second problem is the issue of the insurances because, even if you choose to become accredited, the taking out of various types of insurance, once you are accredited, is again a voluntary thing, so you could be accredited without necessarily taking out those insurances. Then there is the timing issue of the ability of this fund to step in at very short notice and give restitution.

The other problem it seems to me is that, while you say the decision to abolish the fund was already made—I am aware of that. If you read my contribution, you will see that I mentioned the fact that there was a conference in this city a couple of weeks ago at which they were talking about the commencement of the new arrangements from 1 July, and we had not started debating this bill in either house at that point. The fact is that the existing act—and that is why I am asking my questions under this clause—does not actually require it to be part of a national scheme. The existing act simply sets up a scheme which says that, in order to operate as a travel agent in this state you have to be licensed; in order to be licensed you have to be a fit and proper person, not disqualified, and so on, and you have to have the insurance.

It still seems to me—I know that you cannot listen to two people at once and I used to have that job once upon a time—that there are inherent difficulties, and that it would have been preferable to leave this legislation in place, leave the Travel Compensation Fund going, and then gradually move to another system. I know that the discussion has been going on for three years—I think since December 2009 or 2010—or at least a couple of years. The discussion was agreed nationally. This again is one of these situations that I object to, where ministers go off and make a decision and tell their colleagues from other states that they are agreeing, when we have not had a chance to consider the implications in this state.

Will the minister answer another question, which relates to his comments in the close of the second reading. I understood the minister to say that funds held in the trust account were liable to bankruptcy laws. It was reasonably early on in your comments, but maybe you could look for them because I want to clarify what you meant there.

My understanding is that if you handed money to a travel agent to pay for a holiday, that money was subject to auditing and was pretty much dealt with like trust money. I do not understand how it would be that, if the travel agent went bankrupt, any money held on trust by the travel agent on behalf of the consumer—who has gone to the travel agent to book their big river cruise in Europe, or whatever, and has handed over thousands of dollars and it is in the travel agent's trust account—would be lost. Is the minister saying that if the travel agent fails financially and goes into a liquidation or a bankruptcy, the effect of that is that the bankruptcy can then take that consumer's money which was held in trust to purchase a particular travel item?

The Hon. A. PICCOLO: I thank the honourable member for her questions. I will try to recall all of them. My understanding—and I am not a lawyer—is that money that is held in a trust account by an agent will be subject to the normal bankruptcy and insolvency laws as they apply across the country. In other words, my understanding is that the fact that we are repealing this act does not change the operation of that law in relation to the operation of a trust account. If that is the way bankruptcy laws operate, that is the case. I do not know; I am not familiar with that area.

The reason we are repealing this act is that part of the main reason of having the act was part of establishing the fund itself; they went part and parcel. We have two things. One is that if we do not repeal the act, we actually need a stand-alone scheme to provide additional protection, because it does not exist. Secondly, if we do have a stand-alone scheme which imposes additional red tape and regulatory burdens, which means more cost, people will just purchase their travel online but through other states. You really cannot protect the consumer from the way the world has changed, to the extent that you are suggesting.

My understanding is that you are suggesting that we go it alone in some sort of scheme. Unfortunately, with two-thirds of people already purchasing their travel online—and that will increase over time—the fact is that if an agent here has an additional regulatory burden and therefore charges more, they will purchase their travel through an agent interstate, if they go through an agent and not online. I really cannot see how you can actually enforce what you are proposing unless you establish an additional fund and extra regulation, in which case, in the end, we are going to lose as the market continues to change towards online or interstate purchasing.

Ms REDMOND: I have so many questions, I do not know where to begin. In relation to that last point, it seems to me that if we could not go it alone, then the way to approach it would be to say you cannot practise as a travel agent unless this accreditation which is currently voluntary is instead compulsory. Just this morning, people on your side of the house were arguing very strongly that we had to compel certain behaviours by regulation and yet under this argument, under this particular legislation, you have said voluntary control is less intrusive and better.

It seems to me that the only way to protect a consumer—whether they are going online or otherwise—who is using a travel agent is first of all to say that you cannot practise as a travel agent unless you are accredited under this new arrangement, and secondly to say that you cannot practise as a travel agent if, having obtained your accreditation, you do not take out certain levels of compulsory insurance. As I understood what the minister said again in his closing of the second reading, towards the end he suggested that agents might recommend payment by credit card by people using travel agents. I am making some assumptions here.

I acted in a matter which you may recall, minister, of the balloon accident up in Alice Springs many years ago where one balloon crashed into the canopy of another balloon. The balloon underneath lost all its air and it plummeted to the ground. It was an awful accident. All the people—the pilot and all customers—were killed instantly. I acted for a number of the families and, as it happens, the only people who came out of that with any money were the people whose daughter (one of the passengers) had paid by credit card. Attached to her credit card (I think it was a Bankcard) was international insurance that applied to air flights and it happened to include balloons.

My question is: is it possible that under the new arrangements agents who have no training, are not accredited and do not have insurance will simply say, if they are aware of it, 'What you should

do is pay me by credit card' because that will (or may) give you the protection of that sort of insurance that I have just spoken about?

The Hon. A. PICCOLO: I am not sure whether that was a question or a statement. The question, as I understand it, is what would happen in a situation where an agent seeks to get a consumer—

Ms REDMOND: The question, minister, is: is it possible that under this new scheme you will have an agent who has no training or qualifications and who chooses not to be accredited, chooses not take out any of the insurances spoken about by you and other speakers in the course of the debate, simply says to their customers, 'I recommend that you pay me by credit card because that may give you some protection'? Is that going to be possible under this new scheme because I suspect it is?

The Hon. A. PICCOLO: If you do take if, if and if and if, I suppose that is possible. However, the question remains then: to what extent do you provide a burden regulation for the overwhelming majority of consumers to provide 'but if' situations? I suppose the short answer is yes that is possible, but like all legislation we make some sort of risk assessment as to what is for the common good.

Dr McFETRIDGE: Minister, on that same clause for repeal, I understand there is about $27 million in the Travel Compensation Fund. My question comes back to the $80 million five-year contract that the government signs with a travel agent to provide management of whole-of-government travel services. Has the government been contributing to that fund? If so, how much is it for management fees? I understand that on top of those management fees, then we pay our airfares or train fares or whatever on top of that. It would be a considerable amount that the government has actually paid into that fund. Is there going to be any way of clawing back any of that money now or is there any need to? Can you also tell us how much we might have paid in?

The Hon. A. PICCOLO: To answer that question, you are asking a question of government as a consumer rather than as a regulator, so I would have to refer those to the relevant minister who is responsible for administering the scheme. I am certainly not responsible for administering the scheme but I am happy to put those questions to that minister and get those answers for you.

Dr McFETRIDGE: Just on that, minister, if you could also get from the relevant minister information that might assist us here because, if somebody has referred you to my contribution yesterday, I have some issues—and you spoke about this. I think it was in 2002 there were about 5 per cent of people using online services and it is about two-thirds of people now. I think most members of parliament do online bookings and then refer it back to the travel agent. My concern is that we are paying what seems to be about $44,000 a day for whole-of-government travel management.

I assume that on top of that we are then paying our airfares and fees, so that agent is then possibly getting commissions; I do not know. Can you let the committee know what monetary amounts are involved? How much we are paying for whole-of-government travel, perhaps parliamentary travel as well, on top of that management fee, and is there a way we can reduce that? I think that members of parliament would do everything they can to reduce the cost to taxpayers of a resource that is now, as we are all saying, probably not as necessary as it was when I saw the original contract back in 2003 for $80 million. Are we still paying that money now? I am not so sure that we need to.

The Hon. A. PICCOLO: Again, I will refer that to the relevant minister and get the details. From my recollection, that matter was subject to a tender which Carlson won. I suppose that tender has an end date, and I am sure that the government would review, as it does all expenditure, better ways to deliver the taxpayer dollar. I am happy to inquire further for you.

Ms REDMOND: This is still clause 3, about the repeal of the Travel Agents Act. As I mentioned at the outset, the act basically sets up a regime, which is similar to the legal profession. To be a lawyer you have to have a licence and to have a licence you have to have insurance. The Travel Agents Act effectively does the same thing. To be a travel agent you have to have a licence and you have to then have insurance. My question on this occasion relates to that licence.

Putting aside the questions of insurance, I have already expressed fairly clearly, when you read my contribution, which I am sure you will, my concerns about the lack of protection for consumers that this generates. Can the minister advise what, if any, requirements there will be to

make people who want to set up as a travel agent actually know anything about the travel industry? The member for Hammond yesterday made a very good contribution. He referred to small business operators.

You can have someone who has been practising for 20, 30 or 40 years and has a great deal of expertise in the travel industry operating their travel agency in town X. And right next door someone could come along—because there will not be a licensing requirement as soon as we repeal this—and just declare themselves to be ABC travel, set up with no requirements as to being fit and proper people, no requirements as to supervision and management, no requirements as to knowledge of IATA or any of the other requirements, and thereby put someone out of business.

Eventually, one would hope that people would wake up to the fact that someone does know about the travel industry and someone does not. Nevertheless, we are going to be exposing, I think, consumers to the risk, and they will think, 'Well, the government looks after these things. If I go to someone who's allowed to put up a sign saying they are a travel agent, they must have some knowledge, they must have some licensing.' What are the requirements, if any, to be able to practice as a travel agent?

The Hon. A. PICCOLO: The short answer is that there is nothing to stop a person from setting up a travel agent business. Having said that, though, in a lot of walks of life, and even in some professions, there is no regulatory scheme, and people can call themselves a whole range of things and—

Ms Redmond: Financial advisors.

The Hon. A. PICCOLO: Yes, which your national people are trying to water down, if I remember correctly. Putting that aside for a moment, with the bill before us, the answer to your question is that we have to ensure that if a consumer decides to go to a travel agent who is not a member of the professional body it has additional risks (I will not say no risks), because if you are a member of AFTA there is a whole range of things you are required to do just as you do if you are a member of the Law Society or another professional organisation. There are certain standards you need to meet and maintain.

Ultimately, the question is that a consumer has to accept some responsibility and make sure that the person they deal with is a reputable person. That is true in a lot of walks in life, and we do that often by going to people who belong to professional associations. In this case, AFTA is the professional industry association which will set the appropriate benchmarks for its membership to behave and transact business in a certain way.

Clause passed.

Clause 4.

Ms REDMOND: I have probably only one question, and it relates to subsection (6), the very last subsection, which says:

> The date of termination of the compensation fund is provided for in clause 27.1 of the trust deed.

The first part of my question is: what is that? Then, could the minister, in relation to that, clarify his comments at the end of the second reading contribution, because I understood him to say, and I was struggling to keep up with writing notes, that after the money which is going to Choice as the preferred tenderer for the provision of consumer protection education, or whatever it was, and so on, there would be about $1.5 million to $2 million, and I thought he suggested that that would be returned to consolidated revenue. Could the minister please clarify what happens to the money under this scheme?

I understand that it could not be returned to the travel agents but normally—for instance, in the Associations Incorporation Act—if you have an organisation that is set up and is holding money as an incorporated association, if that organisation fails or dissolves for any reason, then there is a requirement under the act that the assets held not be distributed to those holding them as though they were shareholders but be applied to a similar purpose.

I would not have an objection, for instance, if the money were to be applied to better educating the public about why it might be a good idea to go to a travel agent and get some protection and advice than to book online, but I would like to hear what the minister's justification is for taking

money into general revenue, and into the consolidated revenue, rather than applying it to the purposes for which the money was originally held.

The Hon. A. PICCOLO: I am advised that the trust will terminate on either 31 December 2015 or as soon after 30 June 2015 as the obligations under the trust are discharged. That is clause 27 of the trust deed. That is the answer to the first question.

In answer to the second question, of the amounts which have been handed back, $2.8 million is going to AFTA, $2.8 million is going to Choice, $3 million is going to consumer affairs nationally for education programs, and the balance, which is roughly $1.5 million, is just going to general revenue, which I think you disagree with, but that is what is happening.

Ms REDMOND: The minister got the question absolutely correct and I thank him for the information about how much. I just do not understand why it would not be more appropriate, given the nature of why the fund was set up, to simply apportion that remaining amount of money to those purposes or to even specify that that $1.5 million, or whatever it might be, is to provide a specific officer with knowledge of the travel industry to work in the Office of Consumer and Business Affairs, or whatever they now call it, to do the public education exercise, or whatever it might be. It just seems to me to be unjustifiable for the government to say, 'We'll have what's left.'

The Hon. A. PICCOLO: I think that is more an opinion than a question, which you are entitled to have, member for Heysen. What I would say is that the judgement has been made that the amount which has been allocated for education programs is sufficient and that is what happens to be left over. That is not only this jurisdiction, but other jurisdictions as well.

Clause passed.

Title passed.

Bill reported without amendment.

Third Reading

The Hon. A. PICCOLO (Light—Minister for Disabilities, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (12:55): I move:

That this bill be now read a third time.

Ms REDMOND (Heysen) (12:56): I want just to make some concluding remarks by way of a third reading address. I will not keep the house any more than about 30 seconds, but I do want to place on record my very profound concern about the repeal of this legislation. I believe that it will not do anything to enhance consumer protection in this state, nor will it do anything to protect the numerous small travel agents who are already facing difficulties because we are all aware and have all spoken about the fact that we have this increasing level of internet usage for the booking of travel. I do think that we are heading down the wrong road, and I just want to confirm that in my third reading contribution.

The Hon. A. PICCOLO: I just make the comment that I have noted the concerns expressed by the member for Heysen. What I would say is that, like all new schemes, they are subject to review. The ATAS scheme will be reviewed formally after 12 months and on an ongoing basis for three years, so if it does not operate as intended I am sure the relevant jurisdictions will act accordingly.

Bill read a third time and passed.

Sitting suspended from 12:57 to 14:00.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the Speaker—

Members, House of Assembly—Register of Members' Interests—Registrar's Statement Annual Report June 2014

By the Minister for Manufacturing and Innovation (Hon. S.E. Close)—

Natural Resources Management Board—
Northern and Yorke Annual Report 2012-13
SA Murray Darling Basin Annual Report 2012-13

By the Minister for Transport and Infrastructure (Hon. S.C. Mullighan)—

Heavy Vehicle (Fatigue Management) National Regulation—245 of 2013
Heavy Vehicle (General) National Regulation—246 of 2013
Heavy Vehicle (Mass, Dimension and Loading) National Amendment Regulation—20 of 2014
Heavy Vehicle (Mass, Dimension and Loading) National Regulation—247 of 2013
Heavy Vehicle (Transitional) National Regulation—21 of 2014
Heavy Vehicle (Vehicle Standards) National Regulation—248 of 2013

VISITORS

The SPEAKER: I welcome today students from Nazareth Catholic College, who are guests of mine.

Ministerial Statement

SOUTH-EAST ASIA ENGAGEMENT STRATEGY

The Hon. M.L.J. HAMILTON-SMITH (Waite—Minister for Investment and Trade, Minister for Defence Industries, Minister for Veterans' Affairs) (14:02): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.L.J. HAMILTON-SMITH: Along with the Premier, I was pleased today to release an engagement directions paper for South Australia with South-East Asia. The paper is the first step in the development of a South Australia-South-East Asia engagement strategy and is designed to generate ideas and discussion on the opportunities within the region. South Australia has for some time been committed to a policy of comprehensive engagement with China and India. The approach has reaped dividends for local South Australian businesses, with exports to these countries growing considerably over the past few years, helping to drive our overall exports to record numbers in the year to April 2014.

We are now turning our focus to South-East Asia, because South-East Asia comprises the 10 member countries of ASEAN: Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam, as well as Timor-Leste. The directions—

Mr Griffiths interjecting:

The Hon. M.L.J. HAMILTON-SMITH: Yes, we are a policy engine room over here.

Members interjecting:

The SPEAKER: The member for Goyder is called to order. The member for Chaffey is called to order.

Mr Whetstone interjecting:

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

The Hon. M.L.J. HAMILTON-SMITH: The directions statement outlines South Australia's current level of engagement with South-East Asia and suggests goals and priorities for deepening and broadening our relations. Australia's close proximity to countries in South-East Asia offers potential to open new doors for our state and its small businesses. This highly dynamic and diverse region is emerging as a key global player with a rapidly urbanising and relatively young population of more than 610 million people and a combined GDP of $3.9 trillion. SA's trade relationship with South-East Asia is growing at an impressive rate, with $1.8 billion worth of goods exported in 2012-13, an average annual increase of 9 per cent since 2008-09.

A wide range of merchandise is exported to the region, including copper, wheat, lead, wine, metal, malt, seafood, meat and other products. In the 12 months to April 2014, South Australia's good exports to the countries included in the envisaged strategy grew more than 8 per cent to a total of more than $1.965 billion, comprising 16 per cent of the state's outbound trade. A well thought-out strategy will better position South Australian businesses and institutions to identify and seize opportunities in this fast growing and diverse region.

The region also offers increasing opportunities for our services exports, in particular, in education and skill development, agribusiness, aquaculture, defence, infrastructure development and health care. The time is right to broaden our international engagement and to create additional opportunities for mutually beneficial partnerships to flourish. I look forward to working closely with stakeholders to advance South Australia's interests in the South-East Asia region.

Consultation on the discussion paper and the finalisation of a strategy will be undertaken in the second half of 2014, before the final product is launched at the beginning of 2015. I encourage industry and business to provide views on the paper to ensure it sets out the best possible road map to improve opportunities for South Australia in the ASEAN region.

The SPEAKER: The Minister for Education.

Parliamentary Procedure

SITTINGS AND BUSINESS

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:06): Thank you, sir. Sir, on the next day of sitting, I will move that I have leave to introduce a bill for an act to establish a legislative framework to ensure that the development and wellbeing of children and young people is considered from a whole-of-government perspective, to recognise the importance of children and young people to the state, to establish a commissioner for children and young people, to establish the child development council, to require the preparation of an outcomes framework for children and young people, and to make related amendments to the Children's Protection Act 1993 and the Freedom of Information Act 1991, and for other purposes.

Ms Chapman interjecting:

Mr PISONI: Point of order, sir.

The SPEAKER: The deputy leader is called to order.

Mr PISONI: The minister does not appear on the green paper. Is this a late entry?

The SPEAKER: That the minister does not appear on the green paper is not really a point of order and, accordingly, I call the member for Unley to order.

Mr Whetstone interjecting:

The SPEAKER: The member for Chaffey is warned for the second and final time.

The Hon. T.R. Kenyon interjecting:

The SPEAKER: The member for Newland is warned.

Parliamentary Committees

LEGISLATIVE REVIEW COMMITTEE

Mr ODENWALDER (Little Para) (14:08): I bring up the third report of the committee concerning subordinate legislation.

Report received.

Parliament House Matters

TIMING DEVICE

The SPEAKER: I know that the member for Davenport and others will be pleased to see that the Crvena Zvezda stopwatch has been repaired by dint of a spare part coming from Orkina.

Mr Marshall interjecting:

The SPEAKER: In reply to the leader, I shall see whether it works shortly.

Question Time

ADELAIDE FESTIVAL CENTRE CAR PARK

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:09): My question is to the Premier. Prior to the Premier's recent trip to New Zealand, had the government been advised that the Casino had significant concerns with the government's deal with Walker Corporation involving the Festival Centre car park and that they were reconsidering their proposed Casino redevelopment?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:09): The situation, so far as I am aware, is that the Casino has been very positive about the prospects of a development to the Adelaide Casino. In fact, quite recently I had a meeting with them, and they are very excited about the prospect of being able to get started.

There is a connection between the Casino's development and the car park, and that is because, Mr Speaker, the Casino obviously contemplates that large numbers of people will want to have a car park if they are going to visit the Casino. So, the two developments are connected, and we understand that the Casino remains positive. We are moving forward with trying to have productive negotiations with all of the parties involved, and we—

Mr Marshall: The question is about whether—have they expressed concerns?

The Hon. J.R. RAU: Not to me, no.

Ms Chapman interjecting:

The SPEAKER: The deputy leader is warned for the first time. Supplementary, leader.

ADELAIDE FESTIVAL CENTRE CAR PARK

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:10): Given that the Deputy Premier says that the Adelaide Casino is 'excited' about getting started, can the government perhaps outline to the house what the hold-up in this project, which has been talked about for an extended period of time, actually is?

The Hon. A. Koutsantonis: Who says there's a hold-up?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:11): I can only echo the words of the Treasurer, who did mention, sotto voce, 'Who says there's a hold-up?' There is no particular hold-up; these things require planning and they require there to be a degree of cooperation between the parties. They also require some thinking about staging, because it would be fairly obvious, if you think about the terrain down there, that one activity starts to impact on other activities. For example, the activity of the—

Members interjecting:

The Hon. J.R. RAU: As far as I am concerned, Mr Speaker, the planning for all of these activities is proceeding as it should.

ADELAIDE FESTIVAL CENTRE CAR PARK

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:12): Subsequent to their announcement on 11 February, has the government had any discussions with the Walker Corporation about not proceeding with, or altering, their agreement involving the Festival Centre car park?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:12): Thank you, Mr Speaker. Again, I am not aware of any conversations with Walker Corporation to the effect that either there is going to be a change in what had been an agreed position or that there was no intention to proceed with the car park. I am not aware of any such conversation. It might be helpful for me to say that my understanding is that there is an agreement which requires Walker to do certain things by way of preparation, and there is a period of

time in which that is to occur. There is no suggestion from the government, and has not been from Walker, as I understand it, that anyone is walking away from that or changing it.

ADELAIDE FESTIVAL CENTRE CAR PARK

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:13): Subsequent supplementary, sir: given the Premier's statement regarding the Festival Centre car park on 11 February this year, was there any change in the original scope of the agreement with the Walker Corporation, and, if so, was there any compensation discussed in that changed scope with the Walker Corporation?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:13): So far as I am aware, the agreement which exists between the government and the Walker Corporation has not been the subject of a conversation about compensation.

RIVERBANK PRECINCT

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:13): Finally, sir: has the government had any discussions with the Walker Corporation in relation to any other land within the Riverbank Precinct?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:13): Again, Mr Speaker, can I say: so far as I am aware, the answer to that question is no.

Members interjecting:

The SPEAKER: The deputy leader is warned for the second and final time.

ADELAIDE CBD HIGH SCHOOL DEVELOPMENT

The Hon. S.W. KEY (Ashford) (14:14): My question is directed to the Minister for Education and Child Development. Can the minister advise if the state government will honour its election commitment and build a second CBD high school?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:14): I thank the member for Ashford for her question. I know that she is very keen to see the state government honour this commitment and I am pleased to advise members that the state government is absolutely committed to delivering a second high school for the Adelaide CBD. This new school will provide for 1,000 students at the site of the current Royal Adelaide Hospital.

Construction is expected to start on this $85 million project in 2016 when the current hospital moves to its new premises. A masterplanning exercise with Renewal SA, DPTI and my department will determine the precise location for the school within the Royal Adelaide Hospital site. This work is expected to be completed by the end of this year. Feedback has been positive and the state government will consult with the community to ensure we get the school to truly reflect the needs and aspirations of their children.

We plan to establish a committee involving governing councils, teachers, principals and the department to set the new enrolment policies for both schools in the city. Work is also progressing on setting a specialty program around health and sciences for the school. We aim to partner with the many world-leading scientific and medical research industries that we have in South Australia, and I look forward to making further announcements on this in the future.

With the school expected to be open for term 1 in 2019, this will enable secondary school zones in Adelaide's inner suburbs to be redrawn. As well as allowing students from the suburbs of Ovingham, Prospect, Fitzroy and Thorngate to enrol in year 8 at Adelaide High School in 2015, we will be honouring our policy commitment to include Bowden, Brompton, Hindmarsh, Hilton, Kurralta Park, Glandore, Black Forest, Nailsworth, Medindie Gardens, Medindie, Gilberton, Walkerville and Collinswood in the expanded city zone in 2019.

The eastern parts of Torrensville, Mile End, Richmond and Marleston will also be included and, as a result of the advocacy of the member for Ashford, sections of Clarence Park zoned to Black

Forest Primary School will also be included in the new zone. This ensures that students zoned to Black Forest Primary School have the option of attending a public high school in the central business district. Our announcement is in contrast to the opposition's commitment to allow only students living in Prospect, Walkerville, Fitzroy, Ovingham, Gilberton, Goodwood, Black Forest, Everard Park and Glandore to attend their bloated Adelaide High School.

Ms REDMOND: Point of order, sir.

The SPEAKER: Point of order, member for Heysen.

Ms REDMOND: The minister is now purporting to put on the record things which are not under her responsibility—the policies of the opposition.

The SPEAKER: I think it is reasonable on this matter to compare and contrast. It is germane to the zoning question and the alternatives to the government's zoning.

Mr GARDNER: Sir, point of order. Can I ask you to reflect on that decision, given previous rulings you have made where ministers are specifically not responsible to the house for the opposition's policies—a ruling that you have made on a number of occasions?

The SPEAKER: It will depend on the tone the minister adopts in comparing and contrasting. Her demeanour, to date, contrasts in an orderly fashion with the comparing and contrasting of the Minister for Health and the Treasurer. The Minister for Education.

The Hon. J.M. RANKINE: Thank you, sir. Fortunately, students of Thorngate, Collinswood, Medindie, Medindie Gardens and Nailsworth will, under this Labor government, have access to a city-based high school. They should count themselves very lucky as the Liberal policy showed no plans for them ever being zoned into Adelaide High School.

Mr Pisoni interjecting:

The SPEAKER: The member for Unley is called to order.

Mr Pederick: There was a definite tone change, sir.

The SPEAKER: Is that a point of order from the member for Hammond?

Mr PEDERICK: I am happy to make it a point of order, sir—definitely the minister's tone changed and disputing your order.

The SPEAKER: That is an entirely bogus point of order, and I call the member for Hammond to order. I also call the member for Hartley to order for a series of earlier offences—don't think I had forgotten. The deputy leader.

GILLMAN LAND SALE

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:20): My question is to the Premier. Will the Premier confirm whether Adelaide Capital Partners has provided a detailed project plan for the Gillman development, as required by the option agreement signed by the Premier?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:20): I think the question that the honourable member asks is somewhat related to something she was ventilating the other day about this project, and I just want to say a few things about it. First of all, there are certain milestones which are contemplated in the arrangements between ACP and the government and, as and when those milestones are completed, there will be consideration by the government of the nature and extent of that completion by ACP, and the appropriate decisions will be made at that time.

It is not appropriate, given the commercial-in-confidence nature of these matters, and the fact that some of the matters that are involved may well—and I think certainly, in some cases, would—contain ACP intellectual property, that they be the subject of any further public exposition by me or anybody else, especially in the light of the fact that there is litigation that continues to be on foot in the Supreme Court regarding these matters.

The SPEAKER: Deputy leader, supplementary.

GILLMAN LAND SALE

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:21): My question again is to the Premier, although the Deputy Premier may answer it, of course. Given the Deputy Premier's statement that this was something that has apparently emanated from my mind, could the deputy confirm: if the terms of the option with ACP are commercial in confidence, did you approve the Treasurer making a statement publicly that a term of the option is that a detailed project plan be provided within six months, before the election?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:22): My memory has been stimulated somewhat by that second question because this is quite significant. The honourable deputy leader must have one of those tickler machines that gives up dates and says, 'Reminder: six months have gone by,' because on 13 December, if I am not mistaken, the now Treasurer—

The Hon. A. Koutsantonis: 2018 will be the key date for you.

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

Mr Pisoni interjecting:

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

The Hon. A. Koutsantonis interjecting:

The SPEAKER: The Treasurer is warned for the second and final time.

The Hon. J.R. RAU: As I was saying, on or about 13 December 2013 the now Treasurer, but then minister for renewal, was, as I understand it, quoted in the newspaper as having said that in six months (I am paraphrasing the comment but it was something like) certain events will have occurred, or certain things must occur within six months. My reference earlier to the deputy leader having one of these very accurate machines which records things is she must have said, 'Ah, six months, that must mean 13 June,' because on 14 June a statement which was attributed to her popped out saying, 'Now six months are up, what's happened?' I would simply say to the honourable member that, when the Treasurer said 'six months', I think he was saying six months in the colloquial sense of six months.

Mr Pederick: What's that, the lunar year?

The Hon. J.R. RAU: I would like to say two things; first of all, I would like to congratulate the member for Hammond for having mentioned the lunar year—that's your best one yet. At least I know the difference between 7 o'clock in Adelaide and 7 o'clock in Rio de Janeiro, and I know they are not the same.

When the average person gets out there and says, 'In six months such and such is going to happen,' that doesn't necessarily mean that someone can press the button—I'm not sure the name of that timing device you have there, Mr Speaker—on that thing and that when it goes 'beep' in precisely six months you say, 'Rightio, where are we going?' All I can say is that things are progressing as anticipated.

The then minister, now Treasurer, was tantalisingly dangling this six months out there for the member for Bragg to think about. All I can say to the member for Bragg is that things are proceeding as were anticipated then. There is substantial accuracy in the statement the now Treasurer made back then, but it shouldn't be interpreted as meaning to the very second that he made that statement and you could wind forward six months and you would have the date.

The SPEAKER: Deputy leader.

GILLMAN LAND SALE

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:26): My supplementary question is to the Treasurer. When the Treasurer made the statement to *The Australian* in December last year in respect of this six months, did he mean six months or six months in a colloquial sense, or six months give or take a year? Could he explain to the house what he meant by 'six months'?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:26): I know the Treasurer pretty well, and I am pretty sure what he meant was 'in about six months'. I am pretty confident that's what he meant, and I am confident, having studied the matters, that he was dead right in having said that and everything is going as anticipated.

Ms CHAPMAN: A supplementary sir, if I may.

The SPEAKER: A third supplementary from the deputy leader.

GILLMAN LAND SALE

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:27): In the event then that this detailed project plan hasn't yet been received, could the deputy leader confirm whether the plan is to include in it a requirement to include a mining and resources hub to be built as part of its plan?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:27): I am not going to go into what may or may not be in a plan, but something else is coming back to me, and it was something else that was in that statement on the 14th of this month, which happened immediately after the 13th of this month, which was exactly six months to the minute after the statement was made by the now Treasurer, which was some 35 years after he was born, and so on.

The Hon. A. Koutsantonis: It's 42.

The Hon. J.R. RAU: It's 42, sorry. The situation is that it has never been hidden in any of the statements made by either the Premier or the former treasurer that of course the government would love to see development in South Australia which worked as a complement to oil and gas industries operating particularly in the north of this state. There has never been any question about that. It is also equally clear that anybody who might have a piece of land somewhere and have the aspiration of having it used for oil and gas purposes is only going to be able to achieve that aspiration if there are people in the oil and gas industry with whom they can do deals and who want to be participants in that.

The government is in this context two places removed from any such conversation, so I think the premise on which the honourable member's question is based—that is, is there some sort of requirement or condition precedent about having something to do with oil and gas—is misconceived. Whatever our aspirations, and we have been very public about those, we do not—

Ms Redmond interjecting:

The Hon. J.R. RAU: No, no, no, I'm sorry, we have. The member for Heysen is shaking her head.

An honourable member interjecting:

The Hon. J.R. RAU: No, just shaking her head. So I just say that I think the Treasurer, who still remains the Minister for Mining, and the Premier have said on several occasions we would be delighted for South Australia if we could become a place that could offer some sort of hub or investment opportunity for the oil and gas industry, of course, but we don't control that industry, and that would be a matter for private players to negotiate out.

The SPEAKER: Before the deputy leader starts, I call the members for Heysen and Mount Gambier to order.

GILLMAN LAND SALE

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:30): My question is to the Premier. What is the already planned infrastructure that is included in the option agreement between the Premier and Adelaide Capital Partners?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:30): Again, there are commercial-in-confidence aspects to the present arrangements. We have been through this many times in this parliament. What we have at the

present time is—look, how you characterise this in lay terms I do not know, but I gather it is like an option. I think that is probably the best way of putting it in the sense that most people would understand it.

There may be an option over certain land if certain things happen. We are just working our way through that. We would like to see something constructive happen. We would like to see investment, we would like to see jobs, we would like to see an oil and gas hub; we would like to see all those things happen, and we would also not like to see this project pulled down by people who are continually questioning the bona fides of the people involved in this project and continually challenging whether or not it is in the interests of South Australia for us to be promoting jobs and a more active participation in the oil and gas industry.

GILLMAN LAND SALE

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:31): A supplementary, Mr Speaker.

The SPEAKER: That would be four supplementaries. Let's just call it—

Ms CHAPMAN: No, this is a supplementary to the question I just asked, sir, which you took, thank you. The supplementary to this question is in light of the deputy's answer. The reference to 'already planned' is the statement of Mr Fred Hansen who indicates that the terms of agreement do not require a further obligation, other than the infrastructure already planned, so the reference to 'already planned' is as to what the government has already committed to do. My question in respect of 'already planned' is: what is the infrastructure that is in the category of 'already planned'?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:32): I am making the assumption against myself that I do not understand the question and, therefore, I would ask the deputy leader to provide me with a copy of whatever it is she is quoting from and I will try to find out whether, being enlightened by the context, I can explain what it might have been that Mr Hansen was talking about.

GILLMAN LAND SALE

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:33): A further supplementary, again to the Premier. Why did the Premier sign the option agreement with Adelaide Capital Partners when the matter is clearly a matter for the Minister for Housing and Urban Development?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:33): To be perfectly frank, I am not sure who signed the agreement, but I do believe this: somebody for and on behalf of the government did sign the agreement, and there exists an agreement between the government and ACP. I do believe that to be the case. As to exactly whose moniker appears on the page, I cannot say.

GILLMAN LAND SALE

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:33): My question again is to the Premier. Why did the Premier state in the house on 8 May 2014 in relation to the Gillman land deal, 'It took, I think, in the order of six months or so for it to reach a position where it was brought to cabinet', when evidence provided to the select committee of inquiry into this matter identifies that cabinet considered the matter in September, that is, just three months before the final decision was made?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:34): Mr Speaker, I don't think anyone can add anything to what the Premier has already said.

The Hon. I.F. Evans interjecting:

The SPEAKER: The member for Davenport is called to order.

GILLMAN LAND SALE

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:34): My supplementary again is to the Premier. Irrespective of whether it was of moment to your government as to whether it was in September or December, could the Premier tell us what was actually approved then by the cabinet in September?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:35): I think there's a fairly well-established idea that what goes on in cabinet stays in cabinet and I don't intend to depart from that.

Mr Tarzia interjecting:

The SPEAKER: The member for Hartley is warned for the first time. The member for Florey.

DISABILITY JUSTICE PLAN

Ms BEDFORD (Florey) (14:35): My question is to the Attorney-General. Can the Attorney-General inform the house about the Disability Justice Plan?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:35): I thank the honourable member for her question, and, yes, I can inform the house about the Disability Justice Plan. On 10 June I attended the Julia Farr Association to launch the final roll-out of the Disability Justice Plan. This plan increases access to justice for people with disabilities by addressing the particular challenges faced by people with disabilities when dealing with the justice system.

This government has allocated $3.2 million to implement these reforms. The Disability Justice Plan was developed in close consultation with the community. The vision of the Disability Justice Plan is to do the following things: to uphold, protect and promote the rights of people with a disability; to support vulnerable victims and witnesses in the giving of evidence; and to support people with disability who are accused or convicted of criminal offences.

As the plan is implemented we will see specialist training given to police officers so that they are better equipped to deal with people with a disability. We know that the more people have to repeat their story the more frustrated they become by the process. This training will ensure that the best evidence is obtained as early as possible. The plan will also see the introduction of a carers' offence, addressing the sexual abuse of persons with cognitive impairment by their carers.

Among the funds committed is $300,000 for the Legal Services Commission to deliver a community awareness and information program. This government has a proud history of supporting people with a disability, and the Disability Justice Plan represents that continued support. We will certainly ensure the effective implementation of the plan.

GILLMAN LAND SALE

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:37): My question again is to the Premier. Did the members of Adelaide Capital Partners pay $40 per square metre to the state government in 2010 for land at Gillman that had the same topography and development requirements as the Lipson estate?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:37): I have to say, Mr Speaker, that's the first I've heard of that suggestion, but I am happy to try to ascertain whether that was the case.

GILLMAN LAND SALE

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:38): A further question, this time to the Minister for Planning. Will the minister confirm that the option entered into with Adelaide Capital Partners and regarding land at Gillman does not have any legal requirement for land at that site to be allocated for mining and resources businesses?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:38): There's a couple of issues there. The first one is that there's a difference between the zoning of a piece of land and the actual activity that might be performed, given whatever the zoning might be, and there is no zoning requirement as such with regard to that.

The other point I would make is that, as I have already said, the government has made no secret of the fact that we would be very keen to see oil and gas-type hub activities occur on that site. And I think the Treasurer, wearing his other hat, has said that many times, and I think the Premier has said that many times. Whether or not that is able to be achieved will depend on a number of factors which are out of the government's control and, I suspect, out of the control of ACP.

CLARE VALLEY WATER SUPPLY

Mr WHETSTONE (Chaffey) (14:39): My question is to the Minister for Regional Development. Has the minister met with Clare Valley and Gilbert Valley irrigators to discuss the establishment of a genuine third-party access regime in the water market to reduce the skyrocketing costs of water delivery?

The Hon. G.G. BROCK (Frome—Minister for Regional Development, Minister for Local Government) (14:39): I thank the member for his question. Yes, I have had dialogue with the grape growers and they have had a meeting with SA Water.

CLARE VALLEY WATER SUPPLY

Mr WHETSTONE (Chaffey) (14:40): Supplementary, Mr Speaker. What assistance has the government offered to reduce the cost of water delivery in the Clare and Gilbert Valley grape growing region?

The Hon. G.G. BROCK (Frome—Minister for Regional Development, Minister for Local Government) (14:40): As I just indicated, they have had a meeting with SA Water and are waiting for a response from SA Water, and then there will be another meeting between the grape growers and me.

CABINET CONDUCT

Mr GRIFFITHS (Goyder) (14:40): My question is to the Minister for Regional Development also. Following the minister's statement to the house yesterday that, 'If there are bills that I believe are not in the best interests of the regions, then I will vacate from cabinet,' has the minister vacated from cabinet during marine parks discussions?

The Hon. G.G. BROCK: Can you repeat that question again, please?

Mr GRIFFITHS: Minister, I referred to your comment in the house yesterday about vacating cabinet if there are issues that are against the regions. Have you vacated cabinet in regard to marine parks discussions?

Mr Whetstone interjecting:

The SPEAKER: Premier, would you be seated? The member for Chaffey will leave us for the next half hour.

The honourable member for Chaffey having withdrawn from the chamber:

The SPEAKER: Premier.

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:41): I can save everybody a lot of time and effort by a brief primer on cabinet, how it operates and what we will and will not be answering questions about in this house. The first is we will not be disclosing the deliberations of cabinet, who attends or who does not attend.

Mr Marshall interjecting:

The Hon. J.W. WEATHERILL: No, who attends or who doesn't attend. Secondly, we—

Mr Marshall interjecting:

The SPEAKER: Leader! I call the leader to order.

The Hon. J.W. WEATHERILL: Secondly, as a government, we speak with one voice on matters of government policy.

Members interjecting:

The SPEAKER: The member for Mount Gambier is warned and the member for Kavel is called to order.

The Hon. J.W. WEATHERILL: To the extent that there is a departure from that proposition, it is laid out by the terms and conditions of the agreements which have been tendered in this house by the two Independent members of this cabinet. But, for all other purposes, the government will answer questions on behalf of the government in relation to government policy, speaking with one voice about those matters.

Members interjecting:

Mr GARDNER: Supplementary, sir.

The SPEAKER: Before the supplementary—would the member for Morialta be seated—the leader is warned for the first time, the member for Hammond is warned for the first time, and I call the member for Mitchell to order. The member for Morialta has a supplementary.

CABINET CONDUCT

Mr GARDNER (Morialta) (14:42): My supplementary is directly to the answer. How, indeed, do the people of South Australia find out how the Minister for Trade and the Minister for Regional Development are going to vote on matters unless they are absolutely able to advise whether they have absented themselves from cabinet?

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:43): I think there is a dawning realisation on those opposite that they lost the last election and that we are the government and will remain the government for the next four years. That is what the people of South Australia have actually understood for some time now. There is a bit of a lag between consciousness catching up with reality on the other side of the house—I do understand that—but, if you ask the two Independent members, in their discussions with the constituents with whom they come into contact, they just want them to get on with the job of being part of a government that actually—

Members interjecting:

The SPEAKER: Would the Premier be seated? The member for Unley is warned for the second and final time, the leader is warned for the second and final time, the member for MacKillop is called to order, and if I see the Treasurer's lips move once more out of order he will be joining the member for Chaffey. The Premier.

The Hon. J.W. WEATHERILL: Mr Speaker, I do appreciate that we are gradually moving through the five stages of grief and loss and we seem to be moving from denial into anger right now, but could those opposite—

Mr GARDNER: Point of order, sir: this is a ridiculous debate and is completely irrelevant to the question that was asked.

The SPEAKER: The member for Morialta will leave the chamber for half an hour for an entirely bogus point of order.

The honourable member for Morialta having withdrawn from the chamber:

The SPEAKER: The Premier.

The Hon. J.W. WEATHERILL: It is an important point, because there is an integrity about the need for a government to present a united position on matters that have been debated in cabinet. Of course, there is a tension associated with having Independent members in a cabinet, but there is an orderly process for those Independent members to be able to make decisions about whether they choose to be inside the cabinet expressing a view, seeking to influence those positions, but then having to be bound by those decisions or, in those cases where they feel they are unable or unwilling to do that, to actually step outside of cabinet and express their views freely in this process. But we will not be giving a running commentary on what those issues are from time to time.

This parliament is the forum where the public expression of those Independent members' points of view about individual pieces of legislation will be expressed. This is the proper place. It is public. The community will have full capacity to understand those views and, if those members wish to articulate those views further, they can do so in any of the forums that are available in this parliament, and that is as it should be. But in terms of asking questions of executive government, we speak with one voice.

The SPEAKER: The member for Goyder, supplementary.

MARINE PARKS

Mr GRIFFITHS (Goyder) (14:46): My supplementary is to the Minister for Regional Development and stems from the question I posed to him about marine parks. Has the minister read the interim and final reports of the Select Committee on Marine Parks in South Australia, can he confirm if he supports the recommendations contained, and is he working to ensure that they are implemented?

The Hon. G.G. BROCK (Frome—Minister for Regional Development, Minister for Local Government) (14:46): I am looking forward to having a separate briefing, along with the member for Waite, from the opposition shadow minister in the near future.

MARINE PARKS

Mr GRIFFITHS (Goyder) (14:46): Supplementary: the final report was actually tabled in November of last year, minister, so how long does it take the minister to arrange for a briefing opportunity on marine parks then?

The Hon. G.G. BROCK (Frome—Minister for Regional Development, Minister for Local Government) (14:47): I have read the report and, secondly, I have been saying in this chamber here that I was looking for any information at all, and we got the opportunity for a briefing from the shadow minister yesterday. In actual fact, we sent staff there today and I am looking forward—as is the member for Waite—to having a meeting with the shadow minister in the near future.

LOCAL GOVERNMENT ACT

Mr GRIFFITHS (Goyder) (14:47): My question is to the Minister for Local Government. Can the minister outline his actions in response to the report from the Ombudsman of 8 April 2014 on the confidentiality provisions of the Local Government Act?

Members interjecting:

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:47): I have to inform the house that the minister for, amongst other things, information technology and suchlike has kindly delegated to me the FOI legislation—thank you—and I will take that question on notice.

LOCAL GOVERNMENT ACT

Mr GRIFFITHS (Goyder) (14:48): My question wasn't about FOIs, it was about confidentiality provisions of the Local Government Act.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:48): This was to do with the Ombudsman's view in a report about which I heard for the first time in the context of a question from the member for Bragg, so we will find out about it and we will get back.

CORCORAN, MS MARY-LOU

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:48): My question is to the Premier. Was Mary-Lou Corcoran suspended for leaking a government document last year?

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:49): I will take that question on notice and bring back an answer.

CORCORAN, MS MARY-LOU

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:49): As the Premier has indicated he will take that on notice, my further question to the Premier is: was Mary-Lou Corcoran on full pay while suspended?

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:49): I will take that question on notice as well.

Mr Goldsworthy interjecting:

The SPEAKER: The member for Kavel is warned for the first time. The Deputy Leader.

CORCORAN, MS MARY-LOU

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:49): While the Premier is inquiring as to the answers of these matters, could the Premier confirm what action was taken against Mary-Lou Corcoran?

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:49): Once again, I will take that question on notice.

CORCORAN, MS MARY-LOU

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:49): A further supplementary to the Premier: has the investigation into Mary-Lou Corcoran's action now been finalised?

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:50): I will take that question on notice, but I don't want it presumed that there was an investigation of a particular sort.

CORCORAN, MS MARY-LOU

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:50): A further supplementary.

The SPEAKER: That would be a fourth supplementary. Let's just call it another question.

Ms CHAPMAN: I am happy to, sir, thank you. My question is to the Premier. Was Mary-Lou Corcoran's contract terminated at the election?

Ms Bedford interjecting:

The SPEAKER: The member for Florey is called to order. The Premier.

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:50): Once again, I will take that question on notice and bring back an answer.

CORCORAN, MS MARY-LOU

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:50): A supplementary to that question, sir. While the Premier is taking matters on notice, this is again a supplementary to him. What were the details and terms of the discontinuance of Mary-Lou Corcoran in the employment of the government? I have not phrased it as a termination because I note that you are going to be taking it on notice, but what were the terms and conditions in relation to the severance and conclusion of her employment with the government?

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:51): Once again, I will take that question on notice.

CORCORAN, MS MARY-LOU

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:51): My final supplementary, sir, which is the second to this question to the Premier. Did the Premier or any of his staff, representatives or colleagues refer Mary-Lou Corcoran's matter to ICAC?

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:51): The member knows that it is impermissible to answer that question, so I decline to answer.

Mr Pisoni interjecting:

The SPEAKER: If I see the member for Unley's lips move out of order, he will be going the same way as the Treasurer may be going.

The Hon. J.W. WEATHERILL: Can I just add to that remark from the honourable member. She says 'not in here'. It was, in fact, this very chamber that actually put the strictures in the legislation about making remarks one way or the other about whether a matter has been referred to ICAC.

COMBET, MR GREG

Mr VAN HOLST PELLEKAAN (Stuart) (14:52): My question is for the Minister for Automotive Transformation. Under the government's new arrangements with Greg Combet that were announced yesterday, what hourly rate will Mr Combet be paid, what total payments will Mr Combet receive, and what is the term of his engagement?

The Hon. S.E. CLOSE (Port Adelaide—Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for the Public Sector) (14:52): I can say that the total contract is going to be within what had already been pre-existing and is already on the public record, but I am aware that what we are discussing with Mr Combet is an arrangement by which he is paid regularly, monthly, because of the amount of work that we are expecting, rather than calculating and charging back an hourly rate. As to the details, including the term, I will bring back an answer for you.

COMBET, MR GREG

Mr VAN HOLST PELLEKAAN (Stuart) (14:53): I have a supplementary for the same minister. Does that mean that all of the additional work that Mr Combet will do under this automotive transformation project will be part of the $160,000 payment that he receives for the 400 hours work at $400 an hour and he won't be paid any extra on top of that?

The Hon. S.E. CLOSE (Port Adelaide—Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for the Public Sector) (14:53): He will not be paid any extra than from within the envelope that's already on the public record.

HOUSING SA

Ms SANDERSON (Adelaide) (14:53): My question is to the Minister for Social Housing. How many Housing SA properties are currently vacant?

The Hon. Z.L. BETTISON (Ramsay—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Multicultural Affairs, Minister for Ageing, Minister for Youth, Minister for Volunteers) (14:53): I think that the question goes directly to utilisation rates within Housing SA. We are looking at the most appropriate housing to meet the changing needs of our clients. In the next financial year, we will deliver 250 two-bedroom homes, 41 four-bedroom homes and 19 five-bedroom homes. Obviously, some other houses remain vacant because they are being maintained or they may be looking to be sold off. So, there are those houses that are there. I don't actually have the full figure for you, but I will endeavour to come back with an answer.

HOUSING SA

Ms SANDERSON (Adelaide) (14:54): Supplementary: how many vacant Housing SA properties does the minister consider to be an acceptable number to be vacant?

The Hon. Z.L. BETTISON (Ramsay—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Multicultural Affairs, Minister for Ageing, Minister for Youth, Minister for Volunteers) (14:54): As I just mentioned, I don't have that figure, so it would be inappropriate for me to comment about that. As you may be aware, we have 42,602 houses, housing about 72,000 occupants. I will get that detail for you.

HOUSING SA

Ms SANDERSON (Adelaide) (14:55): Supplementary: how does this vacancy rate (when you bring it back to the house) compare with six months ago and 12 months ago?

The Hon. Z.L. BETTISON (Ramsay—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Multicultural Affairs, Minister for Ageing, Minister for Youth, Minister for Volunteers) (14:55): I will get that answer for you and return it to the house.

The SPEAKER: Member for Adelaide, third supplementary.

HOUSING SA

Ms SANDERSON (Adelaide) (14:55): Final supplementary: what is the minister doing to reduce the vacancy rates, assuming that there are more than zero? I assume then you will be working on bringing that down.

The Hon. Z.L. BETTISON (Ramsay—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Multicultural Affairs, Minister for Ageing, Minister for Youth, Minister for Volunteers) (14:55): We have a great history to tell about public housing, where we have the highest percentage of public housing in Australia in South Australia. We endeavour to work with our tenants and those on the waiting list to provide housing as soon as possible. As the Speaker would be aware, we do have different categories of people on the list: category 1, 2 and 3, depending on their needs.

Obviously, we will work to fulfil vacancies as soon as possible. We need to look at the vacancy rate compared to needs of the people on the list, the condition of the property, and also whether we may be selling that house or looking for a rejuvenation. But I will fulfil that information and come back.

CONCESSIONS AND SENIORS INFORMATION SYSTEM

Dr McFETRIDGE (Morphett) (14:56): My question is for the Minister for Communities and Social Inclusion. What is the final cost of the Concessions and Seniors Information System (CASIS), and when will it be fully functional?

The Hon. Z.L. BETTISON (Ramsay—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Multicultural Affairs, Minister for Ageing, Minister for Youth, Minister for Volunteers) (14:56): I thank the member for the question. The CASIS system is a single-point IT system for the management of the concessions. The system will incorporate and replace eight separate systems: the Seniors Card system; the CARTS replacement; the medical heating and cooling system; the transport card system; the residential parks and retirement villages system; the Personal Alert Rebate Scheme spreadsheets; the Funeral Assistance Program; and the Spectacles Scheme.

We are looking to streamline the delivery of all concessions and ensure that eligible individuals are receiving all of the concessions available to them. The implementation of CASIS has progressed and the transport card function is now in use. I am advised that the final implementation of CASIS is anticipated to occur by either the end of this financial year or early next financial year. I don't have the full cost of the system in front of me, but I will bring the answer back to the house.

CONCESSIONS AND SENIORS INFORMATION SYSTEM

Dr McFETRIDGE (Morphett) (14:57): Supplementary, Mr Speaker, to the same minister: is it the case that the cost of CASIS started at $600,000 and is now around $4.5 million?

The Hon. Z.L. BETTISON (Ramsay—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Multicultural Affairs, Minister for Ageing, Minister for Youth, Minister for Volunteers) (14:57): I don't have that information with me; I will get back to the house with the answer.

ENERGY CONCESSION SCHEME

Dr McFETRIDGE (Morphett) (14:58): My question is again to the Minister for Communities and Social Inclusion. Can the minister tell the house how much money has been paid to energy providers as part of the government's concession scheme, and how much was incorrectly paid?

The Hon. Z.L. BETTISON (Ramsay—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Multicultural Affairs, Minister for Ageing, Minister for Youth, Minister for Volunteers) (14:58): I thank the member for the question. I don't have that figure in front of me. I do know that we work very effectively and communicate quite often with energy companies to make sure that the information that we have for the concessions are available, and that they are paying the concessions. I will be happy to find out that information and deliver an answer back to the house.

The SPEAKER: Third supplementary, member for Morphett.

ENERGY CONCESSION SCHEME

Dr McFETRIDGE (Morphett) (14:58): Can the minister also bring back how much in incorrect payments is yet to be recovered?

The Hon. Z.L. BETTISON (Ramsay—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Multicultural Affairs, Minister for Ageing, Minister for Youth, Minister for Volunteers) (14:58): Certainly, I will.

HOUSING SA

Ms SANDERSON (Adelaide) (14:59): My question is to the Minister for Social Housing. How many tenants were evicted for disruptive behaviour in the 2012-13 year, and how many tenants agreed to vacate their properties following the commencement of proceedings in the same year without a formal eviction process?

The Hon. Z.L. BETTISON (Ramsay—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Multicultural Affairs, Minister for Ageing, Minister for Youth, Minister for Volunteers) (14:59): Thank you for the question. Housing SA receives around 500 complaints each month, many of which are multiple complaints about the same incident, and around 60 tenancies each year are terminated as a result of disruptive behaviour.

These are investigated in line with the disruptive behaviour policy, and severe ongoing cases are referred to the disruptive management team. Should this fail to address the disruption, Housing SA refers complaints to the Residential Tenancies Tribunal for eviction proceedings to commence. Housing SA is unable to terminate a lease without an order form from the RTT. Where there is a threat to life or the wellbeing of a neighbour, the case is referred directly to the RTT.

We commenced a new disruptive management pilot program in October 2013 with a focus on resolving disruptive complaints. We also have an online mechanism to enable members of the public to lodge complaints. This provides the quickest service to deal with complaints. After a complaint is lodged—and we have had about 207 complaints lodged online—Housing starts an investigation within 48 hours. When it is found to be substantiated, a case plan and management strategy are put in place within seven days. The majority are one-off incidents.

The SPEAKER: Supplementary, member for Adelaide.

HOUSING SA

Ms SANDERSON (Adelaide) (15:00): Of the 60 tenancies that were terminated, how many of those were evictions and how many left before the formal eviction process?

The Hon. Z.L. BETTISON (Ramsay—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Multicultural Affairs, Minister for Ageing, Minister for Youth, Minister for Volunteers) (15:01): I do not have those details in front of me. I will come back to the house with an answer.

HEALTH BUDGET

Dr McFETRIDGE (Morphett) (15:01): My question is to the Minister for Health. Was the Minister for Health correct when he said on 15 May that the impact on the state health budget as a result of federal health budget cuts was $269 million, or was the Treasurer correct when he said on 27 May that the impact would be $217 million?

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Arts, Minister for Health Industries) (15:01): It is $655 million over the next four years. I think the member for Morphett might be referring to the year 2017-18, and I would have to check and see the context of the quotes, but it is in the order of, I think in that particular year, well over $200 million in 2017-18. The government has made clear that it is the equivalent of closing every single bed at the Flinders Medical Centre—that cut in federal funding just in that single year.

HEALTH BUDGET

Dr McFETRIDGE (Morphett) (15:02): Supplementary, sir: can the minister tell the house how many hospital beds will be closed resulting from the $379 million in state health budget cuts that were built into last year's state budget, prior to the federal budget?

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Arts, Minister for Health Industries) (15:02): It is interesting, given that the Hon. Rob Lucas has been running around telling everyone who would listen that the state government was cutting $1 billion in the health budget. The simple fact is that in state funding the state health budget will grow. We will spend more over the next four years in health than we do. Every single year, the health budget was growing. That is going to be difficult to do, given the cuts that the federal government has inflicted upon us but, every single year, every dollar in efficiency that we can find in our health system gets reinvested back into our health system to deliver better services for South Australians.

HEALTH BUDGET

Dr McFETRIDGE (Morphett) (15:03): A further supplementary to the health minister: was the federal health minister, Peter Dutton, correct then in his public statement that there is an extra $332 million coming into the state health budget?

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Arts, Minister for Health Industries) (15:03): I can inform the house what is true and that is, over the next four years, we will be receiving $655 million less than we were. You do not have to take my word for it. Speak to any other Liberal premier right around this country. The only Liberals in this country who do not accept that the feds have cut our health budget is that lot.

Mr VAN HOLST PELLEKAAN: Point of order, sir.

The SPEAKER: It had better be a point of order.

Mr VAN HOLST PELLEKAAN: Standing order 98: the minister is debating the answer.

The SPEAKER: Yes, I uphold the point of order. The member for Adelaide.

HOUSING SA

Ms SANDERSON (Adelaide) (15:04): My question is to the Minster for Social Housing. Is the minister intending to amend the Local Government Act to allow councils to collect non-discounted rates from the community housing providers who take on Housing SA homes under the current transfers?

The Hon. G.G. BROCK (Frome—Minister for Regional Development, Minister for Local Government) (15:04): As I indicated yesterday, in the latter part of this year and early next year, I will be looking at the Local Government Act and working in conjunction with the Local Government Association. I will just refer to the comments I made yesterday.

HOUSING SA

Ms SANDERSON (Adelaide) (15:04): Supplementary: will you be consulting the councils then on the tender process and scope to tender the transfer of Housing SA properties to community housing organisations?

The Hon. G.G. BROCK (Frome—Minister for Regional Development, Minister for Local Government) (15:05): As the member, hopefully, would be aware, the Local Government Association (LGA) represents councils across this whole state, and they will be liaising with local government across the state. I will also be talking to the LGA very closely.

HOMELESS FIGURES

Ms SANDERSON (Adelaide) (15:05): My question is to the Minister for Communities and Social Inclusion. How many South Australians are considered to be homeless?

The Hon. Z.L. BETTISON (Ramsay—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Multicultural Affairs, Minister for Ageing, Minister for

Youth, Minister for Volunteers) (15:05): We take homelessness very seriously, and we have quite a strong record here, under this government, from our 'stepping down' report to our facilities like UNO and Common Ground. The key thing about homelessness is that it's not just about putting a roof over someone's head: it's about providing the support services for those people.

What we do is look at the 'sleeping rough' report. If I am correct, we indicated in February that there are about 72 people in the Adelaide city area who identify as homeless—that's a figure that I have—and that's down from about 120 people who identified back about five or six years ago.

However, I think we should be very, very clear about homelessness, and I spoke about this in the house previously. We have seen that the federal government has decided not to continue with a national partnership on homelessness. Homelessness might involve people who are experiencing living with family and might be escaping domestic violence. They might be someone who is couch surfing. So, while we try our very best to identify exactly the numbers, sometimes it's very hard to identify people.

What that means is it's really important that we support our gateway services in homelessness, to understand people who might be at risk of homelessness. Obviously, one of the key things of government is that it's best to support people before they find themselves homeless, so that's where the important work of our domestic violence services, our youth services and also our public housing and social housing system are really, really important to support families when they may be at risk of homelessness.

HOMELESS FIGURES

Ms SANDERSON (Adelaide) (15:07): Supplementary: the minister referred to around 72 people in the metropolitan area. The latest reports that I read said that now there was the ability to also do statewide figures, so I think the 72 might just be the street to home figures. Do you have a total figure for the state?

The Hon. Z.L. BETTISON (Ramsay—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Multicultural Affairs, Minister for Ageing, Minister for Youth, Minister for Volunteers) (15:07): I don't have that figure with me at this point. I will endeavour to understand the information that we do have in regard to homelessness figures. I believe that reference to the 72 is in regard to the CBD.

ROYAL ADELAIDE HOSPITAL

Dr McFETRIDGE (Morphett) (15:08): My question is to the Minister for Health. Is the estimated transition time to move from the old Royal Adelaide Hospital to the New Royal Adelaide Hospital six weeks and, if not, what is it?

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Arts, Minister for Health Industries) (15:08): I will check that detail and get back to the member for Morphett with an answer.

ROYAL ADELAIDE HOSPITAL

Dr McFETRIDGE (Morphett) (15:08): The supplementary on that is: what is the budgeted cost to carry out this transition?

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Arts, Minister for Health Industries) (15:08): Again, I will get back to the member for Morphett with an answer.

PATIENT ASSISTANCE TRANSPORT SCHEME

Mr TRELOAR (Flinders) (15:08): My question is to the Minister for Health. Can the minister guarantee the state government will spend the full allocation of the promised $2.5 million annual increase in the Patient Assistance Transport Scheme?

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Arts, Minister for Health Industries) (15:08): No, I can't because, as the member for Flinders knows full well, it's not a bucket of money that we throw out and people get to spend. It's spent upon application so, of course, if we had a smaller number of

people making applications for funding assistance, then we would spend less than that but, likewise, if we had more people making applications for spending, then we would spend more.

It's a demand-driven figure. It's based upon the number of applications. The $2.5 million is an estimate of how much we think it will cost, based upon the changed criteria but nothing more than that. There may be fewer applications; there may be more applications. It may cost more; it may cost a little bit less—we will find out. What I can guarantee to the house is that we will honour the commitments that I have made to expand the criteria, as I have previously set out in my public statements.

The SPEAKER: Members may be pleased to know there were more than 50 opposition questions asked today.

Grievance Debate

PHILLIPS FAMILY LAND

Mr KNOLL (Schubert) (15:10): Mr Speaker, I long for the day when we get 50 answers to 50 questions, but we will wait and see. I rise to speak today about a family that has come to see me about a land issue. This is quite a complex and drawn out issue and the further I delve into it, the more I realise that this is a landowner who has been nothing but cooperative yet stuck in the middle of a bureaucracy that has caused him and his family significant hardship. The failure to find a solution to this issue—and it is unfortunate that the Minister for Planning has left the chamber—has caused a lot of grief and hardship to this family, and I implore him to intervene on this.

John Phillips acts on behalf of his sister and late mother and owns a parcel of land in Hewett and has done so for a large number of years. This land has had many restrictions placed on it. Land-use restrictions are in place to stop the contamination of the water that flows through the adjacent North Para River; he has had land compulsorily acquired for the widening of the Sturt Highway; and, more recently, his land has been needed for flood mitigation purposes by the Gawler River Floodplain Management Authority in relation to industrial development and industrial sheds that are on the opposite side of the highway.

My purpose today is to highlight this issue to the house and to highlight the unfinished business of the land swap needed to put a flow metering weir on the Phillips's property, and also to show the outrageous timeline and the purgatory of where the Phillips family now sits in relation to this issue. We need intervention, and we need the government to get on and fix this issue on behalf of the family.

On 15 October 2004, the Phillips family partnership were advised in writing by Maloney Field Services, who were at that stage acting on behalf of the Gawler River Floodplain Management Authority, that some land would be acquired for the construction of a flood mitigation dam. On 14 November 2005 some land was acquired for a flow metering weir below the flood mitigation dam but, because the size of the land required was not yet surveyed, the Phillips partners agreed to a land swap for the existing metering weir spot and easements above the position of the new dam.

On 9 May 2008, a copy of the plan was submitted to the Land Titles Office and that was received. This plan only showed changes in relation to the land required for the flood mitigation dam and not for the flow metering weir. On 30 March 2009, final compensation for the dam site was finalised but the land swap had yet to be finalised.

On 16 November 2009—so we are now talking five years later—the land required for the flow metering weir was surveyed by SA Water. On 17 November (a day later) a letter from the Phillips's family lawyer to the executive officer of the Gawler River Floodplain Management Authority complained about the delay in finalising the land swap agreement and the extinguishing easements that was agreed to in 2005. So at that stage we are talking four years to try and get this issue resolved.

On 15 December 2009, correspondence was received from the executive officer of the Gawler River Floodplains Management Authority, with an attached plan for the land swap for the Phillips's approval. That plan was completed on 1 December 2009 showing a new weir allotment of 1,788 square metres. On 22 December, a certificate of title was received showing the new dam, but not the position of the proposed weir and still showing the old weir and associated easements. That

all happened and a title for this property was unresolved, yet in 2010 the flow metering weir on the Phillips's land was constructed.

On 18 July 2011 another survey was completed by Alserv Engineering Surveys. This appeared identical to the plan that was surveyed in December 2009 by the same company. From that date until now, numerous letters and phone calls have been made to Malony Field Services, Fred Pedlar and Bruce Eastick from the Gawler River Floodplain Management Authority, the Land Titles Office, and as I understand it at least three meetings have occurred with the member for Light in an effort to gain a new title to finalise the acquisition which commenced in 2006.

All the Phillips family is asking for is for their land title to be returned to them, because on 15 May 2012 John Phillips's mother died, and probate was granted in January 2013, but here we sit 10 years after the initial issue was raised and the family cannot effect probate because the Land Titles Office will not return the title to the family.

Time expired.

PREMIER'S ANZAC SPIRIT SCHOOL PRIZE

Ms BEDFORD (Florey) (15:15): On Friday 6 June on behalf of the Minister for Veterans' Affairs I attended the launch of the 2015 Premier's ANZAC Spirit School Prize and met with the tour recipients of the 2014 prize: Tenae Kear, Emma Hamilton, Joel McDonough, Wendy Matson, Amy Watson, Lucy Brown and Bridget Herrmann. It was at the Torrens Parade Ground, and I presented the Premier today with their tour album and I want to put some of their remarks on record.

Tenae told us that on behalf of the tour group she would like to say a big thank you to the Premier, the RSL, Ms Bev Smart, Mr Robin Aukett, Mr David Everitt, Ms Jacqui Marano, the education department and everyone who helped make the trip such a beautiful experience. She said:

> It is a great program and we hope it continues for years to come…For this project we were asked to research a South Australian soldier who served in Pacific theatres of war. I chose my great, great uncle Bob. The hardest part was fitting his story into a short video while still doing him justice…Entries were sent in by the schools and a selected few were then interviewed, which was nerve racking but everyone was very supportive.

Students got a life-changing phone call from Ms Bev Smart telling them that they were lucky recipients. Tenae continued:

> We were given a few orientation days prior to the trip to meet everybody, and none of us spoke, we were all so shy. Now, I have ended up with six new best friends! I've found mateship. We've learnt that without service men and women we wouldn't have the life we have today.

Emma said:

> On arrival at Changi Airport, we were introduced to the humidity of the garden city of Singapore…During our six days in the lion city, the group was not only learning about history but about each other…The Singapore experience was amazing, from the eye opening memories at the Old Ford Factory to the sites and sounds of Kampong Glam, Little India and Chinatown. From visiting places of historical significance in Singapore, our perspectives on the Fall of Singapore were completely changed…Changi Prison and museum brought honour and understanding to our view of the civilians and Prisoners of War through the stories and recollections of experiences in Singapore at the time. The Kranji War Graves was a main factor in bringing home the reality of the multitude of soldiers that fought and died in Singapore. Each gravestone or name on the memorial represented one soldier and one family…We chose to find some South Australians' graves.

Joel told us:

> Out of honour, we also sought out Private Breavington's grave, the Australian whose company was captured and taken to Changi, so he pleaded with the Japanese officials that the troops should be released…

He was executed. It was up to him that the command was given. Unfortunately he was killed first and the whole company made to watch. Joel continued:

> Singapore was a life changing experience that inspired us and challenged us with every step of the journey…We learnt to value the sacrifice of those in World War 2 with a newfound passion to inform others about the Fall of Singapore.

Wendy told us that Seoul was a very industrial city with a unique Asian culture. Due to the tension between North and South Korea, the most prominent aspect of the country was the constant presence of the military. Their first activity in Korea was an official incense burning ceremony where they met Korean War veterans for the first time. They then visited the Korean War Museum where

they spoke with veterans who were delighted to speak to interested young people. They had a Korean cooking class and they all wore national dress.

Amy said that after visiting a fabric and food market and then the majestic Korean Palace, they headed to the most exciting destination, the Demilitarised Zone (DMZ). Along the barbed wire of the river, South Koreans left touching ribbons and flags with messages of peace and freedom, and hoping for reunification. They then joined the veterans' bus on the bridge over to the military base and were officially in the DMZ.

At the Conference Row, watched by North Korean soldiers, they stepped inside the UN buildings, half in North Korea and half in South Korea, and had the opportunity to cross the border. After learning so much about past military conflicts, being in a working military base was a real marvel.

Lucy said that another highlight of their trip to South Korea was visiting Kapyong, located 60 miles from Seoul. They attended two extremely moving services: the first commemorated the UN forces from New Zealand, Australia, Canada and the UK, who fought in what is now known as the Battle of Kapyong; the second service was a more personal experience, recognising the bravery and sacrifice of Australian and New Zealand troops.

Bridget went on to say that the Premier's ANZAC Spirit School Prize had been an incredible journey for all of them. The preparation was as rewarding as the tour. They were fortunate to meet and befriend the soldiers they researched. From being unsure about how to approach veterans, they began to understand their stories and see the impact they had on them, and it was a great experience.

The Premier's ANZAC Spirit School Prize taught everyone so much about international culture, Australian identity and the impact of war and, most of all, they found themselves discovering truly the ANZAC spirit. From these testimonials, I think you can see, sir, how important this prize is. I hope all members here will encourage their schools to take part in this year's competition. I wish all the students at all our schools well because it is a very worthwhile project.

MAGILL VILLAGE MASTER PLAN

Mr TARZIA (Hartley) (15:20): I rise today to speak about the Magill Village master plan, which I will refer to as the master plan. It is a multimillion dollar proposal which will transform Magill into a retail, commercial and cultural hub in the near future, once established. It is envisioned that the plan will enhance the Magill and surrounding areas, supporting the needs of the social, recreational, educational, retail and commercial community. It will present a more appealing tourist destination and an overall attractive appearance and experience.

The plan has been formed with collaboration between the two local councils which partly fall into my electorate, namely, the cities of Burnside and Campbelltown. The Magill town centre is situated in the area surrounding the intersection of Magill Road and St Bernards Road. Many remainders of the original Magill township remain today, including the original school (Pepper Street Studios), the police station (Justin Gall Real Estate), the hall (the Magill Institute), and the hotel, which is now the Tower Hotel.

Both the Campbelltown and Burnside councils have endorsed the plan in principle. Once outlaid, the master plan will provide many beneficial aspects to the Magill area as well as to surrounding suburbs, which I will point out. In terms of pedestrian amenity, it will be better, with much new seating, lighting and paving featuring. There will be increased outdoor areas, public art, and an upgrade of public space will be an excellent promoter of private investment to the area. An effort to improve the landscape and increase lighting will furthermore increase the safety and vibrancy of the area.

Additionally, the plan features the management of trees and landscapes to allow shade as well as a unique character that makes the area appear pleasant overall. Water infrastructure will be sensitive so as to allow run-off to be dealt with before it enters the stormwater system. Strategic planting and landscaping will allow water to be nourished for new trees and plants. Pedestrian access and association will be enriched by green corridors which feature in the plan as well.

Street parking will be rationalised under the plan, and more pedestrian, cyclist and transit use will also be facilitated. Moreover, overall amenities through the provision of infrastructure in bike

racks, drinking fountains and seating will support a stronger case for a cafe-type culture in the area to flourish. It is planned that natural materials with earthy tones will also be used to reinforce and reiterate the natural character of Third Creek and surrounding creeks to reiterate the local identity of the area.

These are just some of the benefits the master plan will afford. However, like many things, funding for the project remains the biggest hurdle. The local *East Torrens Messenger*, dated Wednesday 11 June 2014, reported:

> Campbelltown and Burnside Councils are shelving plans to revitalise Magill Road due to a lack of funds…Both councils say they are unlikely to be able to fund the proposed multimillion dollar Magill Village project until 2016/2017.

As the member for Hartley, I will fight to ensure that our area gets its fair share. For too long under this Labor government, we have seen billions of dollars poured into pet projects around the state. This is a master plan which will deliver enormous benefits for the community. It will give our children more places to play, it will give our unemployed youth more opportunities to find work, it will give parents more diversity in choosing where to spend time with family, and it will give a greater vibe to an area which is good but could be much greater.

I would ask the state government to provide funding for this project in its coming budgets—we have a budget coming out tomorrow. I will continue to lobby the government of the day on behalf of our community to commit funding to the Magill Village master plan to ensure that this project goes ahead as soon as reasonably possible.

ST COLUMBA COLLEGE

Mrs VLAHOS (Taylor) (15:24): I rise today to speak about an event I had the pleasure of attending last Wednesday at St Columba College at Andrews Farm with year 10 students. Indeed, it was an inaugural event which was quite fascinating. It was the St Columba College Career Speed Dating event where I got to date 100 year 10s in a brief afternoon and advise on careers. It was a wonderful opportunity in the morning and afternoon to speak to so many students.

The aim of the event was to introduce students to a professional and diverse range of career paths and occupations. I really enjoyed the experience, as it provided a great opportunity to listen to local students and provide information in helping them choose their suitable career choices going into years 11 and 12. With more than 100 students participating, each group took a turn in asking questions and learning from the various guest presenters.

The presenters were: Ms Michelle Ethridge, journalist and chief court reporter with the Messenger; Mr John Berco, principal of Ray White Real Estate at Grange; and Mr Steven Brombal, business manager of St Columba College, who has a very broad experience in commercial and school-based accountancy. There were two alumni students from St Columba, Mr Josh Calleja, a fifth-year medical student at the University of Adelaide, who has persisted to forge a career in his chosen path; and Mr Cane Clay, owner of Caznet Solutions IT, who, indeed, sold his first product to St Columba when he was still in year 12. There was also Miss Kaye Smith, a partner of EMA Legal, and Chris Spry, the Assistant Head of Primary at St Columba.

With these people, I hosted tables of approximately eight students at a time with a school representative, and the students tried to guess my occupation by asking as many questions as possible in two minutes, and then we went through and answered a whole variety of questions which they asked, such as, 'Could you do your occupation overseas?', 'What is the best thing about your occupation?', and 'Was income-earning capacity a feature of it?' As they talked to the variety of speakers available, they learnt more about their own career choices and what advice we would give them in reflecting on our own careers.

It was a very intense experience for both the students and presenters; the two sessions were interspersed with a well-deserved break for all the participants and we finished at about 3 o'clock in the afternoon. The feedback the teachers received in the lunch break from all the year 10s was that it was an inspirational and fantastic opportunity for them to see the breadth of careers in the local community and how they can make choices now to prepare for their future.

I thank St Columba's Executive Principal, Ms Madeleine Brennan, for inviting me to participate. It is always a great pleasure to go to St Columba. It is a shining star in the north, and I am pleased to have it within the electorate of Taylor.

RAIL CLOSURES

Mr WHETSTONE (Chaffey) (15:27): Today, I rise to talk about, sadly, the impending closure of the commercial rail lines in South Australia but, in particular, the two last rail lines in the electorate of Chaffey. I have met with Genesee & Wyoming and they have indicated to me that the two lines from Tookyerta (which is at Loxton) down to Tailem Bend and the rail line from Pinnaroo to Tailem Bend will close before the end of the year.

This is a sad indictment of South Australia because I know that over the last 50 years South Australia was the pride of rail on the national stage yet, today, we look at the impending closure of these two commercial lines, and there is talk that others in the state could also be closed. These two lines are, of course, important commercial agricultural rail lines, and this will impact significantly on not only the road but also the viability of bulk freight from the receival depot to Tailem Bend and, inevitably, either Roseworthy or Inner Harbor.

What I am told is that commercial rail is hit with the carbon tax: rail is subject to carbon tax but the carbon tax rebate is giving road transport an advantage. Again, that will see more and more freight being put on the roads, and it is going to be put on two particular highways that are of real concern: the Karoonda Highway, which is a road essentially from Loxton to Tailem Bend or Murray Bridge; and also the Pinnaroo to Tailem Bend highway. They are going to be severely impacted.

On the Karoonda Highway, I make note that it was just over 12 months ago that the Premier and the now minister for mining were down at the Mindarie site for the re-opening of that mine, and I commend Murray Zircon for the great work that they are doing down at Mindarie with their zircon mining and the way that they are behaving. The way that they are rehabilitating the land is second to none.

However, with the token 20-kilometre upgrade of the Karoonda Highway from Mindarie 20 kilometres down the road, I think both the minister and the Premier must have forgotten that the highway goes further than 20 kilometres, and the product that comes out of that mine goes further than that 20 kilometres; it does go all the way to the port. The Karoonda Highway was built over 50 years ago, and it was built for a Bedford truck. It was built for an eight-tonne truck.

The DEPUTY SPEAKER: Hang on, you are reflecting on the Chair!

Mr WHETSTONE: That road was a standard light gauge road, as was the rail back in the day that it was built, but today it is taking passage of 63.5 tonne B-double trucks, and they are ever increasing. With the good work of the Mallee farmers, they are increasing their yields and their production out of that country, and it is putting great pressure on the roads. There is increasing pressure on the Pinnaroo highway as well with broadacre horticulture and our livestock industry growing.

Particularly with the grain industry in the Mallee, with the introduction of no-till or minimal till, we are seeing more consistent crops, which means we are seeing more grain being produced. We are seeing bigger machinery on-farm and bigger machinery on-road, and it is putting more and more pressure on those roads. Again, this is going to add to the already existing $400 million backlog of road maintenance.

What I would like to say is that I looked at Labor's 30-year transport and infrastructure plan and there was no mention of commercial rail to improve, support and take off the increased pressure with more commodities going on our roads. There was no mention in that 30-year plan at all—none. Again, this government's priority is all about building superways and freeways all around Adelaide to keep their agenda on the table; it is not about supporting the infrastructure that this great state needs. Sadly, commercial rail is failing under this Labor government.

PUBLIC SCHOOLS

Ms HILDYARD (Reynell) (15:33): I rise to address recent comments by the federal Minister for Education regarding his duty to public schools. To use an adjective favoured by the shadow minister for education in this state, Christopher Pyne's comments were nothing short of astonishing. While speaking at a Christian Schools Association dinner, the federal minister said:

> Having talked to the Prime Minister about this matter many times, it is his view that we have a particular responsibility for non-government schooling that we don't have for government schooling.

The minister also said:

> The emotional commitment within the federal government is to continue to have a direct relationship with the non-government schools sector. I think the states and territories would prefer that as well.

Astonishing indeed! This must rank as the greatest abdication of responsibility since King James II was overthrown in the glorious revolution and Westminster started telling the monarchy what to do. Christopher Pyne is, indeed, a zealot at large. He has erroneously taken the Abbott government's election victory as an impetus from the Australian public to dismantle our primary, secondary and tertiary education systems.

It is like a scene from *Smokey and the Bandit*. Christopher Pyne, of course, is the bandit hauling a truckload of ideology across the countryside, lobbing it out the window like a hand grenade, desperately trying to dispose of the cargo before Smokey and the common-sense police stop the carnage. A few of these grenades have gone off in his hand. In fact, most of them have. Without putting too fine a point on it, if the member for Sturt were an octopus, he still could not rub two hands or, indeed, tentacles together gleefully.

Here is the highlight reel from May: allowing universities to set their own fees; increasing Higher Education Loan Program interest rates above inflation; seeking to recoup HECS debts from deceased estates; and reneging on his commitment to fully fund Gonski. To add insult to injury, Christopher Pyne, a man known for his colourful dislike of anything he interprets to be even vaguely left wing, is pontificating about 'emotional commitments'.

What is the explanation for this sudden softening in the member for Sturt's vernacular? Has his chakra just aligned? Was he moved when he heard Judith Durham sing *Kumbaya*? Or perhaps Mr Pyne has simply sought guidance, courtesy of the $245 million he just took out of public schools and pledged for chaplains in all schools.

The simple question is this: how does the government's Minister for Education feel an 'emotional commitment' to non-government schools but not to government schools? This ludicrous statement is from the man who wants to rewrite the national curriculum. I just hope that Kevin Donnelly does not let the member for Sturt near the typewriter. It would be like Dr Seuss having a go at the *Encyclopaedia Britannica*.

The whole premise of the Gonski reforms was to finally close the funding gap between government and non-government students, but what we have seen instead is the Abbott government throw those reforms on the ideological bonfire and sit around with marshmallows on sticks toasting their success whilst Aboriginal kids, kids from low-income households and kids from regional areas are left out in the cold.

In Reynell, the cuts to our Gonski agreement will mean an indicative loss of around $5.5 million in federal funding, resources and support for our government schools. This is the equivalent of an additional 49 teachers or 64 SSOs the children of Reynell will no longer have. Schools in my community that need more support not less, such as Christies Beach High School, will be hit hardest, with $1.4 million less thanks to Christopher Pyne.

Last week, we saw our own Minister for Education announce that the state government will deliver on its commitment to the Gonski school funding agreement, despite the Abbott government trashing that historical deal. I know that this news has been welcomed by both the government and non-government schools.

I have spent the last few weeks thinking hard about just what it is that drives Tony Abbott and Christopher Pyne to make cuts like this. We know that, in part, it is due to spite, to a strongly held desire to tear down all that the Gillard government stood for. But I truly believe that these cuts are motivated by Abbott's and Pyne's deep-seated belief that success and achievement are automatically within the grasp of every child if only they just put in the effort. That is a nice thought! It reminds me of some of the motivational coaching jargon I hear about 'self-empowerment to win' and 'choosing to succeed'.

But the kid whose dad knocks him or her around after one too many drinks is not failing to thrive at school because he or she has made some kind of personal choice that success is not for him or her. The kid who has a learning disability is not lazy or without ambition; the kid who comes to school without breakfast or lunch or a proper school uniform is not a 'conscientious objector' to

achievement. These are kids whose inability to achieve is not within their control. I may have been mistaken these past 17 years, but isn't that where government steps in?

Time expired.

The Hon. T.R. KENYON: Madam Deputy Speaker, I draw your attention to the state of the house.

A quorum having been formed:

Bills

CRIMINAL ASSETS CONFISCATION (PRESCRIBED DRUG OFFENDERS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 7 May 2014.)

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:40): I rise to speak on the Criminal Assets Confiscation (Prescribed Drug Offenders) Amendment Bill 2014. This bill was tabled by the Attorney on 7 May, and has an interesting history. It is fair to say that, in the development of the confiscation of assets acquired during, or relevant to, criminal activity as an instrument to break down the opportunity and desire of those to profit from crime, the Liberal Party has in fact consistently promoted and supported legislation to confiscate assets where they have been specifically proceeds of crime, instruments of crime (even if they were lawfully acquired), and for the purpose of unexplained wealth.

However, this bill seeks to take matters a step further; that is, to seize assets unrelated to a particular crime, even where a person can prove that they have been legally acquired. A similar Northern Territory bill was struck down on constitutional grounds, and it was only in April of this year (two months ago) that a High Court decision removed those constitutional doubts. What we now know is that this type of law is constitutional; we are now looking afresh to see whether in fact it is good law, and whether it could be made better.

We will be supporting the passage of this bill in this chamber today. Frankly, we are yet to be convinced that the bill, if passed, will be effective at achieving the government's stated goals of deterring major drug offenders but, as I have indicated, we have consistently supported legislation where it has been within the parameters as stated. To open up this new area of exposure to confiscation, we do need to be fully satisfied on a few more matters.

Let us consider why we are here. Having established in the past few years and supported a number of developments in confiscation laws, which have been consistently applied and developed across the country, we are here because of the government's claims during the 2014 election as to what it would be doing. To consider that, let us look at the Labor Party's 2010 serious crime election policy. Then they stated:

> This proposal will amend the Criminal Assets Confiscation Act and Controlled Substances Act to target persistent or high-level drug offenders to provide for the total confiscation of the property of a 'Declared Drug Trafficker'. This deterrent is an effective way of disrupting and hindering the activities of serious organised crime gangs by removing or reducing profits. New powers will be given to the Director of Public Prosecutions to allow criminal drug dealers who commit three prescribed offences within a span of 10 years to be 'declared' a drug trafficker.
>
> Under this proposal, which targets high level and major drug trafficking offenders, all of a convicted offender's property can be confiscated, whether or not it is established as unlawfully acquired and whether or not there is any level of proof about property at all. Property and assets could also be restrained pending prosecution of matters before the court.
>
> The legislation will attack repeat drug offenders. The offences that will attract the declaration if committed 3 or more times within a span of 10 years include:
>
> - Trafficking in controlled drugs;
> - Manufacture of controlled drugs for sale;
> - Sale of controlled precursor for the purpose of manufacture;
> - Cultivation of controlled plants for sale;
> - Sale of controlled plants; and

- Any offence involving children and school zones.

That is what the Australian Labor Party promised in the 2010 election policy. Bills were introduced in the last parliament to implement that policy. The bills, however, went further than the policy in that they allowed confiscation on a first offence and diverted confiscated funds away from the Victims of Crime Fund.

As a result of Liberal and crossbench opposition in the Legislative Council, the bills were not passed, so the only group supporting this extended application of legislation, far beyond the policy even announced in the 2010 election, was the Australian Labor Party. It is fair to say, therefore, that the Liberal opposition was not alone in this. There were concerns raised by other members of this parliament and, accordingly, they failed.

The Labor Party then had further election policies for the election in March this year. In this year's election policy, the Labor Party said that they would continue to pursue the criminal asset confiscation changes and 'in addition, we will give the court the power to prevent the offender from owning property for up to five years'. Now we were to have their original position plus this additional restriction on certain offenders not being able to own anything for five years.

Let's look at the history of what is happening with the legislation so far. The first bill on this matter was introduced on 18 May 2011 in this house. On 27 September 2011, it passed through the Legislative Council with amendments, which the government did not accept, and subsequent to that, there was the prorogation of the parliament. Then there was the second bill on 14 February 2012. The government suspended standing orders in this house to reintroduce the bill. The next day it passed this house. On 15 March, again, it was passed by the Legislative Council with the amendments that they had promoted and supported.

Then, again, on 3 and 4 April that year, in the House of Assembly, the government rejected the amendments and, that was transmitted to the Legislative Council. The result was that the bill was withdrawn. Then we have the third bill. On 4 October 2012, the Attorney-General wrote to the then shadow attorney in another place (Hon. Stephen Wade) to advise him that he intended to suspend standing orders in the House of Assembly to introduce two new bills on 16 October 2012 to supersede the Criminal Assets Confiscation (Prescribed Drug Offenders) Amendment Bill 2012.

On 16 October, as indicated, the prescribed drug offenders bill passed this house. On the same date, the miscellaneous Criminal Assets Confiscation Act amendments passed this house. Then, on 31 October 2012, the miscellaneous provisions were passed by the Legislative Council, and on 12 November 2012 the miscellaneous provisions received assent. On 14 November 2013, the prescribed drug offenders bill reached the end of the second reading stage in the Legislative Council, and again that bill followed the fate of the previous two bills presented in 2011 and early in 2012, respectively.

What essentially occurred at that point was that the government put some matters which were uncontentious, and which we supported as having some merit, into a bill which I have referred to as the 'miscellaneous Criminal Assets Confiscation Act amendments', and they followed through the passage of success in being approved by this parliament. The offensive aspects that were in the second bill, of course, met their fate as indicated. Now we have, of course, the fourth attempt, by introduction to the House of Assembly last month of this bill.

The bill does what? It proposes to allow the confiscation of commercial and repeat drug offenders' assets to the point of bankruptcy, even where those assets have been lawfully acquired, as I have indicated. That is all consistent with what the government announced in 2010. Under the bill, if an offender has committed a single commercial drug offence, or three or more specified drug offences within 10 years, they would be liable to be declared a declared drug trafficker and subject to the confiscation regime.

The prescribed offences are to include trafficking in controlled drugs, manufacture of controlled drugs for sale, sale of controlled precursor for the purpose of manufacturer, cultivation of controlled plants for sale, sale of controlled plants, and any offence involving children in a school and school zones. Each of those were as published in the 2010 Labor Party policy. The Western Australian and Northern Territory jurisdictions have schemes similar to this. In the last seven or eight years of the scheme in Western Australia, as I understand it, nearly 600 declarations have been made and over $35 million confiscated.

Given that these figures also include the proceeds of crime confiscated in those cases—so it is a total amount—the average confiscation is only $59,000. I think it is reasonable, therefore, to deduce that a number of relatively minor operators are being affected, if we are to rely on the data coming out of Western Australia. There are a number of primary offences under South Australian law that already carry a fine of up to $500,000 and life imprisonment. I will not repeat them all, but a number of those already have a very significant penalty.

During the second reading contribution to the bill in 2012, the Attorney-General emphasised the capacity for forfeiture to be varied if drug offenders have cooperated with law enforcement agencies. Such a scheme runs the real risk that, if the authorities become the extorting party, accused persons will be threatened with bankruptcy if they do not comply with the demands of the state, and that raises some serious matters.

As I have indicated, questions of constitutionality were raised in the previous debates. The original concerns, which have been resolved by more recent determinations (and one only this year), were raised by a number of stakeholders, including the opposition, during the previous debates because the fundamental question was whether the legislation offended the Kable principle. Again, the Attorney-General, in his second reading on this bill in the House of Assembly when it was presented some months ago, said:

> The idea that all of the property of certain drug offenders (described in the Bill as prescribed drug offenders) should be confiscated, whether or not it has any link to crime at all and whether or not legitimately earned or acquired, originated in the Western Australian Criminal Property Forfeiture Act 2000.

He went on to say:

> The Northern Territory Criminal Property Forfeiture Act contains very similar provisions, obviously modelled on the Western Australian Act.

At that time, the Law Society was of the view that the bill may infringe the Kable principle by attempting to compel the court to comply with an administrative decision made without court consideration. In doing so, the administrative decision-maker exercises powers usually reserved by the court. On 17 October 2012, the Supreme Court brought down its decision in Bell v Police, in which the hoon driving legislation was impugned. On 29 October of the same year, the then former shadow attorney-general wrote to the Attorney-General in the following terms:

> I note the Chief Justice's comments in relation to the constitutional validity of laws which impinge on the judicial integrity principle. In particular, his comments at paragraph 78 of the judgement:
>
> 'Questions of incompatibility of the judicial integrity implication loom larger when the legislative scheme, instead of proscribing specified conduct and providing for penalties or other orders in the case of breach, authorises, in prescribed circumstances, executive and judicial action to derogate from the otherwise lawful freedom of action, or property rights of individuals.'

The letter to the Attorney goes on to say:

> The opposition is concerned that both the Criminal Assets Confiscation (Prescribed Drug Offenders Assets) Amendment Bill 2012 and the Criminal Assets Confiscation (Misc) Amendment Bill 2012 may impinge on the judicial integrity principle.
>
> Following discussions in the Liberal Party Party Room, I write to seek an assurance from the Government that Crown Law's advice is that neither of these bills infringe the judicial integrity principle.

On 28 March 2013, the Northern Territory Court of Appeal, in the case of Emmerson v The Director of Public Prosecution & Ors (2013) NTCA 04, held that the Northern Territory acts impermissibly compromise the independence of the Supreme Court, attracting the principle of Kable v The Director of Public Prosecutions. The acts were held to be unconstitutional and, as I noted earlier, the government has said that these laws we are debating today are very similar to the Northern Territory scheme. On 11 October 2013, the High Court gave special leave for an appeal on the case, and the appeal was heard early this year. Finally, in April this year, the High Court confirmed the constitutionality of the legislative scheme.

I will not go into the review of the judgement, but it is fair to say that up until that time the Liberal opposition was not alone in its concerns raised in regard to this. The government has a history of jumping into legislation without being clear on the constitutionality, as we faced with bikie legislation, and the humiliation that I think fell upon this parliament as a direct result of the government's insistence on prosecuting a series of legislation. We of course then became the butt

of taunts by the bikie community, and that is not an acceptable situation for me, and I do not think it should be for members of this parliament. We do expect the government to provide its best efforts to getting things right and, if it does not or will not or cannot present support for the basis of the challenge with some legal underpinning, then we are entitled to raise our concerns.

The second issue for us, aside from the constitutionality which has now passed as an impediment to this type of legislation progressing, was the whole question of fairness. In the second issue one needs to remember that the bill is aimed to confiscate assets of certain drug offences to the brink of bankruptcy, even if a person could prove that the assets were legally acquired and that they were unrelated to crime.

This bill is fundamentally different from current confiscation laws, because it entitles the state to confiscate assets even if the citizen can demonstrate that they were lawfully acquired. Accordingly, the confiscation is more in the nature of a fine and could significantly exceed the penalty for the particular offence. If the government contemplates penalties for an offence which are the subject of this type of approach, then we say that the appropriate course is to increase the penalties. Let's have the debate on that.

Let's consider the data to date for drug offence fines under the Criminal Assets Confiscation Act 2005, which is the early legislation covering confiscation of assets associated with the crime itself. Back in 2005-06 the amount deposited to the Victims of Crime Fund was $807,299; for 2006-07, $1,222,116; for 2007-08, $1,686,520; for 2008-09, $1,408,372; for 2009-10, $924,728; for 2010-11, $2,219,598; for 2011-12, $2,275,170; and for 2012-13, $2,320,296.

Under the Criminal Assets Confiscation Act 1996, the revenue then received—a different ultimate deposit—in 2003-04 was $1,502,615, and in 2004-05 it was $1,009,485. The levying of fines and monetary penalties in the years preceding that in 2002-03 were $666,786 and in 2001-02, $678,674.

Over the lifetime of this government, we have had the original levying of fines which still apply but which we now have supplementing the 1996 Criminal Assets Confiscation Act and the effect of that for the first few years of this government, then the Criminal Assets Confiscation Act 2005 and the years subsequently.

To date, if one looks at that data, it is fair to say that governments of all persuasions have avoided income-related fines; that is, they are fixed amounts. Obviously, the financial circumstances of the defendant can be taken, and usually is, into account, but they are not initially set based on the certain disclosed or taxable income of the offender.

The circumstance of the offender, therefore, can be taken into account in sentencing, and the law should not discriminate between people on the basis of their income or assets. That has been the general principle to date. Applying criminal assets confiscation to the seizure of lawfully obtained assets, therefore, is effectively another form of taxation. In dealing with crime, bankrupting offenders may drive offenders deeper into crime and increase the prospects that their children will be embittered and also embrace a criminal career.

That is the downside of this. It always sounds good to think that we are going to come on tougher and harder, and that when you have reached a certain threshold you should be labelled as someone for the purposes of then attracting a whole lot of other penalties. It all might sound good in the heat of an election, but one always has to consider the downsides. It is fair to say that the Law Society had also looked very seriously at this matter and expressed its opposition to the bill 'in the strongest possible terms'. The society said:

> The bill is inimical to a free society which applies the rule of law and encourages the citizen to be self-sufficient. To say that it is draconian only tells a fraction of the story. A citizen should not be deprived of his or her lawfully acquired assets because he commits an offence.

They raise a number of concerns in relation to the bill, obviously the question of legality, and we have canvassed that, and the recent High Court decision deals with that. Again, in their submissions they raised, unsurprisingly, the embarrassment we faced as a result of pushing through with bikie legislation only to get egg on our face.

The second area of concern for them was a lack of nexus between the offence and the assets seized. There are lots of consequences, some of which I have canvassed in the views of the opposition and our concerns. The third is the additional punishment. The scheme, they say, provides

for a punishment over and above that for the actual offending. Again, I think that is consistent, but expressed slightly differently in our position and that is, if the penalties are not tough enough then we should have a serious discussion and debate about that.

The fourth area was discriminatory. They felt that it was discriminatory against citizens who are legally industrious and acquire wealth. There is some continuity with our view, but it would not be of itself a matter for us to not support the legislation. However, here is where a major concern is raised, and that was when they raised the question of innocent parties, 'where the seizure of assets may deprive a citizen's family of assets regardless of whether they are dependants'. As Justice Gageler, in the Emmerson case said:

> Difficult issues might arise as to the effect of forfeiture on interests of other persons. Those issues can be put to one side. For present purposes, it is sufficient to focus on the most straightforward operation of the provisions to forfeit property wholly owned by the person who is declared to be a drug trafficker.

That has also been referred to at some length in the contribution of the Attorney. The sixth concern for the Law Society was the due process, the current legislation entitling citizens facing confiscation to appeal to a court, and there was no provision in that bill for that right to occur.

The scope of the bill was to cover both the convicted drug trafficker as a repeat offender, who is convicted on a third or more offence, for nominated offences within a period of 10 years. The second area is the convicted drug trafficker who is a major offender, whether they are repeated or not. So, if it is a really, really serious drug crime, then you only have to do it once, and in that situation if a major offender is caught in the definition, if he or she is convicted of a commercial drug offence, the offence could be a first offence, as I have said, and what the Law Society called 'low level offending'. So the legal stakeholders advise that the bill would catch a much lower level of offenders than currently applies in the Western Australian legislation.

Under the Criminal Property Confiscation Act 2000 in Western Australia, a person declared to be a drug trafficker under section 32A(1) of the Misuse of Drugs Act 1981, is liable to have all property that the person owns, effectively controls or gave away before the declaration was made, confiscated. Under section 32A(1) of the Misuse of Drugs Act 1981, drug traffickers are those who have committed two or more serious drug offences or a single serious drug offence in respect of a prohibited drug in a quantity more than the prescribed amount or have committed a relevant drug offence and is a member of a declared organisation. A relevant offence includes intending to sell, manufacturing or selling prohibited drugs, cultivating or selling a prohibited plant and possessing more than a prescribed quantity of category 1 or 2 drugs, and there is a table of those that are to be applied. The third is the absconding accused.

I suppose the first question, really, that we need to raise is, if we are going to have this type of punitive treatment towards assets, even if lawfully acquired, of people who have committed a serious drug offence or, at a lower level, multiple repeat drug offences, why is this legislation not being applied to white collar crime or serious personal assaults or murders or child sex offences? There is any number of serious crimes which also attract up to life imprisonment for which we do not seem to have any explanation as to why only this category is captured.

The provisions in respect of the bankruptcy level are similar to those in Western Australia. The key difference between the proposed South Australian and the existing Western Australian models is that all property under the Western Australian system is confiscated, such as everything from washing powder to clothes, etc., whereas the South Australian bill only confiscates all property which would be usually taken if a person were to be declared bankrupt.

Those who are expert in bankruptcy law will know there is some provision for keeping certain essential chattels, tools of trade and a motor vehicle. I am not sure what is currently accepted as being within that broad principle, but the government has referred to Regulation 6.03 of the commonwealth Bankruptcy Regulations of 1996 which take as a broad principle:

> Subsection 116(1) of the Act does not extend to household property (including recreational and sports equipment) that is reasonably necessary for the domestic use of the bankrupt's household, having regard to current social standards.

I am not sure what that is currently applied to. I only ever did one bankruptcy case in the 20 years of legal practice I had and that was to oppose the bankruptcy of a poor lady who had a shoe shop. Anyway, we managed to settle for about 10¢ in the dollar for some poor hapless creditors and her

reputation was saved and she did not become bankrupt. As best I can recall, these are obviously tools of trade, domestic beds, basic domestic appliances, etc., that are necessary for basic living.

A lot could be said about the general application of the law, and it is sometimes not until these things are implemented that there is an exposure of often inadvertent and unintentional capture or consequence, which is only highlighted after some poor person or family have nearly had their lives destroyed. Unfortunately, this is exactly the sort of legislation where not only can it happen but it has happened. Whilst the government says that they are modelling legislation on what has been applicable in Western Australia, it is important for the house to understand that, in Western Australia, there was a case where an elderly couple, aged 81 and 77, lost their home that they had built 40 years prior to an occasion where their son had hidden cannabis in that property.

So, here is a couple who built their home, lived in it for 40 years, then their son hides cannabis in it and, as a consequence of that legislation—that legislation which we are modelling on here in South Australia—this couple, aged 81 and 77, were the subject of a seizure confiscation of that property. Is that fair? Is this what we are seriously trying to do to try to avert and deter people from engaging in crime, that we would make laws that would be cast so widely that we would capture people like that? I do not think so. You could ask anyone in the street in South Australia, 'Would you expect this legislation to capture senior people who had legally bought their home, built it, lived in it for their married life and then have a son who has obviously used it to store his cannabis supply?'

We on this side of the house have demonstrated that we will support the seizing of criminal assets, but we also need to make sure that law-abiding South Australians do not get caught up by dragnet laws. How do we, therefore, ensure that we target the criminals? There are some other aspects that we are considering.

On the question of unexplained wealth generally, a review of the execution of powers under the Serious and Organised Crime (Unexplained Wealth) Act 2009 by Mr Alan Moss indicated that no powers had been used under the act between 2010 and 2012. Mr Moss recommended that the act be amended to overcome serious obstacles inhibiting effective use of the act. Amendments were made in 2013 and certain powers under the act were used between 2012-13, including:

- SAPOL's identification of persons convicted of a serious criminal offence, one of the triggers enabling the use of the investigative powers—that is section 12 of the act;
- suspects narrowed to individuals suspected of being involved in the manufacture/dealing with illegal drugs or who are otherwise suspected of being involved in organised crime. A smaller number of individuals have ultimately been targeted;
- extensive searches of corporate affairs, business names, internet and social media (all public information). Large number of 'notice to deposit holders' issued to financial institutions requiring disclosure of information about financial accounts held by individuals—section 13 of the act. Small numbers of warrants issued to financial institutions (that is under section 16) authorising seizure of documents and articles relevant to identifying, locating, tracing and valuing a person's wealth.

Let us see if they work: five years after Labor has enacted its outlaw motorcycle gang laws and a string of High Court challenges, not one gang has been declared outlawed. In 2008, the then Prime Minister said that Labor had given South Australia the world's toughest anti-gang laws. Now we have more gangs, more gang members and not one clubhouse has been bulldozed. I think a blow-up playpen application under a licensing court came before—

Mr Pederick: Mongols.

Ms CHAPMAN: From the Mongol club the other day. So, they are alive and well; they are even building playgrounds for children, it seems.

The third issue is the victims themselves. One clear outcome of Labor's proposed confiscation laws is that victims will lose. Labor's bill here before us would stop the proceeds of asset confiscation going into the Victims of Crime Fund and redirect them to fund government services, through a justice resources fund.

If ever there was ever a backflip on all the rhetoric I have heard in this parliament in the last 12 years on commitment to victims of crime—the need to prioritise their plight, to be listened to, to

have a right to make submissions and be heard, to have any reasonable compensation when they are left in a financially parlous circumstance or where there has been some unfair offence to them or loss to their property—it is on victims of crime. The government has even appointed a Victims of Crime Commissioner to protect the interests of victims of crime.

I recall that the former attorney, now Speaker of the house, was passionate about this matter. Quite often, we had statements by him in the public arena where he would point out the significance of legal reform and policy announcements of the government that would have a direct beneficial impact on victims. I think that it is fair to say that the public expected that there would be some focus on victims.

I am deeply and bitterly disappointed to today that the current government has not followed through with all the rhetoric by making a speedy provision for those who have been victims of sexual assault in institutional care, after the very painful inquiry by the late Justice Mullighan, and the slow come kicking and screaming approach of the government to even consider lifting the cap of $50,000 on claims from the Victims of Crime Fund, while they watch the fund swell into a balance of over $100 million. So, the statements, unfortunately, have not translated to the direct benefit of those the government purports to be plaintively supporting.

It is of great concern that this Attorney, in bringing the third tranche of confiscation-type legislation to the parliament this time in this form for the fourth time that he persists in robbing victims of crime of what has been otherwise a priority of support. These moneys have been, I think, since the 2005-06 year, paid into the Victims of Crime Fund and not into general revenue. We have had considerable time (eight or so years) where this money has flowed into the Victims of Crime Fund.

Now the government wants to persist with a bill to take away that money and put it into general revenue. How disgraceful that it should be transferred to try to camouflage their own financial mismanagement and incompetence in balancing the rest of their books. We have consistently opposed the diversion of proceeds away from the victims of crime.

The other aspect raised is that the Director of Public Prosecutions (DPP) is proposed to be the body that will be in charge of enforcing this new law. The DPP is an office that has already had previous directors make statements about their incapacity to fulfil their obligations in light of budget cuts; some have been more outspoken than others, and some have been and gone in the time of this government. Nevertheless, the current director faces the fact that 10 Director of Public Prosecutions officers are set to lose their jobs by the end of this month under the current cuts that have been announced.

Clearly, the budget cuts make it hard enough to pursue the criminal charges, let alone chase down the assets under these laws. If the government is going to expect that the enforcement of this legislation will continue to be through the DPP's office (which will attract, in theory, more claims), then we will need to consider whether that is going to be achievable, or whether in fact the prosecution of criminals in their other principal role will be weakened or undermined as a result of taking on this new responsibility. It is disappointing that the Attorney-General has grandstanded on these new laws in the lead-up to the election while the Treasurer, who sits close to him on the front bench, is making deep cuts into the agency responsible for making those laws work.

The other matter on which we do need some answers—and perhaps we will have this in the committee stage—is why this bill, now brought to us for the fourth time covering this law, does not include the statements made by this Attorney in the 2014 election. I do not understand why the government made this extra promise during the heat of the 2014 election, which included that there would be a court-based discretion to ban the holding of property for five years—not only would you be confiscating lawful assets under this but, remember, they also made a promise in the 2014 election that they would have a five-year prohibition on being able to own property. It does raise some questions about why they have abandoned that election policy, and I look forward to hearing the government's answer.

In addition, the Victims of Crime Fund being the recipient, or the compensation at least flowing to victims of crime directly in some manner, of course may well be the basis of further amendment, and we are certainly still considering that. So, there will be a number of questions we need to ask during the committee stage but, as I have indicated, we will not hold up the passage of the legislation in this house. With that, I look forward to the committee stage.

Mr PICTON (Kaurna) (16:29): I am very pleased to speak on this bill, which I think is a very important piece of legislation for our criminal law in South Australia. I do not deny in any way that it is a very significant piece of criminal law and worthy of detailed debate in this house and the other place. I do not deny at all that it will be seen as very harsh by some and a very strong piece of legislation, but I do not shy away from that. I think it is a fantastic advance for our criminal law in South Australia.

It is yet another sign that this government is implementing an approach to criminal law that includes strong penalties and targets the worst offenders and criminal bosses. This has been an approach by the government since we were elected in 2002. The community expects government to put the safety and wellbeing of the community first and foremost and to take a very strong approach with regard to the most serious offenders.

Sadly, when we are talking about major drug dealers, often we are not talking about lone wolves or backyard operations. We are talking about very sophisticated criminal networks, often operating nationally and, increasingly, operating internationally. It is important to prevent criminal gangs from being able to build up these large self-funding empires where businesses are being covertly bankrolled by criminal proceeds. If there is not strong action taken in regard to the proceeds of crime, then despite whatever penal action might be taken in regard to an offender, the proceeds of a crime can continue to be used to reinvest in criminal trading operations.

The deputy leader, in her remarks, noted that she thought we should simply increase the penalty rather than enact legislation like this. I think that is the wrong approach, in that capital will still be available then. We need to deal with the capital that is available and can then be reinvested into other criminal organisations. If somebody is in prison for longer, that does not necessarily mean that that capital that exists through that person's wealth will not be used for criminal action.

The government brought this policy of asset confiscation of serious drug dealers to the 2010 election. It was supported by the community then. We introduced it three times in the last parliament. Three times it passed this house and three times it was rejected in the other place, so we are bringing this forward again and hoping that it will get passage through this house and that this time it will actually get passage through the other place as well.

This legislation is informing those in the drug trade that if they choose to become commercial drug dealers, they will be put in gaol and lose everything they receive in the process. The drug trade is the most significant element of organised crime in South Australia and we, as the government, must prove that we are taking this issue as seriously as it deserves to be treated. This bill grants new powers to the Director of Public Prosecutions to allow criminal drug dealers who commit three prescribed offences within a span of 10 years to be a declared drug trafficker. Power will be extended to confiscate assets of any extremely serious offenders, regardless of whether this is only the first offence this nature.

Extremely serious offences are outlined in the Controlled Substances Act as comprising trafficking, manufacture for sale, selling or possession with an intent to sell a large commercial quantity or a commercial quantity of controlled substances or controlled plants, and the cultivation of a large commercial quantity or a commercial quantity of controlled plants. I think it would be very difficult for anyone to argue that such offences are not extremely serious in nature. Whether an individual is a high-level trafficker depends primarily upon the amount of drug they have in their possession. The specific amounts are a result of a national consultative process and are based on expert police advice.

Legislation such as this is not a new phenomenon. It is a less dramatic version of similar laws operating in Western Australia and the Northern Territory. Under Western Australian and Northern Territory legislation, all declared assets are subject to forfeiture, including basic domestic goods such as children's clothes and kitchen appliances. The house will be interested to know that in the past few weeks, the Western Australian police have undertaken a crackdown on suburban drug dealers and users.

Over these few weeks, I am advised, they have laid charges for 43 drug-related offences, including seven charges of selling a prohibited drug. In Western Australia, the assets of serious drug offenders can then be seized, truly attacking the issue at its roots. However, in Western Australia nothing is left for serious drug offenders, not even their basic household goods. This South Australian

bill incorporates measures to ensure that basic needs are still met for the individual whose assets are taken.

The prescribed trafficker must forfeit everything bar what a bankrupt would be permitted to retain. This allows a trafficker to maintain reasonably necessary household property, assessed with regard to present social standards, and also does not burden the state unnecessarily with minor household assets.

This legislation does not seek the detriment of families of serious drug offenders or the offenders themselves to a point where they lose every single asset. It aims to take away any benefit of engaging in criminal behaviour, yet it still allows the offender to retain their basic household property, such as a modest car, so that their families are able to continue working and living with basic assets.

This bill would place serious drug offenders in a similar asset position to a bankrupt person. It does not seek to punish the offender's family or place people in destitution. What it does do is ensure serious drug offenders are denied access to a life of fast cars, designer clothes and luxury properties that may have arisen during their involvement in organised crime. It would be worrying for anyone to suggest that the conditions of those who have been declared bankrupt should be worse than the lifestyle convicted serious drug traffickers are able to lead if they ever leave gaol, as is currently the case.

This bill includes the establishment of a justice resources fund, collecting the proceeds of the bill from this amended criminal assets confiscation scheme. This resources fund would then be directed towards courts infrastructure, equipment and services, funding for justice programs, facilities for dealing with drug and alcohol-related crime and monetary provisions for justice reform initiatives. So, money that is being used for criminal activity is now being turned around for a public good. It seems only reasonable that the assets of drug traffickers should be invested into measures to fight and reduce crime. The funding derived from the passage of this bill will work to further reduce crime within the state.

Some people, as I said, have seen this legislation as too tough, and that certainly has been the opposition's view in the past. I acknowledge that the deputy leader has said that she will support the passage of this bill through this house but is open to looking at amendments in the other place, and has raised a number of concerns with this bill, including that it is potentially too tough.

In my view, the truth is that the toughness of this bill reflects the truth that drug traffickers and manufacturers derive their assets from the trade, and they undertake money laundering activities to dissociate those assets from the crime. So, even while the opposition says that these people should be able to point to how those assets were supposedly gained legally, in my view, it becomes very difficult to disconnect how those assets are there from how they were actually obtained.

There is a simple solution to avoid being stripped of your assets: do not become involved in the drug trade. We must give our law enforcement agencies the ability to tackle the heart of the drug trade. This is not a bill to target minor offences. At the heart of this scheme is the central impetus to catch those involved in commercial or serious, repeated drug dealing.

Another important aspect is the allowance for an offender to avoid confiscation of assets where they willingly cooperate with the police. This is integral to encouraging criminals to provide information of any co-offenders or affiliated criminal organisations. With the assets of a convicted serious drug offender remaining of substantial importance to them, it is a clear incentive to work with the police in bringing down drug trafficking syndicates, attacking organised crime at its very core.

Three times, those in the Liberal Party have opposed this Criminal Assets Confiscation (Prescribed Drug Offenders) Amendment Bill in the upper house. One of the main reasons has been that they have said that it supposedly lacks legality surrounding it and constitutional legality. We now know from the High Court, in its case of Attorney-General (NT) v Emmerson, that this is not the case.

In that case, the validity of the Northern Territory provision for forfeiture of property owned by drug traffickers to be given to the government without the need for further court order was put into question. The High Court overturned the Northern Territory Court of Appeal and held that the Northern Territory laws, very similar to the ones being introduced under this amendment, were compatible with state and territory legislative power limits imposed under chapter III of the constitution.

Since the validity of the Northern Territory laws on this matter have been upheld by the High Court, there is no reason whatsoever for those opposite to think that this bill raises any sort of constitutional questions. Those opposite can no longer hide behind the shroud of arguments citing a supposed lack of constitutional validity in order to defend the supposed entitlements of serious drug offenders.

This government has always put the health and safety of the community as a top priority. In order to deal with criminal organisations we must deal with the core perpetrators of drug trafficking under harsh laws, as proposed by this bill. With this amendment, not only will drug traffickers be gaoled, there will not be a nice piggy bank of assets waiting for them when they complete their sentence.

This amendment seeks to bankrupt those who bankrupt our community. This government has always maintained that it will be tough on crime, and this bill allows us to tackle the problem of motorcycle gangs and high-level drug offenders head on, with strong punishments.

Mr PEDERICK (Hammond) (16:40): I rise to speak to the Criminal Assets Confiscation (Prescribed Drug Offenders) Amendment Bill 2014. In giving some background, I quote from the Labor Party's policy from 2010 in regard to its Serious Crime election policy which stated:

> This proposal will amend the Criminal Assets Confiscation Act and Controlled Substances Act to target persistent or high-level drug offenders to provide for the total confiscation of the property of a 'Declared Drug Trafficker.'
>
> This deterrent is an effective way of disrupting and hindering the activities of serious organised crime gangs by removing or reducing profits.
>
> New powers will be given to the Director of Public Prosecutions to allow criminal drug dealers who commit three prescribed offences within a span of 10 years to be 'declared' a drug trafficker.
>
> Under this proposal, which targets high level and major drug trafficking offenders, all of a convicted offender's property can be confiscated, whether or not it is established as unlawfully acquired and whether or not there is any level of proof about any property at all. Property and assets could also restrained pending prosecution of matters before the court.
>
> The legislation will attack repeat drug offenders. The offences that will attract the declaration if committed three or more times within a span of 10 years include:
>
> - trafficking in controlled drugs;
> - manufacture of controlled drugs for sale;
> - sale of controlled precursor for the purpose of manufacture;
> - cultivation of controlled plants for sale;
> - sale of controlled plants; and
> - any offence involving children and school zones.

Bills were introduced in the last parliament to implement that policy but were not passed as a result of Liberal and crossbench opposition in the other place. The bills went further than the policy in that they allowed confiscation on a first offence and diverted confiscated funds away from the Victims of Crime fund.

The opposition, along with the support of the legal fraternity, had three major issues with the bills in regard to constitutionality, fairness, and where Labor's bills aimed to confiscate assets of certain drug offenders to the brink of bankruptcy, even if the person could prove that the assets were legally acquired and they were unrelated to crime, and also the impact on victims and the diversion of the proceeds away from victims of crime.

In the most recent election of 2014, the Labor Party said that it would continue to pursue the criminal asset confiscation changes and, 'In addition, we will give the court the power to prevent the offender from owning property for up to five years.' During the 2014 election—only a few months ago—Labor failed to make the bills an issue. As has been stated earlier in the house, in April of this year the High Court confirmed the constitutionality of the legislative scheme in the Attorney-General (NT) v Emmerson. In regard to the current 2014 bill, the Attorney-General tabled the Criminal Assets Confiscation (Prescribed Drug Offenders) Amendment Bill 2014 which confiscates assets of:

1. A convicted drug trafficker—repeat offender—convicted on a third (or more) offence for nominated offences within a period of 10 years.

2. A Convicted drug trafficker—major offender (whether repeat or not).

And a major offender is caught if he or she is convicted of a commercial drug offence. Legal stakeholders advise that the bill would catch much lower level offenders than in Western Australia.

3. absconding accused.

Interestingly, the bill does not cover the new elements in the 2014 policy. As I indicated, there are issues around the confiscation provisions and diversion of funds away from victims of crime. These remain a concern. Some of the things that should be looked at are providing the courts with the strength and capacity to exclude assets in the interests of justice, in particular to protect innocent third parties and dependents—and I will speak more about that in a moment—and limiting confiscation to repeat offenders and genuinely serious offenders.

During the committee stage we will probably flesh out what is estimated to be the number of offenders who are likely to be affected by this legislation if it passes the parliament, the amount of current confiscation receipts likely to be diverted from the Victims of Crime Fund and the estimated amount of other confiscation receipts.

In regard to drug trafficking and drug cultivation, I think that anything to do with drugs is a terrible crime on society and too many young people especially get tied up in it and a lot of it is because of the cost of getting a buzz, I guess. There have been discussions in this place and in committees about binge drinking and pre-loading. People pre-load with alcohol because it is cheaper to do that and go out at 1 or 2 in the morning than be out all night.

I would not know what the drugs on the street are worth but let's say for $20 or $30 they could buy a pill and that keeps them going for a few hours. Sadly, people get tied up in it for a range of reasons and I have heard some tragic cases where people have also got tied up in the dealing of these illicit drugs and they have no idea what they are in for apart from the fact that someone has met up with them out on the street and they think here is an easy dollar and when they get caught they do time, which is fair enough.

The Hon. J.R. Rau: You have to get caught with quite a bit before you are doing time, like kilos.

Mr PEDERICK: No, but what I am saying is that if you are doing drugs in any amount—but yes in regard to this, yes, as the Attorney suggests, they would have to be dealing in a reasonable amount. As I said before in my contribution, I have no sympathy with drug dealers and especially major drug dealers or major drug growers. Throughout my electorate—and the boundaries have changed significantly—and I have mentioned this before, a fair bit of Mallee country is suitable for growing marijuana and there have been some notable drug busts throughout the Mallee up towards the Riverland and obviously some other criminal activity where people have had a blue with a shotgun and there have been a couple of murders. Well, it would be more than a couple over an extended period of time.

Mrs Vlahos: I would say that is more than a blue.

Mr PEDERICK: Yes, well, more than a blue, exactly; a very serious argument. These are some of the things that happen because of people delving into something where they can make an easy dollar and the next thing is they wind up dead or severely injured. There are also cases where in a lot of that country people access groundwater, so you also get people who try to grow marijuana off the pipelines connected to the Tailem Bend-Keith pipeline.

They usually get found out. Because of the high price of water, people are monitoring their water use pretty heavily, and as soon as they see a meter going nuts it is either a leak or potentially, especially if you have a property with scrub on it, a drug crop growing out the back somewhere.

Ms Chapman interjecting:

Mr PEDERICK: Yes, exactly, and sometimes you need a bushfire to find out where they are. I can see the intent of the bill, but what concerns me a little about confiscation is the proof of ownership and what is mentioned in the bill about the person being in 'effective control'. I am assuming—and I am sure the Attorney will fill us in on the definition—that 'effective control' could mean someone who is looking after a property, leasing a property, renting a property, or they could be on a property and operating it without anyone even knowing they are there, which does happen

in some of these cases. I am also concerned about what would happen if it were someone's child or even a grandchild, and this can happen sometimes, even in the leafy suburbs of Bragg. I am not trying to create a fight with my deputy leader.

Ms Chapman interjecting:

Mr PEDERICK: Yes, have a go. It was interesting that, not that long ago, during major storms in the eastern hills a tree went through the roof of a house in Glen Osmond. The neighbours were wondering why there were all these bright lights in the ceiling. There was quite a cultivation going on up there, I believe, but I am sure it happens all over the place.

In regard to ownership, I am concerned about the parents or grandparents who own the house. Obviously, people may live with their parents longer in life, and plenty of people still live with their parents until they are 30, 40, or even older, and there could be grandchildren—as if they are going to tell their parents or grandparents that they have a few lights switched on the ceiling that are keeping their crop growing. I am just hoping for a little bit of an explanation on how that will be dealt with, or will we find an unsatisfactory result where an innocent party has lost their house?

I just wonder how all other types of complex ownership could be dealt with. If this criminal legislation is passed, will criminal gangs work out complex ways of not owning property or of putting in some sort of trust arrangement and maybe not be a director but a beneficiary way down the bottom of the trustee deed? It could be a company ownership, with some very bogus listing of people involved. As I said, it could be a very minor owner. I am a bit concerned that the words 'effective control' could mean a whole range of things. I am not a lawyer, but I reckon the lawyers could have a field day working out what is 'effective control'. I would be very keen to hear the Attorney's answer in regard to that.

I can relate a story from about a decade ago, from memory, when we were leasing a farming property at Tintinara. I was in town trying to get some equipment fixed up in Tintinara, and I saw about 15 different police vehicles, police in flak vests and bullet-proof vests, and all sorts of things. I thought, 'What's going on here?' It does not happen every day in Tintinara, I can assure you. What had happened was that a bloke (who, sadly, passed away recently) had rented his farmhouse to these people and they had turned it into a methamphetamine lab—unbeknown to him, of course.

I just wonder how these people will be dealt with if this bill turns into an act and how they will be treated in the future. You might have no idea what is going on in your premises yet, obviously, these terrible human-destroying activities are taking place without your knowledge. Certainly, in the committee stage and in the summing up, I will be very keen to see how the Attorney-General addresses those concerns.

Mr TARZIA (Hartley) (16:55): This amendment to the Criminal Assets Confiscation Act has been put, as we have heard today, to the parliament in 2011, and I also note that there are inconsistencies between this bill and the policy the government took to the election in 2010 and 2014 respectively. On this side of the house, as was alluded to by our deputy leader (the member for Bragg), we do have some concerns about the operation of the bill, and I will go into these in turn.

I do not have to remind members of the house about the devastating impact of drugs in our community. I particularly would like to emphasise the devastating rise of amphetamines and other related drugs in the amphetamine class that we are hearing about more and more every day. It is amphetamine and cannabis that are being trafficked more so in South Australia than any other drugs.

The illegal organisations—and they are illegal—and individuals who continue to peddle these evil substances, and make them, are among the lowest in our community, let's face it, and I believe it is incumbent on the parliament—the government and the opposition—to consider every option in regard to dealing with these organisations. To put it frankly, these scumbags must be stamped out. The thrust of this bill, as the Attorney-General has said previously, is to remove their financial security as well as their freedom.

Firstly, I would like to talk a little bit about the background of the bill and, secondly, I would like to talk about the reaction of various stakeholders to the bill. In relation to the Kable principle, I note that the recent decision of the High Court in the Attorney-General v Emmerson, as was heard today, has confirmed that this sort of legislation does not violate the Kable principle. As the court found, it did not undermine the institutional integrity of the court's role as a source of commonwealth

judicial power, and there does not appear to be a constitutional impediment to this bill as there was when this sort of legislation was introduced in 2011.

I will touch on a couple of points from legal interest groups. I refer the house to the Law Society's concerns about the bill in 2011, reiterated by their now president, Morry Bailes, last month in a letter to the Attorney-General. It is their view that this bill 'deprives a person of their normally acquired assets and property where there is no connection between the commission of the offence and the property'. Some valid concerns have been raised here. What happens to the person who has hydroponics in the roof of his mother's house, she does not know about it and there is a fire and this equipment is discovered? Who is to blame? How does this bill address those sorts of concerns? They are very valid concerns.

The Law Society calls the bill 'a retrograde and archaic step that fundamentally changes our community's laws in relation to personal property'. With all respect to the Law Society, I would not go that far in my assessment of this bill. I certainly find it difficult to accept that, on the face of it, serious organised crime gangs—these are hardcore gangsters and bad people who are drug traffickers dealing in commercial quantities of narcotics—who deal in these types of drugs would not derive most of their income from anything but the proceeds of their offending. I mean, let us face it, these guys are not in the business of working nine to five for an honest day's work and paying their taxes: they are mean drug traffickers.

I do have concerns about the wider implications of the bill that the Attorney, in my opinion, has failed to address adequately. One concern that I wish to speak about is the justice resources fund, and I draw your attention to proposed section 209A, subsections (4) and (7). I quote from proposed subsection (4):

> Subject to any direction of a court under this Act, any proceeds of confiscated assets of a prescribed drug offender must be paid into the Fund.

Whilst you might think at first hand that that is fair enough, let us look at where this money will actually go. Where will these confiscated assets and funds be diverted to? There is an explanation there, and I will not repeat it on proposed subsections (5) and (6), but when you look at proposed subsection (7) it is quite incredible, and I will read it for the benefit of the house:

> The Attorney-General may, with the approval of the Treasurer, invest any of the money belonging to the Fund that is not immediately required for the purposes of the Fund in such manner as is approved by the Treasurer.

That is a very wide scope. I would love, for the benefit of the house, to hear from the Attorney and find out exactly how wide that scope will be, and what other purpose this money will be diverted to, other than straight back into the justice resources fund where the actual proceeds of the offending go to things like the maintenance of the court. If you have been to the court precinct recently, you would know that the court precinct needs a whole range of upgrades. Just ask the judges, the magistrates and the people who go to court. Ask them if the court system and the court equipment needs upgrading.

It is absolutely outrageous that proposed subsection (7) could be so wide. I do not have a crystal ball, but I imagine that, if I did, tomorrow we will be getting our seventh budget deficit in eight years. Perhaps if drugs and the proceeds of organised crime are confiscated and sold, that is the only hope for this government to get us out of deficit. I mean, seven out of eight. It is a lot of money in confiscated drugs. Perhaps that is the white knight of this government—

The DEPUTY SPEAKER: Yes, member for Ashford.

The Hon. S.W. KEY: Point of order: I am actually offended by what the member has just said about connecting us with organised crime, and I—

Mr Gardner: That is bogus. Sit down, Steph.

The Hon. S.W. KEY: Well, I am offended, so I would just like to raise that and I think the member should stick to the topic and not talk about the budget.

The DEPUTY SPEAKER: We have just been discussing—he has strayed somewhat from—

Mr TARZIA: I will explain, Deputy Speaker. We are talking about an act which is proposed by the government, and the member for Ashford should probably read the section. It alludes to the Attorney-General, with the approval of the Treasurer, investing any of the money belonging to the

fund, which is from the proceeds of crime (confiscated assets) that can be used 'in such manner as is approved by the Treasurer'. It does not get much simpler than that: money from organised crime being confiscated into a general revenue for the government to spend at its discretion. What more can I say than that? It is absolutely outrageous.

Put simply, this is a provision that will allow the government to divert money away from an already under-resourced legal service, and the legal services are the ones that need these upgrades and facilities. Let us not keep the money in that legal service. No, let us divert it at the discretion of the Treasurer and the Attorney. This should be of far greater concern to members of this place than the civil liberties debate promulgated by individuals and the Law Society. It is about more than just money. I refer to an article in *The Advertiser* from 24 January 2014. I quote:

> Top barrister David Edwardson, QC, dubbed South Australia's justice system the worst in the country, and it isn't hard to see why he gave it an 'F'.

He goes on:

> We have seen $3.2 million spent on revamping the Sturt St court precinct, only for it to fall into disuse over security concerns and be demoted to handling tribunal matters.

The justice system is under such constraints and such toil at the moment, and this government wants to divert money. I thought that it was a good idea, on the face of it, to put money into such a fund, but to have the discretion to divert it away from the very resource that needs the support I think is ridiculous. I vehemently oppose the diversion of funds from the justice resource fund to be consolidated for other purposes. I will not accept it. Money should not be taken from victims of crime, money should not be taken from courts and essential justice infrastructure that needs upgrading.

The Attorney would certainly be well aware, I am sure, of the current problems facing our court system as it is. I particularly want to highlight the appalling state of the court's IT systems, something I note Chief Justice Kourakis has brought to the government's attention on many occasions. It is an absolute shambles. We are behind most of the other states in this country on this issue.

Much of the technology is at least a decade old, and if you go in there, you will see it. It is simply unable to cope with the justice system's increasing reliance on electronic communication and electronic lodgement of forms. Unless this technology is upgraded, the justice system cannot continue to offer the level of service it does now.

This is an opportunity for the government to take some leadership on this role. The bill should be passed only on the basis that the proceeds of crime from serious offenders goes to areas such as victim support and other essential services, not to assist in propping up the government's dwindling revenue base. Some people have told me that they may be doing this with other organisations, perhaps SA Water for one.

I find it appalling that the government would insert a deliberate loophole in subsection (7), because that is what it is, to enable the Attorney-General to channel these funds through the backdoor to help with this government's unsustainable spending spree. It is another example of the government's disregard for the operation of the justice system. If you are serious about the justice system, make sure that this money goes back to the justice system it is supposed to serve. With respect, I encourage the Attorney-General and the government to examine a couple of those areas I have highlighted.

I am concerned about the unintended implications for third parties affected by forfeiture orders proposed under the bill. As we have heard, it is likely that the operation of the bill will also see blameless third parties not having a home or other assets because of the affects of the bill. In my opinion, the Attorney has not made it clear to the house what provisions there will be to accommodate these families.

You cannot just throw these people out on the street. I understand that there are criminals involved here, but what about the innocent people, the people on the side? Are we going to just throw them out on the street? Surely not in this day and age. I think that the Attorney should explain this properly to the house. In conclusion, I will be supporting the bill, but I would like more detail and assurances in relation to the mentioned areas.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (17:08): I thank those who contributed to the debate. I know that we will probably go into committee on this thing. I am a little bit unsure about exactly where we are going, because the deputy leader indicated that there would be support for this bill, which, after all, has been in the possession of everybody since 7 May, but then she appears to be saying that there may be bits and pieces that will not be supported, presumably in another place.

Ms Chapman interjecting:

The Hon. J.R. RAU: Okay. Can I say that now that the deputy leader is now the shadow attorney, one of the things I am looking forward to, which I was not able to enjoy the privilege of in the previous parliament, is seeing amendments to our bills right here in the House of Assembly. Because we have had this bill sitting out there most recently since 7 May, so that everyone could have a look at it, I would have thought that, as a matter of courtesy, if not a matter of competence, and given the fact that they have seen it three times before anyway, if there were going to be amendments, we would have seen them so that we could have thought about them and had a bit of a conversation about them.

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. J.R. RAU: I am just going to say that I hope what they are actually going to do is support it, and, if that is the case, really good; if not, it is at best a poor show that any amendments that are being thought of are not in here where they should be, but instead in another place where the opposition spokesperson is now not. Can I make another comment, too—

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. J.R. RAU: No, you have had plenty of time; you have had about four years to get ready for this, being shadow attorney and being on this bill for the fourth time—

Ms Chapman interjecting:

The DEPUTY SPEAKER: Order! Sit down. Please, let's just stay on track. We are going to move into committee shortly; we are all wasting time by these interjections. It would be really good just to hear the Attorney on his own as we wind up.

The Hon. J.R. RAU: Thank you very much, Madam Deputy Speaker. If, after four years of knowing exactly what this is all about, and after over a month of having it sit there, there are to be amendments and they are not already filed, that would be appalling. But, I am not going to tee off on that at the moment because we do not have that; I am going to take a completely different tack and I am going to congratulate the opposition for supporting the bill because they have not filed amendments, so thank you.

I also wanted to say a couple of words about the honourable member for Hartley's contribution. One of the most interesting techniques in debate is to assemble a straw man, a Worzel Gummidge-type individual, and then kick him to death. That is, of course, what the member for Hartley has done. There is this faux bill, dressed up like Worzel Gummidge, and he is in there, kicking him and belting him; he has the hobnail boots into him.

It was an impressive performance, except for just one thing: nothing he said was even vaguely based on the bill before us. Aside from that, it was compelling. Can I invite all members to just have a look at page 10 of the bill. Page 10 talks about the infrastructure fund, and it says:

The Fund may be applied by the Attorney-General (without further appropriation than this subsection) in the absolute discretion of the Attorney-General for the following purposes:

It then identifies the purposes—subsection (5).

Mr Tarzia: You've still got discretion.

The Hon. J.R. RAU: Yes, but hang on. I know that it says in the member for Hartley's CV that he is a lawyer, so I am just taking him through this in—

Members interjecting:

The Hon. J.R. RAU: But if you look at subsection (5) it says, 'The Attorney may, in his discretion'—and then limits the discretion—'do one of the following three things'. The Attorney can only, in his discretion, do one of those things. He cannot, if he feels like going to the races, take his money down there, no.

Ms Chapman: Subsection (7).

The Hon. J.R. RAU: Okay, I am getting to that, but have we absorbed subsection (5) yet? Have we absorbed that 'may be applied for the following purposes'? They are then quite specific. I gather from what the member for Hartley and others have said, they do not actually have an issue with those purposes, because they say the courts were in need of support and so on.

Let us go to subsection (7). The member for Hartley is going to love this, because it does solve his problem, and he will be able to relax and enjoy the rest of the bill. Here it is: it is a real clincher. It is a clincher, everybody. There is one very special word in subsection (7); it is the first word in line 2, and it is 'invest'.

Ms Chapman: What's that, when you go to the races?

Members interjecting:

The DEPUTY SPEAKER: Order! That is a wager, not an investment.

Ms Chapman: A very poor investment.

The DEPUTY SPEAKER: Order!

Mr Gardner: I'm going to invest in broccoli futures!

The DEPUTY SPEAKER: Order! I have the Speaker's chart here. While you may have spent time out today, you can go back to warnings and all the rest of it; Hammond is on his first, Mount Gambier is on his first, and Hartley has had a warning. So, let us finish the debate and get into committee and finish the legislation. Attorney.

The Hon. J.R. RAU: Thank you very much, Madam Deputy Speaker, and can I say—

The DEPUTY SPEAKER: Hold on, there is a point of order.

Mr GARDNER: Point of order: I seek your clarification on the decision you have just made. As I am not aware of having received any warnings at all today, despite what may have happened—

The DEPUTY SPEAKER: That's right, but he is clearly—

Mr GARDNER: —can you identify if I do now?

The DEPUTY SPEAKER: He's clearly ruled you out of the room and what I am saying is that the clock can start again. Let's just finish the debate and get on to the committee stage and actually finish some legislation.

The Hon. J.R. RAU: As Commissioner Fairweather in the Industrial Commission once would have said, 'Consider yourself warned.' He said that to me many times. Anyway, back to No.7.

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. S.W. Key: You're more understandable than he was.

The DEPUTY SPEAKER: Mind on the job.

The Hon. J.R. RAU: Anyway, No.7: let's go through this bit by bit because if you break it up it makes sense. 'The Attorney-General may'—not must, may—'with the approval of the Treasurer'—why the approval of the Treasurer? Because the Treasurer is the chappie or lady who is in charge of the state's money and therefore is the policeman (or police person) of sound investment. It goes on: —'invest any of the money belonging to the fund that is not immediately required for the purposes of the fund in such manner as is approved by the Treasurer.'

What that means, member for Hartley, is this: if the fund has, say, $8 million in it and it is sitting in the NAB bank account and receiving 2.5 per cent interest per annum, and the Attorney discovers that if it is invested in a government bond or if it is invested in a balanced equities something or other, there can be a return of 4.5 per cent, then the Attorney can say to the Treasurer, 'Treasurer, my pot of money here, which is there for these beautiful purposes in subsection 5, could grow even more quickly and help even more people if I could move it into a higher return area.'

The Treasurer would say, 'Hmm, I'll have to speak to my people and I'll get my people to speak to your people because we don't allow you to do really risky things. We don't let you go to the Casino; we don't let you go to the racetrack; we don't let you buy broccoli futures, but we will consider a mixed portfolio managed fund, for example.' That is what that is about. If the member for Hartley wants to cling onto the straw man and keep insisting that that does not mean what it does mean, that is okay. We are okay with that, but I just wanted to give you the chance to let go of it, because it is not helping you. It is not good.

We will come back to victims of crime and this. The good news is that this is taking nothing from the Victims of Crime Fund because we are not collecting any of this money now at all. None of this money is coming out of victims of crime, because it is not going anywhere at the moment except into the pockets of criminals. We are taking nothing out of victims of crime and, by the way, at last count, I think there were some hundreds of millions of dollars sitting there, waiting for the victims of crime to receive the benefit of it.

Because it has got to that stage, we are doing innovative things like increasing the victims of crime payouts from $50,000 to a $100,000 maximum, so we are starting to move some of that money out. This money is being retained for a completely different purpose. It is not being taken from victims. It is being collected from criminals and the money is actually improving the courts to help victims. The victims will get a collateral benefit out of this money being collected here and being spent on the very noble purposes in subsection 5. I hope that has cleared those two things up.

The other point I would like to make is that we have actually put this bill up four times and we have run two elections on it. I should have said hello to the former member for Schubert before he left. The place is not the same without the former member who made some excellent contributions, from the very spot where the member for Mount Gambier now sits—and it's lovely to see him here.

Mr Gardner: What about when he was here?

The Hon. J.R. RAU: It was still lovely. He was lovely then too. He has always been lovely. What we have had is four introductions into the parliament, three rejections by the combined opposition and crossbenchers in the other place, two elections where we promised it. Two elections! How about this? If we were in the commonwealth parliament, all you need—

Mr Gardner interjecting:

The DEPUTY SPEAKER: I will have to call the member for Morialta to order shortly.

The Hon. J.R. RAU: If we were in the commonwealth—

Mr Gardner: But not yet.

The DEPUTY SPEAKER: It will be next time, so let's not do it. Let's have some goodwill. We're nearly there.

The Hon. J.R. RAU: Yes, we are. We are getting very close. If we were in the commonwealth parliament, the rules under the federal constitution, under the deadlock provisions that sit in there, say that if a bill originating from the government in the lower house fails to pass the Senate twice within two years or after a year—I think it has to be a gap of a year—

Ms Chapman interjecting:

The DEPUTY SPEAKER: It might be worthwhile to remind the deputy leader that she is on her second warning as well, and didn't we hear today that if her lips moved once more there would be trouble?

The Hon. J.R. RAU: If it fails to pass twice, you have a trigger for a double dissolution when you can put a more—

Members interjecting:

The Hon. J.R. RAU: My point is that we have done 2½ times what the commonwealth does for a double dissolution: we have run two elections with this policy and won, and we have put the bill up four times, and we are about to run it through for the fourth. How is that for commitment? If we were in Canberra, we would have had two double dissolutions out of this, so that is how seriously we are taking this bill and that is how obstructionist in the past the opposition has been, though not now because the member for Bragg is indicating a new day has dawned, and I am very happy about that. We have certainly put it out there, no question about that.

There was a remark made about the five-year business being abandoned. It is not abandoned: we are working on it. I can say to the member for Bragg that it would be very helpful to me if she wished to indicate on the record whether they will be supporting us on that one too because, if she says they are supporting us, I will be able to tell parliamentary counsel, 'Your work will not be wasted. The member for Bragg has committed to supporting this. Get on with it.'

Ms Chapman interjecting:

The Hon. J.R. RAU: No, I am saying to the member for Bragg that if parliamentary counsel knew that the member for Bragg and her colleagues would definitely not support that part of the bill, they would feel quite saddened in the task of drafting because they would feel that the draft would be ultimately not appreciated, whereas if they were to get the good news from the member for Bragg that that part of the bill would also be acceptable I think they would have a spring in their step.

Comments have been made about the Law Society, and I think even the member for Hartley said the Law Society sometimes does not get it right. Let's be real about this. They have a criminal law committee in there that is populated by criminal defence lawyers who have a certain view of the universe; that is not an incorrect view, but it is their view. Some might say that, compared with the view of most people in the public, it is an idiosyncratic view, but that does not mean it is not valid: it just means that we do not have to automatically agree with it, that is all. That is really the general wrap-up, and I gather that there is a wish to go into committee.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

Ms CHAPMAN: The Attorney has indicated that, whilst this bill covers the 2010 commitments, the 2014 five-year ban on holding property provision, which is not in this bill, is on its way, as I understand it. Can the Attorney indicate for the consultation on this—and I appreciate that the bill as it currently stands emanates from the 2010 promises at the election—whether the 2014 part of the policy, which is to come now in a separate bill, has been put out to consultation and whether any other stakeholders have indicated their view on it.

The Hon. J.R. RAU: In relation to that part, it has yet to be drafted, so there has been no consultation other than the publication prior to the election of our policy, and we are in the process of working that up. The reason it is not included in this is that it was my judgement that all this was already well known to the parliament. I wanted to get it back in as soon as possible, and there would be no cause for delaying this on account of there being new matters in there that people had not heard of.

Ms CHAPMAN: In respect of the five-year ban, how many offenders are likely to be affected in addition to those that this will apply to?

The Hon. J.R. RAU: It would be exactly the same—

Ms CHAPMAN: Number as these.

The Hon. J.R. RAU: Yes, the same people. In fact, potentially, the maximum it would be is the same number as these because I think we say in the policy that there would be a discretion vested in the court of up to five years.

Just to explain, the rationale for this is pretty simple. If somebody is in the criminal business of cooking amphetamines, as the member for Hammond was talking about, or importing large

amounts of something, they are not doing that just for the thrill of it: they are doing it for money. It is all about money, so the rationale for this is to say, 'Right, we are going to take your money off you, and not just the bits we find in the bag with the dope. We are going to take all your money off you, effectively, except we will bankrupt you.' Similarly, it would have to be quite a disincentive to say to such a person, 'Not only are we going to take your money off you now, but you are going to have difficulty being a company director or owning a business for a period of up to five years.' That is the gist of it.

I am advised that you asked for some statistics. I might be able to read something into *Hansard*. I am advised there are many pages of it, but there is a document I have been provided with. We are probably not going to entirely finish today anyway, but it can be between the houses. I am just indicating that there is a document from the Office of Crime Statistics and Research, dated June 2014. It is hot off the press (it arrived at 8 o'clock last night, I am told), and it deals with commercial drug offences from 1 July 2008 to 30 June 2013. I will provide it, but I will give you some examples from this document. Under 'drug offences':

- traffic in large commercial quantity of a controlled drug, for instance: in the year 2008-09, 14; next year, 23; next year, 13; next two years, 36;
- traffic in commercial quantity of controlled drug: none until 2012-13, then two;
- manufacture of commercial quantity of controlled drug: 2008-09, one; following year, two; following year, two; following year, none; last year, five;
- sell a large commercial quantity of a controlled precursor: we have not had any;
- cultivate a large commercial quantity of a controlled drug: starting again with 2008, zero; next year, one; next year, five; next year, five; next year, four; and
- cultivate a commercial quantity of a controlled drug: all years except last year, none; two last year.

If you look at the trend, you see that there has been an increase in the total number of these offences from a total of only 15, in 2008-09, to 49, in the year 2012-13, and similar figures exist for some of the other offences which are described in the trigger provisions of this legislation. What we are seeing is a clear increase, from these statistics, in the frequency of these things, but they are occurring in the order of 20-something a year, or 40 a year, not hundreds a year.

The CHAIR: Deputy leader, before we go on: clause 1 is just the short title, is it not?

Ms CHAPMAN: That is right, yes; but we are talking about the general impact of the bill at this point and that is why I am doing it on clause 1.

The CHAIR: And are you going to have more than three questions, do you think?

Ms CHAPMAN: Possibly but I am happy to go to a particular provision, if you would like to do it that way.

The CHAIR: Yes.

Ms CHAPMAN: However, as the minister has opened up the general statistics that is what I want to cover. I would appreciate it if a copy of that could be forwarded to the opposition. I appreciate it was only recently created.

The CHAIR: The Attorney has tabled that document. Is that correct?

The Hon. J.R. RAU: I have not, but I am very happy to do so.

The CHAIR: Very close to doing it, thank you.

Ms CHAPMAN: My next question relates directly to that: how many of the offenders are likely to be affected? Essentially, it would be up to a maximum of all of those, up to a maximum of five years under the new policy.

The Hon. J.R. RAU: Yes.

Ms CHAPMAN: Of those, to identify how much—and I read out a list of the monetary receipts from 2006 on under the current 2005 act—I am not sure whether you were immediately

available to hear those at the time but you might recall I had a list of them all. We are up to over the $2 million mark in the last financial year. What I would like is a breakdown of the amount of money, if any, as a result of this legislation coming in that would be diverted to the new fund. In essence, I am assuming that under the current rules the $2.2 million that is currently in the fund will still go into the Victims of Crime Fund and that the new money will come in based on the estimate of the numbers that are coming in there.

However, of the receipts that we have had in the last five years, how many of them would be diverted because we would know of those offenders in the last five years? You know what the circumstances are in each of those cases, as to how much other money was accumulated into this fund under these new rules, so I would like some assessment. I realise it is not an exact science, but we know the circumstances of those who have already been subject to a confiscation, as to whether or not they own other assets, and as to what would have been recovered.

The Hon. J.R. RAU: Can I say in relation to that question that I suspect the answer to it is impossible to give with any accuracy because of a number of things, not least of which is the fact that we are not sure how many of these numbers we are seeing here are repeat offenders. We do not know.

Ms Chapman: But you will know; you have the data.

The Hon. J.R. RAU: But the data does not identify whether the people who are being captured in that data are repeat offenders; it only indicates offences.

Ms Chapman: I realise that, but you can get it.

The Hon. J.R. RAU: No. We do not know; we cannot. Another point, quite rightly, is that, given the fact that, if they are repeat offenders, some of these people would be spending some of the time in prison, how do you take that time off unless you know exactly the particular history of the particular individual? It becomes very complicated.

Clause passed.

Clauses 2 to 4 passed.

Clause 5.

Ms CHAPMAN: This is where we have the definitions, in particular the categories that are going to attract the confiscation under this new bill. We have the serious offence, which is the combined effect of clauses 5, 6 and 8, so I will just refer to that in the questions I have now concerning the restraining orders covering it. It does broaden the definition of 'serious offence' to capture, obviously, other low-level offending conduct.

As I understand it, the current law is that only three offences can be dealt with summarily, which is under section 32(3), 33B(3) and 33C(3) within the definition of serious offence. The effect of broadening the definition is that restraining orders and ultimately forfeiture can be obtained over property of a much greater number of defendants. Can the Attorney confirm if that is his understanding of the situation and, if so, the justification for it?

The Hon. J.R. RAU: We are a little confused here. Are you on clause 6 or clause 5? What page of the bill?

Ms CHAPMAN: It can be clause 5. I will just see if it is clause 6. I thought it was in the definitions clause, but equally it could apply to the meaning of the prescribed drug offender, because that is what produces the expanded prescription. Clause 8 pertains to restraining orders. So it is the new 6A—Meaning of prescribed drug offender.

The Hon. J.R. RAU: So can I have the question again now?

Ms CHAPMAN: Basically we have the broadening of the definition of serious offence so that it makes provision for either the serious one or the three offences that are dealt with summarily in 32(3), 33B(3) and 36C(3), which are within the definition of serious offence. So that low level of offending conduct in the Controlled Substances Act gets captured, so we have a broader number of applications now than what the principal act—the Criminal Assets Confiscation Act 2005—applies.

My understanding from the second reading explanation is that this is to catch the serious ones plus those that repeat, even if they are at the low level; I understand that. The problem that potentially comes with this is—and I think this was raised by the Hon. Ann Bressington in the debates the last three times this bill went to the Legislative Council—this question of making sure that, if they are an aggregate, they are going not to capture three offences but a series of three instances of misconduct, if I can describe it as that: three separate events. She raised concerns about three separate courses of conduct in that 10 years.

The Hon. J.R. RAU: It is certainly the idea that we were attempting to capture the notion of three separate behaviours, and I am advised that 6A(1)(b) is where we are trying to actually capture that notion. It says 'separate occasions'.

Ms CHAPMAN: They, with respect, cannot be a series of conduct. They could be the same house, the same friends. Over three or four days there might be two or three arrests or charges laid. Do you see what I mean? It is a bit like at the moment where we have a situation where someone is caught on a speed camera in an unregistered car. They go back and forth to work for two weeks and then at the end of the two weeks they find that they have been charged with 15 counts of driving unregistered, but it really has been one course of conduct.

The Hon. J.R. RAU: I think the answer is that even the so-called minor offences are not trivial offences. For example, the minor offences are not things like carrying a few grams of cannabis.

Ms Chapman: They are.

The Hon. J.R. RAU: The minor offences do not include simple possession.

Ms Chapman: No, that's true.

The Hon. J.R. RAU: So what would have to have happened is that a person would have been committing a drug offence, not necessarily of importing a couple of tonnes of amphetamine, but certainly it has to be an indictable drug offence, so they would have been pinched for that. Presumably, when they were pinching them the police would not have left them with the drugs, and then this person is obviously then working on the theory that lightning never strikes twice in the same place and goes out and repeats the conduct immediately, only to get pinched again and then decides it could not happen three times in a row, so he goes out and grabs some more gear and gets pinched again. I guess that is possible, but I think that is quite unlikely.

Ms CHAPMAN: Yes, I think the problem is the possibility. I am just looking at your second reading contribution—high-level or major traffickers. It sets out, I suppose, a summary of what that would cover on the presumption that it is the amount that is found in the possession of someone, which is the most likely trigger towards a successful prosecution.

You explain in your second reading speech that for the three different categories in South Australia—trafficking amount, commercial amount and large commercial amount—you only need two grams, 0.5 kilograms and one kilogram respectively. For cannabis, 250 grams, 2.5 kilograms and 12.5 kilograms respectively; for cannabis resin, 25 grams, two kilograms and 10 kilograms; for heroin, two grams, 0.2 kilograms and one kilogram respectively; and for cannabis plants, 10 plants, 100 plants and 500 plants respectively.

I do not know how many tablets you would find in two grams of amphetamine but I do not imagine it would be too many, so perhaps if you could explain. That is for the high categories, let alone when you go to your identification, saying, 'Well I am not going to just accept people who are charged with indictable offences to be under the repeat offences category,' that you explain have to be low level.

The Hon. J.R. RAU: Okay, here is the way it goes. The serious offences are the two that would appear in that summary as the commercial amount and the large commercial amount. I think we are all pretty clear on that. I am advised that if you have in excess of two grams, for example, of amphetamine, you are presumed to be holding an amount for the purposes of trafficking but that presumption is a rebuttable presumption. If you rebut the presumption then you do not wind up with a trafficking offence, you wind up with a possession offence even though you have more than two grams. So, the reason that is there is just to indicate where the presumption starts to cut in for trafficking. It does not indicate necessarily that a person with that amount will be convicted of trafficking.

Ms CHAPMAN: Under the new rules to apply for repeat offenders which is a lower threshold, someone who is in possession for sale or for trafficking would be caught.

The Hon. J.R. RAU: Yes.

Ms CHAPMAN: So that person could have a few tablets at a nightclub, three times?

The Hon. J.R. RAU: Three times in 10 years.

Ms CHAPMAN: That is my point. It will now capture not just the high level, but you are adding in this category saying that even if you are a kid at a nightclub and you have been caught three times with tablets in your purse, you could be in this category.

The Hon. J.R. RAU: Yes.

Ms CHAPMAN: My point being that that is a much more expanded group and, obviously, that is one of the concerns that we have raised. In any event, you say that for the purposes of defining the three separate occasions they have to be different courses of conduct; that is, you could not be caught, picked up at the nightclub, not arrested, taken away, and then found later that night with two more picked up from someone else. That is really one course of conduct.

The Hon. J.R. RAU: I think that is the case. You would expect the court to take an intelligent view about whether something is part and parcel of the same thing or a separate matter altogether.

An honourable member interjecting:

The Hon. J.R. RAU: Yes; particularly given the consequences.

Ms CHAPMAN: There is no appeal to once being defined as a prescribed drug offender and then having property first restrained and then forfeited. Is there some reason why the government has taken the view that someone in these circumstances should not have any right of appeal?

The Hon. J.R. RAU: First of all, given that the tripwire is there, you either trip over the wire or you do not, and there is no point having an appeal about that. Obviously there is an appeal in respect of each and every offence which might constitute the elements of the tripwire. Even after going through all of that, I think there are provisions here, if I am not mistaken, that say that a person who decides to become cooperative with the police may nevertheless have the burden lifted.

Ms Chapman interjecting:

The Hon. J.R. RAU: I believe there is more. Section 226 of the main act, I am advised, provides that:

(1) A person—

(a) against whom a confiscation order is made; or

(b) who has an interest in property against which a forfeiture order is made; or

(c) who has an interest in property that is declared in an order…to be available to satisfy a pecuniary penalty order or literary proceeds order,

May appeal against the confiscation order—

Ms Chapman: What was that?

The Hon. J.R. RAU: Section 226 of the original act.

Clause passed.

Clauses 6 to 9 passed.

Clause 10.

Mr PEDERICK: Attorney, in regard to clause 10 and forfeiture orders—and I reflected on this in my contribution—and the changes in section 47(1)(a), it says that a person has been convicted of one or more serious offences and the court is satisfied that the person is a prescribed drug offender and the property to be specified in the order was owned by or subject to the effective control of the person on the conviction day for the conviction offence and was not on that day protected property of the person.

I guess my concern is, first, the definition of 'effective control', because it is different from ownership in my mind—and I am not a lawyer—and how you deem the property was owned. In my contribution, I went through about how it could be under a company arrangement, a trust arrangement or very many arrangements, and someone might have a very minor ownership of a property, like 1 per cent or even less, which happens these days with investments, and also whether property of someone, an innocent bystander—it could be a family member—where this convicted drug trafficker is living and using a house they do not own, but it is a family member's house, could be caught up under this clause?

The Hon. J.R. RAU: I thank the honourable member for his question, and he raises a very good point. As to the meaning of 'effective control', the member for Hammond is quite right: it is much broader than a straight-out legal ownership, and it is defined in section 6 of the principal act. It goes into things like whether or not a person has an interest, trusts, where you have effective control, and all sorts of things. It is page 6. It goes on for some time and even has quite an interesting equation, which has the number 1 over a line and below that line is written 'the number of beneficiaries'. It would include shareholdings, debentures and all sorts of things. It is a very broad concept, so, yes, you are right about that.

Secondly, again under the primary act, a person who is in effect, as you have described them, an innocent third party, can seek an exclusion order, which would have the effect of excluding their property from restraining orders (and that appears in division 3 of the primary act, from section 34 onwards). There is already an opportunity in the existing legislation for people who find themselves in that circumstance to have their day in court, as it were, and that will continue to be the case.

Mr PEDERICK: I thank the Attorney for that explanation. Does he know whether under the existing act there have been any flaws or incorrect applications of those parts he just so described?

The Hon. J.R. RAU: I am advised that there was a hiccup in relation to exclusion orders. There was a matter in the District Court, which apparently did not go well, and it was something to do with the timing of when the orders might have been made. That problem was identified and in fact rectified in the miscellaneous legislation to which the member for Bragg referred earlier and which passed the parliament last year. There was a problem, it has been identified, and the parliament has fixed that problem.

Mr PEDERICK: In regard to this, a third party, an innocent party in this case, would not, in the application of this bill if it becomes an act, have to incur heavy legal fees, in your mind, to make sure they exclude their property from resumption by the Crown?

The Hon. J.R. RAU: That is a little bit like, 'How long's a piece of string?' I would have to say. It would depend on the circumstances and on how tenuous their hold on the property might be. If they could turn up and demonstrate that they had owned this vehicle for 20 years, and so on, that might be a simple case, but there may be things that are a lot more complicated than that if there are trusts and whatever. The short answer is that it would depend on the nature of each matter.

Clause passed.

Clauses 11 to 18 passed.

Clause 19.

Ms CHAPMAN: My note is 'defined in section 6'. I think you said page 6 of the principal act.

The Hon. J.R. RAU: Page 7, section 6

Ms CHAPMAN: Paragraph (a) states:

> (a) property may be subject to the effective control of the person whether or not the person has an interest in the property.

Effective control, in theory, can be like that of the boy of the family in Western Australia. The son lives in the house, does not own the property, stores his cannabis in the house and the house is taken from the 80 and 70 year old couple. They do not even have to have an interest in a trust that owns the house. That obviously is fairly broad.

The Hon. J.R. RAU: To clarify that point, it is probably worth remembering that in the particular case the member for Bragg is speaking about, the actual house was an instrument of crime

Ms Chapman interjecting:

The Hon. J.R. RAU: Exactly, so it was actually subject to forfeiture under what we already have, not under this. The outcome is, indeed, as the member has indicated but this piece of legislation is not what was required to put those people in that category. What we already have in our statutes would have been enough to do that.

Clause passed.

Clauses 20 and 21 passed.

Clause 22.

Ms CHAPMAN: This is the Justice Resources Fund which the proceeds of this new tranche of forfeiture is going to be applied to, and there was a contribution by you in your rebuttal to indicate that the fund will not able to be plundered by you in concert with the Treasurer. I have not seen this type of legislation before where the operator of the fund, one minister, gets permission from the Treasurer for different types of investment, and I just ask the question about why that is necessary.

Under the investment rules of these funds, like the Victims of Crime Fund, you have some discretion as to how the funds are invested, by Treasurer's direction. That is what usually happens—treasurers put out a direction about what happens with these. It is not a question of you saying, 'I've got this bright idea about where we might invest it,' and ringing the Treasurer and your people speak to his people, etc., as you say. It is a situation where these funds are under Treasurer's directions and the rules that apply to the investment, in any event.

It is a little bit different if you have a medical research fund, for example. We used to have one of those, I think, until the Minister for Health pinched it all. That was done where there were certain investments that could occur, and at one stage that fund owned the building in Hindmarsh Square which the Department for Health occupies. This is the one that the former treasurer decided he wanted to sell once and we had to point out to him that he did not actually own it. Can you identify where else this is and why it is necessary in this fund?

Sitting extended beyond 18:00 on motion of Hon. J.R. Rau.

The Hon. J.R. RAU: Can I just respond to the honourable member's question in this way. I think subsection 5 deals with the concern about whether or not the moneys might be applied willy-nilly to all sorts of silly things. As to the matter in subsection 7, I always took it on the basis that, because it was a hypothecated fund, there would need to be some obvious management by Treasury. I would seek to find out between the houses whether there is some other way of doing it, but my interpretation of this always was that it was meant to ensure that that fund was never able to be invested in something which was regarded by Treasury as an unsatisfactory allocation of public funds. That is my understanding of it.

Clause passed.

Remaining clause (23) and title passed.

Bill reported without amendment.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (18:01): I move:

That this bill be now read a third time.

Bill read a third time and passed.

At 18:01 the house adjourned until Thursday 19 June 2014 at 10:30.