LEGISLATIVE COUNCIL

Tuesday 1 May 2012

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

ZERO WASTE SA (MISCELLANEOUS) AMENDMENT BILL

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (COMMUNITY AND STRATA TITLES) BILL

His Excellency the Governor assented to the bill.

WATER INDUSTRY BILL

His Excellency the Governor assented to the bill.

CRIMINAL LAW CONSOLIDATION (LOOTING) AMENDMENT BILL

His Excellency the Governor assented to the bill.

SUMMARY OFFENCES (WEAPONS) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:21): I move:

That the sitting of the Legislative Council be not suspended during the continuation of the conference with the House of Assembly on the bill.

Motion carried.

CORRECTIONAL SERVICES (MISCELLANEOUS) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:22): I move:

That the sitting of the Legislative Council be not suspended during the continuation of the conference with the House of Assembly on the bill.

Motion carried.

PAPERS

The following papers were laid on the table:

By the Minister for Agriculture, Food and Fisheries (Hon. G.E. Gago)—

Report by the Council for the City of Adelaide on the City Centre Heritage Development Plan Amendment
Report by the Minister on the Adelaide (City) Development Plan
Report by the Minister on the Barossa Valley and McLaren Vale—Revised—Protection Districts
Report by the Minister on the Installation of Freestanding Air Conditioning Units and Associated Screening Enclosures—Norwood Primary School
Regulations under Acts—
Development Act 1993—Miscellaneous Schedule Variations 2012
Legal Practitioners Act 1981—Fees

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

Report, 2010—
South Australian Abortion Reporting Committee
Reports, 2010-11—
Barossa and Districts Health Advisory Council Inc
Ceduna Koonibba Aboriginal Health Advisory Clinic Inc
Commissioners of Charitable Funds
Country Health SA Board Health Advisory Council Inc
Eastern Eyre Health Advisory Council Inc

Hills Area Health Advisory Council Inc
Kingston/Robe Health Advisory Council Inc
Murray Bridge Soldiers' Memorial Hospital Health Advisory Council Inc
South Australian Health Advisory Council Inc
Yorke Peninsula Health Advisory Council

Report, 2011—
Training and Skills Commission

Reports—
Actuarial Report on the Police Superannuation Scheme, 30 June 2011
Report by SA Health on the Actions taken by SA Health following the State Coroner's Findings of 19 September 2011 into the Death of Mr. Vincent Norman Rigney
Report by SA Health on the Actions taken by SA Health response to the Deputy State Coroner's Recommendation regarding the Death of Kunmanara Brown

By the Minister for State/Local Government Relations (Hon. R.P. Wortley)—

Reports, 2010-11—
South Australian Local Government Grants Commission

Corporation By-laws—City of Adelaide—No. 10—Smoking Control

By the Minister for Communities and Social Inclusion (Hon. I.K. Hunter)—

Reports—
Report by the Department of Correctional Services on the Actions taken following the Coronial Inquiry into the Death of Vincent Norman Rigney by the Department of Correctional Services
Report dated July 2010-June 2011 on the Response to the Natural Resources Committee Report 'Upper South East Dryland Salinity and Flood Management Act 2002'

Regulations under Acts—
Correctional Services Act 1982—Drug Testing of Prisoners
Motor Vehicles Act 1959—
Carriage of Number Plates—Motor Trike
Historic, Left-Hand Drive and Street Rod Vehicles
Penalty Fee Increases
Road Traffic Act 1961—Penalty Fee Increases

SACA Licence Deed between Minister for Transport and Infrastructure and South Australian Cricket Association Inc

SANFL Licence Deed between Minister for Transport and Infrastructure and South Australian National Football League Inc

INDEPENDENT COMMISSIONER AGAINST CORRUPTION

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:26): I table a copy of a ministerial statement relating to the independent commission against corruption made by the Premier, the Hon. Jay Weatherill.

QUESTION TIME

BAROSSA VALLEY PROTECTION ZONE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:29): I seek leave to make a brief explanation before asking the Leader of the Government, Minister for Regional Development and Minister for Tourism and related portfolios associated with fine wines a question about the Barossa Valley protection zone.

Leave granted.

The Hon. D.W. RIDGWAY: When Queen Elizabeth visited Canberra last year as part of her royal tour, the wine at the Government House banquet was not a Penfolds Bin 707, not even a Penfolds Bin 389, not even a mere Grange: it was a 1994 Hill of Grace produced from the vines planted in the Eden Valley in the 1860s.

The Hon. G.E. Gago interjecting:

The Hon. D.W. RIDGWAY: Well, I've never been that fortunate to have a Hill of Grace, but the minister says it is very nice. I'm sure she drinks it often. International wine writer Dave Brookes describes the latest Hill of Grace as a 'superb wine and a triumph'. But the actual Hill of Grace—the land which produces the single most famous vineyard wine in Australia, revered by fine wine collectors around the world—has been placed outside the government's Barossa Valley protection zone. This means that the Hill of Grace can be cut up for housing or other development, which I think is unlikely in that particular vineyard, but it means that surrounding land can certainly be subject to the same unsympathetic development.

I know the Henschke family, who have been making Hill of Grace shiraz for more than five decades; they were devastated by the news. I am told the reason Eden Valley has been excluded is because the government decided the protection zone boundaries should follow local government zones, not wine zones or regions. If the protection was based on wine regions, which are designed to preserve the character and heritage of our important wine regions—which of course the Henschke family wants—Eden Valley would have been included. My questions are:

1. Why did your government exclude Eden Valley from the protection zone?

2. Is it because of Pacific Hydro's plan to build an 18-kilometre long, 16-turbine wind farm in the Eden Hills-Keyneton area—a development which will be within 3.5 kilometres of Keyneton and eight kilometres east of Eden Valley?

3. If you can buy a 2003 Hill of Grace online today for the bargain price of $1,959, why can't all the money in the world buy a sensible planning decision from this government?

4. Will the minister agree that this decision is a hill of disgrace?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:31): I thank the honourable member for his most important question. Indeed, the Hill of Grace that he talks about, I have had the privilege of being able to taste that wine, and I have to say it is a wonderful wine and I did enjoy that experience. It is a wonderful wine.

The decisions around the protection zones are planning decisions and, of course, the minister for that is the Hon. John Rau, so I am happy to refer those questions to the appropriate minister in another place and bring back a response. Before I sit down, though, I do have to say that it was this government—and this government alone—that had the vision and the foresight to put protection zones in place at all.

This lot opposite me never had the wherewithal, never had the vision. They have no ideas, they have no policies; it is a void. It is a policy initiative void across from me—an absolute, total policy void. It was this government that had the fortitude and the vision to put those protection zones in place. As I said, I am very happy to refer the details of that question to the minister in another place and bring back a response.

MARINE PARKS

The Hon. J.M.A. LENSINK (14:33): My question is directed to the Minister for Agriculture, Food and Fisheries on the government's marine parks announcement.

Leave granted.

The Hon. J.M.A. LENSINK: Thank you, Mr President. I am not sure that I need leave, but in any case can the minister advise whether the claims by the northern rock lobster fisheries representatives are correct—that there will be a significant impact on their fisheries—and has she done an assessment across the state of the impact of the revised zones?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:33): I thank the honourable member for her most important question, but I also thank her for giving me an opportunity, in answering this question, to bring to the chamber's attention that this Jay Weatherill government has bought about a real first. We have led the way in this state in terms of marine parks. Finally, the Hon. Paul Caica, after a number of years of very hard work—and the hard work of a number of other ministers before him, myself included, and John Hill before me—

The PRESIDENT: The Hon. John Gazzola.

The Hon. G.E. GAGO: The Hon. John Gazzola has done his bit as well, and I believe you have done your bit, too, for marine parks, Mr President. It has taken over a decade of extremely hard work to put these very important parks into place. In fact, I had the privilege of bringing the legislation to this place—I was minister at the time—and putting through the marine parks legislation, so I had some small part to play which I am very proud of, because these parks are very important to preserve and protect our marine environment and to ensure that the particular marine ecosystems have been identified and places set aside to ensure their long-term integrity. Of course, that is a critical feature for our ongoing biodiversity and our long-term sustainability.

It is a wonderful thing that minister Caica has recently handed down the latest round of zones, and we know it takes a lot of courage and an enormous amount of work because, as you imagine, with marine parks, there is a wide range of different stakeholder interests, each coming from different points of view. There are a great deal of monetary interests, commercial interests, environmental interests and social interests involved, so there is a very wide-ranging mix of views and yet the Hon. Paul Caica has been able to manage to deliver this plan.

We do not expect that this plan will achieve unanimous support. We know that that is impossible, because the points of view are too disparate, so we are not expecting unanimous approval for this, but we believe that we have significant approval for this from significant stakeholders and also we believe the general public is behind us as well. It is indeed a wonderful achievement, and I do want to acknowledge the hard work and commitment and dedication of the Hon. Paul Caica and DENR, who have worked tirelessly for many years to help pull this together.

The government has been working very closely with the fishing industry and representatives, as I said, over very many years to bring about these parks and, in doing that, we have sought wherever we can to minimise the potential impact that the marine parks might have on fishing activities, both recreational and commercial. I did note that *The Advertiser* today inaccurately reported the impact on the Northern Zone Rock Lobster Fishery. They reported, I believe, an impact of $18 million a year on that fishery.

I am advised that in fact the total value of the fishery is about $15 million per year for a quota of 310 tonnes. That is the advice that I have been given, so I believe that those figures that were reported today were inaccurate. I note that the claims that the effect of the proposal on the fishery would be—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.P. Wortley: It's all good news.

The Hon. J.S.L. Dawkins: Well, no-one can hear it, because you're yakking away.

The Hon. G.E. GAGO: You're having a good yak over there, too.

The PRESIDENT: The Hon. Ms Lensink asked the question; she obviously doesn't want to listen to it.

The Hon. J.M.A. Lensink: I haven't got an answer, yet.

The Hon. G.E. GAGO: Well, I've said, no, they're inaccurate. They said, '$18 million'; we're saying, no; the whole industry is worth $15 million. There is your answer. I also note that the claims—

Members interjecting:

The Hon. G.E. GAGO: They obviously don't like the answer. It is obviously not the answer that they were looking for. They ask a question, and I provide the advice I have been given. The fact that it does not marry with their preconceived ideas—what can I say? They do not like the answer. Well, they have to suck it in. This is the advice that I have been given, and I note the claims that the effect of the proposal on the fishery would be 55 tonnes per year—that is the information I have been given—out of, as I have said, a total quota of 310, which is about 18 per cent.

SARDI is currently preparing estimates of displaced catch on the fishery, and we expect preliminary figures regarding this to be available soon. The government is keen to hold further discussions with the industry representatives to explore their recent claims and the disparity between our figures and their figures. We are happy to meet with them and to look at the disparity between those figures and see what they have to say about that, and we are happy to listen to

them. If they can demonstrate that our figures are wrong, that is a reasonable thing. As I said, we are happy to meet; we are happy to listen.

The government remains firmly committed to buying out any displaced commercial fishing effort arising from the zoning of South Australia's 19 marine parks. SARDI is assisting the government in calculating the estimated impacts of the latest draft of the proposed sanctuary zones on commercial fishing production. These estimates will be included in the impact statements that accompany draft management plans, which will then be made publicly available during the upcoming consultation phase.

The PRESIDENT: The Hon. Ms Lensink has a supplementary.

MARINE PARKS

The Hon. J.M.A. LENSINK (14:40): Does the minister have figures for the rest of the fishing industry and the impact across the state?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:40): No, I don't, but I am happy to provide that detail if it is available.

HOUSING SA

The Hon. S.G. WADE (14:41): I seek leave to make a brief explanation before asking the Minister for Social Housing a question in relation to the South Australian housing trust.

Leave granted.

The Hon. S.G. WADE: On Thursday 26 April 2012, the government *Gazette* promulgated the transfer of 154 properties in Woodville West from the South Australian housing trust to the Urban Renewal Authority. The Woodville West Neighbourhood Renewal Project Community Information Sheet No. 1, dated January 2010, states that the project will involve 143 houses owned by Housing SA and will deliver approximately 423 new houses. My questions are:

1. How many of the houses being transferred are currently unoccupied and how long have they been unoccupied?

2. What proportion of the homes to be delivered by the project will become rental properties in the hands of the trust?

3. Why have the properties been transferred from the trust to the authority?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:42): I thank the honourable member for his very important questions. I understand that, of the number of properties that have been transferred over to the URA, certainly most, if not all, have been transferred untenanted. In response to his second question about proportions being available for rental properties later on, I will have to take that question on notice. The third question was?

The Hon. S.G. Wade: What is the purpose of the transfer?

The Hon. I.K. HUNTER: The purpose of the transfer is to provide a tranche of development for the URA to develop a new model for communities. Rather than building in one suburb, or one area of a suburb, a whole range of housing trust homes, what we are now doing is actually building whole communities around mixed tenure and mixed types of accommodation involving the private sector, the not-for-profit sector and the housing trust as well. That way, we believe that we will get a better outcome in terms of community mix and tenant mix and a better outcome in terms of a broader community feel, where people can feel safe on the streets and we have a mixture of tenants and tenures in those properties that more equitably reflects what happens in other suburbs around the state.

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

HOUSING SA

The Hon. S.G. WADE (14:43): As that vision has been very much the vision of the trust over the years, why is it necessary to transfer the title back to achieve that purpose?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:43):

As I said, this is not going to be a housing trust redevelopment: it is going to be a mixed redevelopment run by the URA with the not-for-profit sector and also for the private sector to be involved in. That way, we get different styles of housing and different types of tenures and we can really mix up the suburbs so that we don't get one suburb of all housing trust properties: we get a mixed suburb, which is what you would expect elsewhere in the state.

HOUSING SA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:43): I have a supplementary question. Is the Urban Renewal Authority expecting to make a profit from this redevelopment project?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:44): I will refer that question to the Hon. Mr Conlon in the other place for a response.

RIVERLAND SUSTAINABLE FUTURES FUND

The Hon. G.A. KANDELAARS (14:44): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about the Riverland.

Leave granted.

The Hon. G.A. KANDELAARS: The minister has carriage of the $20 million, four-year Riverland Sustainable Futures Fund, which aims to create a sustainable economy in one of our state's iconic areas. The Riverland was severely affected by the recent drought, but I understand that planning and work undertaken to help this region back on its feet is starting to pay dividends. Will the minister advise the chamber about a recent boost to tourism in the Riverland?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:45): I thank the honourable member for his most important question. I am very pleased to be able to tell the chamber that I have recently approved a grant from the Riverland Sustainable Futures Fund, which builds on a recommendation from the prospectus to increase the availability of accommodation for high-end visitors in the beautiful Riverland area.

It may surprise members that, despite the Riverland having been a destination of choice for South Australians for many years, data from the South Australian Tourism Commission indicates that there are in fact very few five-star tourist accommodations in the area. I have approved a grant of over $640,000 to Emaroo Cottages towards the construction of the Natury Emaroo Cottages project, which will create three five-star self-contained tourist accommodation units. These environmentally sustainable luxury self-contained tourist accommodation units are to be built at Paringa overlooking the river itself.

The proponents of this project, Cathy and Rick Edmonds, have developed this project which features environmental sustainability and a luxury wellness resort. I understand that it will have plunge pools, spas and steam rooms, with the beautiful backdrop of the River Murray. The environmental credentials of the resort include using low impact landscaping and low impact construction materials, such as zero formaldehyde laminates and local low embodied energy materials and construction methods. Using wall, ceiling and floor insulation, sun shading and low energy glazing, together with recycled or FSC (Forest Stewardship Council timbers), low allergy carpets and finishes, as well as the services of a prominent and award-winning architect, Paul Pruszinski, who recently designed the Crowne Plaza hotel in Adelaide, the project aims to get an attractive mix of luxury accommodation which is environmentally sustainable.

The proprietors, who I understand were both born and bred in the Riverland and have built up successful tourism ventures in Broken Hill, Port Hughes and Mildura, aimed at the higher end of the market. The new cottages build on the wellness resort concept by planning to give guests access to services such as masseurs, in-house chefs and health professionals while showcasing the local wetlands, bushwalks, indigenous sites and water-based activities, which are so much part of a holiday on the river.

I understand that this project is one that ticks many boxes, not only helping to fulfil the aims of the Destination Riverland action plan of increasing the availability of four to five star accommodation and increasing the number of high yield visitors to the region, but also the RDA roadmap through sustainable environmental management, river-based tourism and increased ecotourism.

The project, in addition to using local contractors during construction, is expected to create three FTEs directly as well as increase tourism spend, with an estimation of an additional 1,642 nights by visitors in the area. The project is expected to be completed in the second half of 2013.

The $20 million Riverland Sustainable Futures Fund was established to help support the implementation of opportunities identified by the Riverland Regional Prospectus by facilitating projects to improve infrastructure, support industry attraction and help grow existing business and attract new businesses.

The fund is available to assist the industry restructure and to promote sustainable economic and social development. Grants are available for up to 50 per cent of eligible project costs. I would like to take this opportunity to congratulate the proponents on this plan and look forward to seeing it completed. One day I might be lucky enough to be able to go up there and have a little holiday and enjoy the accommodation in these units.

RIVERLAND SUSTAINABLE FUTURES FUND

The Hon. J.S.L. DAWKINS (14:49): What work is the minister and her department doing to address the lack of budget accommodation, which is impacting on the availability of affordable housing for seasonal fruit pickers in the Riverland?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:49): I understand that some work has been done on the caravan site to help address that. Also, one of the hotels which burnt down fairly recently is looking at a proposal to redevelop part of that as well, which we have indicated fairly enthusiastically, although obviously we have not seen anything finalised yet, it has not gone through the full process. So, there are a number of things in the pipeline, so to speak, to help address accommodation at that level.

RIVERLAND SUSTAINABLE FUTURES FUND

The Hon. J.S.L. DAWKINS (14:50): The minister refers to the very eastern end of the Riverland. What work is being done on affordable accommodation shortages in the Loxton and Waikerie areas in particular?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:50): I am aware that Nippy's is also doing some work on accommodation for workers in the Waikerie region. In terms of the Riverland Sustainable Futures Fund, as I said, we are very happy to receive any proposals. The eligibility criteria for the fund are extremely broad. So, if someone wanted to put forward a proposal to look at affordable accommodation then we would be looking at that in a very sympathetic way, just as we have looked at other proposals in a fairly enthusiastic and sympathetic way. We have done a lot to promote people's awareness of this project. We have done an enormous amount of work to put together a road map and plans that help locals and other people who are interested in investments to understand where the opportunities are. It identifies a wide range of opportunities. All of those things are in place, so really it is a matter for interested—

The Hon. J.S.L. Dawkins interjecting:

The Hon. G.E. GAGO: If local growers identify that as a priority and want to put a proposal to the sustainable futures fund to look at a government grant towards that development, we are ready, willing and able to look at that in a very sympathetic way. Really, the growers, those people who have vested interests who identify particular needs, need to provide us with something. We have never received a proposal through the sustainable futures fund solely for accommodation for pickers. I would welcome one.

MENTAL HEALTH SERVICES

The Hon. K.L. VINCENT (14:53): I seek leave to make a brief explanation before asking the minister representing the Minister for Health and Ageing a question regarding mental health services in South Australia.

Leave granted.

The Hon. K.L. VINCENT: As members of this chamber may have seen, over the last two days there has been media coverage (both print and radio) on the lack of forensic mental health

beds in this state. Tom Bowden's article in *The Advertiser* yesterday quotes very unhappy sources from both this state's Australian Medical Association branch (AMA) and the Law Society of South Australia on the lack of appropriate forensic mental health services for patients.

It talks about the capacity of James Nash House, the state's only specialised forensic mental health unit, not having increased in the quarter century since it opened, which still remains at 30 beds, with another 10 still being provided at Glenside. The AMA and the Law Society have both called for the doubling of high security beds to 60 beds, since at present:

> Ninety per cent of prisoners requiring acute mental health care are sent to the Royal Adelaide Hospital and returned to prison without effective mental health treatment...

In addition to this being a concerning violation of prisoners' rights to access adequate health care, I am also extremely worried about the potential for other mental health clients to not receive appropriate care and for nursing and other medical staff being ill-equipped to deal with the needs of forensic mental health clients.

Constituents are reporting to me that at the Glenside campus of the Royal Adelaide Hospital there are regularly up to six forensic patients in the Cedars psychiatric intensive care unit who are mixing with other mental health patients. This could mean that a violent male offender with criminal convictions, for example, is in a ward with a mentally ill, middle-aged woman. There are also a number of forensic patients across other closed wards at Glenside and around the state. Glenside has only one seclusion room where a client can be detained alone.

James Nash is a purpose-built unit with secure cells for seclusion at night and with adequately trained nursing staff and prison guards on hand. Cedars ward and the other wards at Glenside campus are not secure facilities and simply have standard security guards when a duress alarm goes off or code black is called. These wards have breakable windows if somebody really wants to escape. They may be enclosed wards, but they are not designed for community safety and patient care when a patient is detained, not containing prisoners with a mental illness. Meanwhile, I understand that the closure of eight acute open beds at Glenside is imminent. My questions are:

1. Does the minister acknowledge the disgraceful lack of forensic mental health beds in this state?

2. Is the minister planning to fund additional forensic mental health beds to address the Law Society's and the AMA's concerns about patient care and treatment?

3. Is the minister concerned that other patients and staff are at risk in his drastically underfunded forensic mental health sector?

4. Is the minister waiting for a serious breach of patient, staff or community safety before he acts to rectify this appalling situation?

5. What happens when the seclusion room at Glenside is being used and they require a second seclusion room for another patient?

6. Was the psychiatric extended care unit (PECU) at the Royal Adelaide Hospital's North Terrace campus purely created in an attempt to improve waiting time and bed statistics at the hospital?

7. Why is the minister closing eight open acute beds at Glenside when clearly the mental health system is in crisis?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:57): I thank the honourable member for her very important questions. I undertake to take those many questions to the Minister for Mental Health and Substance Abuse in other place and seek a response on her behalf.

MAY DAY

The Hon. CARMEL ZOLLO (14:58): My question is to the Minister for Industrial Relations. Will the minister advise the chamber about International Workers' Day, commonly known as May Day, and particularly the Australian Services Union's role in the recent pay equity case?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:58): I thank the honourable member for her very important question.

International Workers' Day, commonly known as May Day, is a commemorative day around the world on the first day of May and is a celebration of the international labour movement. I acknowledge and congratulate members of the May Day Committee, including Liz Temple, Regional Secretary of the CPSU, Jamie Newlyn, Branch Secretary of the MUA, and Darren Roberts, Assistant Secretary of the CFMEU, who have worked tirelessly to organise several events over the coming weeks, including a dinner this evening with distinguished guest, former High Court Justice, the Hon. Michael Kirby QC.

I look forward to attending that dinner and also to attending the May Day march on Saturday 5 May, beginning in Victoria Square, and also to speaking at the Port Adelaide Workers Memorial ceremony on Sunday 6 May. That memorial, among other things, commemorates the life and contributions of Mr Arthur Mortimer, who passed away in April 2011. He worked as a library services lobbyist for children and the underprivileged in the community, and he played a key role in developing quality public libraries throughout the state. His name will be included on the workers memorial in Port Adelaide.

May Day, and the events that accompany it, emphasise the importance of workers uniting to achieve common goals. It is also important to remember that unions undeniably bring working people together to make workplaces a fairer, healthier and safer place, by advocating collectively for improved working conditions. So many workplace conditions that we take for granted and are now enshrined in law were secured for working Australians by workers and their unions.

Unions are responsible for almost every advance made by working people. The 38-hour week, annual leave, health and safety and workers compensation, and maternity leave provisions are just some of the working conditions that have been fought for and won by union members. More recently the Australian Services Union and its members have sought equal rights for women in the workplace through the national pay equity case which was recently heard by Fair Work Australia.

In March 2010 the Australian Services Union lodged an application with Fair Work Australia seeking an equal remuneration order for the social and community services industry. Since the application was lodged, this government has acknowledged in many ways the invaluable service provided to the South Australian community by workers in the social and community services sector. On 1 February 2012, Fair Work Australia handed down its decision to increase award rates for workers in the social and community services industry by between 19 and 41 per cent.

Fair Work Australia concluded that workers in these industries have received lower pay over many years because this work is disproportionately undertaken by women workers. Equivalent jobs that had a greater number of male workers generally received high wages. The South Australian government warmly welcomes this news. Without the advocacy of the Australian Services Union (and I might note that the Hon. John Gazzola was formerly the secretary of that union for quite a number of years) and the hard work of union members, this outcome would not have occurred.

The state government also advocated on behalf of workers in the community services sector. In 2008 a submission was made to the national inquiry into pay equity and associated issues relating to increased female participation in the workforce, advocating that Fair Work Australia should implement equal remuneration principles based on the South Australian Fair Work Act 1994 definition of 'equal remuneration for men and women doing work of equal or comparable value'. This definition, which recognises remuneration under-valuation due to gender, was consequently included in the Fair Work Act 2009 (the commonwealth Fair Work Act) and was critical in paving the way for the recent Fair Work Australia decision.

In 2010 and 2011, the government made written submissions reinforcing South Australia's support for social, community and disability services sector workers receiving equal pay as workers in equivalent jobs in other industries. South Australia was also directly involved in the case through representation at multiple conciliation conferences. The South Australian government has chosen to be actively involved in this case because it values the very important contribution of workers in the social and community services sector.

Increases to the Social, Community, Home Care and Disability Services Industry Award will commence on 1 December 2012. I look forward to the implementation of this decision in South Australia. This is just one of the countless examples where unions have advocated for improved working conditions and where union members have achieved a favourable outcome for working

Australians. International Workers' Day stands as a reminder of these wins for workers and the important role that unions play in our society.

TASTING AUSTRALIA

The Hon. J.A. DARLEY (15:03): I seek leave to make a brief explanation before asking the Minister for Tourism questions about Tasting Australia.

Leave granted.

The Hon. J.A. DARLEY: I understand that in 1996 the South Australian Tourism Commission was approached by a company which provided the concept and costings for a new culinary festival, namely, Tasting Australia. The idea was to bring together some of the best produce and professionals in the gastronomic industry and to showcase them to both industry and the general public. As many would be aware, the event was held last weekend at Elder Park, and I understand that it was very successful.

I am told that the original company which developed the idea (Consuming Passions) was engaged to manage and coordinate the event and continued to do so until this year. I understand that the South Australian Tourism Commission declined to discuss with Consuming Passions its continuing involvement in the event and instead of renewing its contract opted to send out tender documents for the contract to other companies. My questions to the minister are:

1. Why was the decision made not to renew the Consuming Passions contract for this event?

2. Given Consuming Passions' ongoing achievement of delivering a great event within budget, why was it not invited to tender?

3. Can the minister give details of how companies invited to tender were chosen?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:04): I thank the honourable member for his most important question on the highly successful event, Tasting Australia. It was conducted at the weekend and was, indeed, a very successful event. The event has not been completed yet; there are still a number of activities to occur. But, certainly, I guess the centrepiece of the event occurred on the weekend, on Saturday and Sunday.

Tasting Australia is a biennial event. It was first held in 1997, and it is one of the top food and wine events around Australia. Of course, that is not surprising, given the fabulous primary produce in this state and all our wonderful wine and food industries. It was developed to promote South Australia's food and wine credentials and, obviously, South Australia as a tourism destination. Tasting Australia will be held from 26 April to 3 May across Adelaide, and it includes regional South Australian activities as well. There are about 80-odd different consumer events.

The SATC will continue to stage Tasting Australia beyond the 2012 event, and the next event will be conducted in 2014. In February 2011, Consuming Passions, which has been the event management company, with its very famous director, Ian Parmenter, advised the SATC that the 2012 event would be its last event and that it would not seek a new contract to manage Tasting Australia. That is the advice I have received.

The SATC acknowledges the wonderful work of Consuming Passions and the personal commitment under the direction of Ian Parmenter. For 16 years, it has been guiding this event. It has built this event up from what was a minor and fairly insignificant event that did not generate a lot of a interest to a major national and international event. The Saturday and Sunday event at Elder Park attracted, I understand, around 40,000 people.

The SATC equally recognises that, like other fantastic South Australian events, such as the Cabaret Festival, the Fringe and the Festival of Arts, which regularly change their creative directors, having new management presents an opportunity to bring fresh eyes and fresh ideas to the festival and that, after 16 years, it was believed this was a positive thing.

The SATC has very clear outcomes it wishes to achieve. It is looking for direction and management that can deliver on those goals, and the SATC will ensure that it gives whomever the new managing director might be the full creative licence to do that. The SATC is well down the track in the process of appointing a new director and, hopefully, this will be able to be announced soon.

In terms of the details of the tender process, they are operational matters the SATC is involved in. My understanding is that the tender processes are open. But, as I have said, it is an operational matter, and they are not matters I involve myself in. However, it is fabulous to recognise how successful this event is and has been and will continue to be. I am absolutely confident that it will continue to go from strength to strength.

URBAN RENEWAL AUTHORITY

The Hon. R.I. LUCAS (15:09): I seek leave to make an explanation before asking the minister representing the Premier a question on the subject of the Chief Executive of the Urban Renewal Authority.

Leave granted.

The Hon. R.I. LUCAS: Almost a month ago, *The Advertiser* covered a story, 'Transport guru Fred Hansen appointed to help revitalise Adelaide's suburbs'. The story said:

> Premier Jay Weatherill today announced former Thinker in Residence Fred Hansen will head the state's Urban Renewal Authority.

The article continued:

> The Urban Renewal Authority will be responsible for the Bowden development, the Port Adelaide Waterfront overhaul and projects such as Woodville West on the Grange train line. It will bring together agencies responsible for land and housing development, including the Land Management Corporation, Defence SA and Housing SA.

In recent days I have been seeking to view a copy of Mr Hansen's contract as the chief executive of the Urban Renewal Authority. Public Service sources believe that the contract will be in excess of $400,000 and my office has been seeking to either confirm that or not. We first went to the Office for the Commissioner of Public Employment and were advised by a senior officer there that they did not have a copy of the contract and that they had been asked to prepare a draft, but that was as far as they had got.

We were then referred to a senior officer within the Urban Renewal Authority to handle our enquiries. We were told there that there was no final contract, that all they had was an initial draft, and that there had been another meeting yesterday and significant questions still needed to be answered in relation to the contract. We were then referred by this senior officer in the Urban Renewal Authority to another senior officer in the Department of Planning, Transport and Infrastructure as the best person to speak to about this particular contract.

The Liberal Party has been advised that there is turmoil in relation to the preparation of this particular contract, that there are significant conflicts in relation to various provisions to be included in it, and that crown law has had to be called in to try and help resolve the conflicts that exist at the moment. My questions to the Premier and appropriate ministers are as follows:

1. Is it correct that Mr Hansen actually commenced his employment yesterday, and is now actually working as the Chief Executive Officer of the Urban Renewal Authority without a contract of employment?

2. Was the Premier responsible for this mess and, if not, which minister approved Mr Hansen actually commencing employment without a contract of employment?

3. What are the significant issues of conflict between Mr Hansen and government representatives which have prevented the signing of an agreed contract of employment?

4. What was the total remuneration package originally offered to Mr Hansen, and what is the current remuneration package being offered to Mr Hansen, if it is different to the original offer made to Mr Hansen?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:13): I thank the honourable member for his questions, although I do not accept any of the assertions underpinning his questions whatsoever at this point in time. I don't accept any of them, because we know how often the Hon. Rob Lucas comes into this place with poorly researched material, with inaccurate and incorrect information. Time and time again he comes into this place with most—

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: So many times the Hon. Rob Lucas comes into this place with poorly researched material and incorrect and inaccurate facts and figures. If there is a bit of a gap in the information that he has, we know that he just makes it up. He just fills the gap in with whatever he fancies; he just pulls it from the sky. So, I don't accept any assertions underpinning his questions whatsoever; however, I am prepared to pass those questions on to the Premier in another place and, if he thinks fit, he will make a response.

INTERNATIONAL GUIDE DOG DAY

The Hon. J.M. GAZZOLA (15:14): My question is for the Minister for Disabilities. Minister, will you advise the council about the recent celebrations to mark International Guide Dog Day 2012?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:14): I would like to thank the honourable member for his very important and incisive question. International Guide Dog Day is a special day for those people who own a guide dog or those people involved in raising and training one of these very special animals. I was honoured to speak at this year's celebration, held in Victoria Square on 20 April, where many people and quite a few dogs came out to acknowledge the hard work and dedication of both the dogs and the people involved in their development and training.

I also had the pleasure of handing out awards to a number of businesses that, over the year, went out of their way to make their premises guide dog friendly. People with a guide dog have the legal right to enter all public places and travel on all forms of public transport with their dog. Yet it still amazes me that this right is not as well known as it should be, and time and time again we see instances where people are asked to leave or to vacate premises because they come in with their guide dog.

People with guide dogs are still discriminated against and, to highlight this problem, a number of these businesses across South Australia have gone out of their way to make their facilities, workplaces and schools ambassadors for guide dogs and their owners' right to move freely in the community. Businesses showing leadership in this area include AMF Bowling, Foodland at West Lakes and Flagstaff Hill, the Hallett Cove Shopping Centre and St Pius school.

The government of South Australia recognises our strong relationship with Guide Dogs SA.NT and, through the Department for Communities and Social Inclusion, provides over $1.5 million annually to Guide Dogs SA.NT to assist with case management, brokered services and a number of other projects they provide to their client base. On 20 April, we came together to celebrate this partnership and the great results it has in the lives of people who are blind or suffer a vision impairment.

TOURISM COMMISSION

The Hon. T.A. FRANKS (15:16): I seek leave to make a brief explanation before asking the Minister for Tourism a question on Tourism SA local procurement policies.

Leave granted.

The Hon. T.A. FRANKS: I draw the minister's attention to the fact that the last four major SA tourism campaigns have used music from Eddie Vedder of the US, Gypsy & the Cat of Victoria, Spiderbait of New South Wales and Xavier Rudd of Victoria. I further draw the minister's attention to the common thread of these musicians, in that they are all interstate and overseas artists. I understand that at least one musical composer from South Australia has previously been used by Tourism SA but, typically, the approach of our Tourism SA campaigns is to promote interstate and overseas artists.

Yet, as a state, we can proudly boast that there are at least 1,257 musical artists across 20 varied genres (including rock, pop, thrash, acoustic, roots, blues, Latino, metal, experimental, electronica, jazz, punk, world, folk, hip-hop, alt. country, country, funk, indie, gypsy, hard-core and last, but certainly not least—my favourite—art rock) that are available on the Music SA website directory currently.

It is not exhaustive, and in fact artists from South Australia who live locally, such as The Hilltop Hoods, The Audreys or The Beards and of course the many brilliant artists who originate from our state such as Paul Kelly, Abby Cardwell or Sia Furler, could also be used to promote our

great state, let alone give these 1,257 emerging artists a break as part of a Tourism SA campaign which of course gets massive TV exposure and also YouTube coverage. My questions are:

1. What consideration or attempt was made by Tourism SA to use South Australian based (or at least originated) artists in the last five years?

2. Does Tourism SA have—and if so, follow—any local procurement policies or protocols to ensure that campaigns run by the commission showcase and promote our own South Australian talent, rather than that of interstate or international artists?

3. Will the minister now commit to the council that she will ensure that future campaigns feature South Australian artists?

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:19): I absolutely concur with the Hon. Tammy Franks's sentiments. Wherever and whenever we possibly could, we should be using local artists. Indeed, the Hon. David Ridgway has it right in terms of the procurement of really any matter for the Tourism Commission: they are operational matters and the commission is independent. They are independent of government, but I do absolutely agree with you that, wherever they possibly can, they should be using local artists. I believe that the Best Backyard campaign considered a local South Australian artist's music in that segment.

What I will do is continue to encourage the South Australian Tourism Commission to procure, wherever possible, local talent. Indeed, the Hon. Tammy Franks is right: not only does South Australia have many, many brilliant performers and artists; we have many wonderful and emerging artists who have lots of potential and we should be giving them an opportunity to showcase their talents and develop their talents here on South Australian soil. So, I couldn't agree more.

The PRESIDENT: The Hon. Mr Dawkins, who himself is a bit of an artist.

GRAIN INDUSTRY FUND

The Hon. J.S.L. DAWKINS (15:20): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question regarding the Primary Industry Funding Scheme for grain producers.

Leave granted.

The Hon. J.S.L. DAWKINS: Following my previous questions in this place about the minister's recent decision to implement a grain industry Primary Industry Funding Scheme, a number of issues with this levy and the resultant fund have been raised with the member for Hammond in another place and myself. It is needless to say that the industry is very keen to see the minister take action to secure this fund for its primary purpose: the development of South Australia's grain industry—this state's largest agricultural commodity. My questions to the minister are:

1. Will the minister confirm that the Primary Industry Funding Scheme for grain producers actually came into operation on 1 March this year, and can she indicate how much has been collected in this scheme to date?

2. How much money remains in the now dormant fund which was collected by levy under the Wheat Marketing Act, and what is the minister intending to use these funds for?

3. Will the minister commit to using all funds collected through the Primary Industry Funding Scheme to benefit grain producers and not take out a cut for the state government to aid its tight budget?

4. When will the minister be making the funds collected through the PIF scheme available to the grain industry for its development?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:22): I thank the honourable member for his ongoing interest in this area. As I have spoken about in this place before, I have established a new funding scheme for the grain industry to replace the SAFF grain section fund established under the Wheat Marketing Act.

I have to say and I will continue to say that I was not happy to have been put in a position to have to do that. I believe most firmly that these matters should be dealt with by the industry bodies themselves. They should manage these affairs themselves and work out whatever their suitable representative structure is, their governance structures and spending priorities. They should be directly accountable to the industry itself and they should just get on and do it, is what I have always said.

However, that was not to be. It crashed and put at risk the industry fund itself. I am of a firm belief that this industry fund is very important to the industry and that it would have an adverse effect if the fund was to fold. Because it is a voluntary fund, there was the risk of grain growers starting to bail out, so to speak—excuse the pun—and asking for a refund, if their confidence was rattled enough. So, the whole fund could have simply crashed and burned and that, as I said, would not be to the industry's advantage at all. In fact, I think it would be disadvantaged by that.

The previous minister and myself tried to get parties together to resolve their differences which became irreconcilable, which is incredibly disappointing and very frustrating. Nevertheless, they weren't going to reconcile their differences, so I was forced to step in and, therefore, I established this fund. As I have said in this place before, the scheme remains a voluntary scheme. It is established under the primary industry fund regulations, which is under the Primary Industry Funding Schemes Act 1998.

Grain grower organisations will be able to apply for funds from this scheme to provide services to grain growers in accordance with a five-year management plan. The five-year management plan for the new scheme will be drafted by an independent consultant following extensive consultation with grain growers and the industries. I have said in this place before—and I will continue to say—that all funds that remain dormant, and future funds, will continue to be spent solely in the interests of the grains industry.

The scheme is established to improve accountability for the use of funds contributed by grain growers. The scheme requires grain purchasers to presume consent of grain growers and deduct from the proceeds of the sale of the South Australian grain grower an amount prescribed of 5¢ per tonne. Grain purchasers then remit the deductions within 28 days of each month and, unless I approve a written request from a grain purchaser to vary that remittance, I am happy to look at that quarterly or annual payment.

The funding scheme started on 1 March 2012. The first remittances of deductions from the sale of the grain sold on or after this date will be paid by grain purchasers during April. A five-year management plan is to be drafted in wide consultation with grain growers and industry by a private consultant to be appointed for the task. The plan will be reviewed and updated annually, again using a consultative process.

The five-year management plan will cover the types of activities which may be funded; how an organisation may access the fund; how applications for projects will be assessed, which may be by a committee, and, if by committee, how that committee will be formed; reporting requirements for projects funded under the scheme; and the level and format of consultation that grain growers consider appropriate for the required annual revisions of that management plan. The plan will be completed by June and presented at a public meeting held for the purpose in accordance with the provisions of the PIF scheme in August 2012, at a time close to the SAFF annual general meeting.

The residual funds in the Wheat Marketing Act, Grains Section Fund, will be applied in accordance with the intent of the act for the purposes that benefit the grain growers who have contributed to that scheme. I believe that the amount in that fund is something around $150,000 or $200,000. I am hoping that someone from my office—my trusty adviser—will just verify that for me, if they are listening. However, if my trusty adviser cannot verify that information for me while I am here, if it is not in that vicinity, I am happy to bring back that amount.

The grain purchasers' remittances are continuing for the SAFF fund for grain sold from the 2011-12 harvest. Most of the grain sales for the last harvest were deemed to have occurred at the time that the sale contract was dated and the grain delivered, and the date of the sale was on or before 29 February 2012, before the date of the transition to the new scheme. So, the deductions may be remitted to the Wheat Marketing Act 1989, SAFF Grains Section Fund.

ANSWERS TO QUESTIONS

HOUSING SA WATER POLICY

In reply to the **Hon. J.A. DARLEY** (29 June 2010) (First Session).

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers): I have been advised:

1. Housing SA applies the averaging method at sites with shared meters. Under the averaging method, Housing SA pays for 30 per cent of the water consumption with the remainder being divided equally amongst the dwellings connected to the meter. The 30 per cent landlord contribution is intended, amongst other things, to make allowance for differences in dwelling types and occupancy levels, the repair of minor leaks and the maintenance of common garden areas.

Housing SA established criteria for investigating properties that share a water meter where there is a mix of dwelling type and/or annual consumption above 160 kilolitres per dwelling after the application of the 30 per cent landlord contribution. The investigation seeks to determine any particular factors contributing to high consumption and the feasibility of installing additional meters, which may be impacted by building design and pipework.

2. Housing SA has not changed its criteria for investigating shared metered sites.

3. There is no policy to install individual meters to all Housing SA properties.

The physical design of some buildings and their associated plumbing make it impossible to install individual SA Water meters without substantial renovations. Each new SA Water meter costs $2,177 to connect and install and with around 18,000 properties on shared meters the cost of meters alone would be approximately $40 million. The plumbing and building work between each new meter and the dwelling, plus the recurrent supply charges ($234.60 per meter per year) would add a substantial amount to both the upfront and ongoing cost of this option.

Housing SA has also investigated the installation of individual flow meters rather than individual SA Water meters. Similar to SA Water meters, the design of some properties is not suitable for the installation of these devices. The installation cost of these meters on all properties is estimated between $6 million and $9 million with recurrent reading costs up to $700,000 per annum. These costs do not include the additional plumbing or renovation work required, for example, where a property currently has more than one water inlet.

4. Mrs Crockford's group was reviewed in March 2010 and it was agreed to install three additional meters. Following this change, Mrs Crockford's property does not have an individual meter and continues to share with one other property. This process is consistent with Housing SA's program to investigate all water complaints and install additional metering where appropriate and feasible. These additional meters most commonly create smaller groups connected to a single meter rather than providing an individual meter. Smaller groups mean that each tenant receives a higher allocation of water at the lowest tier charged by SA Water while still receiving the 30 per cent landlord contribution from Housing SA.

SUICIDE PREVENTION

In reply to the **Hon. J.S.L. DAWKINS** (19 May 2011) (First Session).

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women): The Minister for Health and Ageing has been advised:

SA Health is reviewing suicide prevention strategies across South Australia as part of the development of a South Australian Suicide Prevention Strategy. A draft of the Strategy was released for consultation in January 2012 and the results of the consultation will be used to finalise the Strategy. Developing and enhancing community based suicide prevention initiatives across South Australia will be a key component of the final Strategy.

NORTHERN CONNECTIONS OFFICE

In reply to the **Hon. D.W. RIDGWAY (Leader of the Opposition)** (18 October 2011) (First Session).

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers): I am advised:

Ms Lea Stevens was appointed following the usual merit selection process used by the SA Public Service. She is employed on a five year South Australian Executive Service 1 Contract from 31 January 2011 to 30 January 2016 with a Total Remuneration Package Value of $180,000.00 per annum.

FAMILIES SA

In reply to the **Hon. A. BRESSINGTON** (18 October 2011) (First Session).

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women): The Minister for Education and Child Development has advised:

1. Information regarding reunification of a child or young person on a Care and Protection Order is recorded in the child's/young person's case file. Work is currently being undertaken to enable the administrative system for data recording to report the numbers of children who have been reunified with their families, after being placed under Care and Protection Orders for either 12 months or until the age of 18 years.

2. Where a child or young person on a 12 month order is to be reunified with parents, Families SA workers ensure that an appropriate reunification plan is developed which guides work with the child, family, caregivers and other agencies.

Where a child or young person under a longer term order is reunified critical considerations include the views of the child/young person; their age, developmental needs and emotional attachments; and the importance of settled and safe living arrangements. These considerations are outlined in the *Children's Protection Act 1993* (see 5 below).

3. Yes. It is important that the intended caregiver supports reunification and therefore also understands and has available to them the reunification plan.

4. No. Service provision is tailored to the needs of parents and families to best assist the reunification process.

5. The *Children's Protection Act 1993* establishes the criteria that the Youth Court applies in making decisions regarding whether to rescind an order until the age of 18 to enable a child to be reunified with their parents. These criteria include:

- whether the order is the best available solution having regard to the child's need for care and protection (including emotional security), the child's age, developmental needs and emotional attachments;
- the importance of settled and stable living arrangements for the child;
- the child's sense of connection with their neighbourhood or environment;
- continuity of the child's education or employment;
- the child's views to the extent that the child is able to form and express them; and
- the likelihood that the child would suffer significant psychological injury if their care arrangements were to be disturbed.

FORESTRYSA

In reply to the **Hon. D.W. RIDGWAY (Leader of the Opposition)** (8 November 2011) (First Session).

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women): The Treasurer has advised:

The Roundtable has been very active in their role and is engaging with the Treasurer throughout the divestment process.

MANDATORY REPORTING

In reply to the **Hon. S.G. WADE** (1 December 2011) (First Session).

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers): I am advised:

The recommendations of the report *'inclusion&protection'—a dynamic safeguarding schema for South Australians with disability who are also vulnerable to neglect and abuse* prepared by the Minister's Disability Advisory Council were published online on Wednesday 19 October 2011 on the sa.gov.au website.

I authorised for the report to be released in full in December 2011. The full report is now available on the sa.gov.au website.

MOTOR VEHICLE REGISTRATION DATABASE

In reply to the **Hon. R.L. BROKENSHIRE** (1 December 2011) (First Session).

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers): The Minister for Transport Services has been advised:

Release of information from the motor vehicle register is subject to the provisions of section 139D of the *Motor Vehicles Act 1959* and regulation 98 of the *Motor Vehicles Regulations 2010*.

Only persons authorised by the Registrar of Motor Vehicles have direct access to the register. There are rigid requirements to be met in this authorisation process, including the requirement to provide a National Police Clearance Certificate or equivalent.

An individual member of the public may apply to the Registrar to have his or her information released to themselves or to another person/organisation (e.g. an employer or an Insurance company). A prescribed fee is set for this service.

Private companies, for example private car park operators, must make application to the Magistrates Court for the release of information from the motor vehicle register. The Registrar of Motor Vehicles is compelled to release the information upon the granting of this court order. A fee is levied for each individual search conducted in this manner also.

These private companies are reminded with each disclosure from the register, that information released to them is to be used only for the purpose it was obtained for.

APY LANDS, FOOD SECURITY

In reply to the **Hon. T.J. STEPHENS** (16 February 2012).

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers): The Minister for Aboriginal Affairs and Reconciliation has been advised:

1. No.

2. No.

3. The APY Food Security Strategy will continue to be implemented in seven key priority areas.

4. The Government does not intend to divert funds from the APY Food Security Strategy for the suggested purpose.

SCHOOL PLACEMENTS

In reply to the **Hon. A. BRESSINGTON** (16 February 2012).

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers): The Minister for Education and Child Development is advised:

1. The Department for Education and Child Development has advised that in 2004, a full demographic analysis was undertaken and discussions held with the developer, Land Management Corporation (LMC), and the City of Playford from 2005 onwards into 2009 on likely house sales and household demographics. The sales and demographics were used as a benchmark to determine the likely impact on the new schools.

2. Seven school and preschool communities within the Davoren Park and Smithfield Plains areas voted to close and enrol in the two new schools to be built in the area. The collective enrolment for these sites was 1,251 in 2009.

The collective enrolment at Mark Oliphant College (B-12) and John Hartley School (B-7) from the Term 3, 2011 Census is 1,659 and the current capacity for these two schools totals 2,040 spread across all year levels.

There has been an increase of 408 students enrolled in the two new schools compared to the seven schools and preschools that were closed.

3. At the beginning of 2012 Fremont-Elizabeth City High School had 20 enrolment vacancies and Craigmore High School had recorded 80 vacancies across the school.

4. The Department for Education and Child Development continues to undertake demographic analyses to determine ongoing demand in the area. Currently, there are schools surrounding John Hartley School (B-7) and Mark Oliphant College (B-12) that are under capacity. The department is constantly monitoring this situation.

5. 122 placements are available in kindergartens across the Northern area. Some kindergartens are operating with a waiting list.

6. 36 Reception students are currently on the waiting list for John Hartley School (B-7).

7. There are 8 public schools zoned in the Northern area.

STATUTES AMENDMENT (SERIOUS AND ORGANISED CRIME) BILL

In committee.

(Continued from 5 April 2012.)

Clause 40.

The Hon. S.G. WADE: I want to quote from the Law Society/Bar Association joint submission, dated 19 September 2011, because this clause is another example of clauses in the bill which are challenging to establish principles of justice in our system. As I have said on a number of previous clauses, I believe it highlights the need for oversight of these provisions to make sure they are targeted against serious and organised crime, that they are effective in dealing with serious and organised crime and that we respect the constitutional legal principles of our state. To quote from the joint submission, and this is in the context of the consultation package—when it refers to the Evidence (Out of Court) Statements Amendment Bill it is referring to the provisions that have now found their way into this clause—it states:

> We consider the entire Evidence (Out of Court) Statements Bill to be unconscionable. We note that it is of universal application, it is not confined to serious and organised crime.

Later in the submission it states:

> This provision extends the circumstances in which out of court statements by an unavailable witness may be admitted as truth of its contents. We oppose section 34KA. Our position is that apart from section 34K all evidence should be tested in the usual way by cross-examination.

It goes on:

> We are concerned that on its terms section 34KA is open to abuse or misuse by both the witness and the police, particularly sections 34KA(2)(c), (d) and (e). Independent to any suggestion of fear or reprisal, witnesses are generally reluctant to attend court to give evidence. If an opportunity presents itself for a witness to avoid what is widely considered a trauma to submit one's self to cross-examination the witness is likely to take it.

Later, it states:

> Section 34KA has a great tendency of prejudicing an accused person as a result of the admission of untested prosecution evidence. This, in turn, will lead to the greater likelihood of a miscarriage of justice.

Clause passed.

Clause 41.

The Hon. G.E. GAGO: I move:

Page 27—

Line 24 [clause 41, inserted section 34KC(1)]—Delete 'court' and substitute 'judge'

Line 33 [clause 41, inserted section 34KC(1)]—Delete 'court' and substitute 'judge'

Line 43 [clause 41, inserted section 34KC(2)]—Delete 'court' and substitute 'judge'

Page 28, line 1 [clause 41, inserted section 34KC(3)]—Delete 'court' and substitute 'judge'

This amendment also addresses a concern raised by the Chief Justice and the Chief Judge. The Chief Justice and Chief Judge noted that during a trial the court is actually constituted by the judge and jury, therefore, in section 34KC the references to a court being satisfied of certain matters and then directing the jury to take certain actions, such as acquitting the accused, or the court discharging the jury should actually be a reference to the judge. The current provisions within the Evidence Act that require direction to be made to a jury refer to such direction being made by the judge. It is, therefore, clear that the provisions contained within section 34KC should be consistent with the Evidence Act. As such, this amendment and the next three amendments each provide for the term 'court' to be replaced with the term 'judge' in section 35KC, where appropriate.

The Hon. S.G. WADE: The opposition will support the amendments.

The Hon. D.G.E. HOOD: Family First supports the amendments.

The Hon. J.A. DARLEY: I will support the amendments.

Amendments carried; clause as amended passed.

Clauses 42 and 43 passed.

Clause 44.

The Hon. S.G. WADE: A brief reference, again to highlight the Law Society/Bar Association joint submission of 19 September 2011, in terms of the issues that are challenging significant variations from our normal processes of justice: in relation to this clause, which deals with trial without jury, the submission says:

> We strongly oppose the removal of an accused's right to be tried by jury. Trial by jury is the most fundamental of rights of an accused in the criminal justice system and should not be removed.

Again, I assert that that is a justification for oversight that is proposed.

Clause passed.

New clauses 44A and 44B.

The Hon. S.G. WADE: In the second reading on the serious and organised crime control bill I indicated that, if the opposition were to fully explore the issues in the control amendment bill and this amendment bill through amendments and dialogue between the houses, it could engage the parliament for an extended period. After two and a half years of delay by this government since the Totani judgment, South Australia could not afford that process.

To facilitate the timely passage of the legislation the opposition established the Liberals' Anti-gang Task Force, a subcommittee of the shadow cabinet, which sought submissions from a range of stakeholders on the legislation. This was a very useful process and in that process the Commissioner for Victims Rights, Mr O'Connell, suggested to the task force that, considering the concerns with the bill, he thought there would be value in a parliamentary committee to oversee the issue of serious and organised crime. I will briefly read from Mr O'Connell's letter. He says, in one part:

> I concede the nature of organised crime necessitates a drastic and sophisticated legislative response. Although this opens the door to legislation that sets aside a number of safeguards common in law and legal procedure, care should be exercised to avoid 'innocent' citizens becoming victims of state oppression. There needs to be a focus on the 'real threats' so that responses are creative, sharp and properly targeted; otherwise, vague and divergent assertions about the threat may justify nearly any policy decision, legal reform and procedural change. In other words, 'the cure should not be worse than the disease'.

Subsequently he says:

> The debate on organised crime should be holistic. For example, if organised crime and corruption go hand-in-hand then the proposed ICAC has a role in the fight against organised crime.

In concluding his letter he states:

> The philosophical question—who guards the guardians?—ought to be a prominent issue in the debate on tackling organised crime. The proposed law if enacted is in essence, a direction from the legislature on how certain agencies (primarily the police) in the executive should act. Parliament is the forum to call the executive to account for the operation of the law. Perhaps therefore consideration should be given to establishing a 'State Organised Crime

Prevention Council' with an oversight on the operation of the proposed law. In the 1960s such councils existed in the USA to guide State responses to organised crime but also to mount bids for federal funding. I do not envisage these functions in our state. Rather, when the National Crime Authority was established a Parliamentary Committee had an oversight function. Parliaments have Legislative Review Committees to inquire into proposed law and also the operation of existing law. Thus, there are examples where a committee with oversight enhances democratic principles.

If future law reform is required to address organised crime then Parliamentarians on the 'State Organised Crime Prevention Council' would be better informed for debate as the legislative; rather than be captive to the views of the executive in general or the police in particular.

So, the Liberal opposition came to the view, in the light of that letter and its own consideration, that the suggestion of a parliamentary oversight committee is a good one. As an opposition, we are keen to ensure that there is a vehicle to oversee the implementation of the legislation and explore issues in relation to it. In that context, we support the enactment of the legislation substantially as drafted in the context of parliamentary oversight.

We are mindful that this parliament does not want to proliferate parliamentary committees and, given the relationship between corruption and serious and organised crime highlighted by Commissioner O'Connell, the opposition considered that there was an opportunity to link a committee to oversee serious and organised crime and the anticipated independent commission against corruption. I have drafted an amendment (and it is on file) to establish a committee. The amendment envisages combining the parliamentary oversight of an ICAC and the organised crime laws together.

The functions of the committee I propose relate to the areas of focus of the opposition in relation to the serious and organised crime legislation. First, in terms of effectiveness, a parliamentary oversight committee would, according to function (b), be able to monitor the effectiveness and adequacy of the relevant legislation in dealing with serious and organised crime and corruption. In terms of impacts on law-abiding citizens, a parliamentary oversight committee would accord the opportunity to function (c), monitor the impact of the legislation on persons who are not involved in serious and organised crime and corruption. In terms of constitutional compliance, a parliamentary oversight committee would, according to function (d), monitor constitutional compliance by considering the impact of judicial decisions on the legislation.

The committee would encourage restraint in the use of powers, enhance the accountability of law enforcement agencies and build the capacity of the legislature to develop the legislation over time. The amendment I envisage is about accountability and ongoing improvement. The committee would keep abreast of changes, recommend areas of improvement and monitor constitutionality. What was the government's response? In a letter from the Attorney-General on 3 April, he indicated that the government did not support that proposal. The letter of 3 April states:

Amendment No. 2 however is not supported. Section 37 of the *Serious and Organised Crime (Control) Act 2008* (the Control Act) already provides a mechanism for an annual review to be conducted by a retired judicial officer to determine whether powers under the Control Act were exercised appropriately. The retired judicial officer provides a report on the review to me and I am then required to table the report.

This annual review, combined with the operation section 38 of the Control Act (and proposed section 42A of the Control Act as inserted into the *Serious and Organised Crime Control (Control) (Miscellaneous) Bill 2012* (the Control Bill) by your party) clearly demonstrates the Government's commitment to ensuring the legislation operates appropriately. The committee proposed by you is therefore unnecessary.

Just to restate the key phrase, the Attorney-General asserted that the committee proposed is therefore unnecessary. Then, today, less than an hour before the council convened, the Attorney-General wrote to me advising that the government had had a Damascus road experience. The letter dated today states:

I refer to your second set of proposed amendments to the Statutes Amendment (Serious and Organised Crime) Bill 2012 ('the Offences Bill'). As previously indicated to you, Amendment No. 2 was not supported for a number of reasons however I note that in your second set of amendments, some of these reasons have been addressed.

The Independent Commissioner Against Corruption Bill 2012 ('the ICAC Bill') will be introduced this week. Rather than provide for the establishment of a Committee on Crime and Corruption by way of accepting your amendments to the Offences Bill, I have included within the ICAC Bill amendments to the *Parliamentary Committee Act 1991* to establish a Crime and Corruption Policy Review Committee.

So, just a month ago, a committee was unnecessary and the government was opposing our amendment, but now the government wants to establish it themselves. Consistent with the opposition's determination not to allow further delay to this bill, I will not be moving my amendment;

I am happy to defer. I look forward to the tabling of the ICAC bill tomorrow, and I assure the government that we will give it thorough scrutiny, and that will include making sure that any joint committee with joint responsibility for overseeing serious and organised crime legislation and the ICAC will be effective in both areas.

The Hon. G.E. GAGO: I would like to have it noted on the record that the government does indeed thank the Hon. Stephen Wade for not moving these amendments concerning the establishment of a committee and allowing this bill to proceed.

The Hon. M. PARNELL: I want to put on the record what the minister has just done, which is to say that, from the Greens' perspective, we would have supported the amendment. When you give extraordinary powers, you do need to put in place measures to ensure that those powers are not being abused. I note that the minister has said that there will now be a crime and corruption policy review committee under the new ICAC bill, and we accept that that committee will have some of the same powers that the proposed parliamentary committee the Hon. Stephen Wade briefly proposed and then did not move would have had. We are happy to accept the minister's assurance that that level of oversight will be provided through the new ICAC legislation.

Remaining clauses (45 to 51) and title passed.

Bill reported with amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:47): I move:

That this bill be now read a third time.

Bill read a third time and passed.

NATIONAL ENERGY RETAIL LAW (SOUTH AUSTRALIA) (IMPLEMENTATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 March 2012.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:49): I rise on behalf of the opposition to speak to the National Energy Retail Law (South Australia) (Implementation) Amendment Bill. This is the second of two bills on our *Notice Paper* today. I was going to speak to the other one first, but the minister has informed me that they were done in the wrong order in the House of Assembly and that they would like to put the order right. Given that I expect both of them to pass today, I am not quite sure what the big deal is about the order. Nonetheless, I will speak to this one first.

The bill provides for the future to preserve and to continue to apply to national authorised retailers that are operating here. This bill removes any duplications or inconsistencies with the new national framework. This bill creates new parts in these acts and sets out continuing obligations to retailers operating here, and they will need to comply with certain codes and provisions, such as metering codes.

The second bill is consequential to amendments to South Australia's acts, which are of course the Electricity Act and the Gas Act. They will need to comply with certain code provisions like metering codes, technical and safety standards, the REES scheme, and the customer concessions scheme. Importantly, ESCOSA will still be responsible for South Australia's price regulation requirements, so the application of the framework in South Australia has been modified by the other bill we are yet to debate to enable ESCOSA's price regulation to continue.

Aspects of the National Energy Customer Framework will rely on state legislation for their operation, such as participation in an ombudsman scheme, and a guaranteed service level agreement. The national framework only requires retailers to be part of an ombudsman scheme in respect of small customers, whereas South Australia's existing arrangements require participation in relation to larger customers. Provisions will make sure that the NERL retailers will continue to participate as currently required in South Australia.

Although a number of ESCOSA's functions will move to the Australian Energy Regulator, ESCOSA will still need to cover costs for its remaining functions. Existing retail licence fees which currently cover the costs, such as REES, feed-in tariff costs, and membership to the ombudsman's

scheme will be gone; therefore, regulations will set out an administrative fee to be charged to retailers.

I was advised in my briefing that this charge will represent a reasonable contribution towards the commission's administrative costs. I did question, in the briefing, whether the commission envisaged their costs going down given that their functions had decreased overall and, if they had less work to do, then we may see some savings which would eventually be passed back through the system to government or to consumers.

I am advised by the department that ESCOSA's estimate cost savings for the 2011-12 direct salary time of staff and indirect salary costs and overheads are approximately $560,000. I do hope that those savings are preserved, as so often in this modern world we see that we make legislative changes to make a system simpler or better and then we find that it is still more costly and often more cumbersome than the system or legislative regime we had before. The bill provides for the application of South Australia's feed-in mechanism with relation to the new National Energy Retail Law retailers.

Energy retailers currently have to comply with certain obligations in the electricity and gas acts, and associated regulations in the codes developed by ESCOSA. The requirement to comply is part of their licence obligations and relates to the technical and safety provisions, energy schemes and feed-in provisions. These will now become direct legal obligations under the national framework, and there are provisions in the bill for this, creating new parts, and each of our electricity and gas acts will provide for that. In other words, those obligations will be kept and continue to apply to the National Electricity Retail Law retailers that are operating in South Australia.

The Technical Regulator will regulate these obligations where they relate to technical and safety matters. Off-grid electricity and reticulated LPG retailers will not move to the national arrangements, so several retail licensing provisions remain in the South Australian acts; it will be business as usual for those people. I believe that Coober Pedy is supported by off-grid electricity, and reticulated LPG services exist in some areas of Mount Gambier. The Roxby Downs arrangement falls under the BHP indenture, so that will also be unaffected.

The bill also makes some consequential amendments to South Australian application acts for the national electricity and gas laws so they operate within the broader energy and national regulatory environment. Every jurisdiction will incorporate these amendments. There are also amendments which allow the Australian Energy Regulator to begin work which allows for various decisions to be implemented from 1 July 2012.

This bill and next bill that we will debate shortly are a package of bills. I will flag that we do have an amendment to this bill, and we will take advantage of the opportunity while the Electricity Act is open during the debate on these bills just to move two relatively simple amendments which correct a couple of anomalies in the feed-in scheme. I will not bring them into the debate now. I think it was put on file back on about 20 April, so members would be well aware of its content, and I will be moving that amendment when we get to the committee stage of this bill. I commend the bill to the chamber.

The Hon. M. PARNELL (15:55): In supporting the National Energy Retail Law (South Australia) (Implementation) Amendment Bill 2012, I want to put two issues before the council that go to the effectiveness of this legislation in providing for genuine consumer protection. These two issues are late payment fees and, secondly, reviewing the implementation of these laws to make sure that the promises of consumer protection that we have received do in fact eventuate.

I will start with the question of late payment fees. What we are referring to is the ability of retailers to charge a fee to a customer for the late payment of an account. The Greens believe that, given the nature of energy as an essential service to households and given the increasing proportion of household budgets going to energy bills, this is not an appropriate measure to further penalise those who are struggling to pay their electricity bills.

Members would have received from the South Australian Council of Social Service a briefing note that actually sets out some of the problems with late payment fees. I refer to the SACOSS briefing note of 26 March 2012 which, under the heading 'Late payment fees', states:

> Late payment fees disproportionately penalise households experiencing payment difficulties. This is not an appropriate measure when dealing with an essential service, where the penalty for nonpayment is disconnection. We believe that late payment fees only exacerbate hardship. SACOSS is of the view that late payment fees should be banned.

In summary, the NERL provides that late payment fees can not be charged to 'hardship customers' and in jurisdictions where late payment fees for small customers under a standard retail contract are not permitted by State or Territory law. SACOSS understands that about 0.3 to 0.4 per cent of residential customers are on retailer 'hardship' programs, yet about 25 per cent of households currently struggle to pay their energy bills on time, despite giving very high priority to utility bill payment. SACOSS considers late payment fees to be inappropriate.

So, when we get to the committee stage, I will have an amendment which seeks to prevent late payment fees for small customers, and I think that is an appropriate thing for us to do.

I do understand that one of the arguments that will be mounted in favour of late payment fees is that there is a proportion of the public out there who will take advantage of that scheme and who will deliberately pay their bills late, leave it until the last possible moment before disconnection and then pay up. Whether those people exist in reality or simply in the imagination of electricity companies is a reasonable question for us to ask. I am indebted to UnitingCare Australia and, in particular, Mark Henley, for having provided me with some analysis on low income people and their attitude towards power bills.

I should also take the opportunity now to congratulate the former UnitingCare Wesley organisation for their rebranding recently to the name of Uniting Communities. I was very pleased to attend their launch at the Adelaide Oval. The only disappointment for the day was that the media was paying more attention to the demolition of the grandstand and the waste of usable furniture, when in fact what was happening inside the meeting hall was, I think, of more importance.

The information that has been provided by UnitingCare Australia is in relation to surveys they had undertaken of low income people showing how seriously they take payment of their bills. What we find from that survey is that lower income people—that is, household annual income of less than $40,000 per year—place higher priority on paying electricity bills on time or early.

In fact, the proportion of low income people who prioritise their electricity bill was 41 per cent, compared with high income earners, which was 28 per cent. So, in fact, the people who are more able to pay their bills are the ones who are more likely to hold out and pay their bills late. This has a disproportionate effect on low income people, so the Greens want to see those fees banned for small residential customers.

Another thing we believe is important—and we will be moving an amendment in committee—is to make sure that we keep a track of the promises that have been made and assess on a regular basis whether, in fact, they are being achieved. I will be moving an amendment for a review that the Essential Services Commissioner must undertake at the expiry of two years from the commencement of the legislation, which will give us some sort of a measure as to whether the impact of these new laws on consumers has delivered the promises, including efficiencies and customer protection promises, that have been made.

I would make the point that we are not seeking to impose any additional burden on industry or on business. We simply want a customer impact review to be undertaken so that we can see whether the promises made are coming to fruition. With those brief comments, the Greens will be supporting the second reading of this bill.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (16:02): I would like to thank honourable members for their second reading contributions and their support for this bill. I look forward to dealing with the committee stage expeditiously.

Bill read a second time.

In committee.

Clause 1.

The Hon. D.W. RIDGWAY: As I indicated earlier, I thought maybe Mitch Williams or the government got it back to front in the House of Assembly; I apologise, as evidently I have it back to front, too, in the Legislative Council. What I would like to do is put some comments in relation to this bill on the record while the staff are coming around.

As I said, these two bills were final instalments in a package designed to implement COAG's 2007 agreement to establish a single, industry-funded Australian energy market operator (AEMO) for both electricity and gas. The first of these bills implements the national legislation here in South Australia. It includes a number of provisions to amend national law, as we are the lead

legislator. It creates transitional provisions so there is minimum disruption to the market and existing contracts, with retailers taken, hopefully relatively seamlessly, into the new system.

Customers who are on default contracts will move to the national framework's deemed customer retail arrangement. That will be a temporary contract until retailers contact customers and assist them in moving to a permanent standing or market contract.

We will be retaining certain elements of the current state system, the ones which are perhaps preferential to aspects of interstate systems. Each jurisdictional implementation bill will most probably have specific provisions for its own state. I understand that the state-specific provisions will apply to operators under national authorisation, which are doing business here in South Australia. Some of the notable state-specific provisions are that South Australia will retain some of its own consumer protections, and they will be regulated at the national level. This is mainly of interest to those deemed small customers who are entitled to a suite of protections under a normal retail contract.

The threshold defining a small customer will be higher than under the national framework, so this bill will retain the threshold of 160 megawatt hours per annum. That is a greater threshold than some of the other states, so effectively customers here in South Australia will have greater protections, relative to the same consumptions in other states.

Our application of the national electricity retail law ensures the continued operation of the existing price regulation framework. AGL would do this for electricity and Origin would do it for gas. So these companies will have to offer regulator price (that is, the standing offer price dictated under the national energy law) and, on top of that, can make unregulated market offers as can other retailers.

The price comparator offered by ESCOSA will be maintained. This is an incredibly important tool for customers, especially as the cost of living soars and people need an opportunity to save money wherever possible. It will be a while until the Australian Energy Regulator's price comparator is up and running, so we will maintain our current one until the national one has the same functionality. I understand that provision is made to move to a national tool once it becomes available.

South Australian customers will have access to a dispute resolution process, including of course the Energy Industry Ombudsman. Provisions are being put in place to make sure that any disputes arising before the framework comes into operation (including any to the Ombudsman) can go ahead under the new framework. Quite sensibly, there are provisions on late payment fees whereby they cannot be charged while a customer and retailer are involved in a formal complaint process. As is currently the case, they cannot be charged to hardship customers either.

South Australia will also retain its small claims regime and will suspend the national framework regime. Our distributor, ETSA, operates this so that its liability obligations are met for failure of supply of electricity in bad faith or in negligence.

The national energy retail law establishes a regime to enable small customers to make claims for compensation from distributors who provide connection services to the customer's premises. In order for the national regime to operate, national regulations or local instruments are required to define certain aspects of the small claims service, such as a claimable incident. As ETSA Utilities already has a small claims service successfully operating in South Australia, the new regime under the national energy retail law is not being established.

South Australian small customers will continue to have access to the small claims service operated by ETSA Utilities in accordance with ETSA Utilities' liability obligations currently contained in the distribution code. As a consequence of South Australia's implementation of the national electricity law, the liability obligations currently contained in the distribution code are intended to be prescribed in regulation.

South Australia currently requires retailers to comply with certain standards relating to a retailer's responsiveness to telephone calls and written inquiries. The National Energy Customer Framework does not provide for similar standards. Accordingly, South Australia proposes that these service standards be retailed through the National Energy Retail Law (South Australia) (Implementation) Amendment Bill. We are glad to hear that customers will still be entitled to minimum service standards under these new arrangements.

I also note that this bill also deals with some issues arising from how the national law was drafted. For example, it gives the technical regulator more discretion in working with a retailer before a retailer of last resort event takes place. Obviously, there will sometimes be issues whereby a retailer's access to the wholesale market is threatened, perhaps due to a simple administrative oversight. It does not make sense to initiate the raft of arrangements needed for a retailer of last resort to be appointed when the technical regulator is able to resolve a matter efficiently. Therefore we see this as a sensible approach. The energy retailer will be responsible for appointing the retailer of last resort, and I understand that application process is currently at the expression of interest stage.

With regard to retailer authorisations, the bill clarifies how partnerships can apply for national authorisation so that an application can be made jointly. With those few comments, I indicate that the opposition will be happy to support the National Energy Retail Law (South Australia)(Implementation) Amendment Bill 2012.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

The Hon. M. PARNELL: I move:

Page 9, lines 13 to 23—Delete subsections (1) and (2) and substitute:

> A retailer must not impose a fee for late payment of a bill for customer retail services provided to a small customer.

This is the amendment I referred to earlier. It is a ban on the imposition of late payment fees. Under the bill, clause 24 states that a retailer may impose a fee for the late payment of a bill and then proceeds to set out some very minor restrictions, such as the fee must not exceed the reasonable costs of the retailer in recovering an overdue amount, and also bills that are in dispute should not be subject to a late payment fee. I think we can do better than that, I think we can ban them altogether. That is what the South Australian Council of Social Services has asked for.

I remind members that the ultimate sanction of not paying your bill is that you get cut off. That is a pretty serious sanction. As I pointed out, we know that lower income people are more assiduous at paying their bills than higher income people, which means that the late payment fees will fall disproportionately hard on those who are struggling. In terms of the figures I gave before, only 0.3 per cent to 0.4 per cent of residential customers are on formal hardship programs, but about 25 per cent of customers struggle to pay their bills.

We know that, ultimately, the bills do get paid (in the vast majority of cases) and that people will go without in order to keep the lights burning and the power going. We know that we have the capacity as a state to put in place our own rules relating to this matter. It is appropriate for us to say that these late payment fees will not be part of the energy landscape in South Australia. I would urge all honourable members to support this amendment, which comes, as I say, at the request of the South Australian Council of Social Services.

The Hon. G.E. GAGO: The government rises to oppose this amendment. This amendment seeks to prohibit the charging of late payment fees on small customers. The government does not support this amendment as the National Energy Customer Framework achieves an appropriate balance in relation to late payment fees by ensuring that those customers who cannot afford to pay their energy bills on time are not penalised, while allowing retailers to recover their costs from those customers who choose not to pay their bills on time. The government recognises that customers experiencing hardship should not be subject to late payment fees, and I can advise that the national energy retail law introduces a prohibition on retailers charging hardship customers late payment fees.

In addition, the government is amending the national framework's application in South Australia to provide greater protections with respect to late payment fees. Firstly, South Australia's proposed amendments retain the existing requirement which limits late payment fees to the reasonable costs of the retailer recovering the amount owed. Secondly, the proposed amendments introduce a new prohibition on late payment fees where a customer has lodged a complaint under the national framework with their retailer or with the Energy Industry Ombudsman and the complaint is being dealt with. The government believes that this provides appropriate protection for vulnerable customers, while allowing retailers to recover their costs, where appropriate.

Late payment of bills results in higher operational costs for energy retailers, and there is a risk that, in the absence of late payment fees, the cost to retailers of late payment of bills and the risk of resulting bad debts will be reflected in higher energy prices that may be passed through to all customers. Further, a ban on late payment fees, as proposed, may act as a disincentive to customers who otherwise have the financial capacity to pay their bills on time.

The Hon. D.W. RIDGWAY: The opposition will not support this amendment. In relation to late payment fees, the bill provides:

(1) A retailer may impose a fee for late payment of a bill for a customer retail service.

(2) However, if the service is provided under a customer retail contract with a small customer—

(a) the fee must not exceed the reasonable costs of the retailer in recovering an overdue amount;

The opposition's view is that that actually covers the reasonable costs, whether a bit of postage or a little bit of administrative work, and if it gets to the point where they perhaps have to get a debt collector or take some legal action to recover it, at the end of the day probably, as the Hon. Mark Parnell says, the vast majority gets paid and in most cases it is just a simple arrangement, I suspect, where there will be some late payment of fees and often arrangements are made.

But, where there is a problem, we think the bill currently covers it adequately in that the fee must not exceed the reasonable costs of the retailer recovering the overdue amount. So, we will not support the Hon. Mark Parnell's amendment.

Amendment negatived.

The Hon. M. PARNELL: I move:

Page 11, after line 26—Insert:

29A—Review

(1) The Commission must conduct a review of the operation of the *National Energy Retail Law* in South Australia after the expiry of 2 years from the date fixed under section 4.

(2) The review must focus on the impact of the *National Energy Retail Law* on consumers of energy and whether the implementation of the Law has—

(a) resulted in increased efficiencies; or

(b) adversely affected customer protection in pursuit of national consistency,

and may address such other matters as the Commission thinks fit.

(3) The Commission must prepare a report on the outcome of the review and provide a copy of the report to the Minister.

(4) The Minister must, within 6 sitting days after receiving a report under subsection (3), have copies of the report laid before both Houses of Parliament.

(5) The Commission must, between the date fixed under section 4 and the completion of the review under this section, publish, on a quarterly basis, statistics about the de-energisation of premises due to inability to pay energy bills during each quarter.

This is the review clause, which is very simple in its operation and imposes no additional obligations on electricity companies. All it seeks to do is ensure that the promises that have been made in the introduction of these new national energy retail laws in fact flow through to those they are designed to benefit, namely, customers.

In a nutshell, the review is a two-year review and is conducted by the Essential Services Commission, and the objectives of the review are to determine whether the implementation of these national energy retail laws has resulted in increased efficiencies or whether or not they have adversely affected customer protection in the pursuit of national consistency.

It will be a fairly straightforward report, a statistical analysis of the outcomes of these changes, with the report to be tabled before both houses of parliament. Whilst the commission is fairly open as to how it reports and what it reports on, one specific obligation I have included in this amendment is to continue the status quo, the current practice, of publishing quarterly statistics

about people being disconnected (or 'de-energisation' is the word used in the legislation) due to the inability to pay energy bills.

It will be important for us to keep our finger on the pulse of electricity consumers, in particular low income consumers, and for us to know how many of these are being disconnected through an inability to pay bills. That information will become more important as energy prices rise. Whilst I do not need now to go into all the reasons why energy prices will rise, what is absolutely clear is that the overwhelming reason is the increased investment now required in infrastructure, in distribution infrastructure in particular.

We know that electricity prices over about a three-year period are going to go up by about 31 per cent due to those infrastructure costs. When you add the carbon price it adds a small amount—it will go up to 36 per cent. I just make the observation that whilst people are out there saying that the reason electricity prices are going up is because of environmental initiatives, it is rubbish. Electricity prices are going up for a range of reasons, some of which flow back to the privatisation of ETSA and the valuation of assets, including easements, but much of which relates to a need to improve infrastructure which results, in an urban environment, from massive air conditioners as much as anything else.

So we know that electricity prices are going to go up. We know that people will be disconnected for nonpayment of their bills, and we need to keep a tab on how often that is happening. My understanding is that the current practice is quarterly reporting and we want to ensure that that quarterly reporting of disconnections continues.

The Hon. G.E. GAGO: The government opposes this amendment. We do not consider it necessary to impose a new legislative requirement for the Essential Services Commission to undertake a review. If, after a period for implementation of the new national framework, a review is deemed to be necessary, both the Treasurer (as the responsible minister) and the Minister for Resources and Energy (as the industry minister) have power under the Essential Services Commission Act 2002 to direct the commission to undertake a review.

The government considers that the reporting requirements imposed on the Australian Energy Regulator under the National Energy Consumer Framework provide sufficient information to stakeholders and governments about the framework's operation to inform on the necessity to direct a review to be undertaken. The Australian Energy Regulator is required by the law to prepare and publish an annual retail market performance report comprising market overview and market activities reports. This will include information such as a report on energy affordability for small customers, customer service and customer complaints, and the handling of customers experiencing payment difficulties.

The market activities report must also include information and statistics on the number of premises disconnected for nonpayment. In addition, the Australian Energy Regulator is intending to publish quarterly information on the performance of the energy retail market, including the number of disconnections for nonpayment and reconnections, as is the current practice by the commission. On this basis the government does not support the requirement to publish this information by the commission as it would be inefficient for two separate regulators to collect and publish the same information.

The Hon. D.W. RIDGWAY: This amendment, which was, I think, put on file at 12.17 yesterday, just dropped outside the opposition's time frame to evaluate things before our party room. However, we do not necessarily see that a review is the wrong thing to do, so I indicate that we will be happy to support it. However, when we have had a chance to consider it over the next 24 to 36 hours, if a message comes back that it is a bad decision, then we probably would not insist on it. We think it is worth progressing. We think a review is not necessarily a bad thing as it gives an opportunity to make sure that things are operating in the way that we are led to believe they should be. I indicate that the opposition is prepared to support it.

The Hon. J.A. DARLEY: I will be supporting the Hon. Mark Parnell's amendment.

The committee divided on the amendment:

AYES (14)

Bressington, A.	Brokenshire, R.L.	Darley, J.A.
Dawkins, J.S.L.	Franks, T.A.	Hood, D.G.E.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I.

AYES (14)

Parnell, M. (teller)	Ridgway, D.W.	Stephens, T.J.
Vincent, K.L.	Wade, S.G.	

NOES (6)

Gago, G.E. (teller)	Gazzola, J.M.	Hunter, I.K.
Kandelaars, G.A.	Wortley, R.P.	Zollo, C.

Majority of 8 for the ayes.

Amendment thus carried; clause as amended passed.

Remaining clauses (5 to 16) and title passed.

Bill reported with amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (16:30): I move:

Bill read a third time and passed.

STATUTES AMENDMENT (NATIONAL ENERGY RETAIL LAW IMPLEMENTATION) BILL

Adjourned debate on second reading.

(Continued from 27 March 2012.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (16:30): Mr President, members who were listening would be aware that I have already made a contribution on this bill in conjunction with the contribution I made on the previous bill—

The Hon. G.E. Gago: You were very comprehensive.

The Hon. D.W. RIDGWAY: —very comprehensively, so I will not burden the chamber with a repetition, but I indicate the opposition will be supporting the bill.

The Hon. M. PARNELL (16:31): In speaking to this bill, I want to draw attention again to something that the Greens believe is very unfair and unreasonable, and that is the crackdown by ETSA Utilities on electricity consumers and, in particular, those who have solar panels installed and are part of the feed-in scheme for renewable energy. Along with the Hon. David Ridgway, we have taken the view that this Electricity Act now being opened up for review gives us an opportunity to fix this unfairness.

I am not going to go into a lot of detail because I have, in the not too recent past, given a range of examples in this place as to why the approach of ETSA Utilities is unfair, and I refer members to contributions to my motions on the solar feed-in tariff on 29 February and 28 March of this year. That was a motion calling on the government to scrap the unfair crusade being waged against renewable energy. I was delighted that that motion passed, but the government has still failed to act. So, now that the Electricity Act is before us for amendment, it is an appropriate time to fix this unfair situation.

In summary, there are three situations to which I am referring. The first is the situation where farmers in the main were encouraged by solar companies to put solar panels on their sheds rather than on their homes, and they could thereby take advantage of two things; one is often better solar access but, secondly the fact of a separate meter on farm sheds meant that they would actually improve their return from the feed-in tariff. The reason why these properties had multiple meters is that in the past there was a special rural electricity rate, and to get that rate you had to have a separate meter on your shed.

The second situation is in relation to people who have upgraded the number of panels on their roof to match the size of their inverter, and the third situation is in relation to people who have more than one property with solar panels. In relation to that first situation I described, where farmers have solar panels on their sheds rather than on their home, and where they can take

advantage of having that separate meter, the ETSA crackdown has involved sending what can be described as 'please explain' letters.

As a result of those letters, they then either cut the people off the feed-in scheme, or in other cases they deliver them what can only be described as ultimatums; that, unless they combine the electricity both generated and used on their home and their shed, they will be cut off. As a result, what we are finding is that some people are spending large sums of money seeking to comply with what are in effect unreasonable demands of ETSA Utilities.

I just want to briefly refer to one piece of correspondence that I have received which I think sums it up pretty well. I will not name the people (I do not have their permission to do that), but they are country people, and their short email to me reads as follows:

> We've just read the article in the Advertiser today about the feed in tariff problems and you were mentioned. We've been trying to negotiate with ETSA utilities regarding this issue for several months now. We've been cut off and we don't know how to take it further. They cut us off prior to an ETSA utilities person coming out to our property and looking at what our options are. We have done nothing wrong but we are getting treated like criminals by ETSA utilities.
>
> We put the system on a generator for the shed as this was the only option at the time as advised by our electrician. The shed was previously a working pig shed. We don't currently have pigs so it wasn't using any power. We have now hooked up a fridge out there and it's now using the required minimum. This in itself is very inconvenient as the pig shed is 100m away from the house.
>
> We have three generators on our farm and a fourth on a different property. Our system only covers our usage over the entire lot. We thought we were doing the right thing by the environment and future proofing our electricity bills as much as we could. We are very low income earners and borrowed to put it in. Can anyone help us?? We are very angry about the way in which we have been treated. Surely some common sense and leniency applies when they are dealing with legislation that wasn't in place when we put the system in. And why haven't we been given time to comply?
>
> Hope you can help.

It is an unfair situation, and I know certainly the Hon. David Ridgway is aware of examples, as is his colleague Mitch Williams in another place.

The amendments I have on file are in fact the same amendments as those moved in the other place by Mitch Williams, which I understand are proposed to be moved now by the Hon. Mr Ridgway to this bill, and we will certainly be supporting those amendments. As I say, ours are identical. The amendment allows the electricity used and measured by all the meters on a property to be taken into account in determining eligibility.

Another related amendment deals with those who upgraded their systems to the size of their inverters in the period before the legislation was passed. It was common for people to put up a larger inverter than they needed and fewer panels so that they could upgrade their system as funds allowed. This amendment makes it clear that these upgrades will be treated the same as new installations which, if approved before 1 October 2011, apply for the feed-in tariff.

We believe that customers should not be discriminated against because they planned in advance. Of course, the maximum size limit on installations still applies, so it is not open slather to install massive systems panel by panel, even though, as I have said before, that would be a most welcome outcome, but it is not covered by this current scheme. What we do need to do, through amendment, is remove some of this unfairness.

The rules that are around customers with more than one installation are also unfair and they are inconsistently applied. In fact, the predictions that I raised some months ago about the ability of ETSA Utilities to apply these new rules fairly have turned out, sadly, to be correct. I have received a briefing from the department and I have been provided with examples to show how these criteria are being implemented, and what they show is that a completely arbitrary set of rules has been developed that discriminates against ordinary people who hold property in their own name, and it preferences those who use companies or family trusts as vehicles for holding property, even though the people behind these entities are identical.

For example, on the chart that was provided, in the case of a couple, Joan Smith and John Smith, if the first system was John Smith's on the house and the second system was Joan Smith's on a second property, then they are both eligible, but if both properties are owned by Joan and John, then they are ineligible. The one that struck me as particularly unfair is if John Smith owns the first property and the Smith family trust—which may be completely controlled by John—owns the second, they are eligible as well because they have used artificial entities, if you like.

Then there is this example: private schools—church schools, for example—can be eligible for the feed-in tariff for solar panels on each of their schools because they are generally held in the names of different entities but, if it is a state school that is involved, then all the state schools are owned by the Department for Education and Child Development and therefore only one government school in the state is eligible for the feed-in tariff.

You could have every single Catholic school or Lutheran school or other private schools all being eligible, but you can only have one state school. Now, that makes no sense at all, especially in an age when schools, through their governing councils, are being encouraged to take more responsibility, for example, for their energy use. Yet, here you have got a system that actively discriminates against those in public schools.

So, these rules, I think, are arbitrary and unreasonable. I would urge the government to address that situation, to go back with ETSA and have a look at this crusade against people who are alleged to be ripping off the system because they have more than one solar panel system. Mostly, we are talking about people who have two. As I have said, there are plenty of circumstances where both will be eligible and plenty of circumstances where only one but not the other will be eligible, and it is completely arbitrary; it is a complete fluke of history in how the properties happen to be structured whether someone is eligible or not.

What I would like the minister to do when we get into committee is to answer some questions, if she may, in relation to these rules that were developed by ETSA Utilities after the legislation was passed. By rules, what I am talking about are the rules for measuring eligibility. There is the rule that said you have to use at least 400 kilowatt hours of electricity in a year in order to qualify as a small generator. If you did not use at least that much electricity on your property, you were therefore deemed to have installed your panels for the purpose of 'profiteering', is the word that is used, or for the purpose of putting electricity back into the grid.

Where did that rule come from? Where did that number come from? Is ETSA Utilities solely responsible for that number or is the government responsible for that number? Industry people tell me that when they say to government that this is an unfair rule, government says, 'Don't blame us. Go to ETSA Utilities.' When they go to ETSA Utilities, they say, 'Nothing to do with us. Having now written this rule, we are not allowed to change it.' I want to know what the truth is. Is it government; is it ETSA Utilities; can it be changed?

I have the same question in relation to this multiple property situation. Who came up with the notion that two properties—one owned by a flesh and blood person, one owned by a family trust—were both eligible, yet two properties jointly owned by a Mr and Mrs were not eligible? Who came up with those rules? Who is responsible for them? If they can be changed, how can they be changed? Is it ETSA Utilities that has to change them? Can the government tell ETSA Utilities to change them?

It is very unclear and, as has been said before, these rules, if you like, or these yardsticks, were put in place after the legislation had passed and, therefore, the claim that I have made and Mitch Williams in another place and David Ridgway in this place as well is that they are retrospective and they are arbitrary. When we get to these amendments, we can explore these issues. The Greens are generally supportive of this legislation, but we are taking the opportunity represented by the opening up of the Electricity Act for amendment to fix these clear injustices in the system.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (16:43): I understand that there are no further second reading contributions to this bill. Given that, I wish to thank honourable members for their contributions and their indicated support for this bill and look forward to dealing with the committee stage expeditiously.

Bill read a second time.

In committee.

Clause 1.

The Hon. G.E. GAGO: I would just like to take this opportunity to provide an answer to a question that the Hon. Mark Parnell asked during the second reading, and that was: who was responsible? I have been advised that ETSA Utilities is in fact responsible for implementing the feed-in tariff provisions in relation to the dominant purpose and multiple generators provisions.

Clause passed.

Clauses 2 to 13 passed.

New clause 13A.

The Hon. D.W. RIDGWAY: I move:

Page 6, after line 22—Insert:

13A—Amendment of section 36AC—Interpretation

Section 36AC—after its present contents (now to be designated as subsection (1)) insert:

(2) For the purposes of the definition of *excluded generator*, if there are 2 or more meters for measuring the consumption of electricity on a site owned or occupied by 1 customer, in assessing the purpose of the installation of a generator on the site to determine whether or not the generator is an excluded generator, the operator of the distribution network must take into account the electricity consumption of the customer on the site as a whole (despite the fact that, for example, most or all of the electricity consumption on the site is recorded by a different meter from the meter to which the generator is connected).

I will make a few brief comments. As has been outlined by the Hon. Mark Parnell, the Greens and the Liberal Party have been made aware of the unfairness in relation to some of the operations of this act, especially the Electricity Act in relation to solar feed-in. The Hon. Mark Parnell cited a couple of examples. He had received some emails. I have recently been contacted by two customers in the South-East who had similar issues in relation to their properties and dealing with ETSA, especially considering that this legislation was retrospective.

These feed-in amendments, which went through the parliament last year, included the definition of an 'excluded generator'. This definition stated that a small photovoltaic generator was not to be installed for the dominant purpose of feeding electricity back into the grid, i.e., for the purposes of profiteering.

On the very last day of that scheme, 30 September 2011, the government met with ETSA to set these criteria. One of them was that a generator would be excluded from the scheme if less than 400 kilowatts of electricity was used per annum at the meter where the generator was installed. This electricity use was measured for the 12 months prior to the system being installed.

Many of our members—as I said, I had two in the South-East, and many members of the opposition—have been contacted by farmers who have found themselves excluded from the scheme owing to the fact that they have had more than one meter on their property and have connected their solar system to a meter where they are not using 400 kilowatts of electricity per annum. Previously there was a rural electricity rate, so it was not uncommon for properties to have more than one meter.

These farmers have found themselves excluded from the scheme despite having a total electricity use on their properties which far exceeds the 400 kilowatts threshold. That is certainly the example that the Hon. Mark Parnell used with the piggery that was not in use but had its own separate meter. I can recall that on my farming property, we had about six—

The Hon. G.E. Gago: That's a long time ago.

The Hon. D.W. RIDGWAY: It was a long time ago. It has been about a decade since I came here to look at the intelligent people on the other side of the chamber. I had a number of meters on my property, and certainly one on the shearing shed. I no longer had any sheep on the property and was no longer using it as a shearing shed; in fact, it was just used as a storage shed. There would be the occasional turning on of the lights, but virtually no electricity was used. So, I can understand how those sorts of anomalies could have occurred.

Another group of people who found themselves excluded from the scheme are those who received approval to upgrade their solar systems before 1 October 2011 (i.e., they had approval from ETSA to have more solar panels installed) but had not had these panels installed before 1 October 2011. These people now find themselves excluded from the scheme entirely if they put up these panels after 1 October.

These people had received approval from ETSA for that upgrade before the cut-off date but were not aware that they would be excluded from the scheme if they installed their panels after this date. This leaves them in the unfortunate position of either having purchased thousands of

dollars worth of panels that they cannot use, or having them installed and losing the feed-in completely. This stems from a section in the act which states that, after 1 October 2011, a generator cannot be altered in any way to increase its ability to generate power.

So we are moving two amendments. They are exactly the same, so I am sure that I can count on the Hon. Mark Parnell's support. We just see it as an opportunity to rectify a couple of anomalies that have cropped up.

The Hon. G.E. GAGO: The government rises to oppose this amendment. It seeks to alter the definition of an excluded generator in the Electricity Act 1996 so that if there are two or more meters measuring consumption on a site then ETSA Utilities must take into account the electricity consumption of the site as a whole when enforcing the provision, excluding solar systems. Honourable members will recall that amendments were passed in this place in June of last year to limit the costs of the solar feed-in scheme borne by all electricity consumers, who pay for it through their electricity bills. A key provision was to exclude solar systems that are, in the opinion of the distribution network operator ETSA Utilities, operating for the dominant purpose of feeding in to the grid.

As members would recall, the scheme was explicitly designed as a net scheme rather than a gross scheme; that is, the intent of the scheme was to first meet the consumption on the customer's connection point, with the feed-in tariff only paid on any additional electricity generated and exported to the grid. The government opposes the proposed amendment as it weakens the dominant purpose provision and if passed would result in this council taking a conscious step away from the solar feed-in scheme's original intent and make it a gross scheme for the customers, thereby increasing the costs of the scheme on all electricity consumers.

The government also asks the council to give due weight to the problematic nature of the amendment in light of the action by ETSA Utilities to carry out the dominant generator provision. ETSA Utilities advises that 126 solar customers out of the 143 who had the option to re-wire or move their solar system to another connection point on their property to remain eligible under the scheme have now actually done so at their own expense. So, the vast majority have already taken action in accordance with this. For those reasons, the government will not be supporting the amendment.

The Hon. M. PARNELL: I want to explore a little further with the minister the contribution she has just made and the answer she gave earlier, and that is to ask: what is the process for reviewing eligibility? The minister has explained that if ETSA has determined that someone has not used enough electricity in the previous 12 months that they will be cut off the scheme because they will be deemed to have installed their panels for the dominant purpose of generating electricity. The example I gave was: a few years ago the shed was used as a piggery, and in a few years time it may be used as a piggery again. These panels last for 20 years, or longer—they are guaranteed for that long; they will probably be generating electricity for 30 years or more. So, my question of the minister is: what is the process for a person who has been cut off who then, in the following year, starts using more electricity at the property that the panels are connected to? How do they go about getting themselves reinstated to the feed-in tariff scheme?

The Hon. G.E. GAGO: I have been advised that ETSA Utilities established criteria that would only identify generators with a capacity of 3.04 kilowatts and above and at connection points with nil or very low levels of consumption (400 kilowatt hours or less) in the 12 months prior. The consumption threshold is lower than a single 50 watt light bulb operating constantly. We understand that ETSA has indicated that it is not going to allow the reinstatement.

The Hon. M. PARNELL: I need to explore that a little further. What the minister has just said is that you have a product that is going to operate and generate electricity for, say, 20 or 30 years, but you may be unlucky enough that the one year in which the measurement was taken you did not actually use much power in that building and the meter did not record much electricity use (400 kilowatt hours), but in fact two years earlier when it was running as a piggery it used lots of power and in two years time when it runs as a piggery again it will use lots of power. It may well be that for 29 of the 30-year life of these panels power is used in that shed that would lead to eligibility.

Is the minister's answer that, on the basis of an arbitrary one-year measurement of electricity used in a property connected to a meter, a person's ability to be on a 20-year feed-in tariff will be either gained or lost? Is that what the minister is saying? There is no way that fairness

can prevail and that that person can go back to a normal situation of actually being connected to the system: is that the minister's answer?

The Hon. G.E. GAGO: I have been advised that that is so, that ETSA established the criteria, which were those generated within a 12-month period prior.

The Hon. M. PARNELL: Did ETSA Utilities negotiate these criteria with government or discuss them with government before bringing them into effect?

The Hon. G.E. GAGO: I understand that ETSA advised the government of the criteria that it had established.

The Hon. M. PARNELL: The minister said that they were not consulted but were told after the event. Does the minister know whether anyone else was consulted in relation to these criteria? In particular, was anyone in the solar energy industry consulted before ETSA Utilities unilaterally developed criteria for determining who is and who is not eligible to receive the feed-in tariff?

The Hon. G.E. GAGO: I have been advised that we are not aware of any other stakeholders that ETSA consulted with. However, the act does provide powers for ETSA to establish these criteria.

The Hon. M. PARNELL: And that brings us back to the original answer the minister gave to my question, where the legislation says that, if ETSA Utilities forms the view, then ETSA Utilities forms the view. But what I find remarkable in this situation is that what we are talking about here is a scheme that the former premier proudly launched—he proudly announced it at the Solar Energy Congress here in Adelaide, an international conference, and announced it in front of thousands of national and international guests.

We were the first state to get this feed-in tariff in place. It was a matter of some pride to the government yet, when it comes to the threshold question of who is eligible and who is not, we give the job to a private overseas company, registered in the Bahamas, from my recollection. It decides—it does not consult with government or industry—who South Australian law applies to and who it does not apply to. What a remarkable situation!

So, that is why I am very pleased to support this amendment. I do not think it is good enough for this parliament to simply say, 'Oh well, if ETSA Utilities, a private overseas-owned company does something unfair, we just have to live with it.' We do not have to live with it: we can change it. We can give some direction, we can tell ETSA Utilities to back off, and that is what this amendment does. The Greens are very pleased to support it and we urge all honourable members to do likewise.

The Hon. D.W. RIDGWAY: For the information of honourable members, shortly after my colleague Mitch Williams moved this amendment in the House of Assembly he then sent out this amendment for consultation, and ETSA was one of the companies he sent it to. At the time of my last discussing this with Mitch Williams, which was yesterday in our joint party meeting, ETSA had not responded to the particular amendment.

The Hon. D.G.E. HOOD: Very briefly, Family First will support the amendment. I think the main reason is that it comes down to what the motivation was for people when they installed their solar panels in two different places. Was it (a) to rip off the system, or was it (b) just simply for their convenience? I think there is no doubt that in the overwhelming majority of cases it was simply for their convenience, and so we support the amendment.

New clause inserted.

New clause 13B.

The Hon. D.W. RIDGWAY: I move:

Page 6, before line 23—Insert:

13B—Amendment of section 36AE—Feeding electricity into networks—requirements on holder of licence authorising operation of distribution network

Section 36AE(6)(a)—after 'electricity' insert:

, unless the alteration was approved before 1 October 2011 by the holder of the licence authorising the operation of a distribution network to which the generator is connected

I will not prolong this, but I urge all members to support this amendment. It is not consequential, if you like, but the same issue we are dealing with.

The CHAIR: The Hon. Mr Parnell, do you support this?

The Hon. M. PARNELL: I will hear the minister's response first.

The Hon. G.E. GAGO: The government rises to oppose this. Although it is obviously related to the previous amendment, I would just like to put on the record that this amendment seeks to permit solar customers who receive approval from ETSA Utilities for an upgrade prior to 1 October 2011 to carry out the upgrade at any time and retain eligibility for the feed-in tariff.

The government has been advised that this amendment would result in an additional cost to the scheme of approximately $1.65 million per annum, which would be paid by all electricity consumers. This is inconsistent with this council's intent when it passed the changes to the scheme in June last year that limited cost impacts to all consumers. In August 2010, solar customers were made aware of the proposal to prohibit upgrades of solar systems for the purpose of the receipt of the solar feed-in tariff. Accordingly, solar customers had the opportunity to fully complete an upgrade of their system between 31 August 2010 and 30 September 2011 to remain eligible for the 44¢ kilowatt an hour feed-in tariff.

This prohibition of upgrades is imperative to limit the costs of the solar feed-in scheme on all electricity customers. It recognises that the 44¢ kilowatt per hour feed-in tariff has been closed to new entrants and, accordingly, those with existing entitlements under the 44¢ kilowatt per hour feed-in tariff should not be able to continually increase the benefit they receive under this scheme by increasing their system size. For these reasons, the government advises the committee that it opposes the amendment.

The Hon. M. PARNELL: The important thing to remember here is that the panels people would be putting on their roofs to match the maximum size of their inverter would still be governed by the maximum size of the system set out in the legislation that we passed. It is just that they have not done it all in one go. There is no attempt here to subvert the parliamentary intent. No-one is going to get a feed-in tariff for putting in a system that is too large. Whilst the measure we use has changed over time, it is effectively a 10-kilowatt system. Very few people have systems that size; very few people even put in inverters to cope with a system that size.

However, the most remarkable thing about the minister's answer in relation to this amendment and whether the feed-in tariff might cost the community a little bit more is this. I remind all members that when we debated this last year we were debating a government proposal to increase the feed-in tariff to 54¢, which would have been a massive extra cost on the community. We would have loved to have given all those solar panel owners a present, an extra gift of an extra 10¢ for 20 years, but I think the Legislative Council did the right thing, the economically prudent thing: we saved the former premier from his own folly; we did not end up supporting the 54¢ and we kept it at 44¢ and thereby brought about savings.

The fact that a few more people are going to get a few more panels on is absolute chickenfeed compared with what the government was trying to do in giving an extra feed-in tariff to people who did not ask for it and, arguably, did not need it—they had made their investment—and that was where the blowout in the costs would have come. The Legislative Council, in its wisdom, saved the government from its folly, but I think now what we are doing is reinjecting a little bit of fairness back into the system.

I think this is a sensible amendment. It has very limited application. As I have said, no-one is South Australia is going to be able to put a system on their roof that is larger than set out in the legislation. That is the main cap, and that is the one we should be focusing on. This amendment is worthy of the support of all members.

The Hon. D.G.E. HOOD: I will speak very briefly. I do not believe that the suggestion that has been made by the government of an extra cost of, I think, $1.6 million (I think that is the figure quoted) will actually bear out to be the case. The truth is that, when people have added the panels in the first place, they have enjoyed the commonwealth government's very substantial subsidy when obtaining the panels, but they have had and it is gone.

In buying any further panels to increase the capacity of their system up to the capacity of their inverter, they will not enjoy that subsidy. So, it becomes substantially more expensive to add additional panels. For that reason, I think that the $1.6 million is probably substantially overstating the extra cost that will be involved should this amendment pass.

That having been said, I believe that, when people entered this scheme, they did so on the understanding that they would be able to add panels at a later date—certainly, that is what many of

the companies were telling customers—and, for that reason, we should not change the rules on them later. For that reason, Family First will support the amendment.

New clause inserted.

Remaining clauses (14 to 38) and title passed.

Bill reported with amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (17:07): I move:

That this bill be now read a third time.

Bill read a third time and passed.

RAIL SAFETY NATIONAL LAW (SOUTH AUSTRALIA) BILL

Adjourned debate on second reading.

(Continued from 4 April 2012.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (17:08): I rise on behalf of the opposition to speak to the Rail Safety National Law (South Australia) Bill 2012. This bill repeals the state Rail Safety Act 2007, and it is part of the national reform to abolish the state rail regulators and establish a national regulator. If other states are to follow South Australia as a lead agency in moving to a national regulator, state regulators will not be needed anymore, and we will have a national regulator headquartered here in Adelaide.

The South Australian government claims that the legislation was the most consistent with the model law, and it has been nominated by the COAG to be the lead state on this legislation. In 2006, we dealt with legislation to establish the Rail Safety Act, and that legislation has been reasonably efficient over the five-year period. However, for some time, the industry has been seeking greater uniformity.

Many rail operators are obviously operating across jurisdictions, so a national regulator does make sense. The current law provides for accreditation and regulation of rail operators, including drug and alcohol testing and auditing of railway operations. As of 30 June 2011, there were nearly 50 regulated operators in South Australia. The state regulator is currently Brian Hemming, and he and his staff currently provide that accreditation and regulation to those 50 rail operators, the majority of whom are private operators.

The government agrees that the delivery under model law needs to be improved. Many operators are national companies, and they are seeking consistency over multiple jurisdictions, with one certificate of accreditation. Ms Vickie Chapman (shadow minister in another place) in her second reading contribution said that the last annual report from the Rail Safety Regulator stated:

South Australia has 4,730 route kilometres of rail track, on which an aggregate total of 17,590,448 kilometres were travelled by trains during the 2010-11 financial year.

These businesses must be regulated with an exceptionally high standard of safety, by virtue of not only the simple nature of their work but also the huge distances covered in transporting people and stock, as evidenced above.

Rail operators need either accreditation or an exemption from accreditation if they are operating on a track with a gauge of 600 millimetres or more. They pay annual fees for that accreditation, and the minimum fee is around $14,000, but very large operators—and our shadow minister used the example of Genesee & Wyoming—pay an annual fee of around $300,000 because they operate across states and therefore require various accreditations.

Operators have not yet been given any assurances by the minister as to what the fees will be under the new system and whether they will reflect a reasonable rate of implementing the program. Apparently, ministers are to meet in May to discuss what the revised cost to the industry will be. That had obviously not happened at the time this bill was debated in the House of Assembly and, as today is only 1 May, I assume that it still has not happened.

The advice from the minister's office is not very reassuring, in that they claim the costs will largely be met by the commonwealth. Of course, as the shadow minister Vickie Chapman said, it is still all taxpayers' money. The Productivity Commission will be keeping an eye on this additional

cost to the industry and whether any jobs are lost as a result of the new system. The opposition will be very keen to keep up to date with this particular information.

The functions of the regulator are broadened under the bill. The duties of operators are codified, and offences for breach of those duties are provided for. Vickie Chapman made the legitimate point that these are possible areas where the government has not been able to achieve enforcement under the Work Health and Safety Bill, and there is a good reason why the government would want to push this bill through.

A common approach to the prescription of drug and alcohol requirement and fatigue management provisions is promoted through this bill. It has been made clear to the opposition in briefings that some of the other jurisdictions have failed in managing these areas well, so a national system is needed to bring them up to standard. Some provisions will be strengthened, including the prescribed concentration of alcohol allowed being reduced from .02 to zero.

Workers already submit to testing, and in the 15 years leading up to 2012 there were 149 reports of positive drug or alcohol or tests. That is around 0.17 per cent of all tested. It is a relatively small percentile, which is a positive indication; however, our shadow minister rightfully expressed concern that none of these 149 people were ever reported to the police.

Under the new arrangement, where the national regulation will be providing for penalties for breach of safety—as high as five years in prison or $3 million for corporate breaches—it would certainly seem warranted that such test readings are reported. I would also be interested in some clarification on when reporting would occur under the new system.

With regard to fatigue management, a common approach to fatigue management is supposedly promoted. This is a hot topic within the heavy transport industry. I received a letter that makes some comments in relation to this, (I think a number of other members may have received an email from a gentleman last night), and I might put some of his comments on the record. Similar legislation to appoint national regulators for heavy vehicles and commercial marine vessels will be introduced soon. The new Queensland government will be the host state for heavy vehicles, and the new Queensland transport minister confirms that the act will be introduced shortly. We look forward to seeing that legislation.

The Australian Railway Association has confirmed its support for the bill, and I indicate that the opposition will be supporting the bill. I would now like to indicate that I received correspondence from Mr Scott Parham. As I previously mentioned, I think he sent the email to a number of members of the Legislative Council, and it refers to fatigue management. I spoke to him and indicated we would not be proposing any amendments but, given that he took the time to contact the Legislative Council, I will read his remarks into the record for his benefit. Under the heading 'Driver Fatigue Submission', he states:

> I believe the second reading of [the Rail Safety National Law (South Australia) Bill 2012] is pending however at this late stage I wish to express my concern with various aspects of the Bill relating to driver fatigue, and urge caution in its passing.
>
> Profit and efficiency in the Australian rail sector does not have to come at the expense of safety.
>
> The proposed State legislation and regulations, that may ultimately lead to a national regulatory regime, leave a lot to be desired with respect [to] worker safety, industry best practice and social and corporate responsibility.
>
> In the absence of strong, prescriptive legislation and regulations, the undesirable and dangerous practices that have crept into the industry...over recent years will be seen by corporate participants as tacit government approvals for their practices.
>
> Unlike road transport and aviation that have specific Acts and regulations relating to fatigue and operational limitations, there are no legislative instruments that deal with fatigue and fatigue management in railways. Many professionals within the industry are currently suggesting the processes in place are inadequate due to the lack of legislative control, especially when compared to that of the road transport and aviation industry.
>
> The proposed Rail Safety National Law (and associated regulations)—

in Mr Parham's view—

> appears grossly inadequate in the areas of fatigue and the limitations of shifts when considering and comparing the Road Traffic (Heavy Vehicle Driver Fatigue) Regulations 2008 under *the Road Traffic Act*...

I just wanted to put those few comments of Mr Parham. He does think this is deficient. I did have a discussion with him in relation to the differences between trains, heavy vehicles and aviation.

A train is on a rail and, although they do occasionally come off, incidents are very rare and in fact I am not aware of any significant rail incidents where the cause has been determined to be driver fatigue. There have been other external influences often when it comes to major accidents, especially on a long haul where somebody is at a level crossing or there has been a flood or damage to the track.

I just put those few comments on his behalf, but I indicated in my conversation with him that we certainly would not be moving any amendments. I did thank him for making contact. I think it is important that, when members of the community feel inclined to make contact, we actually thank them for their contributions. With those few comments, I indicate that the opposition will be supporting the bill without amendment.

The Hon. M. PARNELL (17:17): The Greens support the Rail Safety National Law as a major safety regulatory and productivity reform which seeks to establish uniform national regulation of rail transport operators and establish a single national rail safety regulator, and we are also pleased that the office of the national rail safety regulator will be located in Adelaide.

The national law will replace seven separate regulatory authorities, three investigatory agencies and 46 pieces of state, territory and commonwealth legislation. In South Australia, the law will replace the Rail Safety Act 2007, which itself was based on model legislation devised in 2006 by the National Transport Commission and representatives from all states and territories. The new Rail Safety National Law covers accreditation, registration of rail infrastructure managers, safety management, investigation and reporting by rail transport operators, drug and alcohol testing, train safety recordings, auditing of railway operations, compliance and enforcement and review of decisions.

The Greens strongly support rail as a means of transport, and we support it strongly for a number of reasons, not the least of which is the increased urgency for us to reduce our carbon footprint, to reduce carbon pollution. We also need to reduce our reliance on declining oil supplies, and we all know that rail, as a means of transport for either freight or people, is one of the most efficient methods there is. Steel on steel is far more efficient than rubber on bitumen or propellers through water, even.

We are great supporters of rail. We think more freight should go by rail. We think more people should go by rail, but that is going to involve a major increase in infrastructure spending, which is why the Greens went to the last federal election with plans and a policy for a feasibility study into high-speed rail. When the result of that election was so close, the Greens managed to secure a commitment from the Gillard Labor government for a $20 million high-speed rail feasibility study, which will be concluded in July. We already know that this will be a transformational nation-building project and that it will have massive economic benefits.

Whilst the logical starting point for such a project is the connection of the big east coast cities and Canberra, we should also be advocating in the longer term for a connection to South Australia. I would just love to see high-speed rail coming in through regional South Australia to Adelaide.

I was a regular train passenger on the Melbourne to Adelaide route. I recall that in the early 1990s the time it took the Overland to get from Adelaide to Melbourne had not changed since the 1930s. I understand that what was a 13 or 14-hour overnight trip has now been reduced to a 10½ hour daytime trip, but my recollection also of the overnight trip is of spending a lot of time at sidings in the middle of nowhere, waiting for freight trains to go past. It is quite remarkable, really, that a service cannot have greatly improved in nearly a century. I think as a nation we need to do much better, and a national regulation scheme such as this has to be part of that solution.

In terms of specific issues in relation to this bill, there are two issues I want to raise, and I have obtained these from a number of locations. Firstly, we had a look at the submissions that were made to the draft bill. We looked at the submissions made by the Australasian Railway Association Inc., the Australian Rail Track Corporation Ltd, the South Australian Freight Council, SCT Logistics and also Heritage Rail SA Inc., amongst others.

It is that last submission I want to refer to. This is the group that is involved with heritage rail, as its name implies, but often tourist rail. Their concern was whether the costs associated with this new national regulatory regime would impact on their operations—put them out of business, for example. We all know that, when the insurance reforms came in a few years ago, operations such as the Pichi Richi Railway and others were really struggling. They were putting their hand out to government to help them pay insurance premiums.

What I would like to know is whether or not the anticipated costs associated with this new national regime are likely to be problematic for these small tourist operations, particularly ones that rely on volunteer labour. I do not have a complete list but, just so that the minister can address her remarks, we have the Pichi Richi Railway, which I have mentioned.

We also have the National Railway Museum and, whilst it does not necessarily have kilometres of track, my understanding is it does still operate vehicles. What will the impact be on that organisation? SteamRanger, as I understand it, has overall responsibility for the Cockle Train. We have Southern Encounter, the Highlander, the Bugle Ranger, Strathlink and a number of other services. We also have the Tramway Museum at St Kilda. Will they be covered? I think the last one on my list is the Murray Bridge Wharf Railway.

There may well be more that I have missed, but we have a number of heritage tourist operations that are concerned that the new regime will have considerable cost associated with it, so I would ask the minister to address that. What are the costs likely to be, and what capacity does government have to assist in keeping those operations going? I think they form an important part of the tourist landscape here in South Australia. Of course, the overriding consideration has to be making sure that those services, even if they are non-profit and run by volunteers, are safe. You do not want to be killed on a commercial service, you do not want to be killed on a volunteer-run tourist railway either, so that has to be non-negotiable.

Probably the main issue that has been raised in the media—the Hon. David Ridgway has referred to it already—is the standards of work for train drivers in particular, especially around fatigue. Trying to get to the bottom of this has been a bit difficult. We certainly have in the current legislation requirements for rail operators to have plans for dealing with the safety of drivers and, in particular, fatigue issues. It is in the current act.

We also have draft regulations which have been out, as I understand it, for public comment for some little while. They certainly have not been gazetted yet, even though they have been written in South Australian form. Presumably, they will be gazetted once the legislation is passed. However, they are on the National Transport Commission website, Rail Safety National Law Regulations 2007. Proposed regulation No. 29, under the heading, Fatigue Risk Management Program, lists a page and a half of things that need to be taken into account by rail transport operators in preparing their fatigue risk management program. So, it is not a new issue.

As I understand it, a lot of the controversy probably flows from the release in February 2012 of the Fatigue Risk Management—Hours of Work and Rest Draft Regulatory Impact Statement. What I thought was quite interesting was that this purports to be a discussion paper to the extent that it canvasses different options. Under the heading, Options assessed, option 1 states, 'No prescribed hours of work/rest are included in national law.' In other words, you set out the standards that you want to meet but you do not actually say that the maximum that a train driver can go is 12 hours or 10 hours or 11 hours.

I thought it was interesting that this document is dated February 2012, yet that option has already been incorporated into regulations that were drafted last year. So, I can understand why some stakeholders feel that decisions have been made and that the opportunity to have input into them might not be a genuine opportunity.

The other thing that I think has led to some of the media commentary recently is that some states do have in black and white the hours of work stipulated in their legislative arrangements. As I understand it, it is New South Wales and Queensland. In those states, many people are keen to make sure that those numbers—such as 12-hour maximum shifts—are incorporated into the national law.

As the Hon. David Ridgway pointed out, we have had a few people write to us saying that we should vote against this bill because it does not actually have written in it the maximum hours of work. My view on these things is that that is a level of detail that is best left to either subordinate legislation or to individual fatigue management plans that are written under the guidance of subordinate legislation. I do not see that those concerns, as legitimate as they are, are reason for us not to be supporting this bill.

What I would ask the minister to do, perhaps in summing up, or if she gets anything before we go out of committee, is just to explain to us how the situation is likely to change in South Australia in terms of drivers, fatigue management and the length of shifts. I think that if the minister can put on the record assurances that safety will still be paramount and that this is not a backdoor method for ever increasing the length of shifts for train drivers then that might alleviate some of the

concerns out there in the community. With those words, the Greens will be supporting this legislation.

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (17:29): I would like to thank the Hon. Mr Ridgway and the Hon. Mr Parnell for their contribution and for their indication of support on behalf of their respective parties. The Hon. Mr Parnell asked a question about the tourist and heritage sector and how they would be treated. My understanding is that the cost recovery framework for rail safety regulations has been considered by the responsible ministers, the Standing Committee on Transport and Infrastructure.

The national fee framework will include fees payable by the Tourist and Heritage Railways; however, each jurisdiction, through government policy, may choose to pay this charge on behalf of the tourist and heritage sector. This allows South Australia to continue to subsidise the sector as a community service obligation, and that, I understand, is our intention.

In terms of managing issues relating to drugs and fatigue, etc., I understand there will be a common approach to the prescription of drug and alcohol requirements and fatigue risk management provisions. The majority of the bill deals with testing procedures for drugs and alcohol. It has been agreed that jurisdictional testing procedures will align with the local Road Traffic Act. The testing procedures in the bill are based on those currently used under the Rail Safety Act 2007, which in turn, I understand, mirror those used for other modes of transport. It is not the government's intention in any way to reduce any focus on safety through this proposal. I commend the bill to the council and I look forward to an expeditious committee stage.

Bill read a second time.

Bill taken through committee without amendment.

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (17:33): I move:

That this bill be now read a third time.

Bill read a third time and passed.

MINING (EXPLORATION AUTHORITIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 April 2012.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (17:34): I rise on behalf of the opposition to support the Mining (Exploration Authorities) Amendment Bill 2012. This bill solves a minor anomaly which could have reasonably serious ramifications if not corrected. It was taken through all stages of the debate on 3 April in the other place. As the minister commented, there is generally a high level of bipartisan support for community sectors to create substantial wealth for our constituents. So, it is in the best interests of the parliament, and the state I might add, to resolve this issue without hesitation.

The wealth the mining sector has the potential to create cannot be taken for granted. The government has a duty to make the best of a thriving economy and, while I appreciate the Labor government is working to fix up a red tape issue and the opposition will cooperate, it could have done far more to unlock the potential that will be created by the mining sector.

The need for this bill stems from a drafting problem in the major amendments to the Mining Act that we dealt with last year. It simply confirms the initial intent of the parliament when the original bill was dealt with. Amongst the raft of amendments in 2011 was one to abolish the term 'miner's right'. That gave the holder the authority to prospect for minerals within South Australia and, more importantly, the right to peg a mineral claim. In practice, in recent times the miner's right has only been used by the extractive sector of the industry for the establishment of gravel, rubble and sandpits.

Section 20 of the act, from which the miner's right was repealed, now creates a simple right to prospect, subject to the act and its regulations over the whole state. Crown law advice to government is that the enactment of section 20 was completed without following the mandatory process as per the commonwealth Native Title Act 1993, and as such all claims pegged under the new section 20 may well be invalid.

I was informed that the remedy suggested by the Crown Solicitor is that the definition of 'exploration authority', as it appears in section 6 of the act, should be amended to expressly include rights of prospecting under section 20, bringing the right to prospect within scope of part B of the act, thus giving validity to any effects on native title. It is proposed that the amendment will operate retrospectively to overcome any invalidity that has occurred in the meantime.

I am informed that the government has consulted the Attorney-General's Department at both the state and commonwealth levels, SA Chamber of Commerce and Industry and Santos, all of whom support the proposed amendment. Furthermore, it is my understanding that the government proposed the carriage of amendments through all stages on its introduction. As I stated in my opening remarks, the opposition will support the bill and is happy to progress it as quickly as possible.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (17:37): I thank the Leader of the Opposition for his second reading contribution and indicated support for this bill. I look forward to its being dealt with expeditiously through the committee stage.

Bill read a second time.

Bill taken through committee without amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (17:39): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

Adjourned debate on second reading.

(Continued from 15 March 2012.)

The Hon. A. BRESSINGTON (17:39): I rise briefly to indicate my support for the second reading of the Statutes Amendment (Attorney-General's Portfolio) Bill 2012. The bill seeks to make minor miscellaneous amendments to various acts committed to the Attorney-General. Many of these enjoy widespread support, including by the Law Society, whose submission I have had the benefit of reading and, as such, I will concentrate my remarks today on those provisions I know to be contentious.

The first is the amendment to section 258BA of the Criminal Law Consolidation Act to enable the Director of Public Prosecutions to serve on the defendant a notice to admit certain facts without leave of the court as is currently required. Whilst I note this idea has been previously raised and rejected by the Criminal Justice Ministerial Task Force and it also does not enjoy the support of the Law Society, having considered this, I am confident that little harm can result to the defendant other than in circumstances where a guilty defendant unreasonably lies in responding to the notice. Whilst I am not convinced that this will do much to expedite criminal trials overall, it will remove the requirement for what is, I am led to believe, an unnecessary directions hearing and, as such, it has my support.

The next contentious clause is the amendment to section 48 of the Criminal Law (Sentencing) Act 1988 which seeks to make it a mandatory requirement for people under supervision to seek permission from the chief executive before leaving the state. Currently, this condition can be imposed but it is not required by the act. Whilst not opposed by the Law Society, the society does raise what I believe to be an interesting point: that, unlike people on bail or parolees, people on good behaviour bonds do not have an appeal mechanism if their application for permission to leave the state is denied.

The society recommends allowing the person under supervision to appeal to the court that issued the bond. Given that we have given an appeal mechanism to those who have served gaol time, prior to or during the committee stage I would like the minister to provide a response to the Law Society's point and answer why people on bonds are not afforded the same right.

I also understand that the Hon. Stephen Wade has an amendment to this clause which would have people on bonds apply to their community corrections officer instead of the chief

executive for permission to leave the state. As I am yet to determine my position on this amendment, I ask the minister to clarify prior to the committee stage whether it is intended that, similar to the power centralised in the chief executive in the Correctional Services (Miscellaneous) Amendment Bill, this power will be delegated back to the community corrections officer, or will it be delegated to another office holder or be retained by the chief executive? In the case of the latter, what extra knowledge or insight does the government believe the chief executive offers over a community corrections officer?

The final contentious clause is the proposed power of the Director of Public Prosecutions to delegate powers entrusted to him not only in the Director of Public Prosecutions Act but in any other act in which he is called upon. Further, the director will be able to delegate his statutory roles to anyone, not just a member of his office. An example would be under the Listening and Surveillance Devices Act 1972 (as was mentioned by the minister when introducing), where the Director of Public Prosecutions is entrusted with ensuring that an application for a warrant for listening devices is 'reasonably required'.

My reading of this is that the parliament clearly intended the Director of Public Prosecutions to play a supervisory role as a check and balance to police power. However, the bill would allow the director to delegate this power to anyone, including a police officer, or most likely the Police Commissioner, and in doing so undermine this parliament's intention.

I am aware that an amendment has been tabled by the Hon. Stephen Wade that would delete this proposed clause and, to aid in my consideration, I ask the minister to make clear to the council what other existing powers have been invested in the Director of Public Prosecutions, and to whom is it envisaged they will be delegated? With that, I am supportive of the majority of the bill and I look forward to the minister's responses to the questions I have asked

Debate adjourned on motion of Hon. J.S.L. Dawkins.

MENTAL HEALTH (INPATIENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 April 2012.)

The Hon. J.M.A. LENSINK (17:45): I rise to indicate Liberal support for this bill, which is not an extensive bill. It has two major provisions, one being an important change to the language used within the Mental Health Act 2009 to change 'detention' to refer to inpatient treatment and dealing with the regulation of involuntary treatment within treatment centres and confinement issues. The second relates to ECT as it impacts people under the age of 18.

In 2009, the parliament did review quite extensively the Mental Health Act 1993 through a bill that was originally tabled in 2008. The review of the Mental Health Act was a very, very important piece of legislation, being many years coming. There were some very significant changes in that, and I am proud of the fact that the Liberal Party introduced some important changes to the original draft, most particularly the introduction of a community visitors scheme and some changes to treatment and care plans being required to be provided by the Guardianship Board, among other things. I will not go through all of that, because it did take us some time and it was very important. I note that a few years after that particular legislation was passed, the government has seen fit to change the way in which leave of absence and detention provisions operate and also the provisions in relation to consent for ECT on minors.

I do note that an amendment has been tabled by the Hon. Ann Bressington. The Liberal Party has not had an opportunity to consider that amendment at this stage. I think that the Hon. Rob Brokenshire also indicated on radio that he has amendments, but we are yet to see those. We would prefer not to proceed through the committee stage of this debate until we have had an opportunity to consider those amendments, but I indicate that we will be supporting the overall intent of this legislation.

The Hon. A. BRESSINGTON (17:48): I rise to indicate my support for the second reading of the Mental Health (Inpatient) Amendment Bill 2012. The bill seeks to remove some of the stigma of engaging with our mental health system, particularly being the subject of an existing detention and treatment order. It is proposed that these orders be renamed 'inpatient treatment orders', with voluntary patients identified as such, and those who are currently referred to as 'detainees', or being detained, to be known as 'involuntary patients'. As the minister stated when introducing the bill, the new terminology better reflects the reality of mental health facilities, where few involuntary

patients are actually securely detained. Most facilities bear no resemblance to a detention facility, despite the image the term 'detention and treatment order' conjures up.

Whilst I may not be supportive of some of the bill and our current approach to mental health treatment, I am nonetheless supportive of the change in terminology proposed by the bill for the little it will do to reduce the stigma associated with living with and being treated for a mental health condition. I do indicate to the council, however, my intention to move an amendment to clause 6, which currently provides for the Guardianship Board to overrule the refusal of a parent to consent to their child receiving electroconvulsive therapy (ECT). Whilst the bill provides that a parent or guardian must first be requested to consent to their child under the age of 16 being given ECT, if the parent refuses and the treating psychiatrist insists, the matter can be referred to the Guardianship Board for determination.

The Minister for Health, when explaining this cause in another place, stated that it is comparable to the process used when a parent refuses to consent to their child being given a life-saving treatment such as a blood transfusion. Such an example occurred in June 2010, when the Supreme Court overruled the objections of a Jehovah's Witness family. Whilst there are similarities in the process there is, at least to my mind, a significant difference: ECT by any measure is not a life-saving treatment.

Members may recall that, when speaking to the Mental Health Bill 2009, I stated my opposition to our approach to mental health, and particularly the use of psychosurgery. It should come as no surprise that this extends to the use of ECT, particularly on minors. Whilst I accept that the use of ECT on minors is rare, the fact is that the Mental Health Act 2009 provides for it as a treatment option.

Further, in the Royal Australian and New Zealand College of Psychiatrists' 'Guidelines on the administration of electroconvulsive therapy' there is no impediment to the use of ECT on children, stating that the risk for minors are the same as those for adults. Given that adults received some 6,393 ECT treatments in 2010-11—a simply staggering figure—there is clearly the potential for the number of children undergoing ECT to increase. This is despite significant community opposition to the use of ECT.

Some members may recall being bombarded with emails when we were debating the Mental Health Bill (and, unfortunately, many came well after) expressing outrage that children may be required to undergo ECT and other psychiatric treatments without their parents' consent. These concerns are still prevalent. Like me, these people do not consider ECT to be a life-saving treatment worthy of overriding their right to choose their family's treatment options.

Similar concerns have been expressed in Western Australia, where a very similar mental health bill is currently being debated. In fact, many are calling for the use of ECT and psychosurgery to be banned on minors under the age of 18. Such calls have found support in the Western Australian Commissioner for Children and Young People, who has recommended such a ban in her submission to the bill's consultation committee, stating, 'I have not seen any compelling evidence or reasonable argument to support its use in relation to children.'

Whilst I fully concur with the Commissioner's view, and if I could move an amendment in the alternative I would be asking members to vote on the use of ECT on minors, I am instead proposing to limit the use of ECT to only where a minor's parent consents. My amendment does so by removing the ability to essentially appeal a parent's refusal to allow their child to undergo ECT, with the Guardianship Board only called upon in cases where the parents or guardians are unable to provide consent (for example, due to incapacity). I believe my amendment to meet community expectations of the extent of parental authority, except where of course a life could be saved.

As for the minister's statement that 'there is no intention to open the act up for any further amendment at this stage', I would suggest that this is a matter for the majority. It is my hope that a majority of members will support the parental right to say no to their children undergoing ECT and all the trauma, stigma and suffering that that brings about.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

At 17:54 the council adjourned until Wednesday 2 May 2012 at 14:15.