# LEGISLATIVE COUNCIL

## Thursday 30 September 2010

**The PRESIDENT (Hon. R.K. Sneath)** took the chair at 14:18 and read prayers.

### PAPERS

The following papers were laid on the table:

By the President—

Auditor-General and Treasurer's Financial Statements, Parts A and B—Report, 2009-10

By the Minister for Mineral Resources Development (Hon. P. Holloway)—

Reports, 2009-10—
Director of Public Prosecutions
Phylloxera and Grape Industry Board of South Australia
Phylloxera and Grape Industry Board of South Australia Financial Statements and Audit

By the Minister for Industrial Relations (Hon. P. Holloway)—

WorkCover Corporation of South Australia—Report, 2009-10

By the Minister for State/Local Government Relations (Hon. G.E. Gago)—

Guardian for Children and Young People—Report, 2009-10
SA Ambulance Service—Report, 2008-09

### WORKCOVER CORPORATION

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:20):** I seek leave to make a statement in relation to the annual report of WorkCover Corporation for the financial year ending 30 June 2010.

Leave granted.

**The Hon. P. HOLLOWAY:** I have today tabled the annual report of the WorkCover Corporation for the financial year ending 30 June 2010. WorkCover SA's results for the financial year reflect a profit of $77 million and an unfunded liability of $982 million. This is a considerable improvement on the previous financial year, when the corresponding figures were a loss of $75 million and an unfunded liability of $1.059 billion. This positive result continues the recent trend of real improvements in WorkCover's claims liability. For the fifth half year in a row WorkCover has recorded a claims result better than projected by its actuary.

The outcome for the 2010 financial year is particularly pleasing as the final result was adversely affected by more than $100 million, due to movements in long-term interest rates that are outside WorkCover's control. Without these movements in financial markets these results would have been significantly better. I can also advise members that the WorkCover board decided at a recent meeting to extend the Employers Mutual contract for the provision of claims management services in South Australia for a further 18 months. The extended contract will run from the current expiry of 1 July 2011 until 31 December 2012.

At the current time the scheme is experiencing significant change in the areas of work capacity reviews, medical panels, the cessation of redemptions and the introduction of new technology. A statutory review of the scheme is due to begin early next year. The board's decision to extend EML's contract reflects a desire to maintain certainty in service delivery during this period of change. The board will continue to monitor Employers Mutual's performance and will reassess its position in 2012.

### VOCATIONAL EDUCATION AND TRAINING SERVICES

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises,**

**Minister for the City of Adelaide) (14:22):** I table a copy of a ministerial statement relating to the regulation of VET services for overseas students in South Australia made earlier today in another place by my colleague the Minister for Employment, Training and Further Education.

### MURRAY-DARLING BASIN

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (14:22):** I table a copy of a ministerial statement relating to the release of the guide to the proposed Murray-Darling Basin Plan made earlier today in another place by my colleague the Minister for the River Murray.

## QUESTION TIME

### BUSINESS ENTERPRISE CENTRE

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:22):** I seek leave to make a brief explanation before asking the Leader of the Government a question about reconnecting with the people of South Australia.

Leave granted.

**The Hon. D.W. RIDGWAY:** The Leader of the Government and former small business minister said yesterday that he had doorknocked in Port Adelaide as part of reconnecting with the people of South Australia. On budget day, Thursday 16 September, the government withdrew its annual $150,000 worth of funding to the Port Adelaide Business Enterprise Centre. This was on the same day that the centre won two national awards.

The BEC is part of the Northwest Business Development Centre and helps businesses get off the ground and grow through a range of advisory and other services. The Northwest Business Development Centre general manager, Lynette Hay, says that the centre now faces a choice of cutting services from up to half the 855 businesses on its books.

My question to the minister is: while he was doorknocking and reconnecting, did the Leader of the Government talk with any of the hundreds of small businesses who will be denied support from Port Adelaide's award-winning Business Enterprise Centre because of state government budget cuts? If so, how many of them requested that the funding be withdrawn?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:24):** It is quite extraordinary; we have had a budget brought down within just the last couple of weeks and the honourable member expects that when we were doorknocking following the election some months ago we would have been discussing technical details of what might be in the budget some three or four months later. What I did do when I was doorknocking—and subsequently, because I talk to all sorts of people involved in all sorts of areas of life all the time, as do my colleagues—was discuss a range of issues.

I think people understand that we do need to realign the budget of the state. Demands are always changing and we do not live in a static environment. We note that members opposite (certainly those in the lower house; we have yet to hear the views of people in this chamber) seem to have this expectation that the economy is somehow or other static, fixed in time and does not move, and that the services provided 30 or 40 years ago should be what you provide today.

**The Hon. D.W. Ridgway:** I thought you were a Minister for Small Business a few months ago.

**The Hon. P. HOLLOWAY:** Well, I was up until the election.

*The Hon. D.W. Ridgway interjecting:*

**The Hon. P. HOLLOWAY:** If the honourable member has any questions about small business, I am happy to refer them to my successor in that portfolio. If the honourable member has any questions specifically in relation to that, I am delighted to do so. What I do know in all the discussions is that people understand that there are these structural changes taking place in our economy and they want a government that is responsive to them.

**The Hon. D.W. Ridgway:** You guys have stuffed it up.

**The Hon. P. HOLLOWAY:** Well, 'stuffed it up': this is the sort of line that people have, trying to suggest that you have a static economy. They resist every change. Let us just reflect on the fundamental contradiction of Liberal ideology. They seem to think that somehow or other the budget and other areas of expenditure are static in time; in other words, what was good enough 10 years ago should be good enough now. They continually attack the government if it makes any changes to long-standing policy: 'Oh no, we did that 40 years ago; we need to keep doing it today.' But what about all the new areas of need?

This government is a dynamic government. We are happy to move with the times. We are happy to address the needs in 2010, not what they were back in 1975 or some other time in the past. That is why this government is prepared to look at all its programs, and we will go through and reorder the priorities of government to meet the needs, as we do, of the time.

**The Hon. D.W. Ridgway:** What about the Parks?

**The Hon. P. HOLLOWAY:** We have this talk about the Parks. Does the Leader of the Opposition really think the only need—

**The PRESIDENT:** The honourable minister should not respond to interjections, because they are out of order.

**The Hon. P. HOLLOWAY:** They are, Mr. President; they are quite out of order. Do honourable members think that there has been no change in areas of need in the last decade, or even in the last year? From year to year, changes occur in terms of needs within our community. Our society is a dynamic one; it is changing rapidly, governments need to respond in kind.

What I would love to hear from members opposite, as I am sure the public would, is some alternative vision. 'Oh, don't cut that, don't cut this; just keep things as they were and somehow or other money will come': that is a magic pudding solution. They are advocating that, whatever happens, somehow or other there will be a magically provided solution.

What was remarkable about all of the responses of members opposite (in the lower house, anyway) was that none of them could come up with any alternative whatsoever in terms of either revenue or programs. All they can do is criticise. It is easy to be a critic but if you want to be in government, as well as being a critic, you have to be able to write the book. Sometimes you have to actually create something in the first place. That is what members opposite seem to be incapable of doing.

## SPECIAL APPEALS LOTTERIES

**The Hon. J.M.A. LENSINK (14:29):** I seek leave to make a brief explanation before asking the Minister for Government Enterprises a question about special appeals lotteries.

Leave granted.

**The Hon. J.M.A. LENSINK:** A review of the special appeals lotteries was tabled in this place recently, which states:

> The legislation requires the Minister to have the special appeals lotteries provision reviewed as soon as practicable after the second anniversary of the commencement of section 6 of this act…

Those amendments, I understand, commenced in April 2007. A review has been conducted for which submissions closed on 4 June 2010. I understand that this review process has taken some three years after commencement of the amendments. Of the recommendations made was one that stated:

> A future review, but only after several special appeals lotteries have been held, is recommended. There is no need for legislative amendment to implement these recommendations.

My questions are:

1. Has the minister received any applications to date for a special appeals lottery?

2. Why was there a delay of some 12 months to undertake this review?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (14:30):** I thank the honourable member for her important questions. Effective from 30 April 2007, an amendment was made to the State Lotteries Act to allow SA Lotteries to undertake special appeals lotteries, and that was to raise funds for approved processes as defined by the act. At the same time, provision was made for the minister to cause a

review of the operation of that special appeals provision as soon as practicable after the second anniversary of the commencement of the section. On 29 April 2010 the revenue and economics branch of the Department of Treasury and Finance released an issues paper seeking submissions from interested parties on all or some of the questions raised in the issues paper, or other matters that were considered relevant to the review of special appeals lotteries.

Submissions closed on 4 June 2010, and the report on the review of the effect of the special appeals lotteries was tabled in both houses on 14 September 2010. Some of the key findings of that review included that the effect of special appeals lotteries on charities and other lottery organisations may not be adverse to charities that are not beneficiaries of a special appeals lottery because of the infrequency of such lotteries, and the type of donor attracted to a special appeals lottery would be different to the type of donor charities rely on for their donations.

Some submissions considered that the reasons for philanthropic donations differed from the reasons for participation in special appeals lotteries, while others considered that the fundraising dollar is limited and donations would reduce if special appeals lotteries were held. Some submissions considered that special appeals lotteries should not be held, while others considered that it would be an opportunity for smaller charities to in effect gain access to some funds. SA Lotteries has a system in place to conduct special appeals lotteries. It was recommended, as the honourable member pointed out, that a future review may be more informative if conducted after at least some special appeals lotteries have in fact been held.

As to whether I have received any applications for a special appeals lottery, the answer to that question is no, not to my recollection. I am not aware of any, certainly not that I can remember. In terms of the process and the timing of that process, I have outlined the consultation that took place and the length of time that was given for submissions to be received and then submissions to be collated, etc., and I think that that was done in a reasonably timely way, considering that in effect no special appeals lotteries had been conducted and there was certainly no sense of urgency in terms of producing that report. I believe that was done in a timely way and that it was done with a degree of thoroughness, and the findings are now available on the public record.

## BURNSIDE COUNCIL

**The Hon. S.G. WADE (14:34):** I seek leave to make a brief explanation before asking questions of the Minister for State/Local Government Relations relating to Burnside council.

Leave granted.

**The Hon. S.G. WADE:** This week a candidate for election to the Burnside council received advice that the government has refused the candidate's request to be released from a confidentiality agreement relating to the draft report of the investigation into the Burnside council. My questions are:

1. How does the government justify the government's refusal, given the need for candidates to be able to maintain their reputation in an election campaign?

2. As an alternative, will the government consider crown law and candidates negotiating statements of agreed facts so that Burnside electors can have as much information as possible before they vote?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (14:35):** An outrageous proposition! The answers are quite straightforward, really. In terms of the request for release from the confidentiality agreement, I received advice in relation to that and based this decision on that advice, and the advice was that, no, it was inadvisable to do so. In relation to the second outrageous proposition, no.

## FROME PARK

**The Hon. R.P. WORTLEY (14:36):** My question is to the Minister for Urban Development and Planning. Will the minister provide details of how the state government is working with the Adelaide City Council to return former alienated land to the Parklands?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:37):** I thank the honourable member for his important question. Recently, I had the pleasure of joining the Adelaide Lord Mayor, Michael Harbison—the Deputy Leader of the Opposition was present as well—at the ceremony to mark the

opening of a new area of parkland in the city. Situated near the soon to be opened western entrance to the Botanic Garden, Frome Park has been rehabilitated from a car park into a quality landscaped space.

Among the design highlights of the $3.75 million rehabilitation project are young tree plantings, including spotted gum and plane trees, a timber bridge over an overflow creek and an avenue lined with native gums. The park provides feature seating along lit pathways, large lawn areas and native plantings.

The site holds a great deal of cultural significance, and I recognise the importance of the Adelaide Parklands to the Kaurna people. In recognition of its importance, the park has also been named in honour of Nellie Raminyemmerin. The name was chosen in conjunction with the Kaurna Heritage Board and commemorates Nellie Raminyemmerin, a Kaurna woman who was kidnapped from the banks of the Torrens and taken to Kangaroo Island to live with a sealer and whaler.

The site also has a significant European history, having hosted a range of previous medical, military, educational and community uses, including the hosting of the first agricultural and horticultural society produce show back in 1844. These showgrounds introduced to South Australia such important inventions as the Ridley Stripper, a prize-winning harvesting machine invented by local farmer John Ridley in the 1840s, which speeded up the reaping process. A sign at the park features an old photograph of the site in its day as the showgrounds, including the old Exhibition Hall in the background.

In later years, this area became a car park to service the institutions in the Frome Road precinct. In 1990, the 1.8 hectare site was dedicated by the state government to the Adelaide City Council, under a trust land grant. This grant was established to guide the future of the site and ensure its eventual return to parkland in exchange for approval for a multistorey car park further south on Frome Road. The agreement required that the former bitumen car park be returned to parkland and that it be developed and managed in a way that is compatible with the adjacent Botanic Garden and Botanic Park. This government, through the Open Space Grant funding program, provided financial support to the Adelaide City Council in its endeavours to return this alienated land to the people of South Australia, with two grants totalling $1.2 million.

Twenty years after the original trust agreement and after facing some unforeseen challenges in remediating the old car park, this land has now been landscaped and an avenue of trees planted that provides a visual link between the eastern entrance of the University of Adelaide's Barr Smith Library and the new gateway to the Botanic Garden. As Lord Mayor Harbison said at the official opening, it will be a truly stunning avenue connection which will realise Walter Bagot's original landscape master plan.

On the occasion of the opening, we were joined by ducks and other water birds that were making the most of the spring rains to explore the new overflow creek. Our support for returning a car park to use as parkland is consistent with the principles and objectives of the 30-Year Plan for Greater Adelaide. The 30-year plan recognises open space as an essential part of a liveable and healthy city. Aside from restoring alienated land to the Parklands, we have also proposed a network of linked quality open space throughout the city featuring urban forests and parks, a watercourse and coastal linear parks, trails, greenways and green buffers, and sustainable recreation facilities. The project also typifies the Rann government's commitment to protect and improve the national heritage listed Adelaide Parklands as a focal point for community activity. I look forward to a similar event perhaps next year when the former SA Water depot at Thebarton is also returned to parkland.

## WATER FLUORIDATION

**The Hon. A. BRESSINGTON (14:41):** My questions are to the minister responsible for SA Water:

1. Where does the sodium fluoride used in SA Water come from and how is it transported?

2. How are stockpiles stored?

3. Who is responsible for producing the fluoride solution?

4. Prior to using a batch of fluoride solution, does SA Water require a certificate of analysis?

5. Does a certificate of analysis include other contaminants such as mercury, lead, arsenic and other heavy metals?

6. What is the total cost per year of purchasing the fluoride, delivery and maintenance of plant and equipment?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (14:41):** I thank the honourable member for her questions. I will refer those to the Minister for Water in another place and bring back a response.

## WOMEN IN LEADERSHIP

**The Hon. I.K. HUNTER (14:42):** I seek leave to make a brief explanation before directing a question on women in leadership roles to the Minister for the Status of Women.

Leave granted.

**The Hon. I.K. HUNTER:** For many months now it has been a frequent observation, certainly in the media, that two women now head our nation as the Governor-General and the Prime Minister. Lately some notice was made of the appointment of a South Australian businesswoman as the CEO of a major bank. What I find surprising is that it is still seen as noteworthy when a woman achieves success in leadership positions in our country. Perhaps that in itself says something about cultural attitudes about women and, until those attitudes change and until it becomes unremarkable to do so, perhaps it is useful to keep making those observations, in which case, will the minister provide the chamber with information on positive changes in relation to women as leaders and key decision-makers in South Australia?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (14:43):** I thank the honourable member for his question. As he rightly notes, the matter of increasing participation rates for women in key decision-making positions in both the public and private sectors is a priority for this government. I understand that the South Australian government is one of the few jurisdictions in the world to have set a 50 per cent target for women on boards. I am pleased that as of 1 September 2010 women held 46 per cent of positions on government boards and committees and 35 per cent of chair positions on government boards and committees.

This is a long-term strategy that presents some very complex challenges for the government, but we continue to be one of the leading jurisdictions in Australia in this field. Setting formal targets has been an excellent strategy for promoting experienced and capable women and requires that the South Australian government is publicly accountable on the progress being made towards achieving that target. I have written to the Australian Securities Exchange (ASX) recommending that they consider this strategy in more detail.

As an example of women in leadership positions, I was very pleased to read of the recent appointment of Ms Jane Kittel as the new Managing Director of Bank SA. Ms Kittel was raised in Port Augusta and is the first woman to run Bank SA in its 162-year history. The announcement of her appointment on Tuesday 7 September made it a double red-letter day as another South Australian raised woman became the country's first elected female prime minister on that day. I believe Ms Kittel will make an excellent role model for other women striving to fill their career goals, and I have written to Ms Kittel to congratulate her on returning to South Australia in such illustrious circumstances.

Welcome developments such as Ms Kittel's appointment are a positive sign that steps towards equity in the nation's boardrooms are being made, albeit small ones. Recently I had the pleasure of writing to the Australian Institute of Company Directors to congratulate it on its initiatives to increase the number of women on ASX 200 boards, and I also drew its attention to the success South Australia has had with setting its targets, for which we are publicly accountable.

For the first time, the number of women directors on boards of the top 200 ASX-listed companies has reached almost 10 per cent compared with 8.3 per cent at the beginning of this year. As I said, they are small improvements but they are certainly steps or trends in the right direction. The Australian Institute of Company Directors has also launched a mentoring program for 63 highly talented and qualified women which will enable them to develop connections with influential business leaders and gain knowledge and skills that will assist them in achieving directorial appointments.

I understand that this 12-month program will also increase women's understanding of how listed company boards work and provide advice on the process of selecting and appointing new directors. It will also be of great value to mentors by putting them in contact with highly qualified women with enormous potential as ASX 200 company directors.

The South Australian Office for Women has also partnered with the Australian Institute of Company Directors to hold financial training for women on boards. While there is clearly still much work to be done, the positive effect of these and other initiatives being taken at the national level is being felt in South Australia. Ms Kittel's appointment is one in which we can take some pride, and I wish her all the very best in her challenging career development.

## SCHOOL AMALGAMATIONS

**The Hon. T.A. FRANKS (14:47):** I seek leave to make a brief explanation before asking the minister representing the Minister for Education a question.

Leave granted.

**The Hon. T.A. FRANKS:** The day after the budget, regional directors of the education department informed at least 13 schools in the state (including Parafield Gardens High School and Primary School, Blackwood Primary and High School, Birdwood High and Primary School, Kadina Primary and High School, Bordertown Primary and High School and Renmark Junior Primary, Primary and High School) that they had been targeted under the budget's proposal to amalgamate co-located schools to achieve the budget cuts that have been announced for education.

I understand that at least one of these schools has indicated that it is not prepared to amalgamate and that at least one of these schools has actually previously amalgamated its junior primary and primary schools and is still recovering from that upheaval and the loss of staffing that came as a result of that.

Under the Education Act 1972, part 2A provides that in the case of a school closure or amalgamation there is a review process, and that is outlined in sections 14A to 14F. My questions to the minister are:

1. When the regional directors went out to inform them that they would be amalgamated, had the schools been given a copy of the act's provisions to ensure that they are aware that they can refuse to amalgamate and show them the process should they wish to refuse to amalgamate?

2. Have the schools been assured that they have rights to recourse, specifically, that they have the right to refuse and they will then be able to go into a review process where local government is consulted and where the school community is consulted in its entirety, that anyone can make a submission, that there is a review committee set up which is quite diverse, that those submissions and meetings will then happen and that in fact a resultant report will be laid on the table of the houses of parliament?

3. Can the minister now guarantee that the act will not be changed to enable these budget cuts and forced amalgamations to happen to any of these schools?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (14:49):** I thank the honourable member for her important questions and will refer them to the Minister for Education in another place and bring back a response.

## 'A SAFER NIGHT OUT'

**The Hon. T.J. STEPHENS (14:49):** I seek leave to make a brief explanation before asking the Minister for Consumer Affairs questions about the recently released 'A Safer Night Out' document.

Leave granted.

**The Hon. T.J. STEPHENS:** Police commissioner Mr Mal Hyde has stated that over 60 per cent of people arrested for crime in the city's West End test positive to drugs. The government recently released two discussion papers, 'A Safer Night Out' and a review of the RSA Code of Practice. The reason for this, claims the minister, is to reduce street crime and violence. My questions to the minister are:

1. Why is it that these two documents barely mention drugs?

2. Why is the overwhelming focus of the Rann government on legitimate businesses in the hospitality industry and not on the drug trade, which is damaging the lives of young South Australians, and on drug users?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (14:50):** I thank the honourable member for his most important questions. Indeed, the management of abusive and antisocial behaviour on our streets, around our entertainment precincts and in our society generally is a very complex matter. Due to a wide range of many different factors—and the honourable member rightly mentions the use of illicit drugs—I believe that, to really address that issue, work needs to be done across all those areas, and I believe that is occurring. Various ministers with different portfolios that carry responsibility for different aspects of antisocial behaviour have their own initiatives and policies in place to deal with those matters.

Being responsible for liquor licensing, I have put forward a number of issues that I believe address problems that could be improved considerably by improving our standards around licensing and other associated behaviours. So, a wide range of different strategies are in place. No-one can refute that the influence of alcohol—which is a legal substance and readily available throughout our community—is responsible for levels of antisocial behaviour, including acts of violence and other inappropriate behaviour.

We have looked at a whole range of initiatives, some of which have been looked at in other jurisdictions, where strategies have been found to have a very positive effect on reducing antisocial behaviour. We have looked at those initiatives and spoken with stakeholders across the industry and put together their ideas into discussion papers that we then put out to the general community for consultation. That consultation period has only just finished, and the agency is now putting together those responses and, from that, we will formulate strategies to take us forward.

The message is clear to me that our community's tolerance of alcohol-related antisocial behaviour has reached a limit. People are saying to me loudly and clearly that we need to do something about improving alcohol-fuelled antisocial behaviour on our streets. They have looked to me to take responsibility for the portfolio or policy areas for which I am responsible to put in place initiatives to try to improve that, and that is exactly what we have done. We have had a very good response from the community, which is not unsurprising from some sections of the community. We will listen to all of the feedback.

The strategies proposed, however, are not directed particularly at one sector of the community but rather look at a range of different initiatives across the sector and explore the possibility of putting in place a number of different new initiatives to reduce alcohol-fuelled, anti-social behaviour, particularly in and around our entertainment precincts.

## SAFE WORK WEEK

**The Hon. CARMEL ZOLLO (14:55):** My question is to the Minister for Industrial Relations. Will the minister provide details of this year's upcoming SafeWork Week, which I understand is the premier occupational health and safety event in South Australia?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:56):** The best way to reduce the long-term costs of workplace injury and illness is to make South Australian workplaces safer. Of the many strategies undertaken to promote workplace safety, SafeWork Week remains a key initiative of the government to educate the community on the need to stay safe at work. It is with great pleasure that I joined Tom Phillips and other members of the SafeWork SA advisory committee recently to launch the program for this year's SafeWork Week.

SafeWork Week runs this year from 25 to 29 October, with a full program of events across a wide range of occupational health and safety issues, but with a common theme this year of consultation in the workplace. This year's event has been specially tailored for all those who are interested in safe, fair, productive working lives, and not just for the occupational health and safety professionals. SafeWork Week 2010 will offer a mix of free workshops, seminars and briefings, with topics such as the workplace environment, asbestos, noise, chemicals and other important occupational health and safety issues.

South Australia's SafeWork Week will also coincide with the national SafeWork Australia Week, culminating in the announcement of the state winners of the SafeWork awards. Much work is done on many levels to ensure that South Australians come home from work safely, from information at events such as SafeWork Week to the tens of thousands of workplace visits conducted by SafeWork SA inspectors every year. These activities are complemented by a number of productive initiatives to support workplace compliance with safety requirements.

Engagement has been one of the hallmarks of the SafeWork event throughout the years here in South Australia. The organising partners of SafeWork Week 2010 come from a variety of positions in the workplace spectrum, with SafeWork SA and WorkCover SA representing government, and Business SA and SA unions representing both employers and workers. This partnership is also reflected in the membership of the SafeWork SA advisory committee, which sets the strategic vision for South Australia's workplace safety agenda and advises me on occupational health, safety and welfare standards, policy and legislative matters.

Clearly the most compelling example of strength through diversity is the range of contributors to SafeWork Week 2010, with this event featuring workshops staged by a number of organisations. These include our organising partners, as well as the SA Asbestos Coalition, the Australian Hotels Association, the Working Women's Centre SA, the Safety Institute of Australia, the Environment Protection Authority, OneSteel Whyalla, Corporate Health Group and TAFE SA as examples.

This wealth of knowledge will go a long way towards making the state's workplaces safer, an objective we have enshrined in South Australia's Strategic Plan. We aim to beat the nationally agreed target of a 40 per cent reduction in workplace injury by 2012, and the education process of SafeWork Week 2010 will go a long way towards achieving that goal. The SafeWork event really does make a difference, and each year surveys and evaluations are conducted to monitor the event's effectiveness. Some 80 per cent of those surveyed told us that the activity they attended would be likely to influence them to make changes at their workplace. The gains from achieving safer workplaces will benefit us all.

## FOSTER CARE

**The Hon. D.G.E. HOOD (15:00):** I seek leave to make a brief explanation before asking the minister representing the Minister for Families and Communities a question regarding South Australia's foster care numbers.

Leave granted.

**The Hon. D.G.E. HOOD:** From my reading of the annual reports, I note that in the last five years the number of children in foster care in South Australia has more than doubled from 967 to over 2,016. The proportion of children in family or kinship care placements has also risen but at a slower pace, from some 27 per cent to 39 per cent. The South Australian figures for children in family or kinship care are much lower than many interstate figures. For example, at last count New South Wales had 47 per cent of foster children in a family placement.

My office has received a number of calls from upset constituents who were refused the care of grandchildren and the children of other close relatives. These grandparents and other close relatives appear to me as though they would be terrific foster carers, often in a situation where the child's parents have a drug addiction or some other condition but still have a possibility of rehabilitation. However, it appears that strangers are quite regularly preferred in placements over family members. I also place on record the advocacy of Denise and John Langton of Grandparents for Grandchildren Inc., and I note the Family First bill before parliament in this regard.

Finally, another figure that stood out when I was looking through these numbers was that there were only four adoptions out of foster care in South Australia last year; just four. My questions to the minister are:

1. Why has the number of children in foster care doubled in the last five years?

2. Why are more grandparents and immediate family not being considered as foster carers?

3. Why are so few adoptions out of foster care occurring, and has any thought been given to the option of permanent foster care—as is being trialled in some other jurisdictions—to give children permanency and a sense of security in an important family dynamic?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (15:01):** I thank the honourable member for his most important questions and will refer them to the Minister for Families and Communities in another place and bring back a response.

## PAYDAY LENDERS

**The Hon. J.S. LEE (15:01):** I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about payday lenders.

Leave granted.

**The Hon. J.S. LEE:** The Consumer Action Law Centre released their new research report on 14 September this year and revealed that the high-cost, short-term lending industry, referred to as payday lenders, has grown almost tenfold during the last decade. The Consumer Action Law Centre media release dated 14 September presented a report called 'Payday Loans: helping hand or quicksand'. Mr Zac Gillam, the author of the report, stated that thousands of people were now repeatedly borrowing small loans at rates equivalent to 400 per cent per year or more.

The main concern, aside from large interest rates, is the rapid rise in unregulated websites offering short-term, high interest loans as part of a growing payday lending industry. Online lending is a very unmonitored environment, and the websites lack information about the cost of the product. The author also stressed that 'essentially they lead you down the path before you even know how much the loan is going to cost'. My questions to the minister are:

1. How will the government protect and educate online consumers about the pitfalls of payday lenders, especially when thousands of South Australians could be affected by the Labor government budget cuts and may be in financial difficulties?

2. Has the government considered the imposition of an interest rate cap such as those in New South Wales, Queensland and the Australian Capital Territory?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (15:03):** I thank the honourable member for her important questions regarding payday lenders. Indeed, this issue has been caught up in the COAG reforms around the national credit law. The Council of Australian Governments has embarked on a new reform agenda to create a more seamless national economy, and one of the reforms being pursued is a new national regulatory review of credit.

In July 2008 COAG agreed that the commonwealth would assume responsibility for the regulation of mortgage brokering, margin lending and non-deposit lending institutions as well as the remaining areas of consumer credit. The new national credit regime is being implemented in two phases, at least, with the first phase having started on 1 July 2010 with the commencement of the National Consumer Credit Protection Act 2009 as a law of the commonwealth. It sought to implement the national consumer credit code based on the current state-based uniform credit code, the UCCC.

The key elements of that phase were about improving consumer protection in the credit market. It involved the establishment of a national licensing regime to require providers of consumer credit and credit-based brokering services to be licensed; the introduction of general conduct requirements including responsible lending practices to which licence holders must adhere; requiring licence holders to be members of an approved external disputes resolution scheme; and extending the scope of credit products to include consumer mortgages over residential investment properties.

As I said, payday lenders' activities will be included in those activities that the federal government is now taking responsibility for. There is various information available through them and the website that they have available for the public. Our agency makes sure that it keeps its websites up to date with relevant information as new developments come forward.

## LOCAL GOVERNMENT DISASTER FUND

**The Hon. B.V. FINNIGAN (15:07):** I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about local government disaster funding.

Leave granted.

**The Hon. B.V. FINNIGAN:** Recently we have all welcomed winter rains. However, there have been reports of the downside of the flows of water—tourists and residents in the outback being stranded or inconvenienced by heavy rains causing flooding. There have been reports of flash floods and road washouts. Local government is often the first port of call to repair damage caused by these kind of events. Will the minister advise the house how the state government helps local government to recover from natural disasters?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (15:07):** State government does recognise difficulties faced by councils confronted by natural disasters for which they cannot use the ordinary risk management approach of insurance. I welcome the opportunity today to inform members of the house about the work done to assist some of the more remote areas in our state through the Local Government Disaster Fund.

The fund was established in 1990 to help councils remediate damage caused by natural disasters or other major, uninsurable events such as flooding and also bushfires. The fund is administered by the disaster fund committee which assesses the claims made to it by councils. These claims must exceed 5 per cent of a council's general rate revenue to qualify and a council is expected to commit the equivalent of 10 per cent of its works budget towards the damage bill.

The fund offers an independent engineer to work with affected councils to provide advice and assistance and, where necessary, to determine claims. Each claim made to the disaster fund is assessed on its individual merits, and councils are also encouraged to take preventive measures to mitigate potential future damage as part of their ongoing works program.

More than $7.6 million has been made available to councils in the past two financial years, much of it linked to widespread storms which swept the Mid North in late 2007. The committee considers claims made for funds from an annual allocation of $1.29 million available from the fund. Heavy flooding occurred in Andamooka in early 2010 that resulted in the dumping of silt on local roads and damage to private property within the town. The Department for Transport, Energy and Infrastructure reacted promptly to the situation and cleared the silting from the road. So far there have been no claims for assistance from the disaster fund.

The state government, through the Department of Families and Communities, has provided emergency grant assistance to some families who suffered loss or damage as a result of the flooding. This was in the form of a $700 grant for immediate assistance, a $5,600 grant for loss of personal effects and a $5,600 grant for house repairs. The disaster committee comprises five members, and the committee met on 25 August this year and approved a claim from the Orroroo Carrieton council for $373,869.

The APY lands communities will receive up to $1.145 million in 2010-11, subject to repair work being completed during this financial year, and following significant damage to roads as a result of storms in the area in late November and December 2008. The repair work was assessed following consultation with DPC, the Department for Transport, Energy and Infrastructure and the fund's independent engineer. The size of the claim was complicated, obviously, by the remoteness of the roads in question and the cost of transporting suitable materials to the location.

The significant rainfall across parts of the central region of South Australia on 12 March 2009 damaged local roads within the area, and the disaster fund committee received a claim from the Flinders Ranges council and has provided more than $270,000 in assistance from the fund at this time.

## WORKCOVER CORPORATION

**The Hon. J.A. DARLEY (15:11):** I seek leave to make a brief explanation before asking the Minister for Industrial Relations questions regarding WorkCover.

Leave granted.

**The Hon. J.A. DARLEY:** In 2008 the government introduced major amendments to the Workers Rehabilitation and Compensation Act in an attempt to improve the scheme for both injured workers and employers. During this marathon debate, approximately 200 amendments were filed by the Independents and minor parties, of which only one was passed. The sole amendment that was agreed to was for a review of the act to be undertaken pursuant to schedule 2.

Schedule 2 outlines the terms that must be considered as part of the review and includes the impact of the act on injured workers, on levies paid by employers and on the sufficiency of the compensation fund in terms of meeting WorkCover's liabilities. It also provides the minister with the ability to consider any other matters. I am sure that I am not the only member who has received correspondence from injured workers and stakeholders with complaints about the scheme, and I look forward to receiving the report resulting from this review. My questions are:

1. In addition to the specific terms outlined in schedule 2, does the minister intend to consider other aspects of the scheme; and, if so, what are they?

2. In particular, will the review examine EML's performance and/or effectiveness in implementing the legislative changes?

3. Will the review incorporate an assessment of the medical panel and its utilisation by EML?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (15:13):** In the ministerial statement I made earlier today I did mention that the statutory review of this scheme is due to begin early next year. Under the honourable member's amendment, I think it is due to start after 31 December, or as soon as possible after 31 December. I have been giving some consideration to that matter but, as to exactly what the terms of reference are, it would be premature for me to say at this stage.

The latter part of the honourable member's question referred to the medical panel. Clearly, as there were changes made in the legislation that came before this parliament back in 2008, one would expect that they would be covered by those terms of reference as they were set out in the honourable member's amendment when he moved it. I will have a look at that, but I would have thought that clearly that was part of it.

Similarly, in relation to EML's performance, obviously, as the claims manager, if there are issues that relate to the impact of those changes that were made back in 2008, then one would expect that any contribution that EML as the claims manager had made to that would be considered. I did indicate in the statement I made earlier today that the WorkCover board had decided to extend that contract for 18 months, and I also indicated in that statement that the WorkCover scheme is going through a significant period of change.

While those changes were made to the act back in 2008, obviously the impact of many of those changes is still only just being felt; for example, there have been a number of cases I am aware of before the Workers Compensation Tribunal. The medical panels are certainly up and running. I know from meetings with them that there have been a significant number of cases just in recent months. The point is that many of those changes are only just starting to have affect. Obviously, as the claims manager, EML's performance needs to be considered in relation to the significant number of changes that have been made to the scheme and where we are in relation to implementing them.

So, it is still a period of significant change. That statutory review will take place, and I will certainly be making a statement closer to the time in relation to that review. I will be giving it some attention fairly soon because, obviously, we will need to ensure that that review is in place, as required by statute, by the end of this year or early next year. I am happy to give further information at that time in relation to those matters.

I think I have made this statement to the house on previous occasions; I certainly have at other public functions. Obviously, given the scope of changes that were made and given the fact that the impacts of some of these changes have been awaiting decisions by the Workers Compensation Tribunal—even in relation to the operation of the medical panels, some of those aspects have been challenged—how much information we will have by the end of this year in relation to all of those aspects remains to be seen. But, certainly, one would expect that that review will be able to make sufficient assessment of many of those changes that were made.

It is important that we do that. I can assure the honourable member that I accept the importance of that review and that it should provide this parliament and the government with appropriate information in relation to the impact of those changes. As I have said, when I am in a position to do so, I can assure the honourable member that I will make a statement in relation to those matters.

## WORKCOVER CORPORATION

**The Hon. R.I. LUCAS (15:18):** I have a supplementary question. The minister referred to a decision taken by the WorkCover board for an 18-month extension to the EML contract. Can the minister indicate to the house whether any terms or conditions were changed by the WorkCover board in relation to its contract with EML for the 18-month extension and, in particular, were any contract conditions changed that would see even further increases in payments made to EML by WorkCover under the terms of the renegotiated contract, on an annual basis?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (15:19):** Clearly, with the extension of this contract, there will be new conditions. I will seek the information and get back to the honourable member. I will see what details I can provide. Of course, some of those may or may not be confidential—

*The Hon. R.I. Lucas interjecting:*

**The Hon. P. HOLLOWAY:** Well, we are talking about a detailed contract here. I am not going to answer a supplementary question in relation to contract details. I think it would be pretty inappropriate for a minister to give off-the-cuff answers in relation to a detailed contract. The honourable member has asked me: are there changes to the contract? Well, it is a different contract. So in relation to those matters, I will give him the detailed answer. If there are certain terms of changes in conditions—

**The Hon. R.I. Lucas:** Are you giving them more money? It is a pretty simple question.

**The Hon. P. HOLLOWAY:** Even that question that the honourable member is asking by interjection is not necessarily easily answered.

**The PRESIDENT:** It is out of order.

## GEPPS CROSS INTERSECTION

**The Hon. J.S.L. DAWKINS (15:20):** I seek leave to make a brief explanation before asking questions of the Leader of the Government, representing the Minister for Transport, about the Gepps Cross intersection.

Leave granted.

**The Hon. J.S.L. DAWKINS:** The recent opening of the Northern Expressway has resulted in a much larger number of vehicles entering or leaving the Gepps Cross intersection on Port Wakefield Road in comparison to the number on the section of Main North Road north of Grand Junction Road. This has significantly altered the previous situation which featured a significant weighting of the traffic light synchronisation in favour of the flow of traffic using Main North Road either side of Grand Junction Road.

As well as my own personal experience, many commuters have told me of significant delays, particularly when approaching the intersection on Port Wakefield Road during morning peak hour. Some have told me of having to endure six traffic light rotations before proceeding across the intersection. My questions are:

1. What work, if any, has been undertaken by the Department for Transport, Energy and Infrastructure to measure the change in traffic patterns at the Gepps Cross intersection and its surrounding road corridors and intersections?

2. Did DTEI anticipate the change in volumes of traffic arriving at Gepps Cross on Port Wakefield Road as a result of the opening of the Northern Expressway?

3. Will the minister seek a change in the synchronisation of the traffic lights at Gepps Cross as a matter of urgency?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (15:22):** I thank the honourable member for his question. Obviously they are matters which I will need to refer to the Minister for Transport in the other place and get back with a response. I indicate that, with the opening of the Northern Expressway, I think anyone who has been on that road could not help being impressed with the quality of construction of that road. It certainly will be a great addition to reducing transport times for people living in those outer northern suburbs. I am sure that the transport department will be examining the

consequences of that opening in relation to its impact on intersections further down the road, but I will refer the question to the minister and bring back a reply.

## WHITE RIBBON DAY

**The Hon. I.K. HUNTER (15:23):** I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about White Ribbon Day.

Leave granted.

**The Hon. I.K. HUNTER:** I have been working with the Hon. John Gazzola as a White Ribbon Day ambassador to encourage South Australian men in leadership roles to sign up as ambassadors in order to link White Ribbon Day ambassadors with each other and develop ideas for White Ribbon Day activities. A forum is being held in October for South Australian ambassadors. Will the minister tell the council more about White Ribbon Day?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (15:24):** I thank the member for his most important question. I want to pass on my appreciation of the work that he and the Hon. John Gazzola are doing to champion the White Ribbon Day cause. It was in 1999 that the United Nations General Assembly declared 25 November the International Day for the Elimination of Violence against Women. The white ribbon has become a symbol for this event ever since.

While most white ribbon events are held throughout the month of November, the white ribbon campaign is year-round. The campaign continues to go from strength to strength. As we know, the white ribbon campaign aims to end violence against women by promoting respectful relationships and male leadership on this issue. Changing attitudes is a key to stopping violence. Having men step up and take responsibility to ensure that they and their mates will never condone violence is really important.

White Ribbon ambassadors are critical to the success of this campaign as they work to get men on board across different sectors and across different backgrounds, ages, etc. Ambassadors contribute in many ways, from taking a pledge to never remain silent about violence against women to taking steps such as challenging a demeaning comment in the workplace or the pub and holding major awareness events.

I understand that over 1,000 men throughout Australia are now White Ribbon ambassadors. In August 2008, there were 13 ambassadors in South Australia and this has now grown to around 135 due to the efforts of the Office for Women, state coordinators and the individual ambassadors such as some of you here in the chamber.

I want to again acknowledge the Hons Ian Hunter, John Gazzola, Russell Wortley, Mark Parnell, John Darley, Stephen Wade, Robert Brokenshire and, of course, John Dawkins, who are all White Ribbon ambassadors.

I have been advised that there will be a White Ribbon ambassadors meeting on Wednesday 13 October 2010 from 4:30 to 6:30 at the Relationships Australia complex. The address is 49A Osmond Street, Hindmarsh, and I hope that all South Australian ambassadors will be able to attend as this meeting will give them an opportunity to informally network with other White Ribbon ambassadors.

Members of the Coalition for Men Supporting Nonviolence, who are also White Ribbon ambassadors, will lead an interactive discussion on violence towards women and will also discuss activities planned for White Ribbon Day, as well as directions for future ambassador meetings.

## ISLINGTON DEVELOPMENT PLAN AMENDMENT

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (15:27):** I seek leave to make a ministerial statement.

Leave granted.

**The Hon. P. HOLLOWAY:** Yesterday, in answer to a supplementary question asked by the Hon. Dennis Hood in relation to the Islington development plan amendment, I stated:

> Regarding the other part of the question the honourable member asked in terms of the time frame, there are no applications for development on the land.

I have subsequently been advised that a development application has been lodged with the City of Prospect for a commercial development on part of this site.

## CONTROLLED SUBSTANCES (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 28 September 2010.)

Clause 1 passed.

Clauses 2 to 4 passed.

Clause 5.

**The Hon. A. BRESSINGTON:** I move:

Page 2, line 20 [clause 5(1), inserted subsection (2a)—Delete:

(other than cannabis, cannabis resin or cannabis oil)

This amendment seeks to ensure that cannabis, cannabis resin and cannabis oil are included as drugs that can be taken into consideration under this legislation. I find it quite amazing that, after all the science, the government would seek to exclude cannabis or cannabis products from this piece of legislation. I urge honourable members to keep our legislation consistent.

**The Hon. B.V. FINNIGAN:** I indicate, as I did in my second reading contribution, that the government supports the amendment.

**The Hon. D.G.E. HOOD:** Just for the record, Family First also supports the amendment.

Amendment carried.

**The Hon. S.G. WADE:** By way of preface to my questions, I note that we have a so-called parliamentary secretary representing the government. I reserve my right to seek an undertaking from the minister. As I understand it, parliamentary secretaries do not sit in cabinet and, therefore, from my understanding, cannot speak for the government. I am happy for Mr Finnigan to pass on comments from officers but, when I seek an undertaking from the government, I will reserve the right to seek an adjournment of the committee and achieve an undertaking from the executive.

In relation to my questions, I asked the government some time ago for details about the number of prescribed licensed premises, and I thank Mr Finnigan for providing that information at the end of his second reading contribution. It does, though, raise the question of the government's comments in both houses, that it considers it would be too broad to apply the trafficking in all licensed premises. I note from the figures that Mr Finnigan gave us that 84 per cent of licensed premises are covered by this clause. What does the government mean by 'broad'? That seems to be a very broad application.

**The CHAIRMAN:** Just on your statement beforehand, the Hon. Mr Finnigan, being part of the government's caucus, could be under instructions from the caucus, which includes cabinet members, of course.

**The Hon. S.G. WADE:** I would be very interested to know the views of the caucus. The government of South Australia is actually in control of the executive, not the caucus. I actually want the government to make commitments on the implementation of legislation because, to be frank, the opposition may well oppose clauses if we cannot commit to those clauses with an undertaking from the government on the record. An undertaking from a government backbencher is all very interesting, but I want a commitment from the executive, the government of South Australia.

**The CHAIRMAN:** I am sure that, if the Hon. Mr Finnigan gives you an undertaking, he is giving it under instructions from the government. He is doing such a thing. The Hon. Mr Finnigan.

**The Hon. B.V. FINNIGAN:** To address the point the Hon. Mr Wade has made, parliamentary secretaries, while not members of Executive Council, are understood to be members of the executive. That was clarified a long time ago and that is why they cannot sit on parliamentary committees, so any commitments I give on the record can be understood to be from the government. That is the practice in other jurisdictions, and it is our advice that nothing precludes that practice here.

In relation to the question about 'broad', the bill is aiming to target licensed premises that operate on a regular basis and where young people can be expected to congregate. While there

are a number of ad hoc licences, where people may be seeking a licence for a particular party, event or tourist event, such as a wine train, the bill is aiming to target regular licensed premises or licensed premises that operate on a regular basis and at which young people are likely to congregate.

**The Hon. S.G. WADE:** I note that it would have been helpful if the government had given that explanation during the second reading: there is no reference to regularity. I ask the parliamentary secretary, given that new sections 32(6)(a) and (b) are linked by an 'or', is it the case that a licensed premise that is not prescribed may nonetheless be a place of public entertainment within the meaning of new section 32(6)(b)?

**The Hon. B.V. FINNIGAN:** Yes, the 'or' is there, so 'prescribed area' may mean one or the other, (a) or (b).

**The Hon. S.G. WADE:** Again, I merely note that, whilst the government was proposing not to be broad, it managed to get 84 per cent of licensed premises covered and, on the answer just given, even more will be covered. It does seem to be a broad provision. The opposition does not oppose that, but is bemused by second reading speeches that claim that the provision is not broad. Within the same clause, can we have an explanation of what an event may be in the definition of public entertainment at the bottom of page 3?

**The Hon. B.V. FINNIGAN:** I am advised that the word 'event' is a general word that is meant to be interpreted in light of the words that precede it. So it would be a dance performance, exhibition or other event of that kind.

**The Hon. S.G. WADE:** By way of further explanation, could we be advised whether it is intended that the word 'event' might include wine festivals, art exhibitions, what colloquially I call multicultural festivals, cinemas and theatres?

**The Hon. B.V. FINNIGAN:** I am advised that, as is usual with any legislation, it will be up to a court to determine the precise application of the definition, but certainly in the case of an art exhibition the word 'exhibition' appears there, so a court would interpret the precise meaning. If the dance performance, exhibit or event is calculated to attract and entertain members of the public, etc., as the rest of the clause reads, you could expect ordinarily that it would fall within the definition.

**The Hon. S.G. WADE:** Thank you for that in relation to art exhibitions. What about wine festivals, multicultural festivals, cinemas and theatres?

**The Hon. B.V. FINNIGAN:** I refer to my earlier answer, that it would be for a court to determine whether or not a particular public entertainment fell within the definition. I do not think I am in a position to give an answer on every specific event.

**The Hon. S.G. WADE:** With all due respect, the parliament expects that the public might be able to understand the legislation without needing to resort to a court. We do not have advisory opinions readily available, and I do not think it is good law if people have to wait until they get done and then see what the government's legislation might mean. Again I ask: does the government expect that the legislation would impact on wine festivals, multicultural festivals, cinemas and theatres? The government is offering a law which it expects to be imposed. The parliament needs to understand what level of impost the government proposes on community events.

**The Hon. B.V. FINNIGAN:** In general terms the answer would be yes, given that one would expect a cinema showing a film, or a dance festival, to fall within the definition of an exhibition. I am advised that there are certain films which might well attract a particular audience with a special interest in cannabis, depending on the film.

Of course, while we want legislation to be understandable, and we do not expect that people should have to have recourse to courts all the time, I do not think it would be practicable in a bill such as this to specify every single public entertainment that would fall within the definition. It would be thousands.

**The Hon. S.G. WADE:** Just for clarification: I was not expecting that, but I do expect the law to be clear and understandable to the public.

Clause as amended passed.

**The CHAIRMAN:** The next indicated amendment is new clauses 5A to 5E, in the name of the Hon. Mr Hood. I take it that they are all consequential on each other. Would the Hon. Mr Hood like to move them?

**The Hon. D.G.E. HOOD:** Thank you, Mr Chairman. I will not move them, and I will explain that in a moment, if I may. Essentially this suite of amendments remedies the situation in our state at the moment whereby if someone is apprehended or discovered, if you like, with cannabis on their person they are subject to an expiation fee of between $150 and $300; yet bewilderingly, if someone is discovered with what we might consider to be a so-called harder drug—although, of course, there is debate about that—or what were once considered harder drugs, such as heroin and ecstasy and the like, on them, they are subject to no expiation fee whatsoever. They do have to go to a diversion process, which we wholeheartedly support.

These amendments would have rectified that situation so that people discovered with heroin, ecstasy and those types of drugs on them would have received an expiation fee and had to go to the diversion process as well; so both, not one or the other. That is what these amendments sought to do, and I believe in that strongly.

However, having said that, I am aware that the numbers do not exist in the chamber at this time to support these amendments. As members would be aware, I have tried to move similar amendments in the past and not been successful, so with that in mind I intend to withdraw these amendments and not waste the time of the chamber. However, I should say that they will be back in some amended form in the future: members can be certain of that.

Remaining clauses (6 and 7) and title passed.

Bill reported with amendment.

Bill read a third time and passed.

## VOLUNTARY EUTHANASIA

**The Hon. M. PARNELL (15:46):** I seek leave to make a personal explanation.

Leave granted.

**The Hon. M. PARNELL:** Yesterday, in speaking to the Consent to Medical Treatment and Palliative Care (End of Life Arrangements) Amendment Bill, I referred to various recent cases that highlighted the need for voluntary euthanasia law reform. In my speech, I highlighted an unnamed case from Western Australia and said that the person involved was terminally ill. That was incorrect. I would now like to correct the record and acknowledge that the Western Australian case involved a Mr Christian Rossiter, who was not terminally ill but was suffering from severe quadriplegia and had asked for his feeding tube to be removed from his stomach because he no longer wished to live.

The evidence before the court was that he was not dying from his condition and he could live for many more years. However, there was no doubt about his ability to understand his condition and to make reasoned choices on his own behalf. He described his life as a 'living hell'. Mr Rossiter died on 21 September 2009 from a chest infection, 5½ weeks after the Western Australian Supreme Court confirmed his right to refuse food and medicine.

On the evidence available about Mr Rossiter's case, if he were a South Australian resident, he would have not have qualified as a person able to request voluntary euthanasia due to being in the terminal phase of a terminal illness. However, it is likely that he would have qualified under the second criterion in the bill, namely, as a person 'who has an illness, injury or other medical condition (other than a mental illness within the meaning of the Mental Health Act 2009) that irreversibly impairs the person's quality of life so that life has become intolerable to that person and who desires to end their suffering by means of voluntary euthanasia administered in accordance with the Act'.

## STATUTES AMENDMENT (DRIVING OFFENCES) BILL

Adjourned debate on second reading.

(Continued from 28 September 2010.)

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (15:48):** I understand that there are no other indicated

speakers for this bill, so I would like to thank members for their contributions to the debate and for their indications of support. The Hon. Ms Bressington has indicated to this chamber that she supports the bill on condition of her filed amendment. With reluctance, this government will not be opposing these amendments for reasons I will discuss later.

In debate, the Hon. Mr Ridgway questioned the interplay between the period of imprisonment for the basic offence and the duration of the loss of licence. I wish to clarify to the honourable members and this chamber that the licence disqualification for the offence commences only from the date of the offender's release from prison. This is pursuant to section 169B of the Road Traffic Act 1961.

I note the honourable member's general comments regarding the extension of the new offences to passengers, in particular his comment that, as drafted, police will be able to secure on-the-spot convictions when they turn up to the scene of a street racing event. The government is of the opinion that this is not an accurate characterisation of the intended operation of those provisions and it is important to clarify their true effect.

Under the bill, police will be able to charge, not convict, persons they believe to be participants in a street race or involved in preparations for a street race; that is, not convict them on the spot. The decision whether to convict an alleged offender is one for a court subsequently hearing those charges and is dependent on the prosecution providing the elements of the alleged offence beyond reasonable doubt in the normal way.

I note the honourable member's comments regarding the emergency worker defence provisions contained in the bill. I wish to convey this government's thanks for the constructive discussions held with the shadow minister and his staff to resolve the agreed final form of the relevant sections. As drafted, they will ensure that an appropriate level of protection is afforded to emergency workers acting in the execution of their duties.

I take this opportunity to answer the question on notice posed by the Hon. Mr Hood. In debate he asked whether a person charged with a street racing offence will face an automatic loss of licence. The short answer to the honourable member's question is no. The issue of whether or not to attach an automatic or instant loss of licence (ILOL) sanction to an alleged street racing offence was considered at length by this bill's working group. Ultimately, they considered that such sanctions are appropriate for Road Traffic Act 1961 offences which do not involve an element of judgment on the part of the investigating officer, such as drink or drug driving.

The government will not be pursuing ILOL at this time in relation to the new street racing offence, but the matter is under consideration as part of its road safety election commitments. Again, I thank honourable members for their constructive input received in respect of this bill and for their foreshadowed support of it.

Bill read a second time.

In committee.

Clause 1.

**The Hon. D.W. RIDGWAY:** I would just like some clarification from the minister in relation to an amendment—that I think I have on file—that broadened the definition. Instead of having operational policies and guidelines included with the term 'directions', I would like the minister to put on the record that the advice the government has received is that the definition of directions actually covers operational guidelines and procedures. The minister's office has been in contact with me to confirm an agreement with the opposition spokesman, Mr Mark Goldsworthy, on behalf of the Liberal Party that the amendment in my name to clause 10 will not be moved and is withdrawn.

As a result, the government's filed amendment on the same clause will not be moved and is withdrawn. The agreement follows advice from the Attorney-General's office and contact with the police that confirms that the bill as drafted provides appropriate coverage for the police in the anticipated circumstances. I think it is important that the minister places on the record her answer that, yes, what we were trying to achieve by the amendment has already been covered in the bill and we do not need the amendment.

**The Hon. G.E. GAGO:** That is correct.

**The Hon. S.G. WADE:** I would like a more direct confirmation and response to Mr Ridgway's concerns. Can the minister confirm that officers will not be able to avail themselves of

this defence if, when they are acting, they are acting contrary to a direction of a superior; if they are acting contrary to policies of the police force; or if they are acting contrary to general orders or operational guidelines of the force.

**The Hon. G.E. GAGO:** I have been advised that an emergency worker has to be acting in accordance with the directions of their employing authority. Accordingly, that would encompass obeying the directions of their superiors and acting in accordance with operational guidelines. I have been advised that 'directions' is not defined, but it would include directions emanating from superior officers, operational guidelines and the like.'

**The Hon. S.G. WADE:** Minister, general orders of the police?

**The Hon. G.E. GAGO:** I am advised yes.

Clause passed.

Clauses 2 to 5 passed.

Clause 6.

**The Hon. A. BRESSINGTON:** I move:

Page 4, line 38 [clause 6, inserted section 19AD(2)(a)]—Delete 'is present in a motor vehicle whilst it is driven' and substitute: 'drives a motor vehicle'

As I said in my second reading speech, this will ensure that a passenger cannot just be presumed to be egging a driver on in a street race; there will be an onus of proof on police to prove that. Also, I indicate the support of this amendment from the Law Society and the Australian lawyers association.

**The Hon. S.G. Wade:** Lawyers Alliance.

**The Hon. A. BRESSINGTON:** Lawyers Alliance. The main concern was about reversing the onus of proof also for passengers, and also indicating that there is another law that a passenger can be charged under already, which is section 267 of the Criminal Law Consolidation Act 1935, if they refuse as a passenger to cooperate with the police.

**The Hon. G.E. GAGO:** This amendment limits the new offence of street racing to drivers of motor vehicles, whereas the provision of the bill would extend the offence to passengers. The government went to this year's election with a street racing policy that clearly stated that the new offence would extend to anyone who promotes, assists or is a passenger in a street race. Passengers were specifically targeted in recognition of the fact that street racing can involve participants other than the driver and that often actions of passengers initiate or encourage a street race to take place.

Separately, by broadening the scope of the basic street racing offence to include passengers present in the vehicle during the street race, SAPOL would be able to charge the vehicle's occupants in situations where the identity of the driver was unknown—for instance, where they exit the vehicle and take off before apprehension. Those advantages were alluded to by the Hon. Mr Ridgway in his comments in this place; however, the government notes the views of the Hon. Ms Bressington and the concerns expressed by some commentators in this provision in order to ensure that the other very important initiatives contained in this bill are not delayed. The government will not oppose the amendment.

**The Hon. D.W. RIDGWAY:** I indicate that the opposition will be supporting the Hon. Ann Bressington's amendment for the reasons that she outlined. We think that other laws are available to the police to charge passengers in vehicles and we think that this is a sensible amendment and are happy to support it.

**The Hon. D.G.E. HOOD:** I briefly indicate that we will also be supporting it. I can imagine a situation where perhaps a girlfriend of the driver may be in the car asking him to slow down and he refuses to. She could find herself in hot water just by being a passenger, so we support the amendment.

Amendment carried.

**The Hon. A. BRESSINGTON:** I move:

Page 5, lines 6 to 11 [clause 6, inserted section 19AD(4)]—Delete subsection (4)

I indicate that this amendment is consequential to the first one.

Amendment carried; clause as amended passed.

Remaining clauses (7 to 11) and title passed.

Bill reported with amendment.

Bill read a third time and passed.

**PROFESSIONAL STANDARDS (MUTUAL RECOGNITION) AMENDMENT BILL**

Adjourned debate on second reading.

(Continued from 28 September 2010.)

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (16:07):** I thank the Hon. Mr Wade for his contribution to this bill. I think the Independents and minor party members of this chamber may have indicated that they support the bill. I thank them for that and I look forward to this bill's speedy passage.

Bill read a second time.

In committee.

Clause 1.

**The Hon. S.G. WADE:** By way of preface to my question, I would like to thank the government through the Attorney-General for providing a copy of a letter from the Attorney-General to Ms Jan Martin dated 23 September. In it, the Attorney-General mentions the fact, which I highlighted in my second reading speech, that New South Wales and Western Australia had removed this clause. In that letter, the Attorney-General stated:

> Additionally at this stage, just two other jurisdictions have excluded this liability from their equivalent acts, and we understand that Victoria is currently conducting a review of their act. Should more jurisdictions exclude this liability from their acts, the issue could be re-examined.

In the context of the lack of consistency in what is a national uniform scheme, can the government enlighten the committee as to how the divergence emerged? Presumably, this scheme is under the stewardship of SCAG. Has the issue in relation to section 5(2)(b) and the corollary sections of other jurisdictions been a matter that SCAG has considered?

**The Hon. P. HOLLOWAY:** My adviser does not have any information in relation to SCAG. Of course, it could have been on the mutual recognition legislation itself. I can remember that it goes back to the first parliament I was elected in, so it is almost 20 years old, and it may have been even before that. We would have to track down the history of that, but I just make the comment that the Professional Standards Act goes back to 2004. As I said, I can well recall bills on mutual recognition that go back to the early 1990s. I am not sure whether parliamentary counsel has any history.

**The Hon. S.G. WADE:** Can I ask the minister to take that on notice and advise in due course? It is certainly not crucial to the passage of this legislation. However, the opposition would be interested to know how the divergence emerged. I understand that this scheme, as far as South Australia is concerned, started in 2004-06. In relation to New South Wales, I think it was the mid-90s, so it is actually a more recent occurrence. First of all, how did the divergence emerge; and, secondly, does the government propose, through SCAG, or some other government through SCAG, to try to restore national consistency, particularly in relation to what we know as section 5(2)(b)?

**The Hon. P. HOLLOWAY:** That is a reasonable question, and I will seek the cooperation of the Attorney to respond to the honourable member in relation to this matter.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

**The Hon. S.G. WADE:** In consulting with stakeholders, the opposition appreciated receiving a number of pieces of information. One of them was from the South Australian Bar Association which, I should stress, supported the legislation but did have some issues that it recommended that the parliament consider. It might facilitate the committee if I read a not too

lengthy (hopefully) excerpt from the letter by way of preface to the question. The Bar Association letter states:

> Once a scheme is approved under the present act, it is likely that the act would be construed such that the scheme operates notwithstanding that there are interstate aspects to the circumstances giving rise to the liability limited by the act.
>
> 2.2.1 The most central situation would be where the client and the professional/tradesperson reside and work in the state, the engagement is made in a state and the work is undertaken in the state.
>
> 2.2.2 If they reside in and the engagement is made in the state, the mere fact that the work is undertaken outside the state probably would not prevent the act applying.
>
> 2.2.3 Conversely, if the professional/tradesperson resides and works in the state and the work is to be undertaken in the state, the mere fact that the client resides outside the state probably would not prevent the act applying.
>
> 2.2.4 There are various permutations possible as to the circumstances.
>
> 2.2.5 One potential construction is that the criterion for application is determined by section 30 which fixes on the person to whom the scheme applies. If that person is a member of the occupational association and the scheme has been approved by the South Australian minister under the South Australian act, the act may apply notwithstanding other geographical aspects.
>
> 2.2.6 Another potential construction is that the act applies if South Australia has the closest connection to the liability (very roughly analogous to determining the proper law of the contract).

The letter goes on to say:

> Once the act has been amended by the bill, which we [the Bar Association] support, the considerations as to geographical reach may be different.

The question posed by the Bar Association refers to new section 8, as follows:

> Section 8 will provide that a scheme may indicate an intention to operate only in South Australia. If it does, what will be the criteria of operation? If the scheme indicates an intention to operate in [another jurisdiction] say Victoria, what will be the criteria of operation?

**The Hon. P. HOLLOWAY:** Could the honourable member spell out more clearly what he means by 'criteria'? I assume he is referring to the Law Society submission.

**The Hon. S.G. WADE:** It is the Bar Association. I do not know whether its submission was made available to the government. Even though it uses the words 'criteria of operation' in the question, I presume it refers back to the reference in the earlier excerpt I read, which was the criterion for application. It said:

> One potential construction is that the criterion for application is determined by section 30...

It is referring there to the current act, and the question was that, once the act has been amended by the bill, understanding the impact that might have on the geographical reach, what would be the criteria of operation? I am happy to have these questions taken on notice. These are part of a national uniform scheme that the opposition supports both federally and at a state level. I have one more question, which the committee may find convenient to have put on notice.

**The Hon. P. HOLLOWAY:** We will do that. We will again seek to provide the answer to the shadow Attorney-General, along with the other information he has previously sought and I assume is now about to seek.

**The Hon. S.G. WADE:** I thank the minister for his undertaking.

Clause passed.

Clauses 5 to 7 passed.

Clause 8.

**The Hon. S.G. WADE:** In a similar manner, the Bar Association suggests that the amendments to section 14:

> ...will provide further the approval and gazettal of schemes made and approved interstate for operation in South Australia and will contemplate the operation of South Australian schemes interstate if and only if they are approved by interstate ministers. Given that the act now will contemplate interstate operation only via interstate gazettal, determining whether a scheme gazetted only in South Australia operates notwithstanding some interstate elements may be changed by reason of the amendments to the act and may be more difficult to determine.

Does the government anticipate a mechanism by which gazettals interstate can be brought to the attention of South Australian citizens?

**The Hon. P. HOLLOWAY:** I gather that the answer to that may be in clause 5—Amendment of section 9—Public notification of schemes. That inserts the following:

If the scheme indicates an intention to operate as a scheme of both this jurisdiction and another jurisdiction, the council must also publish a similar notice in the other jurisdiction in accordance with the requirements of the corresponding law of that jurisdiction that relate to the approval of a scheme prepared in that jurisdiction.

That may indicate an answer to the question. If it does not, I will refer it to the Attorney and it can perhaps be included when we respond to the other matters. If the honourable member wants to clarify it any further, I invite him to do so.

Clause passed.

Remaining clauses (9 to 16), schedule and title passed.

Bill reported without amendment.

Bill read a third time and passed.

**STATUTES AMENDMENT (ARTS AGENCIES GOVERNANCE AND OTHER MATTERS) BILL**

In committee.

(Continued from 28 September 2010.)

Clause 1.

**The Hon. G.E. GAGO:** I have received a response in relation to the three questions previously asked by the Hon. Rob Lucas. In relation to his question about ministerial control powers, I have been advised that the Statutes Amendment (Arts Agencies Governance and Other Matters) Bill 2010 introduces to all the acts a standard set of clauses regarding ministerial direction and control.

The Hon. Rob Lucas asked whether this results in greater ministerial control powers under the current acts. The arts acts, in their current form, have variation in the provisions referring to ministerial direction and control. These range from no reference through to general or unqualified control; some also have exclusions relating to artistic or cultural activity and decisions. In undertaking its initial research into governance frameworks, Arts SA sought advice from the Crown Solicitor's Office specifically in relation to the impacts of the various ministerial control provisions currently in use.

The fundamental point in the CSO's advice was that, regardless of whether there is an explicit statement on ministerial control, the fact that an act is committed to a minister provides the minister with a degree of control over the body corporate established under the act. Such direction and control is unqualified unless there are provisions that limit it.

The CSO also provided an explanation of the difference between general and unqualified control. The use of the term 'general' limits the minister's power to direction of a general nature and intends that the minister not be involved in the day-to-day management of the authority. Conversely, where the clause states 'subject to the direction and control' and is therefore unqualified, the minister's powers are not limited in any way. The clause proposed in the bill limits the degree of ministerial direction and control to that of a general nature.

Furthermore, it introduces a consistent exclusion of ministerial direction in relation to artistic or cultural matters across the whole arts portfolio. A fundamental aim in establishing these organisations as statutory authorities with governing boards was to keep artistic and cultural decisions at arm's length from the government of the day. It is common practice in this country for the states' enduring cultural and artistic legacy to operate without political influence.

The clause to be inserted in each arts act clarifies existing powers of the minister and preserves the artistic and cultural freedom that the statutory authority model was selected to ensure. Therefore, in response to the question posed by the Hon. Rob Lucas, there is no increase in ministerial control over any arts board arising from the proposed bill.

In relation to conflict of interest provisions being more or less onerous, I have been advised that some of the arts acts currently include provisions relating to conflict of interest obligations for boards. These provisions are redundant as the boards are subject to the conflict of interest requirements of the Public Sector (Honesty and Accountability) Act 1995 or, in the case of the Adelaide Festival Centre Trust, the Public Corporations Act 1993. Therefore, the bill removes the existing redundant clauses in the arts acts.

Several of the arts agencies acts were, as a result of the Public Sector Act 2009 and the Public Sector (Honesty and Accountability) Act 1995, amended earlier this year to insert a cause which provides a specific exclusion from conflict of interest. An example of such a clause is to be found in section 8 of the South Australian Country Arts Trust Act 1992, which reads:

> A trustee will not be taken to have a direct or indirect interest in a matter for purposes of the Public Sector (Honesty and Accountability) Act 1995 by reason only of the fact that the trustee has an interest in a matter that is shared in common with those engaged in or associated with the arts industry generally or a substantial section of those engaged in or associated with the arts industry.

The bill retains these clauses wherever they are currently included and inserts the clauses in the Art Gallery Act 1939 and the Carrick Hill Trust Act 1985 for the sake of consistency. Therefore, in response to the question posed by the Hon. Rob Lucas, the conflict of interest provisions are neither more nor less onerous under the proposed bill; they remain unchanged.

In relation to his third question about particular provisions involving engagement of consultants and contractors and entering into contracts and the like, I have been advised that the Hon. Rob Lucas is seeking an indication of whether the arts boards are to be given greater powers than exist under the current acts in relation to those particular provisions.

As a body corporate, each of the arts boards currently holds the powers of a natural person. These powers include the provisions listed by the Hon. Rob Lucas such as engagement of consultants, entering into contracts and acquisitions or purchases. While the bill inserts a detailed powers clause into each arts act, this does not mean that they are new powers.

Whether specific or not, the boards are currently able to undertake these activities because they hold the powers of a natural person. Council is aware that the aim of this bill is to introduce a set of consistent clauses. The standard powers section proposed in the bill is derived from the existing provision set out in section 6 of the Adelaide Festival Corporation Act 1998.

When drafting the bill, parliamentary counsel used this clause as a model for the clause, as it best reflects the activities of an arts or cultural organisation in a contemporary environment. The detailed list of powers provides a helpful guide for boards but is not prescriptive or exhaustive. The powers and provisions contained in the bill do not expand existing board powers; they merely provide greater guidance and clarification.

**The Hon. R.I. LUCAS:** I thank the minister for the answers to the questions that I put at the second reading and, given the nature of those responses, it will be necessary to explore the individual issues during the committee stages of the debate. As I said, I had hoped we might have been able to expedite the committee stages if we had been able to receive a detailed analysis of the existing provisions and the new provisions. Whilst I thank the minister for the general nature of the government's position, it nevertheless leaves unanswered a significant number of individual questions.

That was the first general point I would make: I thank the minister for those answers. The second one is that I do note in the minister's response, which she has now placed on the record, the following advice she has received, and that is that the fundamental point in the CSO advice was that, regardless of whether there is an explicit statement on ministerial control, the fact that an act is committed to a minister provides the minister with a degree of control over the body corporate established under that act. Such direction and control is unqualified unless there are provisions that limit it.

That is an issue I guess we could spend time exploring here, but I will not. Certainly, if one accepts that advice (and I must say I remain to be convinced of the accuracy of that advice), what it seems to indicate is that for a number of government bodies and agencies which are not subject to ministerial control—I can think of, for example, bodies like Funds SA and a number of others which do not have specific powers of control and direction clauses on those bodies—the mere fact of the commitment of the act to the minister gives the minister an unqualified power of direction and control.

That would appear to be completely contrary to all previous advice this parliament has received in relation to these provisions. Further on, the government's legal advice gives further explanation of what 'unqualified control' means:

> Conversely, where the clause states 'subject to direction and control' and is therefore unqualified, the minister's powers are not limited in any way.

So the government's advice, which is placed on the record—this is its advice from crown law, so I do not offer any specific criticism of the minister here—would seem to be, as I said, contrary to all advice that I believe parliament has received over many years in relation to a number of government boards and agencies which do not have specific powers of control for ministers over them. It would appear now the government's advice is that, where that does not exist, the mere fact that a minister is responsible for that agency means they have unqualified direction and control over the agency. That is an issue we will obviously need to explore on a number of other occasions.

The second general point I make in response to the minister's answers to questions is, I guess, a cautionary note (and I referred to this in the second reading explanation) and that is that, whilst there is obviously some good purpose to be achieved by having uniformity in legislation, when you drop a curtain of uniformity across a whole range of different bodies and agencies, it is inevitable, in my judgment, that there will be some unintended or unforeseen consequences.

A previous example where I have issued words of caution where a similar approach has been adopted was in relation to legislation of an industrial relations nature as to who the employing authority for public servants was to be as a result of federal government industrial relations changes. That was some legislation that went through the parliament which amended dozens and dozens of state acts; similarly, the honesty and accountability provisions.

Parliaments can be seduced by the magnificence of the rhetoric that one needs uniformity—all provisions must be exactly the same—in relation to the statutes that apply to various bodies and agencies. Sometimes parliaments do not give the attention to the statutes amendment bills that perhaps parliaments ought to just to assure themselves as an institution that there are no unintended consequences in relation to these provisions. That was the purpose of the questions I put at the second reading.

I indicate that I remain to be convinced that there are no changes to the level of powers that ministers will have over some of these art agency bodies. That will be one of the issues, as we move through the committee stage, I will explore with minister for each of the agencies that are covered by this statutes amendment legislation.

In terms of how we progress through this, there are a number of clauses that relate to each agency body, Mr Chairman; we are obviously in your hands. Subject to your agreement, Mr Chairman, and that of the minister, in relation to the first package of amendments relating to the Adelaide Festival Centre Trust, I intend to direct a number of questions to the minister in the first instance in relation to the Adelaide Festival Centre Trust.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

**The Hon. R.I. LUCAS:** As I said, my first questions will be in relation to the Adelaide Festival Centre Trust, and there are a number of clauses under that general topic. Under the existing Adelaide Festival Centre Trust, and I understand it is section 21(6), there is the following provision:

> However, no ministerial direction may given by the minister relating to the appointment, transfer, remuneration, discipline or termination of a particular person.

Can I confirm that under the proposed changes that particular provision will remain a restriction on the powers of the minister?

**The Hon. G.E. GAGO:** I have been advised that nothing in section 21 is being amended by the bill.

**The Hon. R.I. LUCAS:** The existing section 28(3) of the Adelaide Festival Centre Trust Act, which relates to a series of provisions in relation to the budget, provides:

> The Trust shall not, without the consent of the Minister, incur any expenditure that is not authorised by an approved budget.

Can the minister indicate to me whether under the proposed changes 23(5) is intended to be a direct replacement for existing section 28(3)?

**The Hon. G.E. GAGO:** I have been advised that, yes, it is a direct replacement.

**The Hon. R.I. LUCAS:** New section 23(6) provides:

The Trust is not required to have the approval of the Minister with respect to the expenditure of money received by the Trust by way of a testamentary or other gift.

Is it correct that under the current legislation the trust is required to have approval of the minister in those circumstances?

**The Hon. G.E. GAGO:** I have been advised that the current act is silent in relation to this matter and, therefore, it can be assumed that they do not need approval with the new bill then clarifying that they now do.

**The Hon. R.I. LUCAS:** The minister's answer does not make sense. I think the new bill says that the trust is not required to have the approval of the minister. The minister has just said the new bill now requires the trust to have the approval of the minister.

**The Hon. G.E. GAGO:** Yes, you are quite right. I have been advised it is clarifying that you do not need approval.

**The Hon. R.I. LUCAS:** Well, let's clarify that absolutely. It is clear under the proposed bill that what the government is intending is that the trust does not have to have the approval of the minister. Is it the minister's advice that currently the trust does not have to have the approval of the minister or it does have to have the approval of the minister to act in this particular way?

**The Hon. G.E. GAGO:** I have been advised that the current act is silent on the matter, therefore it can be assumed that they do not need approval. The new bill is clarifying that they do not need approval.

**The Hon. R.I. LUCAS:** Has either the chair of the Adelaide Festival Centre Trust or the board of the Adelaide Festival Centre Trust expressed any concerns about any of the proposed changes in the government's bill to the existing act?

**The Hon. G.E. GAGO:** I have been advised that the chair, the board and the CEO have been consulted throughout the development of this bill. They have seen the recommendations and also two versions of the draft bill that were developed, and they have endorsed the bill that is before us today.

**The Hon. R.I. LUCAS:** I accept what the minister has said, and it may well be that she chooses not to answer the question, but my question was: has the chairman or the board expressed any concern about any of the proposed changes in the bill to the existing statute that relates to the Adelaide Festival Centre?

**The Hon. G.E. GAGO:** I have been advised that to the best of our knowledge, no, concerns about the changes have not been raised by the chair or the board. Throughout the consultative process, as I outlined, queries have been raised by the chair and/or the board. Responses have been given in relation to those queries, and it is believed that they were satisfied with those responses.

**The Hon. R.I. LUCAS:** I thank the minister for that, and I intend to ask the same question for each of the bodies, and the reason I do so is that information provided to me is that at least some boards did express significant concerns about some of the proposed changes but in the end signed off on them on the basis that they were told that the provisions needed to be the same for all of the arts bodies and agencies. As I said, at least in two cases I have been advised that boards reluctantly or grudgingly signed off on the provisions on that basis.

That is why, as we go through each of them, I intend to ask whether individual boards or their chairs expressed concerns about the proposed changes in the bill because clearly, potentially, I suppose, under freedom of information and at estimates committee hearings in the near future, some or all of those concerns, if they are accurate, may well come to light. That is the reason I put the questions to the minister.

With that, I am happy for the clauses that relate to the Festival Centre Trust to now be passed from my viewpoint unless other members have questions and to move to the clauses for the festival corporation which I think start with clause 15.

Clause passed.

Clauses 5 to 14 passed.

Clause 15.

**The Hon. R.I. LUCAS:** Has either the chair of the Adelaide Festival Corporation or the board expressed concern to the government in relation to any proposed changes in the bill as it relates to their existing legislation?

**The Hon. G.E. GAGO:** I have been advised that, to the best of our knowledge, no.

**The Hon. R.I. LUCAS:** Under the Adelaide Festival Corporation, is there a provision in the existing legislation that mirrors the specific ban to which I referred earlier under the Adelaide Festival Centre Trust, namely:

However, no ministerial direction may be given by the minister relating to the appointment, transfer, remuneration, discipline or termination of a particular person.

**The Hon. G.E. GAGO:** I am advised that the existing staffing arrangement provisions have been untouched.

**The Hon. R.I. LUCAS:** My specific question is: is there an existing staffing arrangement provision or subsection which mirrors the subsection to which I have referred? On my quick reading, I was unable to find one, but the minister obviously has access to people who are more familiar with the legislation than I am. I am asking whether there is a specific provision in the Adelaide Festival Corporation Act which mirrors the one to which I referred earlier in the Adelaide Festival Centre Trust Act.

**The Hon. G.E. GAGO:** I have been advised that, yes, there is a mirror provision in the existing act, section 20A—Staffing arrangements, subsection (6).

**The Hon. R.I. LUCAS:** I am happy to move now to the next set of clauses relating to the next agency—the Art Gallery—which start at clause 29.

Clause passed.

Clauses 16 to 28 passed.

Clause 29.

**The Hon. R.I. LUCAS:** Has the government received any indication of concern from either the chair of the Art Gallery board or the board itself about any of the proposed changes in the government bill?

**The Hon. G.E. GAGO:** I have been advised that, again, questions were raised and these questions were responded to. It is believed that they were satisfied with our responses.

**The Hon. R.I. LUCAS:** I take it that when the minister says that questions were raised, that is the government's euphemism for 'concerns were raised in relation to some provisions'. Is the minister prepared to indicate what were the concerns of the chair of the Art Gallery board, or the board itself, in relation to the government's proposed bill?

**The Hon. G.E. GAGO:** I have been advised that questions were raised. An example of one of the questions asked was the applicability of the conflict provisions to board members, and they were advised that board members are in fact bound by conflict provisions within the Public Sector Act. That is an example of one of the questions asked. I am advised that we do not have a list of all the questions asked by this organisation, but the sorts of questions were of a similar nature and, as I stated, it is believed that they were satisfied with the answers we gave.

**The Hon. R.I. LUCAS:** On my reading of the existing Art Gallery Act, I could not find any general provision that gave a general power of ministerial control or direction to the Art Gallery Board. I seek confirmation from the minister that, on my reading of the act, that is accurate. If it is, this is an example of a board where there is no existing ministerial power provision and we will now have in clause 33, on page 48 of the bill, a proposal for there now to be a general ministerial control provision which says:

(1) Subject to subsection (2), the board is subject to the general control and direction of the minister.

(2) No Ministerial direction can be given—

(a) as to the artistic nature or content of—

(i) objects, works or collections held or promoted by the board; or

(ii) performances or other events or activities conducted or promoted by the board; or

(b) as to the manner in which the board is to deal with the testamentary or other gift; or

(c) as to any advice or recommendation the board makes or is required to make to the Minister.

Subject to the minister's answer to the first question, this would appear to be an example of where an existing arts agency does not have in its legislation an overarching general power of ministerial control, and the government is seeking to implement ministerial control provisions. The minister's response, as I understand it, is that they are quite happy with that, have signed off on it and have agreed to it. Is it correct that there is no general ministerial power in the existing act? Have there been any issues of concern in relation to the management of the Art Gallery that has led the government to want to institute ministerial power and control clauses as it relates to the actions of the current Art Gallery Board?

**The Hon. G.E. GAGO:** I have been advised that the current act is silent on this matter and, therefore, it is as outlined in my answer to the honourable member's question on ministerial control powers at clause 1. Therefore, the advice from the CSO would apply; that is, regardless of whether or not there is an explicit statement on ministerial control, the fact that an act is committed to a minister provides the minister with a degree of control over the body corporate established under that act. Such direction and control is unqualified unless there are provisions that limit that. The act now seeks to clarify that and remove any confusion or ambiguity that may have existed.

**The Hon. R.I. LUCAS:** Indeed, that is the point I made before. I think the government's legal advice is extraordinary if that is the construction to be given to us; that is, according to the government's legal advice, any board that does not have a reference to ministerial control and direction—where there is no reference to it at all—the mere fact of it being committed to a minister means that the minister has unqualified power of control and direction over that particular board or authority.

Obviously, that advice does not relate to just arts agencies, which we are addressing here. As I said before, there is a significant range of other government bodies and agencies where ministers do not have the power of control and direction in clauses for those bodies. Certainly the parliament has, on virtually all occasions, accepted that provision and its appropriateness, because in some cases it is deemed to be inappropriate for a politician or a minister to have control over a particular body or agency and they have been truly independent.

Now the minister says that the legal advice is that, if there is no reference to it, the mere fact of the committal of an act to a minister—which has to be the case; obviously, all acts are committed to some minister, as someone has to take responsibility for annual reports and a variety of other things in terms of public reporting—gives unqualified powers of control and direction to the minister over that particular body or agency.

Other than noting that advice, I do not intend to delay the committee stage of this debate. However, I think it is something that all members will need to bear in mind as we go back and look at similar statutes that relate to a number of other non-arts related bodies and agencies, where this particular government advice will throw a whole new light over governance arrangements for those bodies or agencies.

My second question relating to government and ministerial powers is: is it correct that under the existing legislation there is no ban on ministerial involvement in staffing issues?

**The Hon. G.E. GAGO:** I have been advised no.

**The Hon. R.I. LUCAS:** Is it correct that under the government's proposed legislation there is no proposal to institute a similar subclause, which would place a ban or restriction on minister's involvement in staffing issues?

**The Hon. G.E. GAGO:** I have been advised that to put in such a mirror clause is unnecessary, as the Art Gallery staff are employed under the Public Sector Act and therefore all staff provisions are drawn from that particular act, not this one.

**The Hon. R.I. LUCAS:** Can the minister indicate that, for example, the staff under the Adelaide Festival Centre Trust Act are not employed under the PSM Act?

**The Hon. G.E. GAGO:** I have been advised that is correct.

**The Hon. R.I. LUCAS:** So, perhaps to assist the committee, can the minister's advisers indicate which staff of these arts bodies are employed under the PS Act and which ones are not employed under the PSM Act?

**The Hon. G.E. GAGO:** I have been advised that those bodies that have employees who are employed under the PSM Act include the Art Gallery, Carrick Hill, State Library and SA Museum.

**The Hon. R.I. Lucas:** And all the others are not?

**The Hon. G.E. GAGO:** Yes.

**The Hon. R.I. LUCAS:** We are doing this on the run, obviously. Can the minister's advisers indicate what is the equivalent provision under the Public Sector Management Act that they have used as the protection against ministerial involvement in staffing matters?

**The Hon. G.E. GAGO:** I don't have the answer for that and therefore I am happy to take that on notice and bring back a response.

**The Hon. R.I. LUCAS:** As we are working on the run here, I am trying to look through the Public Sector Act because the particular provision to which I have referred states:

> However, no ministerial direction may be given by the minister relating to the appointment, transfer, remuneration, discipline or termination of a particular person.

I am not able to turn up the particular provision, but the minister has agreed to take it on notice. I am not sure whether we are going to be able to conclude all of the committee stages of the debate today. If we are not going to, then I am happy for that to be taken on notice and to come back to that if I need to in relation to the minister's answer. The existing legislation of the Art Gallery board has a specific provision under section 18(1)(a), which provides:

> The board must observe any policy or direction made or given by the minister in relation to the exercise of powers conferred by subsection(1)—

which is just a specific area of power of board to lend exhibits. Is that provision either maintained or replicated in a different form of words in the legislation that the committee is considering?

**The Hon. G.E. GAGO:** I have been advised that a similar provision as in the act is in the bill under new section 17(2)(d).

**The Hon. R.I. LUCAS:** I thank the minister for that. Under the proposed legislation—this is a consistent provision with all the agencies, and I thought I would address it first with the Art Gallery—there is a general provision which allows under the powers of the board to charge and collect fees for admission to exhibitions and activities conducted on special occasions or for special purposes. Can I just have the minister confirm that this does not give the Art Gallery board any wider power than already exists in relation to the charging and collection of fees?

**The Hon. G.E. GAGO:** I have been advised that, no, it does not.

**The Hon. R.I. LUCAS:** Under new paragraph (n), the bill proposes to give the power to sell or supply food and drink, including liquor, books, programmes, brochures, films, souvenirs and other things in connection with events and activities conducted or promoted by the board. Can I seek confirmation that that is no more or less than the existing provisions, in particular the inclusion of liquor supply and sales under the powers of the Art Gallery board?

**The Hon. G.E. GAGO:** I have been advised no.

**The Hon. R.I. LUCAS:** Under new section 17(4), the bill provides:

> The board is not obliged to accept or keep material that is not, in its opinion, of sufficient artistic, historical, cultural or other interest to justify its collection or preservation under this act.

Is this an existing provision, or is there a change in the proposed powers of the board in relation to whether or not they keep materials? Is that an existing provision? Does it replicate an existing provision, or is there some change there in relation to the existing powers?

**The Hon. G.E. GAGO:** I have been advised that this provision has been changed slightly, but only in terms of providing better clarification. The advice I have received is that in the existing arrangements the Art Gallery has had powers both to acquire and to get rid of materials. The new bill simply clarifies that.

**The Hon. R.I. LUCAS:** There is a similar provision for a number of these arts agencies under new subsection (5), which provides: 'The board may exercise its powers within or outside of the state.' I seek the minister's advice on the legal interpretation of the direction of these powers outside of the state of South Australia.

**The Hon. G.E. GAGO:** The advice I have received is that the Art Gallery has always had this power to operate outside the state, because it has the powers of a natural person. An example of one of those activities might be mounting exhibits that are on tour interstate.

Clause passed.

Clauses 30 to 37 passed.

Clause 38.

**The Hon. R.I. LUCAS:** Has the government received from the board of the Carrick Hill Trust any concerns about the proposed changes in the government legislation?

**The Hon. G.E. GAGO:** I have been advised that the Carrick Hill Trust did raise some questions, in particular, in relation to transitional provisions and that adjustments were made to the transitional provisions in this bill to accommodate those concerns. The advice I have received is that the trust was satisfied with that response.

**The Hon. R.I. LUCAS:** Again, I will just clarify this issue of ministerial involvement. There is no provision for a ban on ministerial involvement in staff and, as I understand it from previous answers, that is because the staff of the Carrick Hill Trust are employed under the Public Sector Management Act.

**The Hon. G.E. GAGO:** I am advised that that is correct.

**The Hon. R.I. LUCAS:** I guess I should clarify that: the ban is included in the Public Sector Management Act rather than in the Carrick Hill Act. The existing legislation under section 13(6) provides:

> The Trust shall not, without the consent of the Minister, sell or otherwise dispose of any object owned by it that is of artistic, historical or cultural interest.

Has that particular provision been changed so that the trust can now dispose of objects without the consent of the minister?

**The Hon. G.E. GAGO:** I have been advised yes.

**The Hon. R.I. LUCAS:** Can the minister indicate the reasons for the removal of the requirement for the consent of the minister that exist under the existing legislation?

**The Hon. G.E. GAGO:** I am happy to take that on notice. I do not have the details to that question with us today.

**The Hon. R.I. LUCAS:** I thank the minister for that. Under the bill new section 15(4) the trust is not obliged to accept or keep material that is not in its opinion of sufficient artistic, historical, cultural or other interest to justify its collection or preservation under this act. Is it correct that that particular provision does not exist under the existing Carrick Hill Trust Act?

**The Hon. G.E. GAGO:** I am advised that it is in the current act under section 13(4).

**The Hon. R.I. LUCAS:** I thank the minister for that. The bill, again similar to the Art Gallery, provides: 'The Trust may exercise its powers within or outside of the State.' While I understand the minister's argument that the Art Gallery may well mount national exhibitions, what is intended in relation to the Carrick Hill Trust—and, as I understand it, it is essentially about the preservation of Carrick Hill—that would require it exercising its powers outside the state of South Australia?

**The Hon. G.E. GAGO:** I have been advised that an example of work they might want to conduct interstate could include, for instance, their sourcing an item of historical significance. That source being interstate, they might travel interstate to collect that item.

**The Hon. R.I. LUCAS:** I am happy to move to the next section of the bill which is the History Trust, which I think starts at clause 42.

Clause passed.

Clauses 39 to 41 passed.

Clause 42.

**The Hon. R.I. LUCAS:** Has the government received any advice from the chair of the History Trust or the board of the History Trust of South Australia expressing concerns about any of the government's proposed changes in the legislation?

**The Hon. G.E. GAGO:** I have been advised that the questions were raised by the History Trust and there were a number of questions around whether the board needed some of the new provisions outlined in the bill such as the out-of-session decision-making provisions and the ability to teleconference. The advice was that, even though the History Trust may not currently use or see a need for those provisions, nevertheless, putting those provisions in the bill did not mean that the History Trust was required to use them if it did not choose to.

**The Hon. R.I. LUCAS:** I am assuming that the minister is saying that, having expressed those concerns, the History Trust board has signed off and agreed with the proposed changes now?

**The Hon. G.E. GAGO:** I have been advised that to the best of our knowledge their concerns were satisfied by the responses we gave them.

**The Hon. R.I. LUCAS:** Under the powers provisions in the proposed legislation, there are two provisions I referred to earlier. One is the capacity to regulate and control admission and charge and collect fees. I just ask the minister to confirm that that replicates existing powers that the History Trust has.

**The Hon. G.E. GAGO:** I have been advised, yes, it does. Also, I now have an answer to the honourable member's question about the employment conditions and where the provision was mirrored in the Public Sector Act. I have been advised that the general employment processes and conditions of an employee of a public sector agency are provided for in part 7 division 3 of the Public Sector Act under sections 45 to 57.

**The Hon. R.I. LUCAS:** I thank you for that. Time does not allow me quickly to look at that, so perhaps I can do that once we have reported progress. In relation to the History Trust, section 14(2)(k) which relates to selling or supplying food and drink including liquor, can the minister confirm that that is an existing power particularly in relation to the sale and supply of liquor by the History Trust of South Australia?

**The Hon. G.E. GAGO:** I am advised, yes.

**The Hon. R.I. LUCAS:** I am happy to move now to the next agency, the Libraries Board, which I think is clause 50.

Clause passed.

Clauses 43 to 49 passed.

Clause 50.

**The Hon. R.I. LUCAS:** Has the government received any advice from the chair of the Libraries Board, or the Libraries Board itself, expressing concerns about the proposed changes in the legislation?

**The Hon. G.E. GAGO:** I have been advised that they did not raise any concerns and are supportive of the bill.

**The Hon. R.I. LUCAS:** In relation to the Libraries Board, I have a specific set of questions which are based, in part, on an issue raised in parliament many years ago. I think it was in 2005 and 2006. I asked questions in the council about the actions of government officers in relation to the State Library and about powers and functions. Unsurprisingly, after five years, I still do not have an answer to those two questions.

I specifically refer now to the new section, 'Powers of authorised officers'. The example to which I referred was in relation to a dispute that arose between two workers at the State Library. Mr Chairman, you would probably remember the example I gave in relation to the issue in December 2005, where there had been a disagreement and one worker ended up being suspended on full pay for saying 'bullshit' and also words along the lines of, 'Don't do anything difficult; you might ruin your gorgeous complexion,' to her superior. The worker was suspended on full pay and sent home pending a disciplinary inquiry.

I asked a series of questions about the way the Libraries Board and the various arts agencies handled that disputation. I think that officer was on leave on full pay for a year or two

before the issue was actually resolved one way or another. However, as I said, I still do not have a reply from the government to those questions. What arose in relation to all of that was the powers of people to exclude people from library premises, such as the State Library on North Terrace. During that particular dispute, the employee who, in her view was being persecuted—I guess management had a different view—attended at the State Library.

A complaint from an officer was raised with her and, eventually, a letter was sent from Mr Greg Mackie, who was the Director of Arts SA, indicating that she was not allowed on the State Library site at all. The employee wrote back to Mr Mackie asking for reasons and, at the time of me raising the question, she indicated that she did not receive a reply. I raised issues in relation to the Libraries Act powers and the regulations under the Libraries Act. I am seeking clarification of the proposed powers of authorised officers. Are they exactly the same as the powers of authorised officers under the existing legislation, or have they been changed in any way?

**The Hon. G.E. GAGO:** I have been advised that the section pertaining to the authority of officers currently sits in regulations within the existing arrangements. I have been advised that it will now be lifted from the regulations and placed into the act or the bill.

**The Hon. R.I. LUCAS:** I have not had the chance today to cross-reference the legislation with the existing regulations, so I put the question to the minister: is it her advice that these powers of authorised officers are exactly the same as the powers under the existing libraries' regulations or have they been changed in some way; and, if so, how have they been changed?

**The Hon. G.E. GAGO:** I have been advised that it remains the same.

**The Hon. R.I. LUCAS:** Will the minister therefore explain how it is that under these existing provisions the director of Arts SA holds the power to ban someone from the State Library?

**The Hon. G.E. GAGO:** I have been advised that the type of matters the honourable member refers to are staffing matters and in this case are dealt with under the Public Sector Act.

**The Hon. R.I. LUCAS:** My question is: where is the responsibility for staffing matters in relation to staff of the Libraries Board? I would assume that there is a CEO, general manager or whatever is the official designation—a head honcho—in relation to library staff (chief librarian, perhaps). Who can ban someone from a public institution such as the State Library when, in this case, the person was involved in a personal dispute with another staff member?

**The Hon. G.E. GAGO:** I have been advised that these employees are public servants employed under an administrative unit. That administrative unit is currently operating under the Department of the Premier and Cabinet and, therefore, staffing matters relating to them would follow the hierarchy of that particular department.

**The Hon. R.I. LUCAS:** I take it that the minister's advice is that it is a decision of Arts SA as to who should be banned from a public library in South Australia, not the chief librarian or whoever the senior library-related staff member is. It is the decision of the senior arts bureaucrat in the department as to whether or not someone is banned from a library.

**The Hon. G.E. GAGO:** In relation to matters pertaining to the bill before us, I have been advised that the decision regarding taking formal action again relates to a staffing matter, and staffing decisions fall back to the particular staffing hierarchy and accountability and reportability of the particular department.

**The Hon. R.I. LUCAS:** Could I ask whether the minister is prepared to report progress at this stage? I would like to take further advice and compare the existing library regulations to which she has referred and the provisions in the act, as well as taking advice from my constituent on the circumstances that related to the use of the powers of authorised officers. Given the hour, and the fact that I received the advice of the minister's officer in relation to ministerial powers issues only late last night, that I have gone through only the first seven or eight arts agencies statutes and have not had the opportunity to go through the parent acts of the remaining four or five in the bill to do the comparisons, is the minister prepared to report progress and conclude this measure when next we meet?

**The Hon. G.E. GAGO:** I understand that we need to deal with a number of messages as well this evening, so I am happy to report progress. Clearly, as the honourable member is asking a set of questions of all the individual agencies, and a number of them are similar to one another, before we report progress I would ask that, if there are other, specific questions outside of those

core or routine questions, he put those on record now so that we can come back prepared with information to answer his queries.

**The Hon. R.I. LUCAS:** I am very happy to try and assist the minister and expedite the committee stages but I am not aware of any specific issue other than this Libraries Board issue which, as I said, I raised some four or five years ago. There are certainly the same general questions that relate to all the remaining agencies. Given that I have not had the opportunity to go through the parent acts of the remaining four or five agencies, I am not in a position at the moment to say definitively that there are no other specific issues that relate to those. If there were, I suspect they would be small in number. As I said, I would expect that we should be able to conclude the committee stage on the next day of sitting.

Progress reported; committee to sit again.

## STATUTES AMENDMENT (BUDGET 2010) BILL

Received from the House of Assembly and read a first time.

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (17:52):** I move:

That this bill be now read a second time.

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

Leave granted.

This Bill introduces legislative amendments required to implement budget improvement measures that have been announced as part of the 2010-11 Budget.

This Bill amends the *Education Act 1792*, *Public Sector Act 2009*, *Technical and Further Education Act 1975*, *Petroleum Products Regulation Act 1995*, *First Home Owner Grant Act 2,000*, *Motor Vehicles Act 1959*, *Passenger Transport Act 1994*, *Private Parking Areas Act 1986*, *Road Traffic Act 1961*, *Radiation Protection and Control Act 1982*, *Environment Protection Act 1993* and the *Payroll Tax Act 2009*.

This Bill will amend the *Education Act 1792*, *Public Sector Act 2009* and *Technical and Further Education Act 1975* to introduce reform of current public sector long service leave arrangements.

Under current provisions, an employee accrues an entitlement to long service leave at the rate of 9 calendar days for each completed year of effective service for the first 15 years of service and 15 calendar days for each subsequent completed year of effective service.

From 1 July 2011, all state public sector employees will accrue long service leave at the rate of 9 calendar days for each completed year of service with the rate no longer increasing after 15 years of completed service. This initiative does not affect long service leave entitlements that accrue before 1 July 2011.

This initiative provides savings of $90.7 million over three years and will bring state public sector employee long service leave entitlements more in line with those of the majority of the South Australian workforce.

This Bill will further amend the *Public Sector Act 2009* to introduce alternate arrangements to current employee recreation leave loading entitlements.

As part of the 2010-11 Budget initiatives, recreation leave loading for specified public sector employees will be replaced with an additional recreation leave entitlement of two days per annum.

Public sector employees employed as shift workers or seven day week workers, employed under the *Police Act 1998*, *Protective Security Act 2007*, *Children's Service Act 1985*, *Education Act 1972*, *Technical and Further Education Act 1975*, *Fire and Emergency Service Act 2005* and employees classified as a disability services officer, health ancillary employee or a registered health practitioner will continue to receive recreation leave loading. From 1 July 2012, all other eligible public sector employees will receive an extra two days recreation leave (pro rata for part time) in substitution for payment of recreation leave loading.

This initiative will provide savings of $46.6 million over two years.

This Bill will amend the *Petroleum Products Regulation Act 1995* to abolish the petrol subsidy scheme from 1 January 2011.

Petrol subsidies were introduced in South Australia following the invalidation of franchise fee arrangements by the High Court in August 1997.

Subsidies were applied in designated rural areas to offset the difference between the higher replacement Commonwealth excise surcharge (which due to Constitutional limitations cannot be applied at different rates of excise in each State) and the zonal petrol franchise fees which had previously been applied.

Current subsidy rates in the *Petroleum Products Regulation Act 1995* range from 0.66 cents per litre for leaded petrol in Zone 2, which consists of the area 50 kilometres to 100 kilometres from Adelaide GPO, excluding

the Yorke Peninsula, to 3.33 cents per litre for unleaded petrol in Zone 3 which covers areas more than 100 kilometres from the Adelaide GPO and includes the Yorke Peninsula.

This initiative is expected to provide savings to the state budget of $49.8 million over four years and will bring South Australia in line with New South Wales, Victoria, Queensland and Tasmania who all have abolished their petrol subsidy schemes.

This Bill amends the *First Home Owner Grant Act 2,000* to introduce a property cap of $575,000 on the market value of properties eligible for the First Home Owner Grant. The cap will be introduced for eligible transactions entered into on or after 17 September 2010.

The First Home Owner Grant was introduced on 1 July 2,000 to offset some of the additional building and construction costs associated with the introduction of the GST and in so doing, has assisted first home buyers to gain access to the housing market.

The new *Intergovernmental Agreement on Federal Financial Relations* (IGA) signed in December 2008 allows States and Territories to impose a cap on the market value of homes eligible for the First Home Owners Grant. The cap cannot be less than 1.4 times the relevant jurisdiction's capital city median house price. The Adelaide median house price as at the June quarter 2010 was $410,000. Accordingly, a cap of $575,000 is consistent with IGA requirements.

The cap is over two times the median value of first homes purchased in South Australia, which was around $285,000 in the June quarter 2010. It is estimated that only around 2 per cent of first home purchases will be ineligible for the grant due to the introduction of the $575,000 cap. This equates to around 280 first home buyers per annum (for a full year) over the forward estimates.

The amendments provide for regulations to enable the cap to be adjusted over time.

New South Wales, Victoria, Queensland, Western Australia and the Northern Territory have all imposed a cap on properties eligible for the First Home Owner Grant.

This initiative is expected to achieve savings for the state budget of $7.4 million over four years.

This Bill further amends the *First Home Owner Grant Act 2,000* to increase the first home bonus grant from $4,000 to $8,000 and retarget it to first home buyers who build or purchase a newly constructed home. First home buyers who purchase an existing home will no longer qualify for the bonus grant but will remain eligible for the $7,000 First Home Owner Grant. The new arrangements will apply to eligible transactions entered into on or after 17 September 2010.

The first home bonus grant was announced in the 2008-09 Budget. Under existing arrangements, first home owners who purchase a home valued up to $400,000 receive a bonus grant of $4,000. The bonus grant phases out for first home purchases valued between $400,000 and $450,000.

Under the new arrangements, first home owners who purchase or build a newly constructed home valued up to $400,000 will receive the full bonus grant of $8,000. The bonus phases out for newly constructed homes valued between $400,000 and $450,000.

The first home bonus grant is in addition to the existing $7,000 First Home Owner Grant.

It is anticipated that limiting the first home owner bonus grant to newly constructed homes (for a full year) will result in around 1500 first home buyers being eligible for the full bonus grant, with a further 165 first home buyers entitled to a partial bonus grant in 2010-11. This compares to around 9,000 first home buyers that would have received the bonus grant in some form under the current arrangements.

This initiative is expected to provide savings to the state budget of $76.9 million over four years.

This Bill will also amend the *Motor Vehicles Act 1959* to abolish the use of registration labels for light vehicles and secondly to introduce registration renewal period reform which will reduce the motor vehicle registration renewal options from four to two in relation to the frequency of customers' registration renewal.

Discontinuing the use of registration labels for light motor vehicles will deliver savings of approximately $5.7 million over three years. Operational efficiencies will be generated through a reduction in production, postage and processing costs, as well as through a greater proportion of people renewing online.

A new defence will be introduced for drivers who are detected driving an unregistered vehicle if they did not know and could not reasonably be expected to have known that the vehicle was unregistered. Information about the registration status of the vehicle will be available to the general public over the internet and a dedicated telephone line. To reinforce the responsibility of the owner to ensure the vehicle is registered, the existing owner offence of leaving an unregistered vehicle standing on a road is expanded to include where the vehicle is driven. It will be a defence for the owner if they can prove that they took reasonable steps to ensure that any person lawfully entitled to use the vehicle would have been aware that the vehicle was unregistered. In both defences, what is reasonable will depend on the circumstances.

The second component of this amendment, reducing renewal period options for motor vehicle registration, will deliver a net benefit of $10.1 million over three years. The present renewal options of six and nine months will be discontinued from 1 July 2011. Motorists will continue to have the option of renewing their car registration for either three months or twelve months. The reduction of renewal periods from four to two is consistent with the registration renewal offerings in interstate registration and licensing jurisdictions.

Amendments to the *Road Traffic Act 1961*, *Passenger Transport Act 1994* and the *Private Parking Areas Act 1986* have been made as a consequence of these changes to the *Motor Vehicles Act 1959*.

This Bill amends the *Radiation Protection and Control Act 1982* to allow the addition of new activities to the schedule of activities requiring licence and/or registration. Amendments have also been included that allow the prescription of fees for the new activities. The Government will recover costs of $2.6 million over three years from 2011-12 through the inclusion of new licence requirements and by increasing radiation licence and registration fees. The current fees for administration, compliance and enforcement of radiation licences and registrations do not cover the cost of providing these services.

This Bill amends the *Environment Protection Act 1993* to provide for the Environment Protection Authority's sustainability licence initiative. Under the initiative a licensee who meets the eligibility requirements set out in the Act, including a commitment to sustainable practices and an open consultation program with the community, may apply for endorsement of the licence as a sustainability licence. The amendment provides for fees to be payable for the application and endorsement and on an annual basis as prescribed by the regulations.

This Bill also provides employers with an exemption from payroll tax on wages paid or payable to apprentices and trainees from 1 July 2010, consistent with the Government's announcement during the 2010 election campaign.

The current rebate arrangements create red tape for business and a payroll tax exemption will make it easier to do business in South Australia.

South Australia previously provided a payroll tax rebate to payroll tax liable employers of apprentices/trainees. The payroll tax trainee rebate for non-Group Training Organisation (GTO) employers was 80 per cent. A higher rebate rate of 98 per cent applied to GTOs in respect of apprentices/trainees they supplied to small businesses. The payroll tax trainee rebate was available for apprentices/trainees were less than 25 years of age at the time of the training contract commencement and was limited to only one training contract undertaken with the same employer. The payroll tax trainee rebate scheme, which was an administrative scheme, ceased from 30 June 2010.

This Bill provides that wages paid or payable to an apprentice or trainee are exempt wages if paid or payable:

- by an approved GTO; or
- by an employer if the apprentice or trainee is undertaking training under—
- a school-based training contract; or
- an initial training contract between the employer and the apprentice or trainee; or
- a training contract entered into prior to 1 July 2010 that is current on that date.

There is no age restriction and the exemption will apply to all apprentices and trainees who undertake an approved training contract in accordance with the criteria set out above.

In recognition of the unique circumstances associated with school-based trainees, a school-based traineeship/apprenticeship will not be considered an initial contract of training. An employee who undertakes a school-based traineeship and subsequently undertakes a further apprenticeship/traineeship with the same employer will continue to qualify for the payroll tax exemption while undertaking that subsequent contract of training.

The Commissioner may approve an organisation as a GTO for the purpose of administering the exemption after taking into account relevant industry standards and practices associated with group training organisations.

In 2008-09, 550 employers received a payroll tax trainee rebate. It is anticipated that a greater number of employers will benefit from the abolition of payroll tax on wages for apprentices and trainees as the exemption will apply to apprentices and trainees regardless of their age.

The exemption will apply retrospectively from 1 July 2010.

RevenueSA has been administering the *Payroll Tax Act 2009* as if the exemption came into effect from 1 July 2010, and will continue to administer the legislation on this basis pending the Bill being passed by Parliament.

This exemption will provide tax relief to businesses of around $79.7 million over the next four years.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause sets out the arrangements for the commencement of various parts of this measure.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Education Act 1972*

4—Amendment of section 19—Long service leave

The rate of long service leave for any service occurring after the first 7 years of service will be 0.75 day's leave for each completed month of effective service. This amendment will apply from 1 July 2011.

5—Transitional provision

The amendment made to the *Education Act 1972* in relation to the rate of accrual of long service leave will not affect an entitlement to long service leave or a payment in lieu of long service leave that accrues before 1 July 2011.

Part 3—Amendment of *Environment Protection Act 1993*

6—Amendment of section 11—Establishment of Authority

Section 11 precludes the Authority being subject to the direction of the Minister in relation to environmental authorisations and the amendment extends this to sustainability licence endorsements.

7—Insertion of Part 6A

A new Part is inserted into the Act.

Part 6A—Sustainability licence endorsements

57A—Requirement for endorsement of licence

The scheme is about a licensee being awarded the privilege of holding the licence out as a 'sustainability licence' in recognition of the licensee putting in place certain extraordinary environment protection measures. This section establishes the fundamental premise of the privilege by making it an offence for a person to represent that a licence is a sustainability licence, or permit another person to do so, unless the licence is endorsed as a sustainability licence under this Part.

57B—Applications for endorsements

The application procedure for an endorsement is similar to that for other applications under the Act.

57C—Endorsement of licences

The Authority is authorised to endorse a licence as a sustainability licence on payment of a fee if the licensee has undertaken—

- to implement, within a period agreed with the Authority, specific and substantial measures agreed with the Authority designed, in connection with the activities authorised by the licence—
  - to protect, restore or enhance the environment beyond standards required by or under the Act; and
  - to facilitate consultation with the community and deal with complaints; and
- to facilitate auditing of the implementation of the measures in accordance with an auditing programme agreed with the Authority; and
- to review and renegotiate the measures and auditing programme in good faith from time to time in accordance with a review programme agreed with the Authority; and
- to implement the measures, and facilitate auditing of implementation of the measures, as renegotiated following review.

Other requirements may be specified by regulation. It is contemplated that the Authority might also make undertakings to provide support to the licensee in the implementation of the measures. The undertakings are not enforceable.

57D—Term and renewal of endorsements

An endorsement is to run with the licence. Information about the measures forming the basis of an endorsement must be included in any application for renewal of a licence endorsed as a sustainability licence.

57E—Annual fees and returns

The regulations may impose an additional annual fee for a licence endorsed as a sustainability licence. An annual return for a licence endorsed as a sustainability licence is required to include information about the measures forming the basis of the endorsement.

57F—Transfer of endorsements

If a licence is transferred, an endorsement may be transferred with the approval of the Authority given on the same basis as would apply if the transferee were an applicant for an endorsement.

57G—Suspension or revocation of endorsements

The Authority may revoke an endorsement if—

- the holder of the licence acts contrary to an undertaking forming the basis of the endorsement; or
- the Authority is unable to reach agreement with the holder on the renegotiation of the measures or auditing programme.

Other grounds for revocation may be specified by regulation.

A licensee may require the revocation of an endorsement.

Suspension, cancellation or surrender of the licence flows through to the endorsement.

8—Amendment of section 106—Appeals to Court

The appeal provision is amended to provide for an appeal to the Court against a decision of the Authority to refuse to endorse a licence as a sustainability licence or to revoke or refuse to approve the transfer of such an endorsement.

9—Amendment of section 109—Public register

The provision governing the public register is amended so that details of endorsements and applications for endorsements are included on the register.

10—Transitional provision

The sustainability licences already issued by the Authority are converted by this clause into sustainability endorsements

Part 4—Amendment of *First Home Owner Grant Act 2,000*

11—Amendment of section 3—Definitions

Definitions of two terms, *new home* and *substantially renovated home*, are to be removed from section 13A and inserted into the list of definitions that apply for the purposes of the whole Act. This is because these terms are now to be used in new section 18BA in addition to section 13A.

12—Amendment of section 7—Entitlement to grant

Under section 7 as amended by this clause, a first home owner grant will not be payable on an application under the Act if—

- the commencement date of the eligible transaction for which the grant is sought is on or after 17 September 2010; and
- the market value of the home to which the transaction relates exceeds $575,000.
- (If an amount other than $575,000 is prescribed by regulation for the purposes of the section, that prescribed amount applies instead of $575,000.)

13—Amendment of section 13A—Special eligible transactions

The definitions of *new home* and *substantially renovated home* are to be removed from section 13A and placed in section 3.

14—Amendment of section 18B—Bonus grant for transactions before 17 September 2010

This clause amends section 18B, which provides for an increase in the amount of a home owner grant in certain circumstances, by limiting the operation of the section to transactions with a commencement date that is before 17 September 2010.

This clause also removes a number of subsections relating to the determination of the market value of a house. These provisions are to be included in new section 18BB, which will set out the method for determining the market value of a house for the purposes of sections 7, 18B and 18BA.

15—Insertion of sections 18BA and 18BB

This clause inserts two new sections.

18BA—Bonus grant for transactions on or after 17 September 2010

Section 18BA provides for an increase in the amount of a first home owner grant if—

- the commencement date of the eligible transaction is on or after 17 September 2010; and

- the transaction relates to a contract for the purchase of a new home, a comprehensive home building contract or the building of a new home by an owner builder; and
- the market value of the home is less than $450,000.

The amount of the bonus grant will, if the market value of the home does not exceed $400,000, be $8,000. If the market value of the home exceeds $400,000, the amount of the bonus grant is to be determined in accordance with a formula set out in the section.

18BB—Market value of homes

This section specifies the method for determining the market value of a home for the purposes of sections 7, 18B and 18BA. The section repeats the method that was previously set out in section 18B.

16—Amendment of section 18C—Amount of grant must not exceed consideration

The amendment made by this clause is consequential.

17—Transitional provision

Under this clause, the amount of a first home owner grant paid to a person who is not entitled to the grant because of the retrospective operation from 17 September 2010 of new subsection (1a) of section 7, which imposes the cap of $575,000, will be recoverable from the person as a debt due to the State. This clause also provides for the recovery of a first home bonus grant paid to a person under section 18B of the Act if the payment was made in respect of an eligible transaction with a commencement date that is on or after 17 September 2010.

Also, if a person is entitled to a first home bonus grant under new section 18BA, but the person has received an *ex gratia* benefit in order to provide the bonus grant, the amount of the person's entitlement under section 18BA is to be reduced by the amount of the *ex gratia* payment.

Part 5—Amendment of *Motor Vehicles Act 1959*

18—Amendment of section 9—Duty to register

This clause amends section 9 of the Act so that the defence in subsection (2) will only apply to a heavy vehicle and to insert a new defence for drivers of light vehicles (who are not the registered owner or the registered operator) if the defendant proves that he or she did not know and could not reasonably be expected to have known, that the vehicle was unregistered. The provision also extends the owner offence in section 9(3) to make the owner liable where an unregistered vehicle is driven on a road (currently that offence only applies to a vehicle left standing on a road). Proposed subsection (4a) however provides a defence for the owner where the vehicle was not driven or left standing on the road by the owner and the owner had taken reasonable steps to ensure that any person lawfully entitled to use the motor vehicle would have been aware that the vehicle was unregistered. In addition, the definition of *owner* in section 9 is amended to exclude persons who merely take a vehicle on hire.

19—Amendment of section 16—Permits to drive vehicles without registration

This clause amends section 16 to remove the reference to registration labels for light vehicles.

20—Amendment of section 24—Duty to grant registration

This clause amends the registration periods for light vehicles to delete the 6 month and 9 month options.

21—Amendment of heading

This clause amends a heading to reflect the fact that registration labels will only be issued for heavy vehicles.

22—Amendment of section 48—Registration label

This clause amends section 48 to remove the reference to certificates of registration and to make the provisions about registration labels apply only to heavy vehicles.

23—Amendment of section 50—Permit to drive pending receipt of registration label

24—Amendment of section 52—Return or destruction of registration labels

These clauses make amendments to reflect the fact that registration labels will only be issued for heavy vehicles.

25—Amendment of section 56—Duty of transferor on transfer of vehicle

26—Amendment of section 57—Duty of transferee on transfer of vehicle

27—Amendment of section 58—Transfer of registration

These clauses replace references to the certificate of registration with references to prescribed documents.

28—Amendment of heading

29—Amendment of section 71A—Property in plates, labels and documents

30—Substitution of section 71B

These clauses are consequential to clauses 25, 26 and 27.

31—Amendment of section 102—Duty to insure against third party risks

This clause proposes amendments to section 102 of the Act (which deals with uninsured vehicles) that correspond to the amendments proposed in relation to section 9 of the Act (which deals with unregistered vehicles).

32—Repeal of section 103

Section 103 is deleted as it would no longer be necessary.

33—Amendment of section 116—Claim against nominal defendant where vehicle uninsured

This clause amends section 116(7c)(b) to make the wording consistent with the wording of the new defence in section 102.

34—Amendment of section 124—Duty to co-operate with insurer

This clause replaces a reference to the certificate of registration or permit with a reference to prescribed documents.

35—Amendment of section 131—Insurance by visiting motorists

This clause deletes a reference to a certificate of registration.

36—Amendment of section 142—Facilitation of proof

This clause is amended to reflect the fact that registration labels will only be issued for heavy vehicles.

37—Amendment of section 145—Regulations

This clause amends the regulation making power to allow the regulations to prescribe documents (for the purposes of those sections that will now refer to prescribed documents), to allow the Registrar to issue, and charge for, documents relating to registration or to particulars of registration where such documents may be necessary for any purpose and to provide offences.

38—Insertion of Schedule 1

This clause inserts a Schedule making special provision in relation to camera detected registration offences. This is consequential to the proposed amendments to section 79B of the *Road Traffic Act 1961*.

39—Transitional provisions

This clause provides a transitional provision to ensure that, after commencement of the measure, offences in the *Motor Vehicles Act* relating to registration labels won't apply to labels issued for light vehicles before commencement. In addition, transitional provisions are included to deal with the removal of registration offences from section 79B of the *Road Traffic Act* and the enactment of Schedule 1 of the *Motor Vehicles Act*.

Part 6—Amendment of *Passenger Transport Act 1994*

40—Amendment of section 63—Registration of prescribed passenger vehicles

This clause amends the *Passenger Transport Act 1994* consequentially to the amendments to the *Motor Vehicles Act 1959* relating to registration labels and also deletes an obsolete reference to section 55 of the *Motor Vehicles Act 1959*.

Part 7—Amendment of *Payroll Tax Act 2009*

41—Amendment of Schedule 2—South Australia Specific Provisions

This clause provides for another category of exemption under Part 3 of Schedule 2 of the Act. Under this new clause, wages paid or payable to an apprentice or trainee by a group training organisation approved by the Commissioner, or where the apprentice or trainee is undertaking training under various categories of training contracts (as specified under this provision), will be taken to be exempt wages. It will also be possible to add to the categories of training contracts in relation to which the exemption applies by regulation.

42—Transitional provision

This clause provides that a regulation made for the purposes of new section 10A (inserted by clause 41) may take effect from 1 July 2010 or a later date.

Part 8—Amendment of *Petroleum Products Regulation Act 1995*

43—Amendment of section 4—Interpretation

This clause removes the definition of *bulk end user* from section 4. The term is relevant only in relation to the subsidy scheme and is therefore no longer required. A consequential amendment is also made to the definition of *condition*.

44—Repeal of section 4B

This clause repeals section 4B, which sets out the meaning of *bulk end user* and includes other provisions relating to that term.

45—Repeal of section 5

Section 5 provides for the division of South Australia into three zones. This division is only required for the purposes of Part 2A of the Act, which provides for subsidies and is to be repealed by clause 48. Section 5 is therefore repealed by this clause.

46—Amendment of section 8—Requirement for licence

Section 8 prohibits a person from selling petroleum products by retail sale or wholesale unless authorised to do so under a licence. The prohibition does not apply in relation to the sale of products by a person as a bulk end user. This clause amends section 8 by removing the bulk end user exception.

47—Amendment of section 11—Conditions of licence

Section 11(2)(ga) provides that licence conditions may include conditions relevant to the subsidy paid or payable under the Act in relation to a quantity of eligible petroleum products. As a subsidy is not longer to be available under the Act, this clause amends section 11 by removing paragraph (ga).

48—Repeal of Part 2A

Part 2A deals with the subsidy to which licence holders are currently entitled in certain circumstances. This clause repeals Part 2A.

49—Amendment of section 44—Powers of authorised officers

50—Amendment of section 47—Appeals

51—Amendment of section 50—Register

The amendments made by these clauses are consequential on other amendments to the Act that remove provisions relating to subsidies and bulk end user certificates.

52—Amendment of section 53—Records to be kept

This clause amends section 53 to in order to provide a definition of *certificate*. The existing definition is to be removed from section 4 because of the repeal of Part 2A. For the purposes of the section, a certificate is a bulk end user certificate issued under Part 2A before the repeal of the Part.

53—Amendment of section 53A—Falsely claiming to hold licence or permit etc

54—Amendment of section 56—Confidentiality

The amendments made by these clauses are consequential on other amendments to the Act that remove provisions relating to subsidies and bulk end user certificates.

55—Amendment of section 62—Evidence

This clause amends section 62 in order to provide a definition of *certificate*. The existing definition is to be removed from section 4 because of the repeal of Part 2A. For the purposes of the section, a certificate is a bulk end user certificate issued under Part 2A before the repeal of the Part.

56—Transitional provision

The transitional provision provides that the amendments made by the amending Act do not affect entitlements that arose under Part 2A before the repeal of that Part. The amendments also do not affect the Commissioner's right under section 23 to require the payment or repayment of an amount. A person's right to appeal against a decision of the Commissioner on a claim for a subsidy, or a decision to issue a notice seeking a payment or repayment, is also preserved.

Part 9—Amendment of *Private Parking Areas Act 1986*

57—Amendment of section 8—Offences—driver and owner to be guilty

This clause amends the *Private Parking Areas Act 1986* consequentially to the amendments to the *Motor Vehicles Act 1959* relating to registration labels.

Part 10—Amendment of *Public Sector Act 2009*

58—Amendment of section 51—Hours of duty and leave

This clause makes it clear that a right to recreation leave for employees to whom Part 7 of the Act applies will be subject to the operation of proposed Schedule 1A.

59—Insertion of section 73A

An entitlement to a leave loading allowance for recreation leave for public sector employees, other than categories of employees excluded under the new arrangements, is to be replaced with an entitlement to additional recreation leave that will accrue at the rate of ⅛ days leave for each completed month of service in accordance with the provisions of Schedule 1A. This measure is to apply from 1 July 2012 (the *prescribed date* under Schedule 1A).

60—Amendment of Schedule 1—Leave and working arrangements

The rate of accrual of an entitlement to long service leave under the Act will be 9 calendar days for each completed year of effective service (with no increase in the rate after 15 years of service). This amendment will apply from 1 July 2011.

61—Insertion of Schedule 1A

This Schedule sets out the new arrangements with respect to leave loading for certain public sector employees.

62—Transitional provision

The amendment made to the *Public Sector Act 2009* in relation to long service leave entitlements will not affect an entitlement to long service leave or a payment in lieu of long service leave that accrues before 1 July 2011 (including so as to accrue leave for completed months of service occurring before 1 July 2011).

Part 11—Amendment of *Radiation Protection and Control Act 1982*

63—Amendment of section 5—Interpretation

This clause amends section 5 to insert or update various definitions and to make other minor changes to the section.

64—Insertion of section 23A

This clause inserts new section 23A.

23A—Licence to test for developmental purposes

This section requires a person to hold a licence granted by the Minister if the person carries out developmental testing operations involving or in relation to mining or mineral processing where a prescribed radioactive substance is present.

The maximum penalty for carrying out unlicensed operations is $50,000 or imprisonment for 5 years.

The section does not apply to operations of a prescribed class.

Before granting a licence the Minister must be satisfied that proposed operations would comply with the regulations.

The section provides for the payment of application fees and annual licence fees and for the recovery of those fees.

65—Amendment of section 24—Licence to carry out mining or mineral processing

This clause amends section 24 to require a person to hold a licence granted by the Minister if the person carries out operations for or in relation to mining or mineral processing where a prescribed radioactive substance is present, or will be produced.

Operations in relation to mining or mineral processing include—

- establishing, operating or decommissioning any facilities associated with mining or mineral processing;
- operations for the rehabilitation of land on account of the impact of any operations associated with mining or mineral processing;
- other operations brought within the ambit of the section by the regulations.

A prescribed radioactive substance is a radioactive substance that contains more than the prescribed concentrations of any naturally occurring radioactive element or compound.

The maximum penalty for carrying out unlicensed operations is $50,000 or imprisonment for 5 years.

The section provides for the payment of application fees (as well as annual licence fees) and for the recovery of those fees.

66—Amendment of section 26—Limits of exposure to ionising radiation for mining or mineral processing operations not to be more stringent than limits fixed under certain codes etc

This clause amends section 26 so that it applies in relation to mining and mineral processing.

67—Amendment of section 28—Licence to use or handle radioactive substances

This clause amends section 28 to make it clear that the Minister is the licensing authority for licensing persons to use or handle radioactive sources. The clause also provides for the payment of an application fee on an application for a licence under the section.

68—Amendment of section 29—Registration of premises in which unsealed radioactive substances are handled or kept

This clause amends section 29 to make it clear that the Minister is the registration authority for the registration of premises in which unsealed radioactive substances are handled or kept. The clause also provides for the payment of an application fee on an application for registration.

69—Insertion of section 29A

This clause inserts a new section relating to radiation facilities.

29A—Facilities licence

This section requires a person to hold a licence granted by the Minister if the person prepares a site for, or constructs, establishes, controls, operates, manages, decommissions, disposes of or abandons, a radiation facility.

The section applies to radiation facilities of a prescribed class where a radiation source is produced, processed, used, handled, stored, disposed of or otherwise managed.

The section does not apply to persons of a prescribed class.

The maximum penalty for carrying out unlicensed activities is $100,000.

Before granting a licence, the Minister must be satisfied of the following:

- that the applicant is a fit and proper person to hold a licence under the section;
- that the applicant has appropriate knowledge of the principles and practices of radiation protection to undertake the role or to carry out the activities to which the licence is related;
- that the facility and any relevant operations comply, or will comply, with the regulations.

The section provides for the payment of application fees and annual licence fees and for the recovery of those fees.

70—Amendment of section 30—Registration of sealed radioactive source

This clause amends section 30 to make it clear that the Minister is the registration authority for the registration of sealed radioactive sources. The clause also provides for the payment of an application fee on an application for registration.

71—Amendment of section 31—Licences to operate radiation apparatus

This clause amends section 31 to make it clear that the Minister is the licensing authority for the licensing of persons to operate radiation apparatus. The clause also provides for the payment of an application fee on an application for a licence.

72—Amendment of section 32—Registration of radiation apparatus

This clause amends section 32 to make it clear that the Minister is the registration authority for the registration of radiation apparatus. The clause also provides for the payment of an application fee on an application for registration.

73—Insertion of Part 3 Divisions 3A and 3B

Division 3A—Licence to possess a radiation source

33A—Licence to possess a radiation source

This section requires a person to hold a licence granted by the Minister if the person is in possession of a radiation source.

A radiation source is a sealed radioactive source, unsealed radioactive substance or radiation apparatus, or any equipment, object, article or thing that emits or may emit ionising or non-ionising radiation when energised.

The maximum penalty for unlicensed possession is $100,000.

Before granting a licence the Minister must be satisfied—

- that the applicant is a fit and proper person to hold a licence under the section; and
- that the applicant has appropriate knowledge of the principles and practices of radiation protection to have possession of the radiation source in the circumstances to which the licence is to relate; and
- that any requirement prescribed by the regulations is complied with or satisfied.

The section provides for the payment of application fees and annual licence fees and for the recovery of those fees.

Division 3B—Accreditation of third party service providers

33B—Accreditation process

This section provides that a person may, on payment of a prescribed fee, apply to the Minister for an accreditation for the purposes of this Division.

Before granting an accreditation, the Minister must be satisfied as to the following:

- that the applicant is a fit and proper person to hold the accreditation;

- that the applicant has appropriate skills, qualifications, knowledge or experience to properly carry out the activities authorised by the accreditation;
- that the applicant satisfies any other requirements for accreditation prescribed by the regulations.

33C—Authority conferred by accreditation

This section provides that an accreditation authorises the person named in the accreditation—

- to conduct tests on radiation sources;
- to undertake activities to assess compliance with the Act or any requirements prescribed by the regulations;
- to issue certificates of compliance or certificates or competency in relation to matters regulated under the Act;
- to conduct courses of training leading to qualifications to hold a licence or registration under the Act;
- to carry out other activities determined or approved by the Minister.

33D—Reliance on professional advice

This section allows the Minister to rely on a certificate issued by an accredited person when exercising functions under the Act.

33E—Accreditation fees

This section requires annual fees to be paid by the holder of an accreditation and provides for the recovery of those fees.

33F—Offences

This section makes it an offence for a person to hold themself out, or pretend to be, the holder of an accreditation if the person is not accredited. The maximum penalty is $10,000.

The section also makes it an offence for a person to alter or permit to be altered any information or statement in a certificate issued by an accredited person for the purposes of the Act unless the alteration is authorised by the accredited person or is made in prescribed circumstances. The maximum penalty is $20,000.

A person commits an offence if he or she makes or causes to be made a false or misleading statement in a certificate of compliance or a certificate of competency issued for the purposes of the Act. The maximum penalty is $20,000.

74—Heading to Part 3 Division 4

This clause substitutes the heading to Part 3 Division 4 to extend it to accreditations under the new Part 3 Division 3B.

75—Amendment of section 34—Minister may require information to determine applications

76—Amendment of section 36—Conditions of accreditations and authorities

77—Amendment of section 37—Term of accreditations and authorities and their renewal

78—Amendment of section 38—Register

79—Amendment of section 40—Surrender, suspension and cancellation of accreditations and authorities

80—Amendment of section 41—Review of decisions relating to accreditations and authorities

The amendments made by these clauses to sections 34, 36, 37, 38, 40 and 41 of the principal Act are all consequential on the introduction of an accreditation process in Part 3 Division 3B. They ensure that the provisions that currently apply to licences and registrations will also apply to accreditations.

The amendments to section 40 also empower the Minister to suspend or cancel an accreditation under new Part 3 Division 3B if—

- the holder of the accreditation ceases to hold a qualification on the basis of which the accreditation was granted; or
- the holder of the accreditation has not acted competently or appropriately in undertaking activities under the accreditation; or
- events have occurred or circumstances have changed such that the holder of the accreditation would not be entitled to be granted accreditation if the application were now to be made.

The last ground for suspension or cancellation will also apply to licences and registrations.

81—Amendment of section 43—Regulations

This clause amends section 43 to substitute the words 'processing' for 'milling' and extend the regulation-making power to prescribe fees in relation to accreditations.

82—Amendment of section 49—Evidentiary provisions

The amendment to section 49 made by this clause is consequential on the introduction of the accreditation process.

83—Amendment of section 50—Service of documents

The amendment to section 50 made by this clause is consequential on the introduction of the accreditation process.

Part 12—Amendment of *Road Traffic Act 1961*

84—Amendment of section 79B—Provisions applying where certain offences are detected by photographic detection devices

This clause removes the references to registration offences in section 79B of the *Road Traffic Act 1961*, consequentially to the creation of new owner registration offences in sections 9 and 102 of the *Motor Vehicles Act 1959*.

85—Amendment of section 176—Regulations and rules

This clause makes an amendment to the regulation making power to ensure that regulations about photographic detection devices may apply for the purposes of the *Motor Vehicles Act 1959*.

Part 13—Amendment of *Technical and Further Education Act 1975*

86—Amendment of section 19—Long service leave

87—Transitional provisions

These clauses make related amendments relating to the accrual of long service leave under the *Technical and Further Education Act 1975*.

Debate adjourned on motion of Hon. J.M.A. Lensink.

## CONTROLLED SUBSTANCES (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly agreed to the amendment made by the Legislative Council without any amendment.

## STATUTES AMENDMENT (DRIVING OFFENCES) BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

At 17:54 the council adjourned until Thursday 14 October 2010 at 14:15.