LEGISLATIVE COUNCIL

Thursday 24 February 2011

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:17 and read prayers.

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (EXEMPTIONS AND APPROVALS) AMENDMENT BILL

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:18): I have to report that the managers for the two houses conferred together, and it was agreed that we should recommend to our respective houses:

No.1. That the Legislative Council no longer insists on its amendment but makes the following amendment in lieu thereof:

Clause 4, page 3, lines 3 to 12 [clause 4(2), inserted subsection (2)]—

Delete inserted subsection (2) and substitute:

(2) An application made to the Minister or the National Director under subsection (1) must comply with the requirements prescribed by regulation.

and that the House of Assembly agrees thereto.

No. 2. That the Legislative Council no longer insists on its amendment but makes the following amendment in lieu thereof:

Clause 7, page 3, lines 24 to 26 [clause 7(2), inserted subsection (1a)]—

Delete inserted subsection (1a) and substitute:

(1a) An application made to the Minister or the National Director under subsection (1) must comply with the requirements prescribed by regulation.

and that the House of Assembly agrees thereto.

No. 3. That the Legislative Council no longer insists on its amendment but makes the following amendment in lieu thereof:

Clause 8, page 4, lines 6 to 8 [clause 8(2), inserted subsection (1a)]—

Delete inserted subsection (1a) and substitute:

(1a) An application made to the Minister or the National Director under subsection (1) must comply with the requirements prescribed by regulation.

and that the House of Assembly agrees thereto.

No.4. That the Legislative Council no longer insists on its amendment but makes the following amendment in lieu thereof:

Clause 9, page 4, line 39 to page 5, line 5 [clause 9, inserted section 79C(2)]—

Delete inserted subsection (2) and substitute:

(2) An application made to the Minister under subsection (1) must comply with the requirements prescribed by regulation.

and that the House of Assembly agrees thereto.

And that the following consequential amendments be made to the Bill:

Clause 5, page 3, after line 15 [clause 5]—Insert:

(2) Section 77(2)—delete subsection (2) and substitute:

(2) An application for a direction under subsection (1) may be made by an approved organisation and must comply with the requirements prescribed by regulation.

(3) Section 77(4)—delete subsection (4) and substitute:

(4) An application for a direction under subsection (3) must comply with the requirements prescribed by regulation.

Clause 9, page 4—

Lines 21 to 23 [clause 9, inserted section 79B(1)]—Delete:

'the Minister may, with the agreement of the National Director, refer the application to the National Director for determination'

and substitute:

'the application will, subject to subsection (2), be taken to have been made to the National Director under this Part'

Lines 24 to 32 [clause 9, inserted section 79B(2)]—Delete inserted subsection (2) and substitute:

(2) Subsection (1) does not apply if—

(a) the Minister decides that he or she will determine that application; or

(b) the National Director or the applicant notifies the Minister that he or she objects to the application being determined by the National Director.

Clause 10, page 5, lines 9 and 10 [clause 10, inserted subsection (2)]—Delete inserted subsection (2) and substitute:

(2) The regulations may—

(a) be of general application or vary in their application according to prescribed factors;

(b) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister or the National Director.

Consideration in committee of the recommendations of the conference.

The Hon. B.V. FINNIGAN: I move:

That the recommendations from the conference be agreed to.

The Classification (Publications, Films and Computer Games) (Exemptions and Approvals) Amendment Bill as introduced was intended to provide for applications for exemptions under the Classification (Publications, Films and Computer Games) Act 1995 to be made to the minister or the national director. South Australia is the only jurisdiction that does not allow applications for exemptions to be made to the national director. All other states and territories confer the power to grant exemptions and approve organisations on the director either alone or concurrently with the minister.

The bill as introduced was not supported, principally because the amendments would result in a more rigorous application process for seeking exemptions from the minister than that required when making applications to the national director. That matter has been resolved in discussion between the houses. The bill in its current form will mean that applications to the minister will be taken to be applications made to the director, unless the applicant objects to the national director dealing with the application, the national director objects to dealing with the application or the minister chooses to deal with the application.

The bill provides that an application made to the minister must comply with the requirements prescribed by regulation. Regulations will be made to the effect that an application to the minister or the national director must be made in accordance with any requirements of the national director so that the application process will be no more onerous than if made to the minister. The bill achieves the result sought and I thank the Hon. Mr Wade and other members of the conference for working to achieve this sensible result.

The Hon. S.G. WADE: I thank the minister for his summation of the proceedings and I concur with them. I also take the opportunity to thank the government on behalf of the opposition for constructively engaging in what has proved to be a useful process.

The Hon. M. PARNELL: I have some concerns with the way these businesses are dealt with in the house. It was my expectation to hear, as we have always heard, that the conference would be continuing. It is a procedural motion that is moved at the start of each day, and it would have been a courtesy to the crossbench for the members of the deadlock committee to have told us that they had reached agreement and that we would be debating it as a matter of priority before question time.

Whilst I do not propose to stand in the way of any agreement that has been reached, I think it is an appalling state of affairs that a large proportion of this chamber is not shown the courtesy of being told that an agreement on a deadlock conference has been reached and that we are going to be debating today. I am not going to point the finger at anyone in particular. The government would certainly take the bulk of the responsibility as the managers of business in this place. My plea would be: next time we have a deadlock conference, could the manager of government business tell us when a resolution is reached and that it will be back on the *Notice Paper*.

The CHAIR: We will not have a debate on this.

The Hon. S.G. WADE: It would be appropriate to correct the record slightly. The Hon. Mr Parnell implies that only the major parties were involved in the discussions. That is not true. One of the crossbenchers, who was most interested in the matter, was actually a member of the Legislative Council team and was fully involved in the discussions.

Motion carried.

PAPERS

The following papers were laid on the table:

By the Minister for Industrial Relations (Hon. B.V. Finnigan)—

Super SA—Triple S Insurance Review Report, December 2010
Education Adelaide Charter, 2010-11
Government's Response to advice received from the Premier's Climate Change Council—
Accelerating the Investment in Government Energy Efficiency
Government's Response to advice received from the Premier's Climate Change Council—
Draft Climate Change Adaptation Framework for South Australia

By the Minister for State/Local Government Relations (Hon. B.V. Finnigan)—
District Council By-laws—Tumby Bay—
No. 1—Permits and Penalties
No. 2—Dogs
No. 3—Local Government Land
No. 4—Roads
No. 5—Moveable Signs

By the Minister for Regional Development (Hon. G.E. Gago)—
Reports, 2009-10—
Dog Fence Board
National Environment Protection Council

NURSES AND MIDWIVES ENTERPRISE AGREEMENT

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:26): I seek leave to make a personal explanation.

Leave granted.

The Hon. B.V. FINNIGAN: On Tuesday 22 February I responded to a question from the Hon. Tammy Franks related to the processing of pay increases for nurses and midwives. In my response I stated that I was advised that payment of salary increases would commence in the pay period of 2 February and that the processing of all back pay would be completed by 1 April this year. I have some further information for the honourable member: I am now advised that salary increases were commenced in stages beginning on 18 February 2011 and will be completed by 4 March, the end of next week. I am further advised that back pay will be paid by 1 April, as stated.

QUESTION TIME

EDWARDSTOWN GROUNDWATER CONTAMINATION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:27): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about toxic groundwater.

Leave granted.

The Hon. P. Holloway interjecting:

The Hon. D.W. RIDGWAY: I am asking the minister a question, not you. You had your turn for nine years, and now it's time to sit back and take your medicine.

Members interjecting:

The Hon. D.W. RIDGWAY: Can I have the clock restarted after this carry-on? As the minister might know, after an 18-month long cover-up the government has finally revealed that about 2,000 homes in and around Edwardstown are sitting over a pool of contaminated groundwater; water so toxic that you cannot let a dog drink it, you cannot let children play on lawns watered with the stuff, and you cannot use the bore water for growing vegetables. The water contains known and suspected cancer-causing chemicals.

Australian Property Monitors says that 442 properties were sold in the 5039 postcode which, for the benefit of the minister, is Edwardstown. Real estate agents are compelled to inform prospective buyers if the property is known to have any issues which may affect the sale price. The Environment Protection Authority has known about this toxic groundwater for at least a year and a half. My questions are:

1. What recompense do consumers have if they have bought a property in Edwardstown which sits over the contaminated water?

2. Can buyers who acquired a property in the past 12 months to two years seek compensation from the Environment Protection Authority for keeping this vital commercial information secret?

3. Can the minister guarantee that real estate agents who signed a Form 1—the statement by the vendor of all disclosures they need to make when they are selling a property, under the Land and Business (Sale and Conveyancing) Act 1994—that did not mention the groundwater will be protected from prosecution or liability?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:29): I thank the honourable member for his questions and indeed—

An honourable member: Scaremongering.

The Hon. G.E. GAGO: Yes, his scaremongering questions—up to mischief as usual.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: My understanding is that monitoring is still taking place and advice is still being sought in relation to this problem and the extent of this problem. I will certainly await the outcome of that advice, and I am happy to take the questions on notice and bring back a response once I have the appropriate information.

EDWARDSTOWN GROUNDWATER CONTAMINATION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:30): I have a supplementary question.

The PRESIDENT: Deriving from the answer?

The Hon. D.W. RIDGWAY: Is this the reason the member for Elder moved to the safer suburb of Unley?

The PRESIDENT: The Hon. Mr Parnell has a supplementary deriving from the answer.

EDWARDSTOWN GROUNDWATER CONTAMINATION

The Hon. M. PARNELL (14:30): Can the minister confirm whether the Marion council was advised of this groundwater pollution back in 2009?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:30): I will refer that question to the Minister for Environment and Conservation. It is not my responsibility, but I will refer it to the relevant minister and bring back a response.

The PRESIDENT: The Hon. Mr Ridgway has a supplementary.

EDWARDSTOWN GROUNDWATER CONTAMINATION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:31): When the minister was the minister for environment was she aware of this groundwater contamination?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:31): To the best of my knowledge, no. It is so long ago and there are so many issues I have to deal with, so I actually can't confirm one way or the other, but to the best of my knowledge, no.

It is not my responsibility; it is the responsibility of the minister for environment, and he is managing this situation extremely well. I am incredibly confident in the skill and expertise of the EPA, so it is in good hands. We know that South Australia has a history of contaminants being buried. History shows us—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: —that, back in the good old days, that's how industry dealt with its waste: it simply dug a hole and buried it, and we know that that has occurred throughout South Australia.

Members interjecting:

The Hon. G.E. GAGO: Well, you are right about something—it was the bad old days. So, we know this has occurred throughout South Australia at various times. As I said, the current minister is doing a good job in managing this, and I have every confidence in the skill and expertise of the EPA.

EDWARDSTOWN GROUNDWATER CONTAMINATION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:32): I have a further supplementary.

The PRESIDENT: Out of the original answer, I would imagine.

The Hon. D.W. RIDGWAY: Yes, out of the more recent answer.

The PRESIDENT: No.

The Hon. D.W. RIDGWAY: Can the minister request the current minister to check departmental records so she can refresh her memory and provide any documents she may have been provided with to this chamber? Yes or no?

The PRESIDENT: It wasn't out of the original answer, sorry.

The Hon. D.W. RIDGWAY: The minister—

The PRESIDENT: It wasn't out of the original answer. I rule it out.

The Hon. D.W. RIDGWAY: So, you are protecting a minister—

The PRESIDENT: No.

The Hon. D.W. RIDGWAY: —who hasn't got a memory. That is a disgrace.

The PRESIDENT: You shouldn't question the President. The Hon. Ms Lensink.

The Hon. D.W. RIDGWAY: People's health is at risk—2,000 homes. You should have acted immediately.

The PRESIDENT: The Hon. Ms Lensink.

COUNCIL CAMERAS

The Hon. J.M.A. LENSINK (14:33): Thank you, Mr President. Methinks the government—

The PRESIDENT: You had better get on with it.

The Hon. J.M.A. LENSINK: —doth protest too much. I seek leave to make a brief explanation before directing a question to the Minister for State/Local Government Relations on the subject of council cameras.

Leave granted.

The Hon. J.M.A. LENSINK: The South Australian Privacy Committee reported that there had been complaints to that organisation about a camera that had been placed in a male public toilet. This was to deal with the issue of vandalism and had been put there after consultation with the South Australian police. Apparently, these cameras record people entering the toilet block, as well as having a rear-view vision of the urinal. My questions to the minister are: can he advise whether he has received advice on the unnamed local government authority and whether it has breached any privacy commissions and, if so, what actions has he taken?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:34): To my recollection, this matter has not been brought to my attention, but I will certainly check to find out whether there has been any correspondence in relation to it. Certainly, I have noticed there are a number of places where you do see cameras—usually outside the door, I suppose—at toilets which are there to provide a security measure but, of course, I would expect everyone to comply with the law, including the federal Privacy Act.

COUNCIL CAMERAS

The Hon. J.M.A. LENSINK (14:35): I have a supplementary question. Will the minister look into this issue and return with a response to my questions, please?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:35): As I said, to my recollection, this has not been brought to my attention, or to my office, but I will find out and follow it up and bring back a response.

WORKPLACE SAFETY

The Hon. S.G. WADE (14:35): I seek leave to make a brief explanation before asking the Minister for Industrial Relations a question relating to workplace safety.

Leave granted.

The Hon. S.G. WADE: Six years after the 2004 death of Daniel Nicholas Madeley in a workplace accident, SafeWork SA commenced a compliance project to identify the number of horizontal and vertical borers at South Australian workplaces. The project commenced in May 2010, the same month in which the coronial inquest into Mr Madeley's death commenced. On 9 February 2011, the Coroner in his report stated:

> Given that the project started in May 2010 and it is not yet complete in February 2011, it is fair to say that the project is hardly proceeding expeditiously. In my opinion, some greater sense of urgency should be applied to this project...

Given the rate of site visits in the first five months of the compliance project, this would see the visits being completed in a further 3½ years. In answer to a question on this issue on 20 February, the minister assured the council that he would not be 'rushed into a precipitous or foolish response'. My questions are:

1. Can the minister assure the council that he does not regard increasing the urgency of the SafeWork compliance project as precipitate or foolish?

2. What progress has been made with the compliance project?

3. What action has the minister taken to ensure that the project is completed with the utmost urgency?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:37): In relation to the findings of the Coroner regarding the death of Mr Madeley, I have accepted the Coroner's two recommendations, and there will be a meeting of the SafeWork SA Advisory Committee next week, as I understand. I will be attending that and introducing myself to the committee members but also speaking about that. I have already met with Mr Tom Phillips, the chair of the committee, and communicated to him that I have asked the committee to, in accordance with the Coroner's recommendations, investigate the inspection regime before and after 5 June 2004.

I have also met with the Attorney-General and his officers regarding the Coroner's suggestion, which is in relation to families being able to elect whether to go down the road of a

coronial inquest or whether to continue with the potential for occupational health and safety related prosecutions. He will be providing me with some advice on what he regards in relation to that matter. I have also asked the Coroner if there is any further information he wishes to put to me or if he wishes to meet with me to discuss the matter and some of the issues that I think are raised by that.

In relation to the audit, as the honourable member knows, when evidence was heard at the inquest relating to these horizontal borers, SafeWork SA implemented an audit program to identify the number of horizontal and vertical borers at workplaces, and vertical borers were included within the scope of the project. The compliance project involved extensive research to identify where this equipment is used and workplace inspections to assess compliance with the safety standards.

Of course, there is not necessarily a register of equipment held in every workplace, so if a particular machine or item has been identified as being involved in an accident—particularly a frightful accident like this one—it is a matter of some time and work to identify where those machines are.

As far as I am aware, I am advised that the compliance audit is continuing, but I can find out further information as to exactly how many workplaces they believe have yet to be identified as part of that. As I indicated, one of the problems is that we do not necessarily know where all the machines of a particular type are, but this is a relatively specialised machine. I am aware that there are quite a number that have been inspected, and I can find out further details about the actual numbers involved.

The PRESIDENT: The Hon. Mr Wade has a supplementary.

WORKPLACE SAFETY

The Hon. S.G. WADE (14:40): I thank the minister for his indication about the number of workplaces, but could he also advise us as to when SafeWork SA expects to complete the inspections?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:40): I undertake to obtain that information as well, as part of the first part of the question in relation to the numbers.

GAMBLING SECTOR REFORM

The Hon. I.K. HUNTER (14:40): I seek leave to make a brief explanation before directing a question to the Minister for Gambling.

Leave granted.

The Hon. I.K. HUNTER: I understand that, arising from the agreement between the commonwealth government and Mr Andrew Willkie MP, discussions are currently taking place between the commonwealth and state governments on reforms to the gambling sector. I also understand that South Australia will play a key role in these discussions, as we are one of only two states that have recently conducted a precommitment trial. Will the minister update the chamber on upcoming commonwealth-state discussions on the subject of reform of the gambling sector?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:41): I can advise the chamber that I will be attending the next meeting of the select council on gambling, which is in Canberra tomorrow, Friday 25 February. As the Minister for Gambling, I am one of two South Australian representatives on the select council. The first and I believe the only meeting of the select council in the past was held on 22 October last year and attended by the then minister for gambling, the Hon. Mr Koutsantonis from the other place.

At the meeting tomorrow, on behalf of the government, I will be presenting part 1 of a two-part paper on precommitment. Part 1 discusses the concepts and evidence base for precommitment. The second part of the paper looks at the functionality, practicality, costs and benefits of implementing precommitment and will be presented at the select council meeting in May.

Members may be aware that South Australia has recently completed two voluntary precommitment trials—a technology-based system and a non-technology-based approach for small venues. A third technology-based trial is currently underway. These trials have taught us a number

of lessons. Overall, players in the technology trial who set a limit reduced their spend, and the reduction was greatest for problem gamblers and moderate risk gamblers.

The trial also found that recreational gamblers were less impacted as they only slightly reduced their spend. During the trial, a subtle messaging system was also tested on a group of patrons who had not set limits. Based on those results, a subtle messaging system appears to be effective. Overall, patrons who received the subtle messages at three turnover points decreased their spend.

A successful implementation of a precommitment system across the industry would require an awareness campaign, and patrons would need to educate themselves about how to work out a reasonable limit in accordance with their budget. The trial also found that venue staff and patron engagement will be vital to the success of any precommitment system. Staff can help precommitment to work by advising the patron about limits they can set to suit their budgets and by attending a machine where a limit breach has occurred.

The trial found that, where this occurred, patrons were likely to play for less time where a staff member attended a machine, as opposed to where a staff member did not respond. The critical finding is that precommitment will work for patrons who want to set a budget. The system can be of benefit to all patrons and should not be seen as a program only for problem gamblers.

As I have indicated in the house before, the government is committed to undertaking an evidence-based approach to developing a precommitment policy, and the trials form a valuable part of guiding this policy development. South Australia takes the view that evidence to date suggests voluntary registration and more subtle consequences may be a more effective policy for addressing problem gambling than necessarily mandatory precommitment. The South Australian government will encourage this same approach to precommitment at a national level at the meeting tomorrow.

Under the agreement between the Prime Minister, the Hon. Julia Gillard, and the Member for Denison in the federal House of Representatives, Mr Willkie, the commonwealth government has committed to legislate to achieve gambling reforms if an agreement between states and territories can not be reached by 31 May this year. Therefore, the May meeting of the select council on gambling will be very important in determining whether agreement between the commonwealth and the states and territories can be reached. I will update the chamber about the outcomes of the select council's meetings in the coming months.

GAMBLING SECTOR REFORM

The Hon. T.J. STEPHENS (14:45): I have a supplementary question. Minister, you mentioned that there were two representatives from South Australia going to Canberra tomorrow. Who is the other one?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:45): I think what I said was that there are two ministers who are represented on the select council. The other one, as I understand it, would be the Minister for Families and Communities, because that department administers programs for problem gamblers.

DRUG PARAPHERNALIA

The Hon. A. BRESSINGTON (14:45): I seek leave to make a brief explanation before asking the minister representing the Attorney-General questions about the sale of drug-using paraphernalia.

Leave granted.

The Hon. A. BRESSINGTON: In 2008, this parliament passed the Summary Offences (Drug Paraphernalia) Amendment Bill 2007 which inserted section 9B in the Summary Offences Act 1953 and which made it an offence to sell cannabis or methamphetamine pipes, water pipes and cocaine kits. Despite some reports of initial non-compliance, the law effectively closed several stores that predominantly sold such items and took pipes and bongs off the shelves of other retailers.

The business Off Ya Tree seemingly orchestrated being raided by the police to challenge the scope of section 9B, resulting in the judgement recorded in Police v Koutsoumidis [2009] SAMC 74. While the proprietor of Off Ya Tree was found guilty for selling some items

contrary to the law, the magistrate was not satisfied beyond reasonable doubt that certain items fell within the scope of the law and parliament's intent.

Many of these items were variants of the traditional brass cannabis pipe, such as the numerous varieties of smokeless pipes, including 'bud bombs', glass open cone peace pipes and other more obscure, but nonetheless intended as, cannabis pipes. My advice is that they do fall within the definition of a prohibited pipe.

Another item that was found to be outside the scope of section 9B was a POURite water pourer, which looks like a typical glass water pipe but with the cone piece, which a user packs with cannabis, inverted and stuck to the stem. The following exchange on Off Ya Tree's online forum demonstrates that with a simple modification these water pourers are easily converted into functional bongs. Customer:

I just bought a water pourer from Off Ya Tree and it seems to be missing a piece of something, if it's not I'm wondering how to use it. Is it meant to come with a cone piece?

Employee:

Hi there, the POURites come with a pourer and nipple attached to clean the nipple unscrew it off and turn it around to sit in the spout. This should sort you out.

While the police were apparently unable to modify the particular water pourer seized from Off Ya Tree as the inverted cone piece was securely adhered to the stem, I suspect that the current water pourers on sale would not be so difficult.

I was recently provided with one of these water POURites from a concerned parent. This particular piece of paraphernalia was sold to a 14 year old. This model did not require modification as it came with two separate stem fittings: one for pouring liquids as per the promotional material and another that is clearly designed to be a cone piece. As the model provided to me demonstrates, despite the ruling in Koutsoumidis, the parliament clearly intended to prohibit the sale of paraphernalia like the POURite water pourers when it passed section 9B. The definition of a water pipe is:

(a) a device capable of being used for smoking by means of the drawing of smoke fumes through water or another liquid; or

(b) components that, when assembled together, form such a device; or—

The PRESIDENT: The honourable member should ask the question.

The Hon. A. BRESSINGTON: Yes—

(c) a device that is apparently intended to be such a device but that is not capable of being so used because it needs an adjustment, modification or addition.

My questions to the Attorney-General are:

1. How many prosecutions have taken place for breaches of section 9B of the Summary Offences Act 1953, and what are the case citations for each?

2. Has a formal review been undertaken of the effect of the Koutsoumidis judgement on the operation of section 9B, and, if so, will the Attorney-General provide that to the house?

3. Has the Attorney-General himself sighted the pipes and POURite water pourers held not to be within the scope of section 9B and currently on sale at Off Ya Tree, and, if not, will he please do so?

4. Given that this parliament made it clear it intended to prohibit the sale of all pipes and bongs except for those traditionally associated with tobacco consumption, and section 9B of the Summary Offences Act 1953 specifically prohibits the sale of any item apparently intended for use or designed for use in smoking cannabis, on what reasoning has the Attorney-General concluded that the aforementioned items were not intended to be covered by section 9B?

5. In light of the information provided, will the Attorney-General review whether legislative change is necessary to cover the pipes and bongs that remain on sale?

6. Will the Attorney-General, if he chooses to do none of the above, release a public statement explaining to parents why this parliament will not enforce this law?

The Hon. R.P. Wortley interjecting:

The Hon. A. Bressington: You shut up.

The PRESIDENT: Order!

The Hon. R.P. Wortley interjecting:

The Hon. A. Bressington: You're not in the chair. Shut your mouth.

The PRESIDENT: Order! The Hon. Ms Bressington is not in the chair, either. Thou shalt give it and thou shalt take it.

The Hon. R.P. Wortley interjecting:

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:51): Yes; I will not ask for the question to be repeated. Obviously, the role of parliament is to legislate, and this parliament did that in relation to the drug paraphernalia issue, but it is the role of the courts to interpret legislation and when it applies. It is the police who enforce the law and the courts that determine how the law is interpreted in relation to whether or not a particular item falls within the scope of the legislation.

I certainly would not accept that the government has made some sort of decision that the law will not be enforced. Parliament makes the law and then other organs of the state are the ones that are responsible for ensuring that it is carried out. Of course, it is a court that will interpret how a particular statute applies in individual cases and, of course, it is very important that that be separate from the executive or government.

Certainly, I will refer the question to the Attorney-General in the other place and get information relating to the particular case that the honourable member has mentioned (and others) as to what effect this law has had and, in particular, to examine whether or not the law is applying in the way that parliament intended and I think in the way that we all would have hoped when we passed that legislation. Certainly, the government is committed to ensuring that the sort of blatant sale of equipment that is clearly intended for the use of illegal drugs will not be prevalently displayed and sold in the way that it used to be.

I will certainly refer that question to the Attorney-General in the other place to examine whether or not there is an issue in relation to the wording of the statute and whether we think there might be a problem in how that statute was constructed in relation to whether it is achieving its intended end.

WOMEN AT WORK INITIATIVE

The Hon. CARMEL ZOLLO (14:53): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the Women at Work initiative.

Leave granted.

The Hon. CARMEL ZOLLO: Members may be aware that the Rann government has committed to the development of a promotional campaign to encourage women to access training in high-demand, non-traditional industries such as mining, defence and construction. Will the minister provide the chamber with an update on the progress of the election commitment?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:54): I am absolutely delighted to inform members that we are making progress with this particular election commitment, now known as the Women at Work initiative. The Office for Women is working with the Department of Further Education, Employment, Science and Technology and Department of Education and Children's Services to develop a campaign. The first project under the Women at Work initiative is the Powerful Pathways for Women program (Powerful Pathways) with ETSA Utilities.

Powerful Pathways includes training for 15 women in the northern suburbs commencing in March 2011. The training program comprises a Certificate II in Women's Education, Certificate I in Information Technology and Certificate I in Electrotechnology, culminating in 10 days of practical training at the ETSA training centre at Davenport near Port Augusta. Upon completion of the training, I understand that ETSA will offer suitable applicants an apprenticeship, hopefully putting them on the path towards a successful career in the electrotechnology industry.

The program has been collaboratively developed by ETSA Utilities, Playford Alive and the Department of Further Education, Employment, Science and Technology through TAFE SA Adelaide North Institute and South Australia Works, with significant support also from the Office for Women. I feel that the program could prove to be an excellent model to help us work on removing

the barriers to increased women's participation in the traditionally male-dominated electrotechnology field, and I understand that ETSA has indeed stated that women can excel in electrotechnology jobs if given the opportunity and equipment with the right skills to support them.

I want to put on record my commitment to encouraging women to access training in high-demand, non-traditional employment areas, and I am very proud to have the Office for Women work alongside ETSA Utilities, as well as DFEEST, in supporting this particular program. The initial pilot program will commence in March 2011 and is open to women living in the northern region of Adelaide. It is fully funded by the program partners to ensure that it is accessible to all women in the northern area, regardless of their circumstances. The program will run full time (Monday to Friday) from 7 March to 8 July 2011, with further information being available from Northern Futures. I am advised that the joint partners continue to liaise with other industry organisations to determine future projects under the Women at Work initiative.

FLOOD INSURANCE

The Hon. T.A. FRANKS (14:57): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question regarding flood insurance.

Leave granted.

The Hon. T.A. FRANKS: As the minister and, I imagine, members of this chamber will be aware, Australia is subject to increasingly frequent and severe weather-related events, particularly flooding. The tragedy in Queensland, of course, has seen resultant economic devastation for many individuals and communities and will inevitably happen again if changes are not implemented promptly.

Weather-related disasters are costing billions of dollars each year for Australians, and the economic costs are escalating, with a great proportion of these costs directly attributable to flooding. Despite this trend, our insurance system is grossly inadequate to deal with widespread flood-related devastation. Perhaps the biggest problem is that many living in areas traditionally prone to flooding are effectively denied access to insurance. *Choice* magazine has recently raised this as a concern and certainly its investigations have found that, of the policies offered by different insurers, only about half of those policies covered flood damage and, of course, once you got down to the fine detail what was constituted as flood damage had very strict mechanisms. My questions are:

1. Can the minister advise the chamber what work her department has done to examine the dilemma of the confluence of the international trends for mortgage lenders not to finance a mortgage in high-risk areas, such as low-lying flood plains and of course the proposed Buckland Park subdivision, unless they are insured, with the increasing reluctance of insurance companies to insure property owners in such areas?

2. Can the minister advise the chamber, regarding existing or proposed developments, such as Buckland Park, that have been identified as situated on a flood plain, what advice or warnings will be provided to future potential residents and business owners, etc. regarding their options for insurance?

3. What steps will be taken to ensure that those who seek insurance for such events as floods will actually be able to access it?

4. Can the minister detail any other methods that are proposed to reassure potential residents—for example, of Buckland Park—that they will not be left high but not so dry?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:59): I thank the honourable member for her most important questions, and indeed the recent floods throughout Australia have certainly shone a light on some of the issues and problems associated with insurance policies.

It is my understanding that matters to do with insurance now come under the Australian Consumer Law—so they are actually the responsibility of the commonwealth government—and bodies like the ACCC to do with competition across the industry and also ASIC being the regulator, particularly in relation to finance matters. So the responsibility for consumer issues around insurance is now a commonwealth responsibility, and that is a sensible thing, because most of the operators in the insurance sector are in fact—

The PRESIDENT: Order! The cameraman will put the camera on the people on their feet. If you wave it around any more at people sitting down, I will have security remove you.

The Hon. G.E. GAGO: Thank you, Mr President. As I was saying, most organisations involved in the insurance sector operate at a national level rather than simply a state jurisdiction and, in fact, a number of them are international or have international links, so it is more appropriate that they are managed and regulated at a national level.

The federal government has been reviewing its ministerial council forums. They are the councils where ministers from a range of different jurisdictions come together under different policy areas. In the past there has been a consumer ministerial council that has met a couple of times a year, and that is always a good opportunity to raise and talk about those consumer issues that are common across the nation and to look at strategies to deal with that nationally.

There has been a recent decision made in respect of those councils, and I understand, if I recall correctly, that the consumer ministerial council will continue to meet at least a couple of times a year, so I was very pleased to see that. Some councils have been disbanded altogether as a means of the federal government streamlining its approach to national cooperation and coordination, so I am pleased that there is still a national forum for consumer affairs, because I think it is a very useful forum to meet and discuss these issues. I am absolutely confident that the issue of insurance will be placed on the next agenda.

As far as I am aware, a specific meeting time has not been established yet, but I am confident that that will be one of no doubt many issues that are very much in our minds at the moment. I am quite confident that it will be discussed there, and I look forward to participating in those discussions to see if there are not ways to improve the transparency and also consistency of policies across the sector.

Insurance policies can be extremely difficult documents to read, and it is very difficult for consumers to compare policies as well, because they are often written and couched in different terms so that it is difficult to compare apples with apples and, therefore, it is difficult for consumers to shop around and determine whether or not they are really getting good value for money. They are certainly issues which have been brought to my attention and which I am more than prepared to pass on at a federal level.

REGIONAL SUBSIDIARIES

The Hon. J.S.L. DAWKINS (15:04): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about regional subsidiaries under section 43 of the Local Government Act.

Leave granted.

The Hon. J.S.L. DAWKINS: On 3 December 2009 this council passed the Local Government (Accountability Framework) Amendment Bill, which amended the Local Government Act 1999. On 1 December 2009, during the committee stage of the passage of the bill, I sought a commitment from the then minister for state/local government relations in relation to regulations that would exempt small regional subsidiaries, such as regional local government associations, from the requirement to establish an audit committee.

On 22 June 2010, I asked the then minister whether the regulations had been finalised, citing the specific example of the Murray Mallee Local Government Association. The then minister said:

> In terms of the regulations, I am advised that work has commenced. However, they have not been finalised as yet. They will be completed as soon as we can possibly get them done.

On 29 September 2010, three months after legislation came into operation, and still not having sighted the regulations, I again asked that this matter be expedited in the best interests of these regional subsidiaries. The then minister stated:

> I know that I did consider these issues. I know that I was also sympathetic to the concerns they raised and did seek advice…In fact, I understand that the regulations are expected towards the end of this year.

I have been advised that regional local government associations have still not sighted the regulations exempting them from the legislative requirement to establish an audit committee. Given that it is now 15 months since I first raised the issue, and eight months after the legislation came into effect, I ask the new Minister for State/Local Government Relations the following:

1. When will the regulations be introduced?

2. Will the minister expedite this issue to give regional subsidiaries peace of mind?

3. Will the minister agree to reimburse regional subsidiaries who, in complying with this legislation, may have incurred unnecessary costs to their detriment?

4. Will the minister, in good faith, show leniency to regional subsidiaries who may not have complied with the legislation, having relied upon the former minister's undertaking in June 2010, before the legislation was operational, to exempt them by regulation?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:07): I thank the honourable member for his question. My colleague the Hon. Gail Gago was minister at the time that the amendment legislation the Hon. Mr Dawkins refers to was passed and, of course, any undertaking she gave as minister at that time I would expect the government would honour.

In relation to regulations under that legislation, there are quite a number of areas where regulations can be made under the act, particularly under the amendments that were made to the act in 2009. I am certainly aware that the agency for state/local government relations is working on a number of draft regulations in relation to the provisions of that amendment bill; a number of things are provided for in that legislation.

I will find out more information for the honourable member in relation to the particular example he has cited and find out where that is at so that a draft regulation can be provided as soon as possible. However, I believe discussions have been taking place in relation to draft regulations that might be made under those amendments.

OCCUPATIONAL HEALTH AND SAFETY LAWS

The Hon. J.M. GAZZOLA (15:08): My question is to the Minister for Industrial Relations. Will the minister update the chamber on the national harmonisation of occupational health and safety laws?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:09): I thank the honourable member for his question. As a former employee representative, I know that he would take a keen interest in occupational health and safety legislation, as I am sure many honourable members in this chamber do.

South Australia has very much been a leader in the national occupational health and safety harmonisation process. For the first time in Australia a harmonised national occupational health and safety system is in sight, which will provide more clarity and certainty for employers and workers and reduced red tape for business. Since the Council of Australian Governments' intergovernmental agreement on the reform of occupational health and safety laws was signed in July 2008, considerable progress has been made towards the objective of a national harmonised occupational health and safety system.

The work towards a harmonised national system of uniform legislation, regulations and codes of practice will ensure that businesses operating across jurisdictions will face less regulatory duplication associated with compliance in multiple systems. The national system is intended to harmonise occupational health and safety laws so that they are consistently enforced between regulators to enable better partnership with industry and business and to minimise the risks of workplace injuries and deaths.

On 1 November 2009, Safe Work Australia was established to drive the national harmonisation process and the development of a model act and regulations. Mr Tom Phillips, a Member of the Order of Australia who is the Presiding Member of the SafeWork SA Advisory Committee, chairs the Safe Work Australia Council. Ms Michele Patterson, Executive Director of SafeWork SA, is South Australia's representative on the council. So, South Australia has very much played a leading role in the development of the national draft laws.

Following an extensive public consultation process, the Workplace Relations Ministers' Council endorsed the Model Work Health and Safety Act in December 2009. Safe Work Australia released the final version of the model act on 29 April 2010, as I understand. Throughout the process, relevant South Australian parties have been actively involved and consulted, particularly through the SafeWork SA Advisory Committee, a tripartite body which, of course, includes representatives from the state's peak employer associations, business groups and unions.

The model act will be supported by model regulations and priority codes of practice that are currently available for a period of public comment that will continue until 4 April this year. I believe the model regulations and priority codes of practice can be viewed on the Safe Work Australia website. The model act includes a number of innovations that will benefit both businesses and workers. The scope of the model act has been modernised and expanded to include a wider coverage of contemporary work relationships.

Duties to ensure health and safety will now be held by persons conducting a business or undertaking, and their officers, to ensure that the act covers persons who control workplaces, contractors, suppliers, designers, manufacturers and importers, not just employers. This more modern and streamlined approach creates a wider net of protection for workers and ensures that responsibility for workplace safety is shared by all those who conduct work, including workers themselves.

These clearer, modernised responsibilities, together with consistent regulation across jurisdictions, will ensure less ambiguity between duty holders and greater protection for workers. Tougher penalties will ensure that those who risk work and safety are held to proper account. The harmonisation process represents an innovative approach to public policy, enabling the introduction of a nationally consistent system while at the same time maintaining local arrangements and continuing the role of local institutions such as the Industrial Relations Court and the SafeWork SA Advisory Committee.

The parliament will maintain its oversight over these laws, and the nationally consistent system will be achieved without ceding power to the commonwealth government. Harmonisation does not require a referral of powers as they relate to occupational health and safety matters. The aim is to have new, nationally consistent occupational health and safety laws in place in all Australian states and territories by 1 January 2012.

To achieve this in our jurisdiction, I intend to introduce in parliament the South Australian bill to enact the model act in the coming months. The bill will include provisions specific to South Australia which will ensure that the model act operates within local judicial and legal frameworks. The local provisions have been developed in consultation with peak employer representatives and unions through the Legislative Development Committee, a subcommittee of the SafeWork SA Advisory Committee.

The model regulations are expected to be finalised at a national level by June 2011, to allow the states and territories time to progress their adoption in time for the 1 January 2012 commencement date. I welcome the progress that has been made on this matter by the commonwealth, states and territories, which will continue to ensure that this government plays a leading role in advocating for the higher safety standards in South Australian workplaces as part of these significant national developments.

This approach can, of course, be very much contrasted with that of the previous federal Liberal government which, in using the WorkChoices legislation, pretty much bludgeoned all of the states and anyone else involved in the industrial relations sector, imposing on them a new national system whether they liked it or not. The Labor government at the national level and our own government have instead taken part in a very constructive process that is far more likely to lead to agreed outcomes and to consensus and support across industry, on both the employer and union side of the equation, so that we have the most effective regime possible.

ILLICIT DRUG USE

The Hon. D.G.E. HOOD (15:15): I seek leave to make a brief explanation before asking the minister representing the Attorney-General and the Minister for Road Safety a question regarding drug use and drug driving in South Australia.

Leave granted.

The Hon. D.G.E. HOOD: Yesterday in this chamber the government rebuffed a call for tougher cannabis penalties by saying, and I quote *Hansard*:

> ...there has been a declining prevalence of use of cannabis in the South Australian community over recent years. In 1998, 17.6 per cent of the population had used cannabis in the previous 12 months, and this figure declined to 10.2 per cent in the latest available figures in 2007. This is in line with the encouraging downward trend in overall illicit drug use recorded in South Australia in recent years, down from 23.9 per cent to 14.7 per cent in the same period.

I note that the figures quoted actually only refer to up to 2007, which was said to be the most recent data that could be obtained, but in fact I have here a copy of the 2009 South Australian Drug Trends Report, published by the National Drug and Alcohol Research Centre. I am concerned that in my small office with just one researcher I was able to obtain more recent data than the department.

The more substantial concern, however, is that the 2009 report actually shows no evidence whatsoever of a drop in drug use in South Australia—as suggested. Indeed, it shows significant continuing problems with drug use in South Australia. I will quote a few sections briefly from the report. On page 27, it reports a significant increase in reported frequency of all types of methamphetamine; on page 16, 'significant increase in proportion of sample reporting recent use of heroin'; on page 36, 'The number of methamphetamine labs has increased in the last year'; and on page 58:

- There was a significant difference (increase) in proportion of sample reporting recent use of ecstasy…
- More participants reported recent use of illicit benzodiazepines...
- A larger proportion of participants reported recent use of cocaine…

In fact, practically every category of drug use had seen an increase or, at the very best, remained steady. From another angle, when the recent Road Traffic (Drug Driving) Amendment Act came into effect on 1 July 2006, one in 45 motorists at that time tested positive for drug use. Today, very reliable information received by Family First indicates that figure is now one in 31 motorists—almost a 50 per cent increase in illicit drug driving. These are not figures that back up the claims that were made yesterday in the government's response to the Hon. Ms Bressington's bill. My questions are:

1. Will the government retract the claim that illicit drug use in South Australia is declining, as was given as the major reason yesterday for opposing for the call for tougher cannabis penalties?

2. If the government continues to maintain that drug use is declining, how does it explain the fact that one in 45 motorists tested positive for drugs in 2006 and that that figure is now one in 31, according to a very reliable senior source?

The PRESIDENT: The honourable minister, representing two ministers.

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:18): If anyone can represent two ministers at the same time, it is myself.

Members interjecting:

The Hon. B.V. FINNIGAN: I was referring more to the combination of bulk than intelligence, Mr President. I thank the Hon. Mr Hood for his questions that are directed to the Attorney-General and the Minister for Road Safety in the other place, and I will refer those questions to them.

I will make a number of points in response to what the honourable member has said. In relation to the statistical anomalies the Hon. Mr Hood identifies, obviously I do not have information on those to hand. Certainly, there are different types of statistics and different reporting mechanisms that exist. I am not suggesting that the honourable member has compared apples and oranges. I do not know the basis of the statistics, but of course there are different approaches to how you measure these things.

I am happy to have that investigated by my honourable colleagues, but I certainly would say that this government has very much been at the forefront of tackling the use of illicit drugs and, in particular, the effect that they may have in relation to road safety.

An honourable member: What have you done?

The Hon. B.V. FINNIGAN: We have introduced drug driver testing; we have introduced the regular testing of drivers for drug use. I have actually been tested myself.

Members interjecting:

The PRESIDENT: Order!

The Hon. B.V. FINNIGAN: I have been part of a random drug test. In fact, I have had my car searched by dogs as well looking for drugs, so I am hoping that the police do not think there is something particular about me that deserves special attention. We have introduced a testing regime for drivers relating to illicit drugs. That has been something which this government has done and which it has continued to be committed to and to resource.

The government has reduced the number of cannabis plants that individuals are able to grow. So, again, we have taken steps to combat the use of illicit drugs, particularly in the cannabis area. This government has supported the drug paraphernalia legislation that the Hon. Ms Bressington has referred to.

The South Australian government is part of the national strategies aimed at combating illicit drug use. We are all familiar with the advertising campaigns and the education amongst young people and students and so on that goes on as part of those nationally coordinated approaches. As I have indicated today in relation to gaming machines, the government looks at an evidence-based approach. That is what we do. Working with the commonwealth and other states, we put in place the programs and campaigns that are most likely to be effective, and that are the most effective, in reducing illicit drug use. In many instances those campaigns are successful.

No-one is pretending that illicit drugs are not a problem in the community or that the problem is not something that we will always have to continue to combat. I think we are all aware that those who wish to profit from illegal and illicit drugs will continue to do so.

Members interjecting:

The PRESIDENT: Order! Let's remain dope free in the Legislative Council.

The Hon. B.V. FINNIGAN: Those who sell illicit drugs will continue to try to do that and to make money out of it, and the government will continue to be committed to doing what it can, not only to stop the supply and to prosecute those who are involved in the illicit drug trade but also to ensure that those to whom they seek to sell illicit drugs are deterred from purchasing and consuming illegal drugs.

There are a whole range of strategies that are necessary to do that. Some of those strategies are on the level of trying to stop people from getting easy access to illicit drugs, and I have mentioned some of the things that the government has done in relation to tightening up cannabis laws, bringing in drug driver testing, drug paraphernalia, and other matters. Of course, it is very important that we also take an evidence-based approach to deterring young people—any people, but young people in particular—who are the subject of targeting in a lot of the illicit drug markets. It is particularly important that we take the right approach to making sure that we do what we can to deter young people and to educate them about the dangers and the peril of taking illicit drugs and what effect that can have on their health, including their psychological or mental health.

I do not accept the proposition that the government is somehow going easy on drugs—and certainly not on drug drivers. We have introduced a drug driving testing regime and we continue to fund that. The police are actively and regularly testing drivers for the presence of illicit drugs, as they do for alcohol on a regular basis. It is very much a part of the government's commitment to combating drugs to include targeting drug driving and trying to reduce the incidence of that behaviour. In relation to the particular matters that the honourable member has raised, I will refer them, as I said, to my colleagues in the other place.

ILLICIT DRUG USE

The Hon. D.G.E. HOOD (15:24): Does the minister accept that the government's response yesterday claiming that the prevalence of drug use in our community has decreased is at odds with the best data available from 2009 which states that it has actually increased?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:24): I believe I addressed that in my answer, which was to say that, obviously, I do not have the information to hand about what the measures are that the honourable member is referring to, and that is one of the things, I am sure, my colleagues in the other place will examine, that is, what the data is that the honourable member is referring to that was quoted by an honourable member from the government side last night and how that squares up with the other data that the honourable member is referring to. Again, I think what is most important is the approach that we are taking overall to combating illicit drug use. We all know that the drug trade—the scene, if you like—comes and goes—

The Hon. T.J. Stephens: The scene; are you part of the scene?

The Hon. B.V. FINNIGAN: Certainly not—in relation to the particular drugs that are most commonly available and the price at which they are sold on the illicit drug market. We know that supply factors can be very important in terms of particularly some of the harder drugs like heroin, cocaine and so on in relation to events that are happening, the places that they come from and the measures that other jurisdictions are taking to try to stop them being exported and all of those factors.

What is most important is that we do not accept the drug trade, as I put it, as in any way legitimate or licit. The people who sell illicit drugs to individuals in our community, particularly young people, are very much to be condemned. They are people who prey on the vulnerable and who play a role in destroying people's lives. There is absolutely no doubt about that. There is no doubt that the government is very much committed to doing whatever we can to reduce the use of illicit drugs, and that there are a number of mechanisms, as I said, that are used to combat them. Some of those will involve the supply side and trying to ensure that drugs do not make it into the country, or across borders, or from wherever they are being made.

One of the challenges that we face in relation to illicit drug use, as we know, is the ability to manufacture methamphetamine or some other products such as MDMA, ecstasy tablets and so on. Some of those drugs are a lot easier to manufacture and can be done so in unsafe places relatively easily compared obviously to heroin and cocaine, because there is a certain amount of difficulty in producing them because they come from natural plants and so on that have to be processed.

It is very important on a number of levels to try to stop those drugs making it to Australia or making it into the community. Now, that might mean targeting what is going on in Colombia or in Afghanistan, or it might mean targeting those who are producing methamphetamine in suburban areas in illegal drug labs, but what the government does is combat illicit drug use across the board relevant to what is happening at that time. If there are particular spikes or particular changes in how those things work, then the government needs to respond to those, and particularly law enforcement, at the time.

NATIONAL ENERGY RETAIL LAW (SOUTH AUSTRALIA) BILL

Adjourned debate on second reading.

(Continued from 22 February 2011.)

The Hon. R.I. LUCAS (15:29): I rise to support the second reading of the National Energy Retail Law (South Australia) Bill and, in doing so, indicate that I will also canvass Orders of the Day: Government Business No. 4, which is the statutes amendment bill which is related, and treat both bills as part of a cognate debate. This is the latest (I have lost count of the number) of the tranches of national energy-related law, originally national electricity law, and in recent times changes that the state parliaments have looked at in relation to national gas law, and of course we now have national energy retail law, which is applying to both energy and gas.

I do not intend to trace the long history of the changes that we have seen, but I do want to make two or three comments on the historical perspective of the whole debate that has ensued over almost 20 years. If we go back to 1993-94, the then federal Labor government and the then state Labor government first entered into the original agreements for the national electricity grid, which was to link the electricity systems of South Australia with the Eastern States. So we have seen almost 20 years now of movement and progress towards national energy law, originally started by a federal Labor government and a federal Liberal government.

To be fair, soon after 1993-94, there were significant changes in the political landscape and most governments around the nation, including the federal government, soon afterwards became federal Liberal governments and state Liberal governments, and the early stages in relation to progressing the national electricity framework—the national electricity grid—occurred at a time when there was a state Liberal government in South Australia, (from 1993 through to 2002), and for a good part of that time there was also a federal Liberal government as well.

By and large, the Liberal governments followed on with the original agreements established firstly by the Labor governments. Of course, in latter days, there has been convenient amnesia for some state and federal Labor politicians. The current Minister for Energy is one of those, on occasions when it suits him, to in essence say that all of these problems were problems engendered by the Liberals, as he terms it, conveniently forgetting that the original decisions were

taken by federal and state Labor governments, certainly supported at the time by federal Liberal opposition when these debates were being conducted.

So by and large, this national energy framework, or electricity framework, has been supported by both Labor and Liberal parties nationally, contrary to some of the statements in recent times by some Labor representatives. The major change that people will recall here, of course, was the decision taken by the former Liberal government to long-term lease, or privatise, the electricity assets in South Australia. At that time, we were being told that the New South Wales electricity assets were worth about $25 billion to $30 billion.

As you well know, significant forces within the New South Wales Labor governments over the years have wanted to privatise their electricity assets. Without tracing the long history of the debacle of New South Wales politics and the privatisation of electricity assets, suffice it to say that, from those heady days when they talked of values of $25 billion $30 billion, it looks like the gross proceeds from the recent decisions taken on electricity by the current New South Wales Labor government might be of the order of $5 billion, or a bit more than that if they were able to sell one or two of the other assets, which is now not going to happen because of the election.

Evidently, there is considerable evidence that, in net terms, the proceeds are significantly less than that—possibly even less than half that—and a long way short of the days when the assets were being valued at $25 billion to $30 billion. These were decisions, to be fair, that former significant entities within the New South Wales Labor government understood. Former treasurers and former premiers of the New South Wales Labor government fought hard, but just as it is the SDA in South Australia that controls the Labor government, there are equivalent unions in New South Wales that control the Labor government there, and the government of the day was defeated on a number of occasions and was unable to proceed.

Ultimately, and inevitably, democracy has meant that $25 billion to $30 billion worth of assets have gone for less than, in net terms, probably $2 billion to $3 billion. To be fair, the assets that have been sold are not all the assets; they are not the distribution and transmission assets, as I understand it. It is essentially generation and retail, so it is not really an apple-to-apple comparison. Nevertheless, it is significantly less; whatever that component of the $25 billion to $30 billion valuation originally was that related to generation and retail, significantly less than that has been recouped through the recent decisions that have been taken.

I think that is the first issue: that, as many said back 10 or 12 years ago, this framework that we are talking about, the National Energy Framework, will inevitably lead to private sector operation of the major assets within the National Energy Framework. It was a former Labor government in South Australia that privatised or sold the South Australian Gas Company. It is interesting the difficulty that I have had in getting the cabinet documents that relate to that decision. For some reason, gas was seen to be okay for privatisation by the state Labor government, but for some reason electricity was not seen to be okay for privatisation by the state Labor Party here in South Australia.

We have seen a recognition, even in Queensland, by the Labor government there, as we have progressed now down almost 20 years of the National Energy Framework, that ultimately the capacity for governments and the public sector to manage and operate within this system is too great a risk for the taxpayers of the various states. Inevitably, as these debates continue over the coming years and decades, those members who are here long enough to participate in future debates I suspect will ultimately see private sector operation of virtually all of the significant operators within the national energy industry, and that will be irrespective of whether there are Labor or Liberal governments in the state jurisdictions.

On another occasion perhaps I will go through some of the detailed arguments of the time and what has occurred since then, but I just wanted to briefly refer to one. The big issue was in relation to energy prices. Of course, much was made during the debates of 10 years or so ago of the potential impact of privatisation on energy prices in South Australia. I want to refer to a couple of recent reports from ESCOSA in South Australia. The first one was the 2007-08 annual performance report from the energy retail market. I quote from page 33 of that report from ESCOSA:

> This data indicates that, since 2003-04, average real electricity prices (calculated as total annual revenue divided by total annual consumption) for residential customers have decreased by 10.1 per cent, with small business electricity prices decreasing by 11.4 per cent. Over the same period, large business has experienced an average price decrease of about 7 per cent.

So that was in the first four to five years after the privatisation. The independent regulator in South Australia was reporting—although the report does not say this—that there was an increase in the first year as the system settled down in terms of electricity prices but that average real electricity prices had decreased by 10.1 per cent for residential customers and by 11.4 per cent for small business prices in that five years in South Australia.

The more recent report 2009-10, the Annual Performance Report of the South Australian Energy Supply Industry uses a slightly different measurement, but nevertheless it gives an indication:

> Regulated electricity standing contract prices for residential customers with an annual consumption of 5,000 kilowatt hours increased by 4.4 per cent during 2009-10 based on the continuous load, (i.e., no off-peak load tariff). Since 2003-04, the annual standing contract bill for this level of consumption has declined by 4.9 per cent in real terms.

There is a figure and a table underneath in that report which indicate that. Then further on at page 5, the report states:

> Significant discounts against the standing contract price are available to residential electricity...customers albeit at levels that are lower than those applying in previous years. Discounts of up to 10 per cent are available for residential electricity customers...

That is the independent umpire indicating what has occurred in relation to electricity prices in South Australia in the period since the privatisation of our electricity assets.

Of course, some of the decisions that have been taken in the last few years by Labor governments, both state and federal, are having a very significant impact on increasing electricity prices, and I will refer to some of those quickly in my contribution today in relation to decisions that have been taken in relation to renewables and certainly the foreshadowing of a great big new tax by the federal Labor government on the electricity industry, which will see a massive increase in electricity prices for residential customers over the coming years as well.

I just wanted to contrast those sorts of energy prices that have been recorded with the other major utility that is provided in South Australia that is also essential for all consumers, and that is water. Water of course has remained under government control in terms of pricing. It is a decision that up until now has been taken by governments and politicians, both Liberal and Labor.

In almost a decade of the Labor government rather than seeing declines in electricity prices in the privatised electricity industry we have seen already almost a 100 per cent increase in the price of water under the government monopoly system that exists in South Australia and, because of decisions taken by the state Labor government in relation to doubling the size of what was required for a desal plant, we are likely to see another doubling again of water prices.

So, this lovely notion that some within the Labor Party and the Greens and elsewhere still cling to—that the public interest and benefit is protected by politicians and governments—I would love to see addressed by the Labor Party and the Greens and others and contrasted. As I said, we have seen a doubling of water prices, and there will be another doubling again with what we have seen up until recent times in relation to the operations of the electricity industry.

I am the first to acknowledge that there are significant issues in all of the industries, including the electricity industry, not all of the state and federal governments' making, but nevertheless decisions that they have taken and continue to take will impact on that industry, as they have impacted in relation to the water supply industry as well.

In the very many documents that are available to those who follow the national energy market, there is the annual statement of opportunities. Those members who are interested ought to have a look at that because it is flagging that we are going to run out of electricity supply and it indicates when it is forecast that we will run out. In New South Wales it is 2013-14, and in South Australia 2015-16. I will not go through all the details of that, but what it says is, 'Hey, someone actually needs to build more baseload plant in South Australia and elsewhere.'

We have a government in South Australia that proudly boasts that we have these new wind farms, but it cannot point to the last significant increment to baseload power here in South Australia. The last decision taken was by the former Liberal government in ensuring that Pelican Point was built (I might say, with the opposition of the state Labor Party). If it had not been for that there would not have been a new plant in South Australia in terms of baseload electricity supply.

Some government—it certainly will not be this one—has to start thinking long-term in terms of electricity supply. The Premier and minister run around patting themselves on the back saying, 'Hey, aren't we great, because we've got all this wind energy', but let us just quickly refer to that. We are told that a capacity of 1,173 megawatts of wind generation has been licensed in South Australia and that by the end of 2010 licensed capacity was likely to be as high as 1,300 megawatts. The problem is that when we need our power, on the peak days, wind power cannot help us.

I refer to some recent articles. One appeared in *The Australian* on 7 February this year, and indicated that, on the recent day we broke the peak demand record—in February at 4.30 in the afternoon—when our demand was 3,399 megawatts, only 49 megawatts of that could be met by wind. Less than 1 per cent of our electricity demand, because of air conditioners and other power requirements on that day, could be supplied by wind power. Supposedly we have 1,300 megawatts of wind power there—which the Premier proudly boasts about—but on the day it is actually needed it cannot supply it; it can supply only 49 megawatts.

On 31 December another article—I think it was in the *Sunday Mail*—stated, 'Wind power should not be relied on to guarantee electricity supply during hot days,' but I guess that is when you want your electricity supply, on a hot day. The article went on:

> Wind turbines operate at less than three per cent of their total generation in hot weather because limits to prevent overheating and a lack of wind can stifle their output when temperatures soar past 35C. The State Government and the Australian Energy Market Operator yesterday revealed there would be enough electricity in SA…to meet demand [for that particular day]—

It went on:

> 'The reduction in wind generation during peak periods, or at the hottest times of the day, is partially attributed to limits placed on some turbines at high temperatures to prevent overheating,' an AEMO spokeswoman said. 'During the top 10 per cent of summer peak demand periods, approximately three per cent of total wind generation-installed capacity contributed to demand.'
>
> Energy Users Association of Australia executive director Roman Domanski said wind power was intermittent and difficult to rely on and other power sources must be built to provide householders and businesses with guaranteed summer supplies. 'Wind does not work on hot days and there's been incidents,' he said. 'That obviously means we're going to have to build more generation.'

I think that is a salutary warning to those who are prepared to look beyond the spin of the current Premier and current Minister for Energy. The proud boast of having 1,300 megawatts of wind capacity available does not help us when we actually need it, on the hot days. There is a lot more in relation to that, but perhaps another occasion will allow us to explore some of those issues in greater detail.

The tranche of legislation that we have before us today was signed off by the Ministerial Council on Energy at the now infamous ministerial council meeting in Melbourne on 11 June 2010. Why is that infamous? Well, it is infamous because in *The Australian*, under the heading 'Minister has energy to dine but skips meeting', Michael Owen reported:

> Senior Rann government minister Pat Conlon is under fire for travelling interstate for an energy ministers' conference where he dined with Martin Ferguson but skipped the actual meeting the following day. Every other...minister who travelled to Melbourne for the meeting attended the meeting.

This was the meeting where we signed off on this tranche of legislation that we are about to discuss over the coming weeks. The quite detailed discussions in the National Energy Customer Framework, attachment A, were part of the communiqué that came out of the meeting minister Conlon went across to attend but for some reason, which we will now explore, was unable to attend. The article by Mr Owen states, 'It is understood Mr Conlon was out late after the dinner with other guests. A spokesman', this is a spokesman for Mr Conlon, 'yesterday would only say that he was "struggling to see what relevance there is whether the minister did or didn't go out for a drink after dinner"'.

The Hon. P. HOLLOWAY: Mr President, point of order: I am struggling to understand the relevance of what might have happened at this thing to this legislation. It obviously has nothing to do with it.

The Hon. R.I. LUCAS: If you listen you will learn about it.

The PRESIDENT: Order! The Hon. Mr Lucas should stick to—

The Hon. R.I. LUCAS: Indeed, I am.

The PRESIDENT: —the energy.

The Hon. R.I. LUCAS: Indeed. This was actually the meeting where this legislation was being approved. Mr Owen then says 'although there was no suggestion by *The Australian* that Mr Conlon had been drinking'. For some reason, Mr Owen was asking questions of Mr Conlon's office and the answer came back saying that they did not know what the relevance was as to whether or not minister Conlon had been drinking.

The PRESIDENT: I am not too sure of the relevance of you raising it either.

The Hon. R.I. LUCAS: The relevance is that minister Conlon, at taxpayers' expense, went across to discuss this communiqué and he drank too much and ate too much so that he could not go to the meeting the next day.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: As one observer said, 'He was as drunk as a skunk.'

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Another one has said—

The PRESIDENT: Hearsay.

The Hon. R.I. LUCAS: —in relation to that, 'He was tired and emotional.'

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Point of order: under standing orders, if allegations are made against any member of the other house, they have to be done as a definitive motion, and I would suggest those allegations are completely out of order.

The PRESIDENT: It is totally hearsay. The Hon. Mr Lucas is being mischievous. He should stick to the bill.

The Hon. R.I. LUCAS: What we need to know, and the question I put to the minister—

The PRESIDENT: I am sure the Hon. Mr Lucas would not like it if somebody else stood up here and accused him of being rolling drunk somewhere—

The Hon. R.I. LUCAS: I have been, Mr President.

The PRESIDENT: —in some discussions—

The Hon. R.I. LUCAS: Some of your Labor friends say that I have psychiatric problems and—

The PRESIDENT: —when he sold South Australia's power.

The Hon. R.I. LUCAS: —that I have left my wife. All sorts of things have been said about me, Mr President. The question I am putting to the minister handling the bill in relation to this house is: what input did we have at this meeting, where these decisions were being taken, when a minister who was meant to be there representing our interests was too hung over to actually attend the meeting? So, the communiqué came out on this national customer framework, which is what this whole legislation is about, and we did not have a minister attend the meeting. He went to the dinner beforehand; taxpayers paid for him to go to Melbourne.

I was a minister for eight or nine years and I cannot ever recall, at any of those ministerial council meetings that I attended, that a state minister who went there and went to the dinner the night before, and who was meant to go to the meeting the next day, then stayed in his hotel room unable to attend the meeting. There have been ministers who have been able to get to a dinner and had to fly out the first thing the next morning, and one can understand that sort of thing, but that was not the case with minister Conlon. While these critical negotiations were going on, he was in his room sleeping it off.

The PRESIDENT: That is totally hearsay. If the honourable minister was in his room, he could have had food poisoning.

The Hon. R.I. LUCAS: That is just unacceptable to the taxpayers of South Australia.

The PRESIDENT: He could have had food poisoning; he could have been sick.

The Hon. R.I. LUCAS: We are sending him across there to represent our interests. We expect him to at least attend the ministerial council meeting. If the taxpayers are paying for you to go to a ministerial council meeting you do not get to just go to the dinner, drink the good stuff, eat the good stuff and then sleep it off the next morning in your hotel room while everyone else is working at the ministerial council meeting. You send off the poor old public servants to the meeting to have to represent the state, and the poor public servants are sitting there saying, 'Well, where's the minister? What are we meant to be doing here?'

The PRESIDENT: The Hon. Mr Lucas should get out of the gutter and get back to the bill.

The Hon. R.I. LUCAS: It is outrageous. It is unacceptable, for something as critical as the legislation before us, that the minister was not even there to negotiate on our behalf the critical issues that relate to the national customer framework. Mr President, I am sure, if you took off your partisan hat privately afterwards, even you would be appalled at that sort of behaviour by a minister of the crown, Liberal or Labor.

What we are seeing here is this package of legislation, which is of a template nature, and it will obviously require some detailed discussion during the committee stage of the bill. The minister (or his hard-working public servants) has indicated in the second reading explanation that we are to see another piece of legislation which will be state specific. There are a whole range of questions of a general nature that I want to ask the minister during the committee stage, and they include: what are the state-specific issues that are going to be included in the following pieces of legislation that this parliament has to consider?

For example, we have some amendments from the Hon. Mr Parnell in relation to some submissions from SACOSS. Once we hear from the minister as to what is in the state-specific legislation, it may well be that it is more appropriate for this chamber to consider amendments like the Hon. Mr Parnell's in the state-specific legislation. That is, we have the debate as to whether or not there should be further restrictions or further guidelines in relation to late payment of energy bills or cutting off electricity supply during a heatwave. It may well be that that sort of debate can be removed from the template bill, which is meant to be the template for all the other states, and when the state-specific stuff comes along we can discuss it.

I am guessing that the state-specific stuff will be—for example, the state minister, contrary to the national guidelines, has been saying, 'Well, look, even though we have had a review which says there is plenty of competition in South Australia, we are still going to have retail price controls.' As a result of that, I am assuming that is going to continue and that that is not what is going to be resolved in this bill; it will be ultimately resolved in the follow-on state-specific legislation.

We are also going to insist, as I understand it, on our definition of what a small business customer is, that is, 160 megawatt hours as opposed to 100 megawatt hours. That, I suspect, may be another one of the issues that is in the state-specific legislation that is to follow. I think the second reading does refer to one example, the Residential Energy Efficiency Scheme, which is a state-specific issue which is to be further considered.

I am assuming there are a range of other things that the government's advisers would know already will be in the proposed legislation. We would not have the draft of it, I guess, but at least we would know the issues that are going to be included in that state-specific legislation. So, if we could get the answer to that from the minister, it might assist us in the Liberal Party as we address the issues that the Hon. Mr Parnell has raised, which we would obviously need to discuss with energy retailers.

There is a problem there. I had a quick discussion yesterday with someone who represents the distributor, ETSA in South Australia, and there are obviously issues in relation to the proposed amendments for them as well, so there will need to be some consultation. So, it might make more sense to discuss those sorts of amendments and, indeed, anything that we might want to move in the state-specific legislation.

What we can see from this is that there is a national template, but the state-specific stuff indicates that we in South Australia are going to have provisions which relate to our market. In some of the previous legislation there has been this debate that, 'Hey, we're the lead legislator. Here's the national template. It's been agreed with all the other jurisdictions; therefore, we can't change it.' We have been sympathetic to that, both when we were in government and we argued the case, and in opposition when we have argued it, but on this occasion the minister seems to be saying to us, 'Well, here's the template, but we're going to hive off significant issues and powers and restrictions in state-based legislation.'

If that is the case then the argument that nothing can be changed in South Australia because it has all been agreed does not have as much persuasion. The minister might want to say, 'Yes, but we got agreement from the other jurisdictions that we are going to change this or hold onto that', or something along those lines. I can understand that argument, but that is not quite as persuasive as, 'Hey, this is the national legislation. No-one else is changing it and if you change it it's going to mean major problems for everyone else', particularly as we know that we are going to have state-specific legislation and the minister has already indicated that there are certain things which are going to be in that. One of the other areas that I suspect that we and some of the other jurisdictions, but not all, will have are the provisions relating to the state-based ombudsman scheme, which will need to be there.

I advised my colleagues that I would only speak for 32 minutes and 11 seconds today and I always keep my promises to my colleagues. There will be considerable debate during the committee stage in two weeks' time. If we can get some answers back from the minister, in particular on the state-based legislation and what is to be covered, then that, I am sure, will assist, at least in part, a smoother passage through the committee stage of the council.

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (16:02): There being no further second reading contributions, I would like to make some concluding remarks and provide some answers to questions made during the second reading stage.

I thank honourable members for their contributions in response to the second reading explanation of the national energy customer framework bills currently before us. These bills establish national consumer protections for electricity and gas supply that harmonise existing state arrangements. South Australia will not experience a decline in current customer protection under the national framework, in fact, it enhances protections for South Australian customers with the introduction of a formalised customer hardship regime which retailers must develop. The regime will assist customers who cannot pay their bills due to hardship.

The hardship regime includes protections for vulnerable customers, including a prohibition on the charging of late payment fees, a ban on requiring a security deposit and a requirement on retailers to allow payment by using Centrepay. Importantly, the bill explicitly requires that retailers not disconnect a hardship customer due to an inability to pay, except as a last resort.

In their second reading contributions, honourable members have raised questions about the extent to which this is truly a national framework. This national framework is the culmination of extensive consultation between participating governments, industry and consumer stakeholders. The national framework reflects agreement on a comprehensive consumer protection package, while recognising the need to accommodate a limited number of local arrangements in agreed areas.

It is important to note that due to the distances involved, Western Australia and the Northern Territory are not physically connected to the national electricity market (NEM) or to the eastern interconnected gas network. They have elected not to implement the national framework at this time. South Australia will not be transitioning immediately to the national framework upon the passage of these bills. In fact, all participating jurisdictions, including Victoria, have agreed to a common target date of 1 July 2012 to commence the framework.

South Australia will introduce its implementing legislation to parliament later this year to apply the national framework and stakeholders will be consulted again during that process on local implementation issues. The national framework is not the appropriate vehicle to deal with state specific amendments.

I would like to address some specific matters raised by the Hon. Mr Parnell. In relation to disconnection during heatwave events, the national framework contains relevant obligations in the National Energy Retail Rules, which are binding on retailers and distributors. The rules have the full force of law and can be enforced by the Australian Energy Regulator (AER).

The national framework recognises that the impact of extreme weather events on consumer requirements cannot be uniformly regulated across all jurisdictions. The national framework therefore allows each jurisdiction to nominate weather events relevant to local conditions when disconnections for non-payment cannot be carried out. South Australia already has a regime to prevent disconnection during a heatwave where a person has not paid their bill. An equivalent obligation will be retained when South Australia adopts the national framework.

In relation to wrongful disconnection payments, the inclusion of a wrongful disconnection regime was not agreed at a national level for a number of reasons. These include the introduction of a customer hardship policy to identify customers experiencing hardship and the availability of a payment plan for all small customers prior to disconnection. It was considered that the national framework adequately addresses the issue of disconnection of customers who lack the capacity to pay their bills, which is the core objective of a wrongful disconnection regime. A wrongful disconnection regime would increase costs to all customers, including hardship customers.

In relation to a general ban on late payment fees, the government does not support this approach as late payment fees are an important tool for retailers to manage the commercial costs of supplying those customers who fail to pay on time. Any increased cost to the retailer should late payment fees be banned would be recovered over time from all customers, including hardship customers.

There is nothing in the national framework that prevents retailers charging a late payment fee, but retailers are prohibited from applying late payment fees to hardship customers. This recognises that late payment fees are not appropriate for vulnerable customers. I note that late payment fees have been in place in South Australia for many years and were formalised, along with the ability for interest to be charged on late payments, in the South Australian Energy Retail Code when it was first issued in October 1999 as part of the privatisation process.

In relation to the removal of price regulation as raised by the Hon. Mr Hood, the government's current intention is to maintain price regulation because it is in the interest of all consumers. Only recently, the Essential Services Commission reviewed its retail pricing methodology and made improvements to improve its operation. It is necessary to allow some time for this new approach to settle down before any further changes are made.

As noted by members, energy price levels have been rising due to increases in both network and wholesale costs. An important outcome of the national framework is the reduction of unnecessary red tape caused by retailers having to maintain multiple customer frameworks across jurisdictions, which impose real costs on all customers.

The Hon. Ms Vincent raised the matter of energy concessions for people with multiple sclerosis. It is important to note that nothing in the national framework changes an individual jurisdiction's ability to implement a concessions framework. The government has received a detailed report on the issues associated with medical heating and cooling. Any changes in concession arrangements for medical heating and cooling will be considered in the context of the many other spending priorities of the state budget.

The Hon. Mr Parnell has indicated that he proposes to move amendments to these bills to implement some of the matters I have spoken of, specifically extreme weather events, wrongful disconnection payments and late payment fees. Any amendments to these bills would require the agreement of all participating governments. Agreement is considered unlikely as it would override what has been a difficult negotiation and would effectively ignore many years of consultation and agreed outcomes. It will be members' responsibility if this major national energy reform package is delayed.

I now turn to a series of questions asked by the Hon. Mr Ridgway. The Hon. Mr Ridgway asks that other legislation is put before the South Australian parliament in relation to the national framework as agreed in the Council of Australian Governments' Australian Energy Market Agreement (AEMA). The National Energy Retail Law (South Australia) Bill 2010 (NERL) is the last major national legislative package arising from the AEMA.

South Australia intends to introduce legislation later this year to amend this application act to the National Energy Retail Law and to introduce a statutes amendment bill to make consequential amendments to the current South Australian energy legislative instruments, in particular the Electricity Act 1996 and the Gas Act 1997, as well as other relevant state acts, in order to apply the national framework in South Australia. Where necessary, these instruments will include South Australian specific obligations on energy retailers and distributors.

Mr Ridgway asked what red tape is being reduced and how the efficiencies will be achieved. The national framework reduces red tape by decreasing the regulatory burden faced by energy businesses, particularly retailers operating nationally. Currently, each jurisdiction has a separate regulatory regime for the sale and supply of energy to retail customers. Energy retailers that operate across jurisdictions must comply with all of the differences in each of these regimes, despite their covering similar obligations.

The national framework improves efficiencies through harmonisation of existing regimes, by removing regulatory overlap and costs that arise from duplication. For example, the national retailer authorisation under the national framework eliminates the need for current jurisdictional retail licensing regimes. Further, the framework benefits retailers by creating easier access to a wider range of customers nationally, greater competition and greater regulatory certainty, which ultimately benefits all customers.

Mr Ridgway asked whether prices would be the same across the NEM under the national framework. The national framework permits an authorised retailer to operate across the participating jurisdictions under a single national authorisation. Under a standard retail contract, the price will be fixed by either the retailer or the relevant regulator, with the standing contract price to be set in South Australia by the Essential Services Commission of South Australia. Given the differences in each jurisdiction, including generation and network costs, retail prices are different, and this will continue once the bill applies in a jurisdiction.

Mr Ridgway asked about the impact on the energy Ombudsman. The Energy Industry Ombudsman schemes will continue to be established under local jurisdictional legislation or, as in South Australia, as a not-for-profit public company established by the market participants with oversight by ESCOSA. The national framework seeks to ensure that, while the energy Ombudsman schemes themselves operate according to their own jurisdictional laws or constitutional arrangements, the Ombudsman is able to receive, investigate and resolve small customer complaints and disputes that may arise under the national framework.

The national framework is expected to have a minimal impact on the day-to-day operations of the Ombudsman. The Energy Industry Ombudsman of South Australia will continue to provide services exclusively to South Australian energy consumers.

Mr Ridgway noticed media coverage that included comments concerning electricity prices in Marree. The government does not intend to apply the national framework to communities that are not connected to the national grid. Such communities would include those receiving electricity under the Remote Area Energy Supplies scheme, such as Marree. The current consumer protections provided to such customers will continue under the Electricity Act 1996, with regulatory oversight by ESCOSA and the technical regulator.

Mr Ridgway asked for information about hardship programs, indicators and reporting by the regulator. Each retailer is required to develop and maintain a customer hardship policy. These policies identify residential customers experiencing payment difficulties and assist these customers to better manage their energy bills on an ongoing basis. Retailers will also be required to offer flexible payment options, including payment plans and the Centrepay payment option, and have in place processes to identify appropriate government concessions.

The national framework requires the AER to determine the hardship program indicators. The National Energy Retail Rules prescribe the hardship program indicators, including entry into and participation in hardship programs, and the assistance available and provided to customers under customer hardship policies.

The national framework requires the AER to publish a retail market performance report each year as soon as practicable after 30 June but no later than 30 November. As part of its annual retail market performance report, the AER must include:

- a retail market overview;
- a retail market activities report;
- a report on the performance of retailers by reference to the hardship program indicators;
- a report on the performance of distributors by reference to distributor service standards and associated guaranteed service level schemes;
- a report on the performance of distributors in relation to the small compensation claims regime; and
- a report on any additional matters that the regulator considers appropriate for inclusion.

The AER must publish each retail market performance report on its website. The AER is not required to provide a copy of the report directly to energy consumers.

The Hon. Mr Ridgway asks how explicit informed consent will be obtained from a small customer and what form the consent will take. A retailer is required by the national framework to obtain the explicit informed consent of a small customer for certain transactions including customer transfer to another retailer, entry into a market contract and entry into a prepayment meter market retail contract.

The retailer is required to clearly, fully and adequately disclose all matters relevant to the consent of the small customer and to advise as to each specific purpose or use of the consent in accordance with the law and the rules. The form of consent can be either in writing and signed by the small customer or verbal as long as the verbal consent is evidenced in such a way that it can be verified and made subject of a record.

Consent may also be obtained by an electronic communication generated by the small customer. A retailer is required on request to provide a small customer with access to a copy of the record of consent at no charge to the small customer and maintain that record for at least two years. A transaction between a retailer and a small customer is void if it is established that explicit informed consent was not obtained by the retailer, and the retailer cannot recover any moneys for energy supplied as a result of this void transaction.

The Hon. Mr Ridgway requested information on the price comparator service. The price comparator service assists small customers to compare the standing offer price and market offer prices available to customers in the area where the customer's premises are located. It allows customers to find the most suitable offer available. The AER is responsible for developing and updating the price comparator and making it available on a website available to the public.

To ensure that energy retailers provide consistent pricing information to customers and to the AER, the AER may develop a retail pricing information guideline. In accordance with this guideline, retailers are required to submit information and data to the AER relating to the presentation of standard offer prices and market offer prices that are generally available to classes of small customers in a jurisdiction, including any variation to those prices. The AER can then use this data to update the price comparator, including any variations to the retailer's standing offer or market offer prices.

The Hon. Mr Ridgway requests further information in relation to electricity consumption benchmarking, in particular, the criteria to be used for those benchmarks. Under the proposed national energy retail rules, the energy consumption benchmarks only relate to electricity consumption by residential customers. The electricity consumption benchmarks will be based on the following three criteria: (a) electricity consumption information received by the AER from distributors; (b) localised zones as determined by the relevant jurisdictional minister; and (c) household size. The AER must administer the electricity consumption benchmarks and update them every three years from the date when the initial benchmarks are prescribed in the national regulations.

The retailer is required to provide certain particulars in a bill for the residential customer as follows: (a) a comparison of the customer's electricity consumption against the benchmarks; (b) a statement indicating the purpose of the information provided with respect to those benchmarks; and (c) a reference to the energy efficiency website that is prescribed by the national regulations and notified by the AER on its website.

The retailer is required to present the above information in either a graphical or tabular form in a location on the customer's bill that is convenient for the retailer. The information must be presented in a manner that is easy for the customer to understand. In addition, the distributor is required to provide information to the AER for the purpose of the electricity consumption benchmarks in a manner and form as requested by the AER.

The Hon. Mr Ridgway asks how one would develop a distributor-customer relationship and the terms and conditions of that relationship. A relationship is established between a distributor and a customer by way of a contract between the parties. This contractual model is similar to existing contractual arrangements that operate in electricity in most jurisdictions, but it does represent a change for many gas distributors.

The law obliges a distributor to offer to provide customer services including new connections, connection alterations and ongoing supply services under a direct contractual relationship. This obligation on distributors mirrors the obligation on retailers to have a standing office to sell energy to small customers. The law provides for three customer connection contracts:

deemed standard connection contracts, for all customers; AER approved deemed contracts, for large customers; and negotiated connection contracts, for both small and large customers.

The Hon. Mr Ridgway asked if connection costs and augmentation fees will be regulated and scrutinised under the framework. As the member will recall, the economic regulation of distribution services has already been transferred to the AER. Under this national framework, to ensure connection changes for retail customers and property developers are broadly consistent across networks and aligned with distributed determinations, distributers must submit a connection policy as part of each regulatory proposal for approval by the AER. The connection policy must be consistent with connection charge principles under the rules and connection charge guidelines to be developed by the AER.

The connection charge guidelines will establish principles for fixing a threshold below which retail customers will be exempt from any requirement to pay connection charges for any upstream augmentation necessary to make the connection. In this way, smaller or more typical retail customers will not be paying directly for upstream augmentation in respect of their connection. In developing the electricity connection charging guidelines, the AER must have regard to the inter-jurisdictional differences related to regulatory control mechanisms, classification of services and other relevant matters, such as historical and geographical differences between networks.

The Hon. Mr Ridgway asked for further information on the Small Compensation Claims Regime, which is designed to provide small customers with a small claim a low cost and effective ways to obtain compensation for damage to their property without needing to prove negligence. There are no defined classes of property damage in the national framework, but an acceptable claim will be determined by each jurisdiction applying the regime. This bill does not impact on the existing Guaranteed Service Levels (GSL) requirements on distributers relating to the frequency and duration of supply interruptions. Where these standards are not met, customers will continue to receive payments in accordance with the South Australian Electricity Distribution Code.

The Hon. Mr Ridgway asked about time frames for resolving complaints. A retailer or distributor will be required to handle customer complaints in accordance with its published procedures, which must be consistent with the applicable Australian standard. The retailer or distributor must advise their customer in a timely way of the outcome of their complaint, including any reasons for its decision. If the customer is not satisfied with how their retailer or distributor has handled their complaint, they can refer the matter to the energy Ombudsman in their state or territory.

The Hon. Mr Ridgway asked for an outline on what is an exempt seller. An exempt seller is a person who sells energy but who is exempt from the requirement to hold a retailer authorisation. The national framework provides for three types of exemptions; the first is individual exemptions granted on a case-by-case basis, taking into account the particular circumstances of an individual seller. This would cover situations such as an energy generator supplying energy to a neighbouring business, but not to the wider community.

The second is registrable exemptions, where the AER can identify a class of exempt seller types where the conditions can be applied generally across the class. These sellers must register in order to be exempt. This would cover situations such as landlords supplying unmetered energy to small customers residing in caravan parks, residential parks and retirement villages.

The third type of exemption is deemed exemptions, designed for those categories of sellers where conditions can be applied generally across the category but identifying each seller is impractical. This would cover situations such as landlords passing on common area costs to residents or companies on-selling energy to a related company. The AER is currently developing and consulting publicly on its exempt selling guidelines in preparation for its role in the enforcement of the exempt seller regime.

The honourable member asks how a retailer gives a credit support guarantee to a distributor, why it is necessary to have the credit support rules and how it relates to late payment fees. Distributors earn regulated returns and are unable to vary their tariffs outside the regulatory control mechanisms if a retailer defaults on paying network charges. The new credit support rules seek to spread the risk more equitably so that end-use customers do not bear the full cost of non-payment and default by one retailer.

Distributors will be required to obtain in advance from a retailer an unconditional financial guarantee to draw upon in the event of the retailer's default, with the amount of credit support required by distributors from retailers proportionate to both the probability and size of the default

risk posed by a particular retailer. If there are still outstanding unpaid charges from a retailer's default after the credit support has been paid, only then can the distributor seek to recoup these remaining amounts from its end-user customer base via a regulatory pass-through mechanism.

Credit support arrangements and late payment fees are not directly related, although they are both seeking to manage the risk associated with non-payment for energy services. Credit support requires retailers to make an upfront financial guarantee to distributors based on a specific risk assessment and protects distributors from non-payment for network charges. Late payment fees recover the costs of retailers in managing outstanding debt, and are only incurred by those customers who fail to pay on time, noting that hardship customers are explicitly excluded.

The Hon. Mr Ridgway queried whether the South Australian government has paid any late payment fees in relation to its energy supply. As a large energy consumer the government's energy contracts are negotiated through a public tender process, with the negotiated contract not providing for late payment fees. The Hon. Mr Ridgway requested information in relation to the power of the AER to require written enforceable undertakings from a person. This new power for the AER to require an enforceable undertaking is similar to a power held by the Australian Competition and Consumer Commission under the Competition and Consumer Act 2010.

An enforceable undertaking is an administrative remedy that requires a person who is not complying with the regulatory requirements to agree to take corrective action, for example, to implement a compliance program to address certain noncompliant actions. The intention of this remedy is to afford a regulator an alternative tool to achieve compliance with a regulatory regime without having to proceed immediately to court, thus potentially saving time and legal costs.

The Hon. Mr Ridgway asked about the information-gathering powers of the AER. Under the law, the AER has power to obtain information and documents if it has reason to believe that a person is capable of providing that information or document and it requires it for the performance or exercise of its functions and powers under the law or rules. Protections apply to the use of confidential information provided to the AER. This power is necessary to enable the AER to have the best and most accurate information available to it in order that it may make informed decisions.

Significant care has been taken to ensure that duplication of information provision does not occur, insofar as information provided by an industry participant under the National Electricity Law, National Gas Law or this national framework can be used for the purposes of any of these regimes. In addition, the AER may require information from retailers under the Retailer of Last Resort provisions to ensure that it is fully informed in relation to a Retailer of Last Resort event and able to ensure the effective transfer of customers, if necessary.

The Hon. Mr Ridgway asked for information in relation to wrongful disconnections, particularly their prevalence and the reasons for wrongful disconnections. As there is no wrongful disconnection scheme in South Australia, the following information is based on Victorian statistics on wrongful disconnection. The Victorian Essential Services Commission indicates that there are approximately 2.2 million electricity consumers in Victoria and 1.4 million Victorian gas consumers.

According to the Victorian Essential Services Commission 2008-09 Compliance Report for Victorian Retail Energy Businesses, there were only 155 wrongful disconnection claims. This equals 0.004 per cent of the 3.6 million energy connections. A wrongful disconnection occurs where the retailer breaches the requirements set out in the Victorian Energy Retail Code regarding the process for disconnection.

Having placed the answers to some of the questions posed during the second reading on the record and there being some outstanding responses still to be provided, I am happy to provide those in the committee stage. On that note, I wish to thank all those who contributed to the second reading stage and who have expressed support for this bill. I look forward to the committee stage.

Bill read a second time.

TRAINING AND SKILLS DEVELOPMENT (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 February 2011.)

The Hon. D.G.E. HOOD (16:31): I rise to support the second reading of this bill. It creates new offence provisions and other powers, I think it is fair to say, in response to the collapse of the Adelaide Pacific International College following the McCann review. I thank the minister's adviser for answers to questions posed by Family First in relation to this specific bill.

I note that the inspectorate tasked with policing these provisions is the existing Quality and Tertiary Education Policy Directorate within the department under delegated authority from the Training and Skills Commission that was formed in legislation in 2008. I note that it was this agency that was tasked with policing the jurisdiction before the Adelaide Pacific collapse, but they may argue they lacked the powers now given to them under this legislation to pick up the problems that existed. Nonetheless, it does seem somewhat counterintuitive that previously the auditing did not pick up any problems.

I acknowledge that there is a body of work by groups at the commonwealth and interstate level, as well as the SA government task force, to improve the provisions of overseas students' education. We have heard some sad stories of the experiences of those overseas students here in recent times, and it is important for the nation and our state that we ensure that international students have a positive experience in Australia. To some extent, we cannot control the way they are treated in public places, and Family First is saddened by, and indeed condemns, the type of violence directed at young international students that we have seen, particularly interstate, in recent times.

In the briefing, I raised the issue of the need for a complaints service to cater properly for culturally and linguistically diverse people. It may be difficult to find staff who speak all the languages of our international students, but I think it would be good policy that a complaints service actually be established that would understand the student in making their complaint. Any sense of alienation or misunderstanding could see the service go unused and thus problems go undetected.

Family First has been assured that this bill will be met within the current budget requirements, as anticipated in the 2010-11 budget. I note we have also been told that the department is improving its data systems to support this move within its regulatory function. Perhaps in part this is an acknowledgement, after the investigation that was concluded into DFEEST's auditing, that revealed the record keeping was not up to scratch.

I hope that as the Treasurer prepares his first budget—I should note at this point that I may not have had the opportunity to put on the record our formal congratulations to the new Treasurer, so I do that now—we do not see the cost of this program blowing out as some have predicted. I also seek the government's views on matters raised earlier this week, on 21 February, concerning training apprenticeships and subsidies. I do not take a view one way or another in relation to News Limited's story prominently featuring McDonald's and KFC.

In fact, I acknowledge that McDonalds and KFC and other stores, chains or corporations like them provide employment and skills training to our young people, and it sets them up well for professional careers, further study or whatever it may be in the future. What I am asking for is some response from the government to the editorial from *The Advertiser*. I will just read sections of that briefly, as follows:

> Our apprentices are being offered 'slave' wages at a time when the country faces major skills shortages. Young male and female school leavers are being enticed into the general workforce too early—opting for quick cash rather than learning a trade in which they would receive a first-year apprentice's wage of $250 to $300 per week. Can you blame them? For those who do take on an apprenticeship, they are choosing what is physically and mentally a tough job. Without competitive wages it is not surprising the national drop-out rate sits at about 52 per cent. That is why a series of ambitious reforms to overhaul the sector is welcome news.
>
> The 170-page blueprint, obtained by The Advertiser, finally recognises the need for improved wages for first-year apprentices—linked to going rates of pay in industry. The gutsiest element of the reform is in the slashing of millions of dollars in government subsidies towards retail giants such as KFC and McDonald's. No doubt it will upset the major companies and put traineeships at risk—but redirecting these dollars to areas of skilled labour shortages addresses a more pressing issue for this country.
>
> And while we are addressing the apprenticeship sector we could also go further to improve the quality and reputation of our training industry, starting with a more rigorous approach to who can provide education in this state. The Motor Trade Association's concerns that some private training organisations, which primarily target international students, are putting South Australia's reputation at risk should be addressed. They have a right to be concerned.
>
> Private training provider Adelaide Pacific International College was audited on a number of occasions by the Further Education Department before a report in The Advertiser triggered a more comprehensive investigation. It was found to have breached several training standards and was closed in June last year. The State Government at present is putting reforms into action, including $100,000 fines to training providers who breach standards. However, greater scrutiny should be applied before an organisation considers opening in SA—not after it has taken advantage of students and damaged the state's reputation.

One concern out of that editorial I do share—and I conducted a brief investigation into this—is why the existing auditing process failed to pick up the problems within Adelaide Pacific International

College. The editor rightly points out that those audits did not pick up problems until *The Advertiser* triggered a more comprehensive investigation or, if they did, it certainly was not public knowledge. So I do seek, in particular, comment into why the government believes the auditing failed and why we need these new powers as a result but also the issues raised by the editor in general.

As the state looks at its industry opportunities in the future, it does make sense to grow the knowledge economy, if you like, as we struggle to compete against international competitors on labour costs. One such economy is the further education sector, and the Rann government, in my view, has the right idea on this front, even if it has not been playing out particularly well in the recent past, for example, with Adelaide Pacific.

A question that SA Unions raised, which I would like to have clarified by the government, is: what happens if an organisation fails, as Adelaide Pacific did? Can international students who paid fees up front claim those fees back? What else can be done to keep them in training in South Australia? What assurance is the government going to make that, if an event like this occurs in the future, students can transfer and not have to pay fees again to get into a similar course so that there is minimal interruption to their stay and study in South Australia, thus maintaining our state's reputation?

Another question, also coming out of *The Advertiser* on this occasion, is on the difficulty of attracting and keeping the next generation of young farmers on the land to enhance food security. An article published on 17 February 2011 saw these paragraphs attributed to minister O'Brien:

> Agriculture Minister Michael O'Brien said the Government was aware of the need to prepare future generations to take up farming. 'Preparing the next generation to take up the challenge of farming is a key part of the Government's economic planning with the provision of specific education and training programs as well as support for succession planning,' he said.

So my closing questions, given the work we are doing in relation to farming and primary industries and given that we are looking here at a miscellaneous bill on training skills and development, are: what programs are the government developing specifically? What stages are those programs at? What are the expected training place and ultimate jobs impact of those programs?

I acknowledge the story from *The Advertiser* today raising matters brought to light (or I understand will be brought to light) by the Hon. Mr Lucas, and we are interested in some answers on those matters that we will hear shortly.

In closing, I acknowledge that it does appear the government has taken on board representations made by most stakeholders in relation to this bill, and certainly that is pleasing to see. There is, I understand, some consternation from the organisation representing the training providers. I think the Hon. Mr Lucas will touch on those matters in his contribution and we look forward to that contribution. Having placed those questions on notice, I indicate Family First's support for the second reading of this bill, but we are very keen to seek some clarification on the issues I have raised.

The Hon. R.I. LUCAS (16:40): I note that the batting order for debate this afternoon seems to depend on: the whip tells us the first thing, then the leader tells us another thing and then the deputy leader tells us a third version of what we are doing. So, at the moment the deputy leader—

The PRESIDENT: The Hon. Mr Lucas should get on with it because the Hon. Mr Hood is looking forward to your contribution.

The Hon. R.I. LUCAS: —is winning because she overruled the leader's version of what we were meant to be doing. It is just another example of the faction-driven government; the left and the right fighting amongst each other, even over the order of business in the Legislative Council.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Even over the order of business in the Legislative Council.

The PRESIDENT: Move along.

The Hon. R.I. LUCAS: We in the opposition, in the public interest, are always happy to do our best to serve. Whatever the latest decision is, we will just roll with the tide. The Training and Skills Development (Miscellaneous) Amendment Bill is one that the Liberal Party, in principle,

supports. The shadow minister, during debate in another place, indicated our support for the intent of the legislation.

There are a number of specific provisions which will best be pursued during the committee stage of the debate, so I will make some overall comments and raise three or four issues, one of which the Hon. Mr Hood has referred to, that is, very recent representations from one of the national stakeholder groups, and then, as I said, pursue the rest of the issues, if need be, in the committee stage of the bill.

As the Hon. Mr Hood and the minister have referred to, essentially, we are left with the situation that the government has taken the view, and the opposition has supported it, that whilst there is national legislation imminent that will supposedly resolve all of these issues on a national basis, in the interim we need to have our own legislation just in case there is a problem this year.

My first question to the minister is: could we get on the record the latest advice we have and as to when the commonwealth legislation will pass and then, more importantly, when we will see further legislation here in South Australia when it will be introduced into the state parliament? For example, will it be in this current sitting of the parliament before the budget or will it be in the second half of the year? From the earlier briefings that we had I suspect it is going to be in the latter half of the year, but if we could formally have on the record when we will see the state-based legislation that we have to consider.

Some stakeholders have expressed a concern as to: why on earth would we be racing ahead with this legislation when there is a nationally agreed response to all of this? They have, not unreasonably, put the position: wouldn't it make sense to either delay it—that is their view—but if we are going to do something that we ensure that whatever we are doing in this bill which is being pushed through is at least consistent with what we are likely to see at the end of the year.

During the briefing, a week or two ago, I put those sorts of questions to the government representatives and I intend to put the same questions to the minister now so that they go on the public record. The shorthand version of what I intend to say is that before we get to the committee stage of the debate I think we should get from the minister an indication of whether there are any provisions in the bill that we currently have which will be significantly inconsistent with the provisions of the nationally agreed legislation that we are going to look at later on in the year. Now, if there are minor issues in terms of drafting and style, we are not too fussed about that, but any issues that are significantly different in terms of the national approach that we are going to adopt later on.

I have been given a copy of a table which says 'A comparison of the legislative recommendations of the McCann review with the draft National Vocational Education and Training VET Regulator Act', which compares the McCann review recommendations with the national legislation, as I understand it. There are two issues. First, obviously we are not currently specifically addressing the McCann review. We are addressing a bill the government has introduced after its considered the McCann review.

I think what this council needs to know is: can it be provided with a comparison of the provisions in this bill and what we are likely to see at the end of the year? It makes no sense to me that we would do something in this bill that is going to be radically different from what we would like to see later in the year. The verbal assurances we have had during the briefings are that that is not going to happen, but we want something on the record that indicates there is no significant difference.

Ultimately, if someone comes back to us and says, 'Hold on, you were told this in the parliament, "There is no significant difference." We have now looked at the federal legislation (once it has gone through in its final form) and this is what you have just rushed through. There is a significant difference.' We want the minister on the record saying, 'Yes, there was going to be a significant difference', or giving us an assurance that there was not, and then we can hold him to account if that assurance is not accurate. I think it is only reasonable for the council to require that of the minister if the minister is asking us to push through legislation when there is already knowledge that federally based legislation is coming sometime later in the year.

From that response to the briefing note that we received from Mr Peter Louca, who, I think, is the chief of staff to the minister at the moment. He is described at the bottom of the email as 'Chief of Staff to the Hon. Jack (the Hammer) Snelling MP'. In that briefing note response there is a reference as follows: 'With regard to TEQSA and the regulation of higher education providers,

negotiations with the commonwealth continue, particularly with the regard to the ongoing right of states to establish and disestablish universities.'

I seek a response from the government as to what the state government's policy is; that is, is it negotiating to hand over to the commonwealth regulatory control of the universities? This sentence is ambiguous. It seems to indicate that that is what might be going on, but I seek a specific response as to whether the minister has been involved in negotiations with handing over responsibility of the states in relation to the establishment and disestablishment of universities in South Australia and what the powers of the new federal body (TEQSA) will be.

In this briefing note, we were told that, in December 2009, COAG had agreed, with the exception of Victoria and Western Australia, to establish a national regulator for the VET sector. Clearly, what we are looking, it would appear, is not a national regulator when Victoria is out of the system and, I guess less importantly in terms of size, Western Australia, although Western Australia, with international education, is an important provider.

I seek from the minister an update. At February 2010, we have a new government in Victoria. It has been there for three months or so. Is that still the position of the newly elected government in Victoria? Does the government have any knowledge as to what the potential change of government in New South Wales might entail and has the now opposition indicated a particular policy position on this issue at all? That might not be known to the minister and I accept that that might be the case.

We were also told in that briefing note that negotiations are currently underway with the national VET regulator with a view to transferring current state employees to the national regulator. This does present a potential saving for DFEEST; however, the scale of that saving has yet to be determined, pending final resolution of the size and functions of the state branch of the national VET regulator.

The minister could indicate how many persons, full-time equivalents and people, are currently working in this section of DFEEST at the moment. Whilst I accept that that does not necessarily mean that all those people or full-time equivalents would be transferred to the national regulator, I am interested to know how many warm bodies we have working in this area of DFEEST at the moment.

As the Hon. Mr Hood indicated, at a very late stage—it was only Tuesday of this week—I met with representatives of the Australian Council for Private Education and Training (ACPET). My recollection of their answer to my question was, I think, that they represent over 100 private education and training providers nationally, so they are not, it would appear, a Johnny-come-lately association or organisation; they are of some significance.

They operate in all jurisdictions, as understand it, and, as I said, they seemed to indicate to me that over 100 organisations were represented by ACPET at the national level. They also indicated that some 75 per cent or so of training opportunities in this sector are now being provided by the private sector. Not having had a close and abiding association with this sector for 10 years or so, this seems quite a remarkable number.

Those of us from decades ago who saw TAFE and its equivalents in the other states as being the major providers of training opportunities need to reorient our own mindsets to the new world and the real world, and that is that, under the federal and state Labor governments, we have had a massive change in provision of training opportunities from the private sector, and TAFE has become—I guess 'marginalised' is too strong a word, but certainly it has become a much smaller and less significant provider of training opportunities in South Australia now than it was in previous decades.

Certainly, it is not that many decades ago, one would imagine, that TAFE was providing the overwhelming majority of training opportunities in South Australia. As for ACPET, as I said, I am not sure the reason for the lateness of the lobby to members of parliament.

The Hon. T.A. Franks: They never actually got a copy of the bill back from the government.

The Hon. R.I. LUCAS: The Hon. Tammy Franks has obviously met with them or spoken to them as well, because in the discussion they indicated that they had put a position back—they thought in about October or November—and some of the issues that they had raised have not been taken up in the bill. As the Hon. Tammy Franks has indicated, they did not see the final copy of the bill that was introduced to parliament.

It was only on Tuesday morning that I met with representatives of ACPET. They raised a whole series of issues with me, some of which were informative and can be used for clarifying questions during the committee stages of the debate. The most recent letter I have received, dated 23 February—and I understand this is being copied, or similar letters have been sent to other members of the Legislative Council as well—raises one specific issue.

I would indicate to those other members of the chamber that clearly we are not going to go to the committee stage of the bill today, and one of the reasons is that I have asked parliamentary counsel to draft an amendment, which we as a party need to consider when we next meet on Tuesday week but, in the interim, if other members are interested, I am happy to provide a copy of the draft on the understanding that we have not yet agreed to it as a party because we have not yet discussed it as a party.

Essentially, I will flag in this second reading contribution the area involved and the general nature of the amendment. I am happy to provide a copy of the draft when I receive it, and I understand that I will not receive it from parliamentary counsel until early next week. They have raised the issue that in this bill there is a provision referring to an understanding of a 'fit and proper person', and what they have said is that they are most concerned as to how a bureaucrat might interpret a 'fit and proper person'.

They believe there is no rigour, definition or guidance to the regulators as to what a fit and proper person is, and what is a fit and proper person to the regulator might be different from the views that we might have of that provision. What they have said is that under the national framework at the moment, there are a number of different examples under federal legislation where there is a definition or some guidance as to what a fit and proper person test ought to be.

One of those is the Education Services for Overseas Students Act (ESOS Act), which was amended in 2010. I will not read all of section 9B(2), but it says that, in deciding whether a training provider meets the fit and proper person requirements, the designated authority must have regard to whether a person has been convicted of an offence, has ever had their registration cancelled, etc. It actually goes through some specific provisions to give guidance to the regulatory authority as to whether or not this is a fit and proper person. It is not left to the unspecified subjective judgement of a regulator or a bureaucrat who may well say, 'Well, I just didn't think you were a fit and proper person and so you're going to lose your provider's licence.'

People are investing buckets of money in these businesses. We are all interested in ensuring that they are properly run businesses and that they are not ripping off students. That is the purpose of this legislation and that is why we are supporting it through the parliament, so that, in the rare examples where people are being ripped off, there is some redress for those students who have been ripped off and some sort of the process, some better auditing and those sorts of things.

That is the framework that I think we are all relatively comfortable with, but on the other hand you have people investing millions of dollars in some cases or hundreds of thousands of dollars in terms of their company and their business to provide training opportunities. They do not want to be subject to the whim or vagaries of someone who does not like them to say, 'Well, I just don't think you're a fit and proper person, and I don't really have to indicate to you on what basis I have made that judgement.'

What they are saying is, 'Look, in similar national legislation in the training field, there are fit and proper person provisions.' I am relaxed. I have not had a discussion with parliamentary counsel yet, but my office has, and it has raised the issue of the Education Services for Overseas Students Act as one model. We have said that, if there are other ways of providing definition or rigour to 'fit and proper person' that parliamentary counsel or, more importantly, ultimately the government are prepared to contemplate, we are prepared to be flexible in relation to this. Certainly, I think ACPET would be as well. I just said when I met with them, 'Hey, help us here. If you don't like what's there, what do we replace it with?'

They have done the work at the national level and they have come back with some ideas. We have taken one of those to parliamentary counsel and said, 'Draft us something along those lines; that will at least start the debate.' As I said, if the government or indeed any other member comes up with a better definition or resolution to the problem, then certainly I know that the shadow minister and our party would be prepared to engage in sensible negotiation and discussion in relation to that issue.

With that, I indicate that at this stage that is the only amendment we are contemplating. Nothing else has been raised by any other industry association or stakeholder that would, at least at this stage, cause us to move an amendment. I indicate that we support the bill and that we will provide a copy for those interested members of the draft next week when we receive it from parliamentary counsel. As I said, we will not as a party discuss it and resolve our position on it until Tuesday week.

There was one other issue I wanted to raise relating to clause 14 and public statements. This was raised by ACPET—although not in relation to amendments—and I would like clarification from the minister as to what the legal advice has been from parliamentary counsel and others. In essence, this will give protection to regulators and others to make public statements and, as I understand it, protect them if they acted in good faith in making those particular statements. My question is: if in making one of these statements there is clearly negligence—that is, the minister or the regulator has absolutely got a fact wrong that they should have been able to establish—does this good faith protection mean that the person who has been wronged will have no legal recourse against that particular statement?

Clearly, there are a range of legal provisions and protections that one can put in there. There is good faith and bad faith, and various other phrases along the legal continuum that can be incorporated to provide protection for people who are undertaking their job and who you want to prevent from being sued. I seek advice from the minister as to why the government settled on 'good faith' as being the appropriate legal defence here. In particular, will that protect a regulator or a minister who has been negligent, who just goes out and slags some provider and, in essence, puts them out of business, and who has got something absolutely wrong, but who has said, 'Look, I did this in good faith'? What legal recourse is there for the provider in those circumstances?

This is an important issue. At this stage we are not flagging an amendment, we would need to get legal advice, and would first like to see the minister's response to determine whether it is a reasonable and acceptable response that the majority of the Legislative Council is prepared to accept or whether we think it is going a bit too far and allowing someone to say whatever they like. Some providers could be put out of business and have no recourse in law at all, even though what has been said about them is palpably wrong, has been proved to be wrong, and could have been shown to be wrong at the time that the statement was made. I believe we need to protect against that type of circumstance as well.

The Hon. T.A. FRANKS (17:03): I rise on behalf of the Greens to speak to the Training and Skills Development (Miscellaneous) Amendment Bill this afternoon. We welcome the intent of this bill to strengthen the regulatory arrangements underpinning the quality of education and training in the tertiary sector in South Australia. We also welcome the fact that it has speedily addressed the recommendations for legislative change that were couched in the McCann report on vocational education and training services for overseas students in South Australia.

Of course, the impetus for this has come from the collapse of the Adelaide Pacific International College, amid allegations of financial problems and a failure to deliver adequate training to fee-paying students. We saw quite a crisis in that particular institution. This bill will enable government to take swift and firm action against such unscrupulous or dodgy providers. It also increases the penalties and allows consumers to seek redress through the courts, if necessary. We welcome all these initiatives from this government.

We are particularly mindful that the education sector is a vital income generator for the state's economy. I remember having worked on international student issues in the Senate; I used to work on the ESOS bill on a regular basis, and I remember constantly being informed by those in the industry that the education sector is, in fact, bigger than wool and wheat in this country. I know the President may be more fond of the wool industry, but I am certainly fond of the international education sector and would like to see it grow. I would certainly like to see South Australia having at least the average piece of pie in this particular industry and certainly not lagging behind. Unfortunately, incidents like the Adelaide Pacific International College, and an inability of government to act swiftly to that, actually diminishes our ability to compete.

I welcome the rhetoric from the Rann government on Adelaide being a university city; I would like to see that truly become the case. I also note that, in fact, the McCann report did call upon South Australia to act more quickly than other states, so I do not share the concerns of my Liberal colleagues that we should not be debating this so speedily and before the national regulations emerge. In fact, we endorse the government's actions here to speed up the timing in

which we are developing some more appropriate compliance models and processes to address such incidents in the future.

The McCann report will see South Australia, along with other states, with the exception of Victoria and WA, refer powers to the commonwealth for the regulation of vocational education and training. That national VET regulator will register providers and regulate their operations in a similar manner to that currently performed by state registering bodies. The national regulator is also going to register providers delivering Australian qualifications to domestic students and/or overseas students and/or students offshore.

One question I have at this juncture for the minister is: while this is a South Australian specific piece of legislation, will it, for example, cover students who may be at institutions that have campuses? I want to clarify that, if a campus is in South Australia, it will be covered by this particular act, regardless of whether or not the overall institution is perhaps based in Victoria or elsewhere. If a campus is in South Australia, will this act cover them?

I would also like to thank the minister for providing a briefing on this bill; it was much welcomed. I also note that we have had representations from ACPET at quite a late stage in the debate. Upon questioning why it had taken into the second house to debate this issue, and why the particular concerns had been raised, I discovered, not for the first time, that those who had made submissions to the deliberations and the consultation process had not actually been informed that the government had finalised the bill, sent a copy of that bill or told that it was, in fact, going forward into parliament.

I think that it would be not only common courtesy but also simply good legislation-making to ensure that those you consult—those who are stakeholders—are consulted back and informed of what you decide. Whether or not their input has been taken into account, I think they will wear it either way, but it is just good practice to make sure that stakeholders are aware of where things are up to. They take the time and effort to give you a contribution, and I think they should get the respect of being told what decisions are made. I imagine that it would be well within the capabilities of this government to ensure that that happened.

I note that, as I say, that has actually happened with a few bills. In my very short time here I have discovered that not much respect is paid to those who contribute to a consultation phase of any of our reviews or debates in this state. It seems to be the luck of the draw whether you see that your amendment was indeed accepted or not and whether you find out in a timely fashion that the particular piece of legislation is being debated in this place. That is not good for democracy, and it makes it difficult for those of us particularly on the cross benches to have an informed and productive debate.

Again, I note that, having worked as a staff member for a senator, protocols were that you did not necessarily see a bill one week and debate it the next. You certainly had a much more timely and measured way of addressing that legislative process. I would imagine that just feeding back to those who take the time and effort to tell us their opinions would, in fact, be a great boost to our democracy here in South Australia.

International students are a much welcome part of both the economy and the social fabric here in South Australia, but I do have some concerns that I would like to raise. They are often exploited, and that exploitation is across a range of areas. I will start with their employment, and I would like to commend the work, for example, of the Young Workers Legal Service, who pick up a lot of the cases of young international students who are exploited in the workplaces of South Australia, and they are approached by students on a range of issues.

The Young Workers Legal Service has informed us that the sort of issues faced by international students are that they are underpaid, they are often unaware of the industrial instruments governing the employment, they are often fearful of losing their job if they raise an issue of pay, and they do not always know where to get the correct information about their wages and entitlements. Of course, quite often they also have language and cultural barriers.

We heard in the other place that, in fact, many shonky providers of education and training in this state and across Australia have been known to tie employment to the provision of an education or training certificate, diploma and so on. We heard the stories of taxi drivers, for example, who were basically used as slave labour, and if they were not out driving the cab then they were not being recognised as being part of whatever course they had enrolled in and were threatened that they would not be graduating from that course.

That sort of practice is completely unacceptable in our society, and I would hope that we see some more work towards eradicating those sorts of practices in South Australia. Also, students have approached the Young Workers Legal Service about not being given sick leave and being paid 'under the counter', owed pay and unpaid. They are not in a position of strength and certainly not in a great position to bargain for the best conditions.

I would note that, under the previous Howard government, the mindset of smashing student unionism has added to the exploitation of international students, both here in South Australia and across the state. My first thought on this bill was that I would consult with the international students unions. They are not nearly as well resourced as I recall in my day, and international students have a much diminished voice in this new era. I hope that they will build up their strength again and that we will be hearing those voices.

We will be hearing first the complaints, but then addressing those complaints and making sure that these vulnerable students are not exploited. I would also like to thank Raffaele Piccolo who is the son of the member for Light and who is also concerned about the exploitation of international students. While it is not a VET sector issue, at a university level, the Adelaide University Union has recognised that international students are in a particular vulnerable position there.

As I say, it is a huge industry, and South Australia would like to see a slice of the pie. Just a few years ago, in 2007, I think we saw more than 500,000 visitors or students entering Australia with working rights and another 110,570 (and their dependents) arriving on temporary 457 visas. These people are actually bound by contracts which do not need to meet any industrial standards, and that does raise a number of red flags. From the Greens' perspective, we would certainly like to see these issues also addressed in future work by state and federal governments.

I sum up by again congratulating the government on acting reasonably promptly on this issue. We echo the concerns raised by the Hon. Rob Lucas that the considerations of ACPET had not been taken into consideration in terms of the concerns they raised with a draft form of this bill. We look forward to hearing from other people in the sector over the coming weeks before entering the committee stage. With that, we support the second reading and look forward to a robust committee stage.

Debate adjourned on motion of Hon. T.J. Stephens.

HEALTH AND COMMUNITY SERVICES COMPLAINTS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 February 2011.)

The Hon. T.A. FRANKS (17:17): I rise to speak to the Health and Community Services Complaints (Miscellaneous) Amendment Bill on behalf of the Greens. We welcome this bill before us, which seeks to incorporate some of the recommendations from the Social Development Committee's Inquiry into Bogus, Unregistered and Deregistered Health Practitioners.

The amendments contained within this bill give the Health and Community Services Complaints Commission (HCSCC) the ability to act swiftly in dealing with such people, if it is in the interests of public health, such as issuing orders or interim orders and placing conditions on an unregistered practitioner's practice, or indeed prohibiting them from practising within this state. The bill also allows for the HCSCC to establish a code for minimum standards for unregistered health practitioners.

There are some changes also to the representation on the HCSCC Advisory Council. I understand that provides for the introduction of a position for a carer and for somebody who is an expert in the area of safety and quality within this framework. We welcome all of those things, although I note my concern that the advisory committee, in the lifetime of this bill, I understand, has met once or perhaps twice. I seek clarity on how many times that advisory council has met. The act has been in operation for some many years now, and I would have thought that that particular framework would have been more active, but perhaps I am wrong and perhaps I can be corrected on that.

The bill also proposes to create greater accountability for health and community service providers, where the HCSCC can request information about what actions have been taken or are

intended to be taken with respect to the HCSCC recommendations, which are made both in its annual report and with respect to particular case work.

I commend somewhat the work of the government in ensuring that we do indeed have a health rights framework for health and community services. I note that this goes back to July 2008, when all federal and state territory health ministers endorsed an Australian Charter of Healthcare Rights and recommended their use nationwide. Since that time—certainly to mid-2010—four states and one territory have formalised this in a charter, and the Northern Territory and Tasmania at that stage had pre-existing charters. I would note that in South Australia we have been a little slow to come to the party in many areas that are, in fact, incorporated under the Health and Community Services Complaints Act. One of significant concern to me is that we are still awaiting a draft of the South Australian Charter of Rights, which I understand was meant to be—

An honourable member interjecting:

The Hon. T.A. FRANKS: It has just been tabled, I am informed.

The Hon. R.L. Brokenshire: Surprise, surprise, it was tabled last sitting week.

The PRESIDENT: Fair go.

The Hon. T.A. FRANKS: I did ask in the briefing if we had a copy of that yet and where it was up to, which was some days ago. I understand that hot off the press at some stage we may actually see a copy of this health rights charter, although I will note that the 2004 act had provisions for this particular charter to be tabled within 12 months of the proclamation of the bill and some four years later we started to have a consultation period and people had a six-week period in which they could input—

The PRESIDENT: The Hon. Ms Franks should direct her remarks through the President rather than the Hon. Mr Brokenshire.

The Hon. T.A. FRANKS: I am sure the President will be very interested to know that we had a six-week period in which the South Australian community and stakeholders could have some input into this charter, and certainly quite a few did. I would, again, ask whether or not they have received any response to this tabled document which I understand outlines the charter, and if they would be given the opportunity to see whether or not their input was adopted or ignored or rejected for some particular reason given by the government.

It is very exciting to hear that we are finally, all these years later, having that charter. I welcome it and I look forward to that being trumpeted by this government many a time. A highlight of the health and community services work last year was the development of that charter. Certainly, Ms Leena Sudano, the commissioner of the HCSCC, while doing some fine work and certainly addressing many health and community complaints, notes that South Australia is only one step short of having the lowest funding in Australia for an independent health and community services complaints service.

This is something that we should not be proud of. It is not that we are more efficient, it is, I think, that we seem to have less of a commitment in this state. Nevertheless, there were 1,090 new complaints last year, an average, I believe, of about 90 per month, and that is a 31 per cent increase in this last reported year from the year prior to that. About a quarter of those complaints come from outside metropolitan Adelaide. Since the HCSCC opened in October 2005, to the middle of last year, some 5,500 complaints have been put forward.

So, there is certainly much need for this and anyone who has been in a member's office would know that health and community complaints take up quite a bit of constituents' concerns that are raised with it and it is welcome that we have such an institution, but I echo the concerns that they have continually raised themselves with this government, that they are not adequately funded to provide what we would expect as an efficient and effective service to ensure that our health system is, in fact, making savings by improving its service, quality and safety.

This is the thing: if we have an adequate and well resourced complaints mechanism we will save money in the long run because we will iron out the problems well before they become systematic and intractable. I also look forward to seeing the regulation form of the code of conduct that we will be presented with with regard to the currently non-registered health practitioners and I look forward to the debate around that within the health and community sector regarding what standards we expect of our social workers and naturopaths. I do have some interest in how the area of faith healing may be addressed, and I certainly would like to hear whether the minister has

any input on whether or not this particular bill will address issues of faith healers or whether it will simply stick to naturopaths, homeopaths, social workers and so on.

We look forward to the committee stage, which I imagine—I would have liked to have seen the charter before that—will be an interesting time. With that, I commend the government for finally having this piece of legislation before us and certainly look forward to more debate on this area and further funding for the HCSCC in the future.

The Hon. R.L. BROKENSHIRE (17:25): I rise to support the second reading. I agree with most of the comments made by my colleague the Hon. Tammy Franks, particularly the issue around the charter. It is one thing to have a policy prior to coming into government, but when you develop policies, it is not a bad idea to think about what the ramifications might be when you come into government; that is, that you might create some transparency and a genuine opportunity for people with bona fide health complaints to be able to go to an independent arbiter. That is the dilemma with much of what we are doing even now, and that is why I would like to see a standing committee look at this whole issue around the Health and Community Services Complaints Commissioner.

I am not sure where the facts actually sit. As the Hon. Tammy Franks has said, clearly the office has been quite vocal in saying that it is under resourced. Then we see a front page story (which I have a feeling might have come from government) claiming that there were inefficiencies and the cost of each complaint was about $1,500. Then I hear from some constituents that they are not happy with the Health and Community Services Complaints Commission as far as the whole process goes and the outcomes. Then, on the other side, I think that, because they may have created a potential Pandora's box, the commissioner and her office have had one arm tied behind their back, and that is of real concern to me.

It is backed up by what was said earlier by my colleague: where is the charter? I point out to my colleagues that the government is in breach of the law by not providing this charter and setting up the committee within the prescribed time under the act, which was passed in good faith by the parliament. They have broken a law. I understand that the charter, whilst way overdue, may have been in the minister's office as far back as October (or thereabouts) last year. Soon after a story appeared in *The Advertiser*, surprise, surprise, the government tabled a charter in the other house, possibly during the last sitting week. Perhaps the minister can advise us whether that is right, but it is my understanding that it was tabled, together with the annual report, during the last sitting week.

I want to acknowledge the work of the Social Development Committee, including my Family First colleague the Hon. Dennis Hood, regarding the bogus health practitioners and the evidence that they received. Well done to the Social Development Committee. That is what the committee is set up for.

However, I am specifically speaking to this bill due to concerns that constituents have raised with me about the general performance of this whole commission. I do not take any personal sides in this, but I do want to see a full investigation. Look, if they happen to be under resourced and that is the reason why they are not able to deliver to the expectations of the community, then let us have that debate, but if it is because there has been one arm tied behind their back, then we need the government to come clean on that; or, if there are other issues, let us try to get them addressed through a standing committee.

One thing that we all absolutely agree with is that we do need a structure in place for people who have very serious matters occur in respect of their health so that they can not only lodge a complaint but get an outcome. In this bill additional powers are being given to the commission concerning bogus health practitioners and, as I said on rising to support the second reading, Family First does support the government with that and congratulates it on the amendments.

The inference that we are reading from the writings of the commissioner is that the commissioner wants more resources. If the commissioner can justify that the commissioner needs more resources, then we need the government to be transparent about that and see what really is the situation, because this is clearly going to put more work on them, and we do want that work to be processed in a reasonably expedient way.

I understand from a briefing that my office has had with the government that it is not interested in a new levy or indeed an expansion of funding for these new roles. Certainly, I put on the public record that Family First does not support a levy for this. We have talked already in this

chamber today about the fact that it seems that you get $15 billion worth of revenue from taxes and charges, but you do not have any money to run anything, and so what you do then is desperately call for a new tax, a levy or a charge. We certainly would not support the call for a levy. It is up to the government to better manage its budget.

Given that, according to recent media coverage there are some inefficiencies—it has been claimed it cost $1,500 to process a complaint in South Australia—I think the government needs to demonstrate to the parliament just what it is doing to try and rein in or manage or administer better the budget allocation that it has because, whilst there should be independence in the investigations, I think the health minister needs to explain to us just what is the situation as the minister sees it with the budget for that office.

In conclusion, I have tabled some amendments, which I would hope that members, and especially the government, will look at seriously. Really, it is simply about transparency in the annual report. I put these amendments in here because I think it would give a lot more confidence to us as members of parliament if we could see this information in the annual report. It would give us a much better understanding of whether or not the work is so detailed that the budget is inadequate or whether indeed, perhaps, we can then question the government of the day through its minister's representative here in our house on issues relevant to transparent reporting.

I just want to put on the public record that when we discussed in my office moving these amendments, whilst they are specific and quite detailed as to what sort of reporting processes we would like to see from the Health and Community Services Complaints Commission, it is something that I feel we need to ensure is enshrined in a lot of annual reports and a lot of legislation that comes into this house, because it is not for us to try and assess what is happening with expenditure from a government literally blind to what the real outcomes are.

In the short time I have been in this legislative council I have seen that there seems to be a trend of less and less information being made available to the parliament. That is an unhealthy trend and one that I believe that we should be turning around. Given that the government has now introduced this amending legislation, which we support, I would like to see a clean start from the government in supporting real transparency and much more detail in annual reports so that members of parliament, particularly legislative councillors in the house of review, can adequately make assessment on behalf of our constituents as to the benefits of that particular office or department and whether taxpayers' money is being spent appropriately.

The Hon. A. BRESSINGTON (17:34): I also rise to briefly indicate my support for the bill. This bill in part gives effect to the recommendations of the Social Development Committee report into bogus, unregistered and deregistered health practitioners, an inquiry which heard of charlatans preying on the vulnerable by claiming to be able to cure cancer and other such illnesses. While any measure that will protect vulnerable consumers from shonky operators is most welcome, I do hold some reservations that, in our attempts to target these, we may place undue restrictions on legitimate professionals, such as naturopaths and homoeopaths.

However, it will not be until the code of conduct is released that we will have any indication as to whether or not my concerns are valid. I was assured in my briefing yesterday that there would be extensive consultation on the draft code of conduct, and it is my hope that the end result will be reasonable and reflect the intent expressed by the minister when introducing this bill. Of course, if it is not, we can always move to disallow the regulation.

Another concern I have about the bill is that this places additional responsibilities with the Health and Community Services Complaints Commissioner who, from media reporting and my constituents' experiences, is clearly overstretched by her current responsibilities. I am not sure whether that is budgetary or whether it is actually due to the wide scope of complaints that that office is required to deal with. Probably the most trying of all are the complaints that have been received against our most dysfunctional child protection agency, Families SA.

I have long held the position that complaints against agencies such as Families SA should be heard by a commissioner or tribunal dedicated to hearing such complaints. There can be no disputing that the complex issues involved in complaints to do with child protection require a specialised skill set not entirely compatible with that required of investigations into complaints against various health practitioners.

I also hold the view that, unlike the ombudsman model, complainants should be given the opportunity to make verbal representations and in a controlled setting directly question decision-makers, for only then will complainants see the process as just and fair. In the many

referrals that my office has made to the commissioner in relation to child protection, the responses that have been received by complainants have been inadequate, to say the least.

One of the letters that I have in my office refers to a complaint made relating to a breach of professional conduct, and the letter received by my office about that complaint indicated that, 'Well, this hasn't been an ideal situation. These social workers do have sets of guidelines laid down for them, but they're not really bound by those guidelines.'

That is hardly a response that is going to bring anybody any closure in a case where their children have been removed based on what are said to be false allegations and where a social worker has acted in an unprofessional manner. It is certainly not going to bring about any level of confidence among constituents who are caught up in that system that there is actually a decent road of appeal that is going to yield any sort of outcome for them or see any changes made to the system.

While I am in no position to advocate one particular model over another, I have heard positive things about Queensland's model of allowing complaints about certain decisions of its child protection agency to be reviewed by the Queensland Civil and Administrative Tribunal with other complaints being heard by a specific children's protection commissioner, the Commission for Children and Young People and Child Guardian.

As it is a court action, it would indeed come at a greater expense than our current commissioner. However, as the Hon. Tammy Franks pointed out in her speech, when we actually solve problems we save money, rather than having institutions or offices in place where these problems just go round and round in circles indefinitely.

It was my hope that the Statutory Authority Review Committee would inquire into the office of the commissioner, and that was proposed by the Hon. Robert Brokenshire. I am not quite sure where that is up to or whether or not that is still going to go ahead, but I do believe that would have been a perfect opportunity for that committee to look into the functions, responsibilities and budgetary restrictions, if any, of this office and perhaps offer some recommendations to the parliament to remedy some of those issues. As I said, I support the second reading of the bill, and look forward to seeing the code of conduct that is being proposed.

The Hon. K.L. VINCENT (17:40): I will speak briefly to this bill—briefly because I was told, more or less at the final hour, by the minister's representative, that it would be taken through its second reading today. That is disappointing, to say the least, because something as important as health and community services complaints should not be rushed.

The Hon. G.E. Gago interjecting:

The Hon. K.L. VINCENT: Well, that is all right then—

The Hon. G.E. Gago: So, you can take your time.

The Hon. K.L. VINCENT: I intend to; I would have anyway, but thank you very much. As we all know, this bill seeks to amend the Health and Community Services Complaints Act, and I believe that the amendments, if passed, would indeed improve the way in which the act operates. So, from the outset, I indicate that I will support the bill. Of course, I do acknowledge that some constituents have come to me with grave concerns about the HCSCC and the commissioner and, while this bill does not allay all those concerns, as I said, the improvements therein make for a good start.

First, the bill provides for an additional principle to be included in the Charter of Health And Community Services Rights, which I understand we have now tabled, so who knows what other programs we shall see, which is good—

The Hon. A. Bressington: Probably not much.

The Hon. K.L. VINCENT: Come on Ann, get into the spirit—we have a draft! The right for people—

The Hon. J.M.A. Lensink interjecting:

The PRESIDENT: I think the Hon. Ms Vincent has got the gist of parliament, and I reckon she can work that out.

The Hon. K.L. VINCENT: Thank you very much, sir. I am about quarter of the way through now, so I may as well soldier on. This bill provides for an additional principle to be included

in the Charter of Health And Community Services Rights, that is, the right for people to be supported by a person of his or her choice when making a complaint. I believe this is an improvement to the current status quo.

Sometimes people need support when making complaints, and in various circumstances people may only make complaints when they do have support. Therefore, it makes sense to me that the commissioner must have regard to this important principle when reviewing the charter. I understand that this principle is in the draft charter that is currently with the minister (although it has been tabled now, as I said). If not, I would hope that the draft charter is amended so as to include this.

It also makes sense to place a higher onus on a service provider to ensure that it takes action in response to complaints that have been made against it. As the act stands now it is up to the service provider as to whether it informs the commissioner of what action is taken in relation to a complaint, and it should not be up to the service provider to decide whether it provides this information. What is the point of having a Health and Community Services Complaints Commission if it does not have the power to find out what action has been taken in response to a complaint?

It is logical for complaint resolution bodies to work together. All too often different government departments and authorities have a silo mentality but, let's face it, in many instances it is worth working together, especially if the authorities are fighting the same fight, so to speak. That is why I believe that the act will be improved if the commissioner can not only refer but also provide information and assistance to complaint resolution bodies under the commonwealth Aged Care Act.

I agree that there also needs to be more scope for people to make confidential complaints. Some people will not even complain if their identity is disclosed and this can be for a range of reasons, for example, if the person is an employee of an organisation. At the same time, there must be a balance so that people cannot go around complaining for the sake of it, so to speak, just to be vexatious or difficult. I believe that this bill strikes the right balance.

It is no surprise that I support the way in which the bill requires a carer to be on the Health and Community Services Advisory Council. Carers play such an important role in our community and are at the coalface, so to speak, when it comes to complaints. People with disabilities and older people are more likely to access health services and community services than other people in our population and are also more likely to have a carer. So, it makes perfect sense to me for a carer representative to advise the minister and the commissioner about health and community services complaints.

Finally, I guess the big-ticket item on this bill is to provide the commissioner with powers to effectively oversee unregistered health professionals such as social workers, kinesiologists, naturopaths, etc. Again, I think this bill takes a step in the right direction in, firstly, setting up a code of conduct for the unregistered health professionals and then providing powers to the Health and Community Complaints Commissioner to take action in relation to unscrupulous dealings. It is only fair that there should be some sort of redress for dodgy operators. One more sentence, I promise.

The Hon. T.J. Stephens: How long is the sentence though?

The Hon. K.L. VINCENT: Listen intently and you will find out.

The Hon. T.J. Stephens: I am.

The Hon. K.L. VINCENT: I wasn't saying you weren't; I am just making sure. I wish only that I had more time to speak to this, but unfortunately—

Members interjecting:

The Hon. K.L. VINCENT: Drum roll—but unfortunately my speech was written on the run in response to the government making law on the run. In any event, I will be supporting the bill. Thank you for your patience, sir.

The Hon. J.M.A. LENSINK (17:47): I also rise to indicate support for this bill, but I would like to place some comments on the record in relation to the process of this bill, which has been outlined by some of the previous speakers, in that it has been brought on early. It was tabled on Tuesday, and according to the conventions that we used to have operating in this place for a long time, the bill should sit on the *Notice Paper*. Now, I understand that the government is embarrassed that it does not have enough business to deal with, but I think that is to the detriment of proper scrutiny by this chamber in terms of legislation.

For the record, I would like to say that I am not particularly happy with these practices. I am a fairly cooperative speaker on behalf of the Liberal Party in this place, as with the building licences bill in terms of consumer affairs last year, but this is not a practice that I wish to continue to be part of in the future because we all like to be ready and prepare additional remarks.

I would have liked to examine the Social Development Committee's report in much more detail, if I had had the time, and I really do not appreciate the way that the government is managing business in this place. I have cooperated a couple of times, but I am actually losing my patience and am clearly quite annoyed. I am grateful to the officers and thank them for providing me with a briefing. It was originally due to be next Tuesday, and I was happy to have it this morning, but I do not feel like I have had adequate time to prepare my remarks in relation to this bill.

I will now turn to some of the provisions within this particular piece of legislation, which, I understand, is the result of two particular matters. One is a statutory review of the act which took place some two years ago now in 2008, so why the urgency is upon us I am at a loss to understand. The other, as I mentioned, is the Social Development Committee's inquiry into unregistered health practitioners, which, I think, was quite informative in providing examples of some fairly disgraceful behaviour by people preying on vulnerable people who were in desperate search of cures which, unfortunately, they were not going to avail themselves of by going through those health practitioners.

I understand that New South Wales is the only other jurisdiction that has some form of legislation to protect consumers from these practitioners who may be indulging in dodgy claims. I understand from the briefing that it will be on the discussion for the Australian Health Ministers' Advisory Council next month and that there may then be further amendments to legislation arising from that.

The Health and Community Services Complaints Act is to be amended with what look to me to be some technical matters. The provisions that relate to unregistered health practitioners will provide that there will be codes of conduct, interim actions, penalties of $10,000 or imprisonment for two years or both, and the commissioner may require that health services providers will provide explicit statements about what their intentions are in terms of correcting some statements that have been found to be incorrect.

There are appeal provisions to the Administrative and Disciplinary Division of the District Court for those health practitioners. There are further amendments to the council and a matter of returns, which will need to be provided to the commissioner. This topic was explored in great detail by our health spokesperson, Dr Duncan McFetridge, whose contribution was made on 10 February.

Dr McFetridge raised in that discussion many things which relate directly to the provisions within this particular bill and also went into great detail on some of the matters that have been raised in the public domain about funding for the Health and Community Services Complaints Commissioner. I have to say that some of the suggestions about how funding should be raised amount to additional tax and they are not things that would be supported. Indeed, if this agency is to be properly funded, then it should be funded from general revenue. I would also appreciate any comments that the minister might have about those issues that have been raised about funding for this agency.

With those remarks, I indicate that we will be supporting this bill. I think we would have been derelict in our duty if we had put this through to the end of the debate. I flag for the government that, if they try these tactics again in future, we certainly will not be supporting the rushing through of legislation unless there is a really good reason.

Debate adjourned on motion of Hon. G.E. Gago.

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (EXEMPTIONS AND APPROVALS) AMENDMENT BILL

The House of Assembly, having considered the recommendations of the conference, agreed to the same.

NATURAL RESOURCES MANAGEMENT (REVIEW) AMENDMENT BILL

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

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (17:54): 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.

As required by section 234 of the *Natural Resources Management Act 2004*, a review of the operation of this Act was undertaken before the end of the 2006-07 financial year. In August 2007, the report arising from this review was laid before both Houses of Parliament by the minister for Environment and Conservation.

By way of background, the *Natural Resources Management Act 2004* amalgamated three Acts that dealt with three significant areas of natural resources management separately. These statutes were the *Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986*, the *Soil Conservation and Land Care Act 1989* and the *Water Resources Act 1997*. This amalgamation was designed to deliver more effective and integrated natural resources management through new, regionally-focussed NRM boards and the state-level NRM Council that the new Act established for South Australia. The Act also provides for an integrated and transparent system to ensure South Australia's natural resources are managed in a manner that supports ecologically sustainable development.

The 'Report on the Review of the *Natural Resources Management Act 2004*', as tabled in Parliament, made over 60 recommendations that included a number of recommended legislative amendments. This Bill seeks to clarify existing provisions, simplify administration, improve flexibility, and address inconsistencies.

The *Natural Resources Management (Review) Amendment Bill 2010* includes provisions that:

- Refine, simplify and clarify some processes in the legislation and provide a solid base for additional amendments that may be required in the future;
- allow for more expedient water conservation measures by simplifying processes;
- promote Aboriginal engagement in natural resources management in South Australia by requiring consultation with relevant bodies;
- provide for significantly increased penalties for water theft.

This Bill is fundamental in making the operation of the *Natural Resources Management Act 2004* more effective and efficient, thereby ensuring that South Australia is well equipped to meet future challenges in natural resources management. The Government looks forward to bipartisan support for the passage of this legislation.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Natural Resources Management Act 2004*

4—Amendment of section 3—Interpretation

The amendments in this clause relate to the definitions that apply under the Act.

The definition of *intensive farming* is to be revamped so that an NRM plan may designate various forms of farming as *intensive farming*, or exclude various forms of farming from the definition of *intensive farming*, in relation to the area to which the NRM plan applies.

Another amendment will remove the definition of *residential premises*.

Another set of amendments will allow the Governor, by proclamation, to declare a watercourse, or a part of a watercourse, to constitute surface water for the purposes of the Act.

5—Amendment of section 11—Powers of delegation

Section 11(4)(b) of the Act currently provides that the minister may not delegate a function or power under Chapter 5 of the Act. The clause removes that paragraph.

6—Amendment of section 13—Composition of NRM Council

Section 13 of the Act is to be amended in two respects.

Section 13(4) provides that the minister must invite expressions of interest from members of the public before nominating a person for appointment to the NRM Council. An amendment will provide that expressions of interest are not to be required if the minister is seeking to fill a casual vacancy for the unexpired term of the relevant office if the unexpired term is less than two years.

Section 13(5)(a)(v) provides that the minister should seek to have a member of the NRM Council with expertise in the field of 'business administration'. This is to be altered to 'business management'.

7—Amendment of section 14—Conditions of membership

The maximum term of appointment of a member of the NRM Council is to be altered from three years to four years (subject to a decision to reappoint the member).

8—Amendment of section 20—Annual report

Section 20(2) of the Act currently provides for the annual report of the NRM Council to be accompanied by the annual reports of each of the regional NRM boards. It is intended that the boards will now furnish their annual reports directly to the minister.

9—Amendment of section 22—Establishment of regions

This clause corrects an incorrect reference.

10—Amendment of section 25—Composition of boards

Section 25(2) and (3) provide that the minister must invite expressions of interest from members of the public before nominating a person for appointment to a regional NRM board. An amendment will provide that expressions of interest are not to be required if the minister is seeking to fill a casual vacancy for the unexpired term of the relevant office if the unexpired term is less than 2 years.

Section 25(4)(a)(vi) provides that the minister should seek to have a member of any regional NRM board with expertise in the field of 'business administration'. This is to be altered to 'business management'.

11—Amendment of section 26—Conditions of membership

The maximum term of appointment of a member of a regional NRM board is to be altered from three years to four years (subject to a decision to reappoint the member).

12—Amendment of section 38—Annual reports

It is proposed that regional NRM boards will now furnish their annual reports directly to the minister (rather than through the NRM Council).

13—Amendment of section 49—Conditions of membership

The maximum term of appointment of a member of an NRM group is to be altered from three years to four years (subject to a decision to reappoint the member).

14—Repeal of section 57

This clause consequentially repeals section 57 of the Act.

15—Amendment of section 65—Power of delegation

This amendment enables the Chief Officer to delegate a function or power conferred on the Chief Officer under other Acts in addition to the principal Act.

16—Substitution of section 72

The rules under the Act as to self-incrimination are to be revised. It is now proposed that it will not be an excuse to refuse to answer a question or to produce a document on the ground of self-incrimination. However, the answer given or the fact of production of any material will not be admissible against the person in proceedings (other than in proceedings in respect of making a false or misleading statement or declaration).

17—Amendment of section 75—Regional NRM plans

This clause sets out a number of amendments relating to the content of regional NRM plans.

It is intended to make it clear that a plan can relate to any matter that is relevant to promoting the objects of the Act in the relevant region.

An adjustment is to be made as to when a 'social impact' statement is to be required with respect to a levy under Chapter 5, being when a new levy is proposed, or an existing levy is to raise an amount that represents an increase above CPI increases.

18—Amendment of section 76—Preparation of water allocation plans

This clause amends section 76 to require the matters set out in new paragraph (aab) to be included in water allocation plans, and sets out an explanation of what an environmental water requirement is.

19—Repeal of section 78

The requirement to prepare a 'concept statement' in relation to a proposal to create a regional NRM plan is to be removed.

20—Amendment of section 79—Preparation of plans and consultation

It will be an express requirement for a board, as part of the processes associated with consultation on a draft plan, to provide a copy of the draft to any body that represents the interests of Aboriginal people identified by the minister.

21—Amendment of section 80—Submission of plan to minister

This is a consequential amendment.

22—Amendment of section 81—Review and amendment of plans

The period within which a regional NRM board must ensure that its regional NRM plan is comprehensively reviewed is to be changed from 5 years to 10 years.

23—Amendment of section 97—Outside council areas

The amendments effected by this clause will allow multiple holdings that fulfil certain criteria to be subject to 1 levy under section 97 of the Act. The provisions are based on a comparable scheme under the *Local Government Act 1999*, which applies in relation to the imposition of regional NRM levies under section 95 of the Act.

24—Amendment of section 100—Interpretation

This clause amends the definition of *levy* so that it no longer includes a fee payable to the minister under section 102(5) of the Act.

25—Amendment of section 106—Determination of quantity of water taken

A levy based on the quantity of water taken will not apply in relation to water taken for the purposes of the construction or repair of a public road.

26—Amendment of section 115—Declaration of penalty in relation to unauthorised or unlawful taking of water

This amendment clarifies the method for declaring a penalty under section 115(1)(d) of the Act.

27—Amendment of section 121—Interpretation

This amendment makes it clear that, for the purposes of Chapter 6 of the Act, degradation of land includes any adverse effect on the 'productive capacity of land'.

28—Amendment of section 124—Right to take water subject to certain requirements

New subsection (6b) sets out matters to which section 124(3) of the Act does not apply in respect of designated drainage infrastructure.

29—Amendment of section 125—Declaration of prescribed water resources

This clause amends section 125 of the Act to include the ability for a regulation under the section to operate by reference to designated drainage infrastructure.

30—Amendment of section 127—Water affecting activities

Section 127 of the Act is to be amended to clarify that a relevant authority may require that separate applications be made, and may issue separate water authorisations or permits, with respect to each distinct activity or item of infrastructure under subsection (3) of that section.

Section 127(6) of the Act is to be amended to allow an expiation notice to be issued for an offence constituted by a breach of a prescribed condition of a water permit, and also to significantly increase the applicable penalties to breaches of subsection (1) or (5a) of that section.

31—Amendment of section 128—Certain uses of water authorised

It is proposed that a notice published under section 128(1) of the Act may also operate by reference to designated drainage infrastructure.

32—Amendment of section 135—Permits

Section 135 of the Act relates to permits. The amendment to this section will expressly require a relevant authority to take into account the provisions of the relevant regional NRM plan when considering an application for a permit and to ensure that any permit, or conditions of a permit, are not inconsistent with the provisions of the relevant regional NRM plan.

33—Amendment of section 145—Requirement for remedial or other work

This amendment will allow the option of capping a well to apply if work is considered necessary under section 145 of the Act.

34—Amendment of section 150—Transfer of water licences

This clause amends section 150(13) of the Act to allow the minister to require a reduction in the size of a dam, or require other work with respect to the dam, when granting the transfer of a water licence under the section.

The clause also inserts an offence for the holder of a water license to fail to comply with a requirement under new subsection (13)(d) within a specified period.

35—Amendment of section 152—Source of allocation

These amendments will support arrangements that allow the 'carry-over' of allocations (or proportions of allocations) at the expiration of a term.

36—Amendment of section 161—Variation of approvals

New paragraph (da) is inserted into section 161(1) of the Act, to enable the variation of a water resource works approval by the minister where the variation is necessary in his or her opinion to provide consistency with action taken with respect to the variation or transfer of a water licence that is relevant to the approval.

37—Amendment of section 164N

This amendment will clarify that a reference in section 164N of the Act to an 'existing user' will extend to a person who is the successor-in-title to a person who has been an existing user under that section.

38—Amendment of section 167—Allocation of reserved water

This amendment corrects an incorrect cross-reference.

39—Amendment of section 169—Water conservation measures

Section 169 of the Act is to be amended so as to allow the minister to impose water conservation measures under that section by notice in the Gazette (rather than such measures being imposed by regulation).

40—Amendment of section 175—Movement of animals or plants

This amendment extends the operation of section 175(2) to animals to which that subsection applies as well as plants.

41—Amendment of section 176—Possession of animals or plants

This amendment removes the current requirement from section 176(1) that an animal be kept in captivity, and instead prevents a relevant animal from being kept, or being in a person's possession or control. It also provides an additional offence of a person keeping an animal to which new subsection (1a) applies, or having in their possession or control such an animal, in a control area for the relevant class of animal.

42—Amendment of section 177—Sale of animals or plants, or produce or goods carrying animals or plants

This amendment extends the operation of section 177(2) to include animals of a class to which that subsection applies.

43—Amendment of section 179—Offence to release animals or plants

This clause inserts new section 179(a1), creating an offence for a person to release an animal of a class to which the subsection applies, or cause or permit an animal of that class to be released. The offence relates to the State generally, rather than just to a control area for the relevant animal as is currently the case with subsection (1).

44—Amendment of section 181—Requirement to control certain animals or plants

This clause inserts new section 181(a1), which requires a person who has in his or her possession or control an animal of a class to which the subsection applies to comply with any instructions of an authorised officer with respect to the keeping or management of such an animal.

45—Amendment of section 223—Evidentiary

This clause allows specified evidence in respect of specified infrastructure to be presumed to be proved (in the absence of proof to the contrary) in civil or criminal proceedings.

46—Repeal of section 234

This clause repeals section 234 of the Act, which is spent.

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

At 17:55 the council adjourned until Tuesday 8 March 2011 at 14:15.