LEGISLATIVE COUNCIL

Thursday 6 September 2012

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

STATUTES AMENDMENT (NATIONAL ENERGY RETAIL LAW IMPLEMENTATION) 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) (14:19): 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)—

Reports, 2010-11—
- Adelaide Hills Wine Industry Fund
- Clare Valley Wine Industry Fund
- Langhorne Creek Wine Industry Fund
- McLaren Vale Wine Industry Fund
- Riverland Wine Industry Fund
- SA Deer Industry Fund
- SA Grape Growers Industry Fund
- SA Pig Industry Fund

Management Plan for the South Australian Commercial Abalone Fishery

MURRAY-DARLING BASIN PLAN

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) (14:20): I table a copy of a ministerial statement made today by the Premier, the Hon. Jay Weatherill, on a better Murray-Darling Basin plan.

QUESTION TIME

AGRICULTURE INDUSTRY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:21): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question regarding the future of South Australia's agricultural industries.

Leave granted.

The Hon. D.W. RIDGWAY: On 28 August, Treasurer Snelling proclaimed that agriculture will fill the gap left by the shelving of the Olympic Dam expansion. The Treasurer went on to state that he, the Premier and members of the cabinet will be working their hardest to find new projects to fill this gap. Mr President, you might be interested to learn that, since the 2008-09 budget, the agriculture industry has seen a $201 million reduction in operating expenditure, not including another $11 million to be reduced by 2015-16 and a further $53 million reduction in the net cost of providing services. In addition, the 2010-11 budget announced another $80 million cut over four years, and a further $12 million was cut in the 2012-13 budget. My questions are:

1. Does the minister agree with the Treasurer's statement that agriculture is to be the state's growth industry now that the Olympic Dam expansion has fallen over and given that the government has cut over $100 million and 400 jobs in the primary industries department in recent budgets?

2. Given that the government expects agriculture to be the state's growth industry now that the Olympic Dam expansion has fallen over, why has the industry seen such budget cuts?

3. What new projects will the government be introducing that will support this important agriculture industry?

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 thank the honourable member for his most important question and an opportunity to talk about some of the wonderful achievements of this government in supporting our very important agriculture industry. I have already talked in this place about the importance of not talking down South Australia's economy and South Australian industries. We know that the announcement was that the Olympic Dam project is going to be deferred. We know that the opposition has tried to use that to scaremonger and create doubt, apprehension and a lack of confidence in our marketplace, which is a highly irresponsible thing to do.

Nevertheless, I have talked in this place before about the fact that there is a mining boom happening in this state that does not just rely on Olympic Dam. I have put the figures on record here before from back in the time when the opposition was in power. You could count on one hand (less than one hand) the number of mines that were operating, and now we have around about 11 that are operating or have been approved and about to go into operation, and we have 30-odd more of these projects in the pipeline.

We have seen that there is a significant mining and resources boom occurring; and our resources are still there, they are still in the ground, they still belong to us and we have an industry that is very busy taking full opportunity to develop and advance that particular sector. So to suggest that, because of one decision that was made, everything is doom and gloom, is absolute nonsense and we have many other viable sectors as well. Agriculture is one of those sectors, and I am happy to come back in a minute and talk in more detail about that sector. I have also talked in this place about the importance of our tourism sector growth.

The Hon. D.W. Ridgway: You've supported that really well with the visitor information centre haven't you?

The PRESIDENT: Order!

The Hon. G.E. GAGO: Tourism is a very important economic driver to this state and our regions and I have put that on the record on numerous occasions and, if the opposition wants me to, I am happy to put those details back on the record. There is a net growth in our tourism here in this state and, in the domestic markets, almost all the indicators of tourism growth have not only increased but surpassed national averages. Overall, South Australia's tourism is growing and that is no mean feat, particularly given this very difficult economic climate. There are many sectors that underpin the prosperity of this state, and agriculture is one of them, and a very important plank to this government's seven priorities is premium food and wine from a clean environment.

Members interjecting:

The Hon. G.E. GAGO: If you keep intervening, I will go longer. I will double that: I will use the whole hour. There is so much I would like to say about agriculture, so just keep intervening.

An honourable member: Why don't you talk about agriculture for a change?

The Hon. G.E. GAGO: That is what I am talking about. I am talking about our premium food and wine products coming from a clean environment. They are not even listening. That is one of the seven key planks of this government, and agriculture is a sector that very much underpins that. It just so happens that I recently announced some of the outcomes that I achieved from my recent trip to China where an MOU was signed to look at cooperating with the Fujian Province to establish a centre there that incorporates accreditation for food, health and safety standards.

The Chinese are very interested in looking at our technology and science around food standards and the centre would also include a retail and wholesale outlet. The Chinese indicated that they were incredibly interested in our premium food and wine products and also very interested in those aspects around our technology and biosecurity systems to ensure safe, good quality food. Two centres that we looked at in China indicated interest to really build on this, and it would very much assist our primary produce markets to directly sell through these outlets.

One of the things that our primary producers are saying is that under the current system it is very difficult using these exporters to move our produce into China. Our primary produce people lose control over being able to position and market their products because we do not have access to the complete market supply chain. These new projects—I was in China and signed an MOU, or

was party to a signature—would help overcome that, so this is very much being embraced by our growers, and this is just one example.

The sort of primary produce that the Chinese indicated interest in was obviously our fisheries and our seafood and aquaculture. They particularly have a lot of interest in rock lobster and abalone, but they are interested in all of our fisheries and, really, most of our primary produce. They are net importers and consider Australia's primary produce to be of high quality and, as I said, they are very much impressed with our quality standards.

These are just some examples of the work that this government is doing to develop not just future markets but long-term sustainable markets so that our primary industries can grow and develop, and this is a very important step forward and a really valuable initiative in terms of our agriculture sector.

FOOD MARKETING

The Hon. J.M.A. LENSINK (14:30): I seek leave to make an explanation before directing a question to the Minister for Agriculture, Food and Fisheries on the subject of food marketing.

Leave granted.

The Hon. J.M.A. LENSINK: Early last year, the then food marketing minister (Hon. John Rau) announced plans to introduce an appellation scheme for South Australia and, with great pomp and ceremony, announced:

> Our premium regional foods are the equal of any in the world—it's time we protected them with the same vigour as do the Italians and the French.

My questions for the minister are:

1. Does she agree with minister Rau that our premium regional foods require protection via an appellation scheme?

2. Has she sought estimates of what such a scheme would contribute to South Australia's economy?

3. Will she offer assistance to regional communities such as Kangaroo Island who still view the scheme as worthwhile?

4. How does the dropping of the scheme by this minister fit with the government's strategy of 'premium food and wine from our clean environment'?

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) (14:32): I thank the honourable member for her important question. Indeed, in July 2011, the previous minister for food marketing released an appellation discussion paper, called 'Appellation: have your say', to seek industry and also public views on the need for a regional food protection scheme. This resulted in an increased level of industry awareness and a lot of discussion of regional food issues.

This includes a desire to build regional protection and economic growth by strengthening collaboration between food, wine and tourism industries and also to help build and retain unique regional identities. I am advised that 27 submissions were received, and follow-up meetings with industry leaders indicated a desire to build regional protection through a strong and more resilient food and wine sector that utilises existing legislation. Not requiring excessive government interventions was preferred at the time.

There is an opportunity obviously to enhance industry knowledge to better utilise existing frameworks which may better address the objectives of an appellation scheme without the unintended consequences, such as barriers to competition, barriers to the marketplace and excessive red tape, which can be very costly and time-consuming. This includes the potential to use existing commonwealth legislation, such as the Trade Marks Act 1995, to look at some sort of protection of regional food products.

PIRSA is committed to collaborating with and financially supporting Food SA, and current projects include a regional signage program, a visiting media program and a regional seasonal program in the Central Market and PIRSA also contributing funds to a pilot demonstration scheme of locally administered and trademarked quality and branding by the Barossa Grape and Wine Association in collaboration with Food Barossa and Tourism Barossa. This project will develop and

launch a Barossa trust mark to pilot a regional branding and promotion scheme that aims to establish the Barossa Valley as Australia's leading regional destination for food, wine and tourism on a global stage.

Also, PIRSA has been involved in a project led by the Kangaroo Island Futures Authority and I think A-Gs is investigating some trademark opportunities with KI, so you can see a number of developments have occurred on a number of different fronts. Different regions have different views about this. Obviously, the regional branding needs to progress with support from regions and, as I said, it needs to involve local industries, it needs to really come from the ground up, and it needs to satisfy individual businesses within those regions.

Different regions are at different stages of consideration about these matters and there is also a range of different views. Where there is an interest from a region we have done quite a bit to assist in developing that branding, if you like. We have also asked that these groups feed into the group that has been set up around the state rebranding initiative so that there is some consistency of messaging occurring across these regional branding projects and the state project, so there is some coordination happening there.

DISABILITY UNMET NEED

The Hon. S.G. WADE (14:36): I seek leave to make a brief explanation before asking the Minister for Disability a question in relation to unmet need.

Leave granted.

The Hon. S.G. WADE: The July 2012 disability unmet need figures were released in the past week. They show that there is currently a record 560 people with disability on the category 1 unmet need waiting list for supported accommodation. This represents at least a 50 per cent increase in unmet need since the last state election. The disability sector has consistently asserted that funding commitments in future years is no substitute for addressing acute need now. My questions to the minister are:

1. When does the government modelling suggest that the number of people on the category 1 unmet need waiting list for supported accommodation will peak?

2. At what number does the government modelling suggest that the unmet need waiting list will peak?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:37): I thank the honourable member for his most important question. Disability Services and, I must say, the Guide Dogs Association of SA and NT records unmet need data for eligible people with disability who are waiting for services. This information is collected as part of the assessment and service allocation process. Services are directed to individuals on a priority basis according to the urgency of need. The Guide Dogs Association of SA and NT is the options coordinator for the sensory sector and manages demand for these services.

The July 2012 figures show 2,850 eligible persons are waiting for accommodation support, or community access, or community support and respite services. Of these, 1,221 people were assessed as critical—that is, category 1—at an immediate high risk of harm to self or others, or homeless. In the metropolitan area there is a total of 2,987 unique clients across all groups and categories, with 988 unique clients in country regions. Of the 2,987 metro clients, 1,111 are category 1 across all groups, compared to 410 of the 988 clients in country regions.

In 2010-11, 21,822 people were reported as receiving disability services in South Australia. Data about the number of people who received services in 2011-12 is expected to be available in October 2012. Unmet need data is published monthly by Disability, Ageing and Carers. I reiterate what I have said in this place before: we are the only jurisdiction in the nation that publishes unmet need data.

We do that for very good reasons: for transparency and openness. We want people to know exactly what is going on. Other states do not; they refuse to, but we do, and we will continue to do so. South Australia is the only state to publish such comprehensive data regarding people waiting for disability services and we do it for the reason that we wish to know where we need to meet the demand in the sector.

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

DISABILITY UNMET NEED

The Hon. S.G. WADE (14:39): Do I take it from the minister's answer that he does not expect the unmet need to peak?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:39): Sir, I have given my answer.

CHINA TRADE LINKS

The Hon. G.A. KANDELAARS (14:40): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about her recent trip to China.

Leave granted.

The Hon. G.A. KANDELAARS: China is on the brink of being the largest economy in the world and accounts for almost one-fifth of South Australia's exports. In 2011, we welcomed more than 19,000 tourists from China to South Australia alone. Can the minister further inform members about her recent time in China and some of the work done to strengthen the relationship between China and South Australia?

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) (14:41): I thank the honourable member for his most important question and his interest in these areas. The purpose of my recent visit to China was to promote South Australian goods and services and to try to create better trade links and a gateway for South Australian tourism, including food and beverage imports into China. We were particularly focused on the burgeoning middle class in China.

China's economic growth over the past two decades has been around 10 per cent and this has led to the materialisation of a growing middle class with changing consumption patterns and some fairly definitive consumer preferences, and they include quality produce and assurances about safety. Capturing a larger share of the China market means building awareness and promoting South Australia among Chinese buyers, investors, travellers and travel agents. It is essential to ensure that South Australia is perfectly positioned to be a long-term, reliable supplier and tourist destination for the Chinese market.

The Fujian province is identified as an important market close to the coast, with a major port and a climate similar to northern Australia, making our respective food production capabilities complementary. It was here that I met with the Governor of the Fujian Province, Mr Chen, and his delegation. The Fujian government is particularly interested in food safety and integrity. The result of discussions around strengthening bilateral relations between the South Australian government and the Fujian provincial government was the signing of a memorandum of understanding between Primary Industries and Regions South Australia and the Fujian Department of Agriculture. The MOU has been put in place initially for two years and seeks to underpin collaboration in establishing trade links for premium grade food and wine and also research links to support food hygiene and safety standards.

I also travelled to Xiamen city, the main port and gateway to the Fujian Province. Here I received a briefing from local government officials and China-Australia Entrepreneurs Association Incorporated regarding two projects in Zhangzhou. The first visit in Zhangzhou city was to the proposed food safety and hygiene project. The purpose of this facility will be to provide a research and testing centre that will incorporate a wholesale and retail system to ensure access to quality premium food and beverage from South Australia and also the Australian marketplace, but we were obviously there promoting South Australia's access.

The second project was a new Australian-style park. The China-Australia Entrepreneurs Association is building this centre in conjunction with the Zhangzhou city government, with an aim to introduce Australian customs and cultures into China. I was advised that they hope to have the project completed by the end of 2014. I was further advised that, once complete, the centre is to feature Australian food and wines and create an Australian experience. It will also feature Australian animals and plants. I understand that people from our zoo recently visited to look at the suitability of the environment to place some Australian animals there. It is anticipated that the centre will attract a lot of tourists and become a landmark under the support of governments at all levels of that province.

I also met with the management of China National Cereals, Oils and Foodstuffs Import and Export Corporation (COFCO). COFCO is one of China's state-owned food processing holding companies and is China's largest food processing manufacturer and trader. Discussions were broadly around South Australia's food and beverages, with COFCO being particularly interested in our wine. Following this, I met with representatives from the Ministry of Commerce to discuss the federal government China-Australia food security research project that is soon to be completed. I certainly made sure I put forward South Australia's food credentials as a premium food and wine producer.

I also progressed tourism initiatives whilst in China, such as with PATA, the leading authority on travel and tourism in the Asia-Pacific region. PATA works in partnership with private and public sector members to enhance sustainable growth, value and quality of travel and tourism to-and-from and within its regions. That meeting proved to be very insightful into the current and future potential of the Chinese outbound market.

I met with Mr Tan, the CEO of China Southern Airlines, to pave the way for further discussions and affirm the South Australian government's commitment to securing more direct international air access. China Southern Airlines is the largest of China's big three state-owned airlines. It has a hub in Guangzhou and Beijing and operates a fleet of 400 aircraft serving 172 cities, and it is a very successful organisation. In summary, the South Australian government will continue to promote South Australia to the Chinese market to extend opportunities for our food, beverage and tourism industries.

CHINA TRADE LINKS

The Hon. R.I. LUCAS (14:46): I have a supplementary question arising out of the minister's answer. Can the minister indicate what the total cost of her trip was, both from her parliamentary allowance and from any ministerial office expense, and who, if anyone, travelled with the minister?

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) (14:47): All of that information is publicly available, and I am happy to bring back those details.

CHINA TRADE LINKS

The Hon. R.I. LUCAS (14:47): Supplementary question: can the minister indicate who travelled with the minister on the trip to China?

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) (14:47): The delegation consisted of myself, my chief executive, Ian Nightingale, an adviser, Gillian Hewlett, and also from the China-Australia Entrepreneurs Association—I think he is the chief executive or president here in South Australia—Sean Keenihan. I think that is the extent of the delegation but, as I said, I am happy to provide all those details in terms of the full membership of the delegation and the costs associated.

Obviously I will also be providing a parliamentary report that will outline details of all of my visits, who I met with and what the purpose of each visit was so that members can absolutely be reassured of the level of activity. An enormous amount of work was achieved and some very positive outcomes for the state were also achieved. As I said, I am happy to make those details available to honourable members.

MEDICAL HEATING AND COOLING CONCESSION

The Hon. K.L. VINCENT (14:49): I seek leave to make a brief explanation before yet again asking the Minister for Disabilities and Social Inclusion questions regarding the medical heating and cooling allowance.

Leave granted.

The Hon. K.L. VINCENT: It is more than a little frustrating to have to raise this matter again, having already previously asked these questions here in the Legislative Council and in my correspondence with the minister's office. I feel, however, that it is imperative that these concerns that constituents have raised with me are satisfactorily met, and so here I am again asking these questions. The application forms for the concession, and the explanatory materials that accompany them, are seriously flawed. It is not a matter of them being confusing, or even ambiguous: they

actually contain incorrect and misleading information. They do not just misrepresent the eligibility criteria for the concession: they specifically encourage ineligible people to apply for it.

Accompanying the form is a fact sheet that gives examples of medical eligibility for the scheme. It gives three examples of people who might apply for the scheme, one of whom is ineligible and two who are eligible. Unfortunately, the fact sheet is incorrect: all three examples given are ineligible. The examples given on the form indicate that individuals with complications from diabetes and individuals recovering from severe burns are eligible for the scheme, when in fact they are not. Eligibility, as the minister has repeatedly informed us, is limited to a list of nine medical conditions, and those nine conditions alone. Why then is the minister's department distributing application forms and other materials that say otherwise?

I have already alerted the minister to the serious problems with the forms in questions I asked in this place in July and followed up those concerns in a letter soon afterwards. Despite this, when I checked DCSI's website as recently as yesterday morning (a month and a half later) the same inaccurate forms and misleading information were still being distributed. I find it extremely concerning that despite the minister having been made aware of the problems with the application forms and accompanying materials, no steps appear to have been taken to correct them. My questions to the minister are:

1. Does the minister acknowledge that there are serious flaws and inaccuracies in the application form for the medical heating and cooling allowance and the materials that accompany those forms?

2. How many applications for the medical heating and cooling allowance have been rejected because doctors or people with disabilities have ticked the box on the form for the non-existent 'other qualifying condition'?

3. Does the minister accept that much of the confusion regarding the allowance has been caused by the flawed design of the application form and the many inaccuracies contained in materials about the concession distributed by his department?

4. What steps will the minister now take to correct the information about the allowance that his department is distributing to doctors and people with disabilities?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:52): I thank the honourable member for her most important question and her ongoing interest in this area. It is undoubted that a key priority for the Weatherill government is affordable living for South Australians. That is why this government has introduced the medical heating and cooling concession, to provide assistance to people on low incomes and pensions who may incur a higher energy cost because of their medical need to use an air conditioner or heater on a frequent and prolonged basis.

The concession is available to people who are on low or fixed income or pensions, such as those receiving an eligible Centrelink or Department of Veterans' Affairs pension or allowance and/or who hold an eligible card. The concession is intended for those most in need, financially and medically. Applicants must provide evidence that they have a qualifying medical condition that has been clinically assessed as requiring close control of an environmental temperature due to an inability to self-regulate body temperature. The concession is not intended for people who feel uncomfortable or unwell in hot or cold weather. Whilst we can understand that discomfort, that is not the intention of the concession.

The Department for Communities and Social Inclusion is currently seeking further expert medical advice as to additional medical conditions that can be determined as conferring eligibility through the scheme, as the Hon. Kelly Vincent knows because that is exactly what I have told her in our communications in the past. A panel of medical experts is currently reviewing unsuccessful applications and associated documentation on behalf of Department for Communities and Social Inclusion, as the Hon. Kelly Vincent knows because that is exactly what I have told her in correspondence in the past. The panel is expected to complete the review in the near future.

Unsuccessful applicants have been advised that the medical eligibility criteria of the scheme are being reviewed and they will be notified of the outcome of this review. Cost pressure assistance measures will always remain a high priority for this Labor government, which is in contrast to what we have seen from conservative governments around the country. The South Australian government provides eligible applicants with a range of concessions towards public

transport and household costs, which may include energy, water, sewerage, council rates and, of course, the emergency services levy.

In addition, the government provides concessions to eligible South Australians in areas of driver and vehicle licensing, dog registration, funeral assistance, the spectacle scheme and the residential parks scheme. This government has consistently and significantly raised these concessions, with an additional $23.9 million, I am advised, allocated in the 2011-12 state budget over the next four years. In the 2012-13 state budget the Treasurer announced an extra $4.2 million over the next four years to support households on low and fixed incomes who are experiencing high utility prices.

We will continue to work with the community sector to implement a program that will include a utilities literacy program to improve financial management and energy efficiency practices. These are the things the Labor government does to help out those who are most vulnerable in our community. The Hon. Kelly Vincent knows the answers to the questions she has asked in this chamber because of what I have written to her in previous correspondence.

MEDICAL HEATING AND COOLING CONCESSION

The Hon. K.L. VINCENT (14:55): By way of supplementary question, whilst the review of the scheme is being undertaken, will the minister simply remove the other box from the application form so that no more ineligible applications will be received?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:55): The Hon. Ms Vincent, despite all the attempts of assistance I have given her in this situation, simply does not understand the form. The other box is useful, the other box has been used by people who may have similar symptoms or a qualifying condition to ones—

The Hon. K.L. Vincent interjecting:

The Hon. I.K. HUNTER: Well, the Hon. Ms Vincent does not know what she is talking about, sir.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.L. Vincent interjecting:

The PRESIDENT: Order!

The Hon. K.L. Vincent interjecting:

The PRESIDENT: Order! The Hon. Ms Vincent should ask a supplementary if she wants to.

The Hon. K.L. Vincent: I did.

The PRESIDENT: Yes, but if you need to ask another one, you may, but you can't go ranting and raving without—

The Hon. K.L. Vincent: Everyone else does!

The PRESIDENT: They are out of order, the same as you! Everyone else is out of order, the same as you.

The Hon. K.L. Vincent: Oh, good, good. It is just that it is important.

The PRESIDENT: I am sure it is important to you, but you must do it the right way, like I expect others to do it. Do you have any further questions?

The Hon. K.L. Vincent: No, sir.

WORKCOVER

The Hon. CARMEL ZOLLO (14:56): My question is to the acting Minister for Workers Rehabilitation. What is WorkCover doing to recognise excellence in rehabilitation and return to work, and what did the WorkCover annual conference deliver?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:57): I thank the honourable member for her very important question.

The government is committed to ensuring that South Australian injured workers are supported to remain at work wherever possible or, if time off is required, to return to work quickly and safely. Being at work is critical for the health and wellbeing of injured workers, and the longer a worker is away from work the harder it is to return.

Through its annual awards program WorkCover recognises the outstanding efforts and achievements of injured workers, their employers and others who assist them in remaining at or returning to work. The seventh Recovery and Return to Work Awards was held last Tuesday 4 September 2012 at the Adelaide Convention Centre. This year WorkCover received 110 applications for the awards, with 27 selected as finalists across seven categories.

The stories from this year's finalists include: a cabinetmaker whose hand was caught in a grinder, resulting in the amputation of three fingers; an advocate who uses a wheelchair and who suffered an elbow injury, which further limited her overall mobility; and a mature-age apprentice chef who injured her knee, preventing her from carrying out the work she loved in the kitchen. The finalists' stories provided an insight into the far-reaching impact an injury can have on a worker, their families, friends, employers and work colleagues. They also highlight the key importance of a supportive employer, showing that truly amazing recoveries are possible when everybody works together.

The awards were followed yesterday by the annual WorkCover SA conference, which I had the pleasure to open officially. The theme for this year's conference was 'Integrate, innovate and inspire'. The conference helps improve the services, skills and engagement of the people who contribute to the delivery of better outcomes for injured workers and employers. The speakers included Michael Henderson, a corporate anthropologist, who shared his innovative ideas on workplace culture and its importance in cultivating positive return-to-work attitudes.

Nando Parrado, one of the world's top inspirational speakers, shared firsthand the remarkable story of the rugby team whose plane crashed in the Andes in 1972. Through the support of WorkCover's conference sponsors we were able to hear their story of courage, resilience, teamwork, determination and leadership in dealing with a life-changing survival experience. There was a range of international and Australian experts contributing to the program. The conference was highly successful, providing inspiration and practical tools for those involved in supporting injured workers to recover at work.

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

WORKCOVER

The Hon. R.I. LUCAS (14:59): Can the minister indicate why, after 10 years of a Labor government, South Australia's WorkCover scheme has the worst return-to-work performance of any scheme in Australia?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:00): I think that question, if it is well and truly true, deserves the attention of the actual minister to give a more in-depth answer.

The PRESIDENT: There is a supplementary question; the Hon. Ms Franks.

WORKCOVER

The Hon. T.A. FRANKS (15:00): Given that that is such a concerning statistic, will this acting minister undertake to urgently contact the minister and give an answer to this council?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:00): Mr President, every question that I get in this place that I need to take on notice is given a priority and is sent off to the appropriate minister for an answer as soon as possible.

GOVERNMENT EXECUTIVE CONTRACTS

The Hon. R.I. LUCAS (15:01): I seek leave to make an explanation prior to directing a question to the Leader of the Government on the subject of disclosure of CEO contracts.

Leave granted.

The Hon. R.I. LUCAS: On 1 May this year I asked a question about disclosure of the contract of Freddie Hansen, the new head of what was then known as the urban renewal authority, and indicated that Mr Hansen had commenced work as the head of the urban renewal authority

without an approved contract or a signed contract. The minister on that occasion asserted that these were questions based on incorrect and inaccurate facts and figures and that I just made things up, filled the gap with whatever I fancied and just pulled this information from the sky.

Embarrassingly for the minister, two days later, we were able to locate a copy of the contract which indicated that, indeed, Freddie Hansen had started work without a signed contract and, even at that stage, which was then two weeks later, the contract still had not been signed by the appropriate minister after he had commenced work.

Last month, the Minister for Police announced that Mr Tony Harrison had been appointed the Director-General of Community Safety. Today, my office has sought a copy of the contract from the Office of Public Employment and Review and we were told that they do not hold a copy of the contract. We were referred to the Department for Communities and Social Inclusion and the human resources sector and told that they would hold a copy of the contract.

We have been told they do not hold a copy of the contract and they are now trying to locate it and have suggested other areas where we might start looking for the missing contract. Information provided to the Liberal Party is that, as with Freddie Hansen, Mr Harrison commenced work without a signed and agreed contract. My questions to the minister are:

1. Is it correct that Tony Harrison commenced his new position without a signed and agreed contract and, if so, why?

2. Which minister was responsible for allowing Mr Harrison to commence his new position without an agreed contract?

3. What is the total remuneration package that has been agreed with Mr Harrison for his new position?

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) (15:03): I thank the honourable member for his questions and am happy to refer those questions to the relevant minister in another place and bring back a response. However, I absolutely stand by my previous comments that the Hon. Rob Lucas regularly comes into this place with inaccurate information and assertions that are incorrect.

He regularly does that, and I could cite a number of examples. What is more, he also regularly comes into this place and names and maligns innocent people, which is a disgraceful thing to do and a disgraceful abuse of this place and the privilege of this place. I certainly do stand by all of those comments and, as I said, in terms of the details of the questions that the honourable member has asked, I will pass them on to the relevant minister and bring back a response.

SAFEWORK SA

The Hon. J.A. DARLEY (15:04): I seek leave to make a brief explanation before asking the Minister for Industrial Relations questions relating to SafeWork SA.

Leave granted.

The Hon. J.A. DARLEY: A few months ago the federal government commissioned KPMG to undertake a review of the Fair Work Australia investigation into the Health Services Union Craig Thomson affair. The report was finalised in August and, amongst other things, Fair Work Australia was found to be underresourced and ill equipped. My questions are:

1. Relating this back to SafeWork SA, can the minister advise whether SafeWork SA's 89 inspectors are adequately resourced, equipped and prepared for any new responsibilities that may result if the Work Health and Safety Bill is passed?

2. Can the minister advise whether any of SafeWork SA's 89 inspectors hold relevant tertiary qualifications and, if so, can the minister give details about these qualifications?

3. Can the minister advise whether SafeWork SA's inspectors and investigators hold any relevant industry experience and, if so, can the minister provide details of this experience?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:06): I would like to thank the member for his question. SafeWork SA budgeted full-time equivalent positions comprise 89 occupational health and safety inspectors and 34 industrial relations inspectors. Help centre staff include 4.6 full-time equivalent dedicated

information officers who are available to answer phone calls related to occupational health and safety or industrial relations.

For the 2011-12 financial year, the help centre answered 75,242 calls (29,678 IR and 44,565 occupational health and safety), of which 66.61 per cent were answered within three minutes of being queued. For the period 1 July to 31 July 2012, the help centre answered 4,283 calls (1,161 IR and 3,122 occupational health and safety), of which 85.66 per cent were answered within three minutes of being queued.

All occupational health and safety complaints and notifications are directed through the SafeWork SA Help Centre. Where appropriate, complaints are dealt with by contacting parties by phone or email, issuing instructions and requesting proof of compliance. For the 2011-12 financial year, the help centre recorded 2,756 occupational health and safety activities. This figure is made up of 1,326 notifiable dangerous occurrences, 290 notifiable work injuries, 1,165 complaints, and 145 bullying allegations.

Of this number, during the same financial year the help and early intervention centre managed 1,183 activities, being 734 notifiable dangerous occurrences, 103 notifiable work injuries, 331 complaints and 15 bullying allegations. For the period 1 July to 31 July 2012, the help centre recorded 246 occupational health and safety activities. This figure is made up of 92 notifiable dangerous occurrences, 30 notifiable work injuries, 112 complaints, and 12 bullying allegations.

Of this number, during the same period the help and early intervention centre managed 96 activities, being 44 notifiable dangerous occurrences, 11 notifiable work injuries, and 41 complaints. The early intervention process provided by the help centre allows for increased prevention and intervention activities undertaken by inspectors. Statistics for safety related activities for the period of 1 July 2011 to 30 June 2012 include 30,580 occupational health, safety and welfare workplace intervention activities; 5,696 investigations finalised; 2,295 improvement notices issued; and 857 prohibition notices.

The SA private sector has been covered by the national industrial relations system since 1 January 2010. All industrial relations claims regarding sole traders, partnerships, other unincorporated entities and non-trading corporations now commence with the office of the Fair Work Ombudsman.

Regarding industrial relations inspectorate activities, for the period 1 July 2011 to 30 June 2012, statistics recorded under state industrial relations are: 220 worksite visits were recorded; 254 investigations were finalised; 63 per cent of investigations were finalised within 90 days of commencement; and $479,203 in underpayment of wages etc. was recovered.

There are various occ health and safety and IR inspectorate activities undertaken by SafeWork SA to achieve these performance targets and to help make South Australian workplaces safer and fairer. These activities include workplace interventions, investigations and responses to a variety of requests for information and assistance from employers and employees.

The SafeWork SA Industry Intervention Program targets high-risk industry sectors and employers with poor occ health and safety performance. Specific risk reduction strategies will address high-risk plant and work practices. The program is aligned to the national occ health and safety strategy injury reduction targets and South Australia's Strategic Plan. It is also aimed at reducing WorkCover's unfunded liability. This program will continue to target workplace and public safety issues, particularly high-risk plant, dangerous goods and major hazard facilities.

The priority industries are manufacturing, construction, transport and storage, community services, wholesale and retail, and agriculture. Injuries targeted include body stressing, falls, slips and trips, being hit by moving objects and hitting objects with a part of the body. SafeWork SA compliance programs incorporate national strategies that may involve other states and territories. The programs are often state-based and address local issues but also reflect nationally aligned priority industries or hazards.

The question basically, I imagine, was going to whether we are budgeting enough to fulfil our obligations under the act. South Australia is on target to achieve a 40 per cent reduction in injuries. We are leading all states with that target, so my answer is that we are doing very well in the budgets that we do have. In regard to whether they have a tertiary education or industry-specific skills, they go through a very comprehensive interview and process before they are employed, and that would all be taken into consideration then.

Whether it is up to me to individually highlight whether someone has a tertiary degree or whatever, I do not know whether that is really my right, but they do go through a very complex and thorough interview and process before they are hired. As a result, the sort of skills and qualifications they do have have helped us and been a major reason why we have achieved such significant reductions in workplace injury.

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

SAFEWORK SA

The Hon. J.A. DARLEY (15:13): Minister, in answer to my first question, are you saying yes or no?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:13): I do not believe it is appropriate to answer with a yes or a no. I have given a very comprehensive answer here, probably much more than what was expected, so I think I have adequately answered the question.

The Hon. D.W. Ridgway: I told the Premier yesterday he was an embarrassment and he believed me.

The PRESIDENT: Order!

The Hon. D.W. Ridgway: He did! He said, 'What's he done now?'

The PRESIDENT: He was talking about you. The Hon. Mr Gazzola.

DISABILITY SERVICES

The Hon. J.M. GAZZOLA (15:14): My question is to the Minister for Disabilities. Minister, will you inform the chamber on the new Disability Services Positive Behaviour Support program?

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 most important question. I can advise that Disability Services has released a new framework for managing behaviour of concern amongst people with a disability. By 'behaviour of concern', I mean any behaviour that is of such intensity, frequency or duration that it may threaten the quality of life or safety of the individual themselves or other people with whom they interact. Examples may include aggression, property destruction or self-injurious behaviour. It may even include self-withdrawn behaviour which very rarely affects others but is not conducive to positive development for that particular individual.

The aim of the new framework is to reduce and, ultimately, eliminate these behaviours of concern but in a positive way. This is done by improving the client's skills and ability to interact successfully with carers, co-tenants, family members and the community. This, in turn, improves their quality of life. By managing such behaviour in a positive way, we hope not only to improve the relationships between individuals, carers and families but also to reduce the need to use restrictive practices to manage such behaviour of concern, because restrictive practices often involve removing a person's freedom. Restrictive practices can include the use of time-out rooms, medication or restrictive devices in very extreme circumstances—and, clearly, these should only be used as an absolute last resort.

I am pleased to say this framework offers many alternative practices to manage challenging behaviour before it escalates to extreme and dangerous situations. The aim is to reduce the need for restrictive practices and to improve behaviour into the longer term. This reflects the changes taking place in the disability sector globally with a focus on improving the rights of people with disability. It is expected the new framework will be implemented through Disability Services accommodation services over the next 18 months.

The government acknowledges that people with a disability have not always received services or lived in environments that support the development and maintenance of positive behaviours. While some good work has already been done in addressing these issues, not least the move away from institutional accommodation, the government is committed to improving the quality of life and rights of people with a disability. The introduction of this framework is another important step in this process.

JAMESTOWN PRIMARY INDUSTRIES AND REGIONS OFFICE

The Hon. J.S.L. DAWKINS (15:16): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the possible closure of a Primary Industries and Regions SA office in the Mid North.

Leave granted.

The Hon. J.S.L. DAWKINS: My colleagues in the other place—the members for Hammond and Stuart respectively—have had recent contact with a number of members of the Upper North Farming Systems Group. They are concerned about the possible closure of the PIRSA office in Jamestown and a subsequent transfer of office operations to Clare.

When examining the state budget for 2012-13, it is alarming to see a reduction in rural services funding of $1.3 million. The Upper North Farming Systems Group has a membership base of approximately 100 farmers from Peterborough, Quorn, Craddock, Wandearah, Morchard, Pekina, Booleroo Centre and beyond. The group has been established for 12 years and is affiliated with the Low Rainfall Association. Of high concern to this group is the work of Rural Solutions, a service of PIRSA that plays an intricate role with the Upper North farms, particularly in the project trials that are managed throughout the low rainfall districts.

At present, it is convenient for staff to call out to a trial site when they have a couple of hours spare to check on the progress of the trial. However, if the proposed change takes effect and operations shift to Clare, staff will find themselves some 74 kilometres further away from the trial sites, substantially increasing transit time and making practical checks on trial progress increasingly difficult. It is also important to note that, in contrast to the location of PIRSA's current office in Jamestown, the proposed alternative location of Clare is in a high rainfall district. My questions are:

1. Will the minister confirm whether the government is intending to close the PIRSA office in Jamestown and relocate its office operations to Clare?

2. Will the minister explain what rural services were slashed in order for $1.3 million to be cut from the budget?

3. What assurances can the minister give the Upper North Farming Systems Group and other similar groups that PIRSA will continue to provide adequate, timely and effective support through Rural Solutions to projects in the lower rainfall districts?

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 thank the honourable member for his important questions. As I have put on the record in this place before, budget savings were required across all agencies over a number of years, and that has also included PIRSA. We have just been through a very rigorous estimates session and budget session where the details about those budget savings were made available, so I refer the honourable member to those documents for specific details.

However, in general terms, what PIRSA has tried to do—and other agencies as well—is to deliver those savings to areas that are not front-of-counter services or direct customer services. We have attempted to do things like reduce duplication and other inefficiencies and deliver the savings that way.

The Hon. J.S.L. Dawkins: Can you rule out the closure of the Jamestown office?

The PRESIDENT: I am sure the minister will get there. Be patient.

The Hon. G.E. GAGO: In terms of the delivery of regional services, PIRSA obviously delivers a range of services to South Australia's primary producers through a network of district offices and research centres. Services are funded by state appropriation, industry funds or a commercial fee for service, such as in the case of Rural Solutions. The bringing together of the regional development portfolio with other portfolios is one of those important synergies that we have been able to achieve. This new agency enables—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: —the bringing together of a range of complementary expertise.

The Hon. J.S.L. Dawkins: I would like to hear the answer.

The Hon. G.E. GAGO: Well, listen. Why don't you just be quiet and listen?

The PRESIDENT: Order!

The Hon. G.E. GAGO: I am giving you an answer. In addition, there are key regional hubs for PIRSA. They are in Port Lincoln, Clare, Loxton, Lenswood and Mount Gambier. This means that services across each of those regions will be coordinated from those hubs. I have been advised that each of those hubs will maintain a front-counter service, provide licensing transactions, facilities for meetings and video conferencing, and general administrative services. I have been advised that those key regional hubs, including the one at Clare, will continue—that is to the best of my knowledge.

The Hon. J.S.L. Dawkins: What about Jamestown? Jamestown is going?

The Hon. G.E. GAGO: I do not have any information on Jamestown. I am not aware of any changes but I am happy to take that on notice and bring back any further information that might be relevant to answer the member's questions.

ANSWERS TO QUESTIONS

ROYAL ADELAIDE HOSPITAL

In reply to the **Hon. D.W. RIDGWAY (Leader of the Opposition)** (8 June 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):

1. No $3 billion contract was signed.

2. There are no secret additional costs.

TASTING AUSTRALIA

In reply to the **Hon. T.J. STEPHENS** (9 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): I am advised:

1. The South Australian Tourism Commission (SATC) does not disclose dollar amounts relating to event marketing, based on the commercial value of the information. Discussing this information could reveal commercially confidential information that may prejudice the future supply of such information, weaken the State's commercial negotiating position and compromise the confidential information of third parties.

However, I can advise that the SATC developed a comprehensive marketing strategy to promote the 2012 Tasting Australia event.

The SATC predominantly targeted the Melbourne and Sydney markets, as well as Brisbane and Perth. In addition to this, there was a strategy in place to engage South Australians with the event.

The SATC's marketing campaign ran from February, through to the staging of the event. This timing was chosen to align with the launch of the official program, release of tickets, and the trend of people increasingly booking interstate travel with shorter notice.

Key publications and online sites utilised in the campaign included:

- Selector Magazine;
- Delicious Magazine;
- Australian Gourmet Traveller Magazine;
- Good Weekend Magazine;
- taste.com.au (NSW & Victoria);
- travel.com.au (NSW & Victoria); and
- adelaidenow.com.au

In addition, the event was marketed directly to an online database—Friends of Tasting Australia—which has more than 2,500 subscribers.

A key element of the marketing strategy was the new Tasting Australia website. The site was launched on 16 February 2012, and fully outlined the events, venues and celebrities featuring at Tasting Australia 2012.

The event was promoted through events in Sydney and Melbourne late last year and earlier this year. A media event was held in Sydney in December with local media and some celebrity guests in attendance, promoting the 2012 program of events. Also, in February 2012, Tasting Australia formed part of the Advantage SA Activating Adelaide functions in Sydney and Melbourne, which was an opportunity to promote the event to local media and expats.

TOURISM COMMISSION

In reply to the **Hon. D.W. RIDGWAY (Leader of the Opposition)** (15 March 2012).

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): I am advised:

1. The South Australian Tourism Commission (SATC) conducts more than $5 million of business using foreign currency every year. This includes funds required to undertake overseas marketing activities, pay costs for international representatives and funds for the payment of various contracts.

A foreign exchange hedging transaction aims to eliminate or reduce the impact of currency price fluctuations by using appropriate forward cover rather than the 'spot' exchange rate on delayed settlement.

The Treasurer of South Australia has issued instructions with regard to agencies managing their foreign exchange exposures. All public authorities as defined by the Public Finance and Audit Act 1987 are required to comply with the instruction, unless an exemption is obtained from the Treasurer.

In 2009-10 and 2010-11, SATC's book loss on foreign exchange arose when the value of the Australian dollar increased in respect of the forward hedged rates obtained through the South Australian Government Financing Authority. One of the other characteristics of the foreign exchange is that the fluctuations in the exchange rate will cause one currency to lose its monetary value, while others to gain, so there is a continuous motion in prices overtime.

WORK HEALTH AND SAFETY BILL

Adjourned debate on second reading.

(Continued from 28 June 2012.)

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:23): I thank all honourable members for their comprehensive contributions to the debate on the Work Health and Safety Bill. This is a historic moment in the development of occupational health and safety legislation in this country. This bill affords a unique opportunity to deliver a legal framework for 21st century Australian workplaces that will benefit all workers and business in both South Australia and the nation as a whole.

Far from representing a national takeover of occupational health and safety, as the Hon. Mr Lucas would have us believe, this bill represents a mature approach to federalism and is the accumulation of years of effort, collaboration and cooperation by workers and their representatives, business and industries and their representatives, and governments to create nationally consistent occupational health and safety laws in Australia.

The evolution of this bill stemmed from a recognition that in a country the size of Australia it simply does not make sense to have nine sets of separate legislation covering workers' safety. There is compelling logic to the concept of national health and safety legislation. Business and industry groups, who were the initial drivers of the national harmonisation process, recognise this, as do workers and government.

The bill puts into effect this government's commitment to provide the highest level of protection to workers in this state so that no-one has to feel angry about losing a loved one at work and so that workers and their families and their employer or the business that engaged them do not

have to deal with a work-related injury, illness or even death. This commitment has been mirrored by all states and territories and the commonwealth, all of whom support the fundamental principles and the core model provisions in this bill.

The legislation has been passed in New South Wales, Queensland, Tasmania, the Australian Capital Territory, the Northern Territory and the commonwealth. I confirm that the situation in Tasmania has been resolved since the Hon. Mr Lucas' speech, which suggested that the ultimate position of the Tasmanian parliament is still up in the air in terms of what will or will not occur. Tasmania is not up in the air. The Tasmanian House of Assembly has agreed to the 1 January 2013 start date for its Work Health and Safety Bill, the provisions of which are completely consistent with the bill before us today.

There has been a lot of fearmongering about the effects of these laws. I want to assure honourable members that these fears are misguided and, sadly, often based on misinformation from lobby groups with a particular self-interest in seeing this legislation defeated. The bill before us today provides the same progressive standards of safety to all workers and businesses in Australia. It has been subject to extensive consultation, which has involved all Australian governments, key local and national business groups and unions, the SafeWork SA Advisory Committee and all other individuals and groups interested in ensuring the health and safety of workers.

It is a testament to the commitment of all those involved that we have reached this pivotal moment in the history of work health and safety in Australia. As elected members of parliament, we should not let down all those people who have worked so hard for so long to deliver this major reform. Let us make no mistake about this. Workers in this country deserve the same standards of safety wherever they work. Businesses have a right to expect that they will operate in the same work health and safety legal framework, irrespective of their location. Not only are these fundamental principles and rights that should not be denied, but they also make economic and practical sense.

Many issues and questions were raised during the second reading contributions. I provide the following responses as a prelude to the more detailed explanation of the merits of the legislation. The Hon. Ann Bressington and the Hon. Kelly Vincent raised the issue of asbestos and in particular asked for the government to state its intentions in relation to mandatory air monitoring. The government understands the importance of air monitoring during the removal of asbestos, and it paid close attention to the advice from the Asbestos Advisory Committee.

The government will continue to require mandatory air monitoring in the first 12 months of the operation of the Work Health and Safety Bill. During this time, SafeWork SA and the government will seek to secure the support of interstate jurisdictions to also move to mandatory air monitoring. Should this not be successful, the government will continue to require air monitoring as a licence condition for non-friable asbestos removalists. The capacity to require this as a licensing condition is provided for in the Work Health and Safety Regulations 2012.

The Hon. Ann Bressington also asked about the extension of the notification period for the removal of asbestos. I confirm on the record, as was requested, that, in relation to the notification period for the removal of asbestos, where special circumstances arise, such as the unforeseen presence of asbestos or other unexpected events, immediate notice can be given. But as we would expect, SafeWork SA will not authorise asbestos removal to proceed if the removal process put workers and others at risk. These matters, of course, relate to the regulations under the bill, but I want to assure this council that the regulations relating to asbestos are better and stronger than those that currently exist.

The Hon. Kelly Vincent asked about training and education programs under the new legislation and the impact of the laws on some home renovators. Let me assure the honourable member that workplaces, employers and workers will have access to the best information available and will be supported by the transition to a new legal framework.

SafeWork SA will be delivering an extensive program of engagement to inform and educate the South Australian community on the Work Health and Safety Bill. The program will provide a variety of information sources to meet the needs of business and workers. This will include information sessions that will be available to the public, as well as information sessions that will be targeted at specific injuries and groups, including volunteers, licence holders, asbestos removalists and group-training organisations. In addition, bulletins and other material will be distributed to businesses and individuals to provide support and guidance on the new legislation.

The work health and safety website will also continue to be maintained and updated throughout the transition period to provide ongoing access to relevant information on work health and safety laws, including fact sheets, frequently asked questions, comparison tables and presentation material.

I take this opportunity to also point out that this legislation is supported by a significant number of codes of practice. Contrary to the unfounded fears expressed by members of the opposition, the very purpose of the codes of practice is to provide practical guidance to workplaces on how to comply with a legal duty. Far from being an additional regulatory burden, they are a support tool. This goes to the heart of the honourable member's question about how will workplaces be assisted in the managing of safety obligations. The regulations prescribe what needs to be done to ensure safety and the codes provide guidance on how to do it.

The Hon. Ms Kelly Vincent also asked: will an investor or resident who renovates a house on weekends to the extent that the renovation is worth more than $250,000 be required to have a safety inspector on site? The answer is no. An individual conducting home renovations would not qualify as a person conducting a business or undertaking and therefore would not come within the scope of the Work Health and Safety Bill.

To clarify: where a private individual engages the service of a contractor it is a customer to business relationship and not a PCBU to worker relationship. In that instance the contractor is a person conducting a business or undertaking in their own right and would be responsible for their own health and safety under the Work Health and Safety Bill. In short, let me be very clear about this: I understand the honourable member's concerns about the potential implications of this legislation for residents and homeowners. This legislation does not apply to homeowners whose residences are used for domestic purposes.

The Hon. Tammy Franks asked for clarification about the financial assistance that South Australia will receive for implementing COAG reforms. The Hon. Rob Lucas has raised questions about the impact of not passing the bill on commonwealth funding to South Australia. The intergovernmental agreement signed by the Council of Australian Governments provides that South Australia will receive $33 million under the national partnership agreement to achieve a seamless national economy.

The national harmonisation of work health and safety laws has been identified as one of the ten priority items in developing a seamless national economy. It will be for the commonwealth government to consider what level of payment can be provided to South Australia if the government does not meet its commitment to harmonising occupational health and safety laws.

Let me also say—in response to the Hon. Rob Lucas's attempts to come up with some sort of pro rata amount that is at risk if South Australia does not pass this legislation—there is no formula which apportions part of the COAG payment to the delivery of specific reforms. It is not a case that national harmonisation of work health and safety legislation can be isolated as a defined fraction of the total partnership payment.

The agreement in the IGA is that COAG measures will be delivered. It will be a matter for the commonwealth to determine if the IGA has been honoured and in doing so the commonwealth has discretion in relation to the total amount that will be withheld from South Australia if specific reforms are not delivered.

I now turn to the other questions put and issues raised by the Hon. Rob Lucas, which reflect, in large part, the criticism and misinformation that has been circulating around the bill in recent months. Much of this is based on a fundamental misrepresentation of the intention and application of the legislation before you. I take this opportunity to give members the facts and dispel the misinformation and inaccuracies.

For years, business groups across Australia have been crying out for consistency and clarity on occupational health and safety laws. That is what this legislation provides: clarity and certainty for all parties in a workplace about their duties and responsibilities. If a person conducting a business or undertaking can influence the safety of people affected by the work of that business then they will have a duty to ensure that those people are not put at risk. The legislation recognises that there are limits to how this can be achieved and qualifies this duty with the term 'so far as reasonably practicable'.

Importantly, the concept of 'reasonably practicable' includes the extent to which a person is able to influence and control a safety outcome. I will discuss the issue of control in more detail

later. Equally, workers and other people in a workplace will have a duty to take reasonable care for their own health and safety and the health and safety of others.

The key driver of the bill is improving worker safety. The bill seeks to recognise model working arrangements and provides that the health and safety of all people at a workplace, whether they be a contractor, a labour hire worker, a work experience student or a volunteer, will be protected. I am sure members will agree that all South Australians deserve the same standards of protection in the workplace: protection from the trauma and suffering of workplace injury should not be given to some workers and not others merely because of different legal working relationships.

The national harmonisation of work, health and safety laws has been also identified as an essential element in delivering a seamless national economy and reducing the regulatory burden on businesses that operate across the country. Despite what has been claimed by some sectors of the business community, the truth is that, rather increasing red tape, national harmonisation of work, health and safety laws will benefit the economy by reducing the number of regulations and codes of practice that will apply across Australia.

Harmonised laws will cut compliance costs, which will have a flow-on effect to many small and medium-sized businesses that deal with them. To illustrate this point I will demonstrate how much paperwork a current multi-state business operating across all jurisdictions needs to deal with to meet its occupational, health and safety regulations. Next to me here is what currently applies throughout the country and the nine jurisdictions, including legislation, regulations and codes of practice.

It will stand probably over a metre high when put on top of each other. I also have with me what will occur under the new work, health and safety acts, regulations and codes of practice. There may be a couple of codes of practice, for instance, for mining, that are not here as they are a work in progress, but members can see the significant reduction in red tape and compliance laws for which business for so long has been crying out to achieve. Red tape will be reduced and there is the proof.

The Hon. Rob Lucas has suggested in this chamber that the driver of this reform is not improved worker health and safety and that it is purely economic. This is outrageous. He and the Hon. Dennis Hood have asked why, if current statistics indicate improvement in workplace safety, we need to do anything. It is true that the state's safety record has improved greatly over the last few years and, yes, we are on track to meet our target of a 40 per cent reduction in injury claims across the 10 years to 2012, as agreed under the National Occupational Health and Safety Strategy 2002 to 2012.

Honourable members are suggesting that we say, 'Oh, well, we are now on track; why bother going and doing something different or something else? It does not matter if these things could improve things even more; we are already on track.' Members may be aware that on 13 March this year two reports were published entitled 'Work-related traumatic injury fatalities, Australia 2009-10' and 'The cost of work-related injury and illness for Australian employers, workers and the community, 2008-09'. These reports indicate that, despite Australia's recording its lowest number of work-related deaths since 2003-04 (that is 216 deaths as opposed to 272), the total cost of work-related injury, illness and disease can now be assessed at more than $60 billion, as opposed to $34.3 billion in 2000 and 2001.

The reports show that progress is being made nationally in reducing the deaths of workers, but for this government—and I am sure for all of you—one death is one too many. We must continue to strive for a zero injury rate, and this bill will continue to assist the government in this goal. This bill supports the continuous evolution of responses to workplace death and injury, an evolution that will assist all of us to continue our good progress in this area and to achieve our ultimate goal of zero workplace injuries.

I think we are in danger of losing sight in this debate of the importance of what we are actually talking about here. Any death or injury to a worker who is merely carrying out his or her job to make a living is completely unacceptable, and where improvements can be made these should not be thwarted by vested interests, illogical opposition or targeted amendments designed to avoid responsibility for protecting workers from injury or death.

On the topic of statistics, I can provide the following clarification about the change to the statistics in the WorkCover annual reports raised by the Hon. Rob Lucas. As the chamber will be aware, WorkCover is outside my portfolio areas. Nevertheless, as worker safety is an important

aspect of the industrial relations portfolio, I requested that this matter be followed up by WorkCover.

I am advised that these figures are based on the financial year in which the injury is incurred. These numbers include an estimate provided to WorkCover by the scheme's actuaries for claims incurred but not yet reported. Some claims result from slow onset diseases that may take several years to manifest themselves. Such claims may be reported long after the injury year. The variance between the count of claims incurred in 2009-10 and 2010-11 as reported in the WorkCover SA annual reports appeared because of variances in the estimates of incurred but not reported claims as at 30 June 2010 and 30 June 2011.

The Hon. Rob Lucas asked what improvements the bill will actually make, and I say to this chamber today that there are many. The most important issue in complying with legal duties is, fundamentally, our understanding of what the legal duty is. Like no other related legislation before it, the Work Health and Safety Bill spells out clearly all duties and responsibilities. It provides absolute certainty as to who is responsible for health and safety and the duties they hold. It explains what is meant by 'reasonably practicable'. It sets out the duties of officers and explains due diligence. While these obligations are embedded in existing legislation, they are hidden and ambiguous. The Work Health and Safety Bill provides clarity and certainty. This is fundamental if workplaces are to be able to comply with their legal duties.

Beyond establishing a superior legal framework, this legislation introduces concepts that are progressive and far-reaching. It extends the application of safety protection by introducing measures to allow worker representatives to advise on safety matters. It introduces new compliance measures as an alternative to prosecution. It defines and clarifies the powers of inspectors and provides significant review provisions, both internally and externally, for an inspector's decision.

Further to those benefits that I have outlined, I would also like to highlight a significant improvement for everyone in this bill. Both workers and businesses are given mutual recognition of licences and qualifications such as high-risk work, licences and authorisations. If a person has a piece of plant, say, an amusement device, then they only have to register this in one state and they can use it in other states without the extra cost of registering it in every state. Without harmonisation, the device has to be registered in each state, which is cumbersome and costly, in particular, for those on the Royal Show circuit.

Within this context, I have been advised by SafeWork SA that concerns have recently been raised in the Northern Territory about the fact that operators from those states (including South Australia) which have not passed the model laws cannot have their relevant licence and authorisation automatically recognised in jurisdictions like the Northern Territory, which has passed the laws. This is an untenable situation where South Australian workers and businesses will be seriously disadvantaged. Furthermore, the inconsistent treatment of licensing arrangements is creating unnecessary red tape in one of the key areas where the model laws are set to provide a reduction in red tape.

In addition, the bill provides South Australia with an opportunity to have more people attending work sites to address safety concerns with the introduction of the work health and safety entry permit system. There are thousands of workplaces in South Australia, so the more people addressing safety risks the better. The opposition to this right of entry system is purely illogical. If a workplace is doing the right thing to protect workers, there is nothing to fear from these new provisions.

On the issue of harmonisation, the Hon. Rob Lucas stated that the target for harmonisation is unachievable and will not happen, irrespective of what we do in this chamber. He states it will not happen. Mr Lucas is wrong and I strongly refute his statements. The central pillars of the legislation have not been changed anywhere.

All states and territories support the fundamental principles that people who conduct a business or undertake a work activity need to, as far as reasonably practicable, ensure that workers and other people at the workplace are not harmed by that activity. All states and territories support the rights of workers to be involved in determining their safety at work. There has been no departure from these elements anywhere. These are cornerstones of legislation and we must ensure that all South Australian workers are afforded the same standards of protection that apply in other parts of the country.

New South Wales added provisions to the model legislation which introduced a union right to prosecute. This is over and above the model act but, critically, New South Wales did not depart from the fundamentals of this important legislation. Western Australia signalled from the outset its opposition to the level of penalties and, much to the detriment of Western Australian workers, the Western Australian government does not support the right of health and safety representatives to stop work in an unsafe situation. However, beyond that, Western Australia has participated in every stage of the development of national legislation and continues to be active in the implementation projects.

Contrary to what the Hon. Dennis Hood suggested in his remarks in this chamber, Queensland, the Australian Capital Territory, the Northern Territory and the commonwealth have all adopted the national model laws unchanged. Since the election of the new state government in Queensland, there have been no moves to wind back this legislation in that state. Suggestions that this is to happen are ill-informed or speculative.

Again, all the key provisions of the South Australian bill can be found in the Queensland, Tasmanian, ACT, Northern Territory and commonwealth acts. It is true that Victoria undertook a state-specific registry impact statement on the model work health and safety regulations, and I will have more to say on that at a later time. However, given that the model act drew heavily on the Victorian legislation, and the Victorian drafters played a leading role in drafting the model act, there is good reason to believe that Victoria will adopt the model laws.

The Hon. Rob Lucas is suggesting that, because the legislation does not match word for word across every jurisdiction, the harmonisation process has somewhat been defeated. That is just not true. Bear in mind that the model act allowed for jurisdictions to include references to local acts and that it required jurisdictions to drop the fundamental framework into local legal systems and local consultation arrangements.

For example, the South Australian bill provides for the establishment of the SafeWork SA advisory committee. This is specific to South Australia but does not mean that the bill is not harmonised. The enactment of this legislation in those jurisdictions I mentioned so far has gone a substantial way to improving the consisting and the coverage of worker safety across Australia. To say, 'Oh well, even if we defeat it here or it is okay because other states amended the model law' is an absolute furphy and cop-out.

However, before I leave this point, let me pick up further on the issue of harmonisation and the notion that it is not happening. This is a sample test but one which completely crushed Mr Lucas's scaremongering about legislative differences. I refer you to part 11, clause 216(1) of the draft South Australian Work Health and Safety Bill. I have selected this clause because (a) it is a substantial way into the legislation; and (b) because it is a matter that employer organisations have been calling on for many years.

This provision is about providing workplaces with an opportunity to address safety shortcomings and to deal with situations of noncompliance with the laws without the need for expensive litigation. This provision is known as 'enforceable undertakings' and I will read clause 216(1) for the chamber as follows:

> The regulator may accept a written undertaking, (*a WHS undertaking*) given by a person in connection with a matter relating to a contravention or alleged contravention by the person of this act.

I read now from the Queensland legislation which, as you know, is now enacted. Part 11, clause 216(1) states:

> The regulator may accept the written undertaking, (*a WHS undertaking*) given by a person in connection with a matter relating to a contravention or alleged contravention by the person of this act.

As you will notice, it is exactly the same. I refer you to the New South Wales legislation, part 11, clause 216(1) which states:

> The regulator may accept the written undertaking, (*a WHS undertaking*) given by a person in connection with a matter relating to a contravention or alleged contravention by the person of this act.

Exactly the same again. I refer you to the same clause in the ACT and the same clause in the Northern Territory. Have a look at the same clause in Tasmania and they are all the same. They are word for word exactly the same—the legislation is harmonised. On this point, keep in mind that, should this bill be defeated, so too will employers' access to enforceable undertaking as an alternative to costly litigation.

As a follow-on from this, we must ask the question: what if South Australia fails to support national health and safety legislation? This is much more than a question about COAG payments. If members of this chamber fail to support the national legislation, South Australian workplaces will operate on outdated and antiquated laws. Make no mistake: the Occupational Health, Safety and Welfare Act has served South Australia well for close to 30 years.

There have been a lot of changes in how workplaces and working relationships operate over the last 30 years. Work health and safety laws need to continue to evolve to recognise these changes. For example, if we do not modernise our laws now, the scope of legal workplace safety protections will continue to be limited by the employer/employee relationship and existing ambiguities will remain. Honourable members need to understand that if the bill is not passed, a South Australia worker will have lower standards of safety than other workers in other states and territories across Australia.

This will especially be the case in areas of asbestos, where South Australia will not have properly qualified asbestos assessors nor competencies or training for workers dealing with asbestos; construction, where there will be no defined safety management practices, for example, the requirement for Safe Work Method Statements for high-risk construction work and where there will be ill-defined contractual obligations which effectively transfer responsibilities from principal contractors to subcontractors; licensing, where there will be no portability of skills and qualifications due to mutual recognition of licensing. This is particularly important in industries such as mining and to businesses large and small and subcontractors.

Other states and territories that have modernised their work health and safety legislation will derive productivity benefits that will flow down to improved employment and economic growth. South Australia will be left behind and this will contribute to the perception that South Australia is a backwater. There will be an inability in South Australia, if we do not pass the bill, to benchmark performance against consistent national standards. There will be inconsistent compliance and enforcement processes and a loss of important compliance tools such as enforceable undertakings, which I highlighted earlier.

The Hon. Rob Lucas also raised the issue of a state-based regulatory impact statement. Undertaking a state-based regulatory impact statement was not essential. The national Regulatory Impact Statement presented a reasonable basis on which to consider the impact of the model legislation for South Australia. It should be noted that as part of the preparation of the national Regulatory Impact Statement, Deloitte Access Economics came to South Australia and met with employer organisations and unions to discuss their views on the impact of the model regulations. The national Regulatory Impact Statement concluded that the qualitative assessment of individual aspects of the model act indicates a net benefit to single state businesses.

I can inform the chamber today that a South Australian specific regulatory impact study for the model work health and safety regulation was commissioned. The report, prepared by Deloitte Access Economics, is a supplement to the national Regulatory Impact Statement on the regulations. It indicates that the safety benefits of harmonisation would exceed the compliance costs and the long-term return to the South Australian economy would significantly exceed the one-off cost of implementing the new laws, even without taking into account the expected productivity benefits of the reforms. I table a copy of the report, which is of course publicly available on the SafeWork SA website.

It is instructive at this point to make reference to the Victorian Regulatory Impact Statement. Members are well aware, as I have made reference to this earlier, that the Victorian government has undertaken a supplementary regulatory impact statement. A summary of the statement was released on 12 April, and I repeat—a summary of the report. The full details of the Regulatory Impact Statement have not been released and, as such, it is difficult to make any reasoned assessment of the findings of the review.

Having said that, out of the summary did raise a number of matters that I would like to bring to the attention of this house. In particular, the Victorian Premier indicated that the most onerous changes included removing the two-metre high threshold for falls, the broader scope of plant and extended definition of a worker. Let me touch briefly on these matters, noting that in the absence of a detailed report it is difficult to comment on the accuracy of the Victorian RIS with any precision.

In relation to the removal of the two-metre high threshold, this refers to the removal of a height limit that is currently within the Victorian regulations. I can advise that there is no such limit in the South Australian regulations and, as such, this specific issue has no application in South

Australia. The projected cost implications are irrelevant to the South Australian context and are irrelevant to the state and, in fact, I commend the South Australian risk-based approach—which has been picked up in the model Work Health and Safety Regulations—to the Victorian Premier.

There has been no height threshold in South Australian legislation for more than a quarter of a century, and the compliance has not been unnecessarily burdensome on South Australian workplaces. As for the broader scope of plant, I can advise that the definition of plant in the work health and safety legislation is exactly the same as the definition that is currently used in Victoria.

The definition has been broadened only with respect to the registration divisions within the plant chapter of the regulations; specifically for the operation of these parts plant includes a structure. The intention of this change is to ensure that devices such as amusement structures and lifts are adequately covered as plant. This is entirely consistent with South Australian legislation and will present no issues for South Australia.

With regard to the Victorian concerns about the extended definition of a worker, I must confess that I am somewhat bewildered by this. The work health and safety legislation provides an explanation about when a person is defined as a worker. This adds greater clarity and certainty to the concept and, in that sense, is very helpful. Surely the Victorians cannot be expressing concern about affording safety protections to apprentices, trainees or outworkers. Hopefully, they are not questioning or attempting to deny protection to volunteers.

It would, as I have said many times, be an outrageous proposition to afford volunteers a lower standard of protection when they are working side by side with paid workers. Again, on the face of it, I am afraid that this matter would appear to have no consequence in South Australia. I will now turn to the issue that has received significant attention in the debate—the impact of work health and safety regulations on the construction industry.

A number of members have raised the issue of increased red tape in this industry resulting in an increase in the cost of building a domestic dwelling. In relation to those claims let me say the following: for many years the South Australian Housing Industry Association has been running the line that, first, the national construction standard and now the work health and safety legislation will increase the cost of building houses in South Australia by some $15,000 to $30,000 per home.

These claims are simply sensationalist and inaccurate. While these figures are quoted by the HIA and now by the Hon. Rob Lucas as fact, there are no other reports to substantiate these claims. It is for this reason that I have had to use equally strong language to dispel such information. The position taken by the South Australian HIA is unfortunate and the use of this misinformation is jeopardising the safety of workers in South Australia.

The achievement of national uniformity in occupational health and safety legislation in South Australia has been consistently supported and recommended by the SafeWork SA Advisory Committee as an important economic and legislative reform. It is the role of government to show leadership and bring these reforms about. This is what the community expects of its elected members of parliament.

Irrespective of the parochial debates about the measures of saving to be enjoyed by multistate companies versus single-state companies, large versus small businesses, or by South Australia versus other states, it is an economic truth that macroeconomic reforms are designed to have a trickle-down effect whereby growth in one sector stimulates growth in another, and that growth in a larger business stimulates growth in smaller businesses that service or supply the larger business. The housing sector benefits from growth in the Australian economy as a whole. Here are the figures supplied by the HIA. I seek leave to insert these figures.

The PRESIDENT: Are they statistical?

The Hon. R.P. WORTLEY: Yes, Mr President.

Leave granted.

HIA OHS Subcommittee

SINGLE STOREY TRUSSED ROOF DWELLING

Sage	Issue	Particulars	'Additional' Cost of Compliance National OHS Standard
SITE PREPARATION			
	Site Fence	30 weeks based on $11p/metre	$1,000
	All weather access	1 metre perimeter gravel	$750
		Re-gravel access point	$250
	Chemical toilets		$800
	Rubbish removal	Skip (2 large 8 cubic metre) 1 extra	$350
		Labourer to clean site	$350
		Bobcat (1 extra scrape required)	$300
	Induction	Supervisor training	$30
	Audit	Site assessment	$150
	Site management	Maintaining fence/access	$1,000
DELIVERY			
	Traffic Management	Licence and training	$800
		Labourer to direct traffic	$400
PLUMBING			
	Sewer Drain	Shore up trench >1.5m estimated 4L/m	$200
CEILINGS			
	Scaffold	Scaffold hire and expected add labour	$1,000
ROOF			
	Truss Erection	Crane (driver & rigger)	$500
		Edge protection carpenter	$1,200
		Fixing truss apex (mobile scaffold)	$300
	Tiles / Sheet Roof		
		Safety rails	$650
		Purlin spacing >900mm	$300
		Sheet roofing – extra labourer 1 day	$200
	Solar HWS erect	Cherry picker & crane	$750
	Gable	Construct and paint gable on scaffold	$700
INTERNAL			
	Air conditioning or	Genie lift	$200
	evaporative cooler	Cherry picker & crane	$750
BRICKWORK			
	Laying	Heavy Work – 5 plank scaffold	
		L x H $4.50/sqm no labour	
		80L/m one lift 1.5 x 80m x $4.50/m	$540
		Second lift for Gables	
		12L/m x 4.5m + labour @ $25sqm	$1,350
EXTERNAL			
	Render gables	Scaffold L x H M^2 inc Labour 25m^2$	$600
MISCELLANEOUS			
	Light Work	2 Plank Scaffold 3.6m high per week	$120
	all trades		
		TOTAL	$15,540

TWO STOREY TRUSSED ROOF DWELLING

Stage	Issue	Particulars	'Additional' Cost of Compliance National OHS Standard
SITE PREPARATION			
	Site Fence	45 weeks based on $11p/metre	$1,500
	Orange fence	Fall protection site cuts	$100
	All weather access	1 metre perimeter gravel	$750
		Re-gravel access point	$750
	Chemical toilets	45 week hire	$1,200
	Rubbish removal	Skip (3 large 8 cubic metre) 1 extra	$350
		Labourer to clean site	$450
		Bobcat (1 extra scrape required)	$300
	Induction	Supervisor training	$30
	Audit	Site assessment	$150
	Site management	Maintaining fence/access	$1,500
DELIVERY			
	Traffic Management		
		Licence and training	$800
		Labourer to direct traffic	$500
		Additional delivery materials	$400
PLUMBING			
	Sewer Drain	Shore material > 1.5m estim 4L/m	$200
FRAMING			
	1st Floor	Erection scaffold/additional labour	$1,000
		Edge protection to install floor sheets	$1,200
		Stairwell protection/access	
		'Ladder lock system'	$800
		Crane hire to lift sheets	$400
CEILINGS			
	Scaffold	Scaffold hire and expected add labour	$1,000
ROOF			
	Raise edge protection	E/protection for roof/fascia & gutter	$1,200
	Truss Erection	Long reach Crane (driver & rigger)	$1,300
		Fixing truss apex (mobile scaffold)	$300
	Tiles / Sheet Roof		
		Edge protection	$650
		Purlin spacing >900mm	$300
		Sheet roofing – 2 extra labourers 1 day	$400
	Solar HWS erect	Cherry picker & crane	$750
	Gable	Construct and paint gable on scaffold extra lift	$700
INTERNAL			
	Air conditioning or	Genie lift	$200
	evaporative cooler	Cherry picker & crane	$750
BRICKWORK			
		No extra	
EXT CLEANING			
		No extra	
EXTERNAL WALLS			
	Light Weight	Scaffold for erection	$650
EXT BALCONY			

Stage	Issue	Particulars	'Additional' Cost of Compliance National OHS Standard
	Balcony Floor	Edge protection	$300
		Scaffold to tile edge	$500
MISCELLANEOUS			
	Light Work-all trades	2 Plank Scaffold 3.6m high per week	$120
EXTRA			
	Labour Hire	Extra required for fitting internal fixtures	$1,000
		TOTAL	$22,600

The Hon. R.P. WORTLEY: Let me describe some of the items listed in the $15,540 figure described by the HIA as additional costs of compliance. They include: $1,000 of gravel for paths, $1,050 for rubbish removal, $1,000 to maintain fences on top of the ostensible $1,000 to erect a site fence, and $1,200 for someone to direct traffic on site. To be quite frank, these items are ludicrous; they are not mandatory under the Work Health and Safety Bill or current occupational health and safety laws.

Other costs include multiple entries for fall protection. For example, there is $1,000 for a ceiling fixer to erect a scaffold, $2,000 for a roofer to install edge protection, $950 for a roof tiler to erect safety rails, $750 for a solar hot water service installer to hire a cherry picker, and $950 for an air-conditioning contractor to hire a crane. I could go on, but it is clear that what they have done here is replicate the figures for the same risk controls for each and every separate trade on site. This is ludicrous and suggests on-site inefficiencies in the planning and management of the work to the utmost limit.

What is even more alarming in this message from the HIA is that it suggests that its members are currently not complying with their current occupational health and safety obligations. It is suggesting that HIA members currently have no costs for providing safety measures to prevent workers from being injured from falls. This is despite the fact that the current regulations clearly prescribe a risk management approach to deal with fall protection and effective controls to prevent workers being injured by falling from heights in all industries, including the housing industry.

In citing fall prevention costs as new costs, the HIA is ignoring its members' current occupational health and safety obligations or grossly overstating the costs for safety measures that must be in place right now. The HIA also regularly quotes a report it commissioned in 2009 from Hudson Howells, arguing that it substantiates these extraordinary housing cost increases. The Hudson Howell report states:

> It is stressed that this report is a desktop assessment identifying the cost impact of the National Occupational Health and Safety Commission standard on key economic factors and that no primary consultation has been undertaken. Additionally, no detailed economic modelling was undertaken and the assessment does not take into account potential economic benefits associated with the recognition of the proposed standards. The findings are therefore preliminary estimates based on a range of assumptions, estimated costs provided by the HIA subcommittee and publicly-available data.

This report clearly does not stand up to scrutiny, as it uses as one of its central assumptions the figures provided by the HIA that I have just discussed. The HIA commissioned a report to consider the impact of laws on housing and construction, and the Housing Industry Association provides all the assumptions against which that consideration is to be made. The report also states that the figures include the effects of other regulatory changes unrelated to the national construction standard or work health and safety laws. This is a totally flawed assessment and must be dismissed. The outcomes of a report commissioned by a lobby group driven by self-interest should not be used as the lever to block safety outcomes across Australian industry generally.

To examine these claims by the HIA, in 2009 SafeWork SA commissioned an independent cost of the national construction standard on which the work health and safety construction regulations are based. This was undertaken over a period from November 2009 to January 2010 by Mr Bryan Bottomley and Associates. To ensure a South Australian industry context was achieved, particularly regarding public housing impacts, Mr Bottomley's costings advice was then

reviewed by Mr Paul Ogden, former director of capital projects with Housing SA until his retirement in July 2006.

In summary, Mr Bottomley concluded that the total cost impact on South Australia is estimated to be no more than 0.5 per cent of project value per annum and that the adoption of the standard was unlikely to have major impacts on construction costs and related housing affordability levels in South Australia. He also advised that the overall cost estimates provided by the HIA were inconsistent with estimates from other published sources and with costs incurred by volume builders in other jurisdictions.

The HIA costing appeared to assume zero compliance with current South Australian occupational health and safety laws. I table the reports of Mr Bottomley and Mr Ogden in this chamber so that this important clarification can be put on the record. I direct members to these documents as a more robust source of cost and benefit data than those one-off industry reports. I also note that the HIA has revised its estimates only very recently, and the costs claimed are up to $25,000 for a single-storey dwelling.

SafeWork SA is assessing the latest estimates and will provide advice to me shortly. At first glance, however, it appears that the HIA is operating under the same flawed principles as before. The point is that, irrespective of the dollar amounts, the HIA costings are based on incorrect assumptions. The entire framework is wrong. I will be interested to see SafeWork SA's assessment of the veracity of these revised figures. Beyond the false and misleading statements in relation to costs, I turn now to the key issue of safe work practices.

The housing industry, as noted in the Hon. Dennis Hood's address to this chamber, states that there have been only three workplace incidents on housing sites in the last five years that have required some form of hospitalisation. I ask all honourable members: what reasonable person could possibly believe that, in a high-risk work activity such as construction, there could be less than one incident per year over a five-year period? This is a fantasy, because the overall statistics of the industry are not so glowing.

Analysis of the WorkCover data shows that housing construction represents almost 10 per cent of the construction industry yet, in the four years to 2011, this sector had 923 injury compensation claims, 34,000 working days lost to injury and $10.5 million in workers compensation payouts. A breakdown of the data on injury claims caused by falls also reveals 84 falls, 5,100 working days lost and $1.5 million in workers compensation payouts. We are talking about nearly 51 days off per injury on average. That is a serious fall. Each one of those falls could have just as well been a death.

In fact, in the jurisdictions that have already had these construction divisions in their work health and safety legislation for a number of years, figures from the Safe Work Australia workers compensation claims database show that there has been a decrease in the incidence rates of serious compensated claims. In 2006-07, there were 22.1 claims per 1,000 employees. By 2009-10, this had decreased to 19.7 claims.

The HIA's position on an injury-free workplace is simply not supported by injury or fatality statistics, nor by the result of the SafeWork SA audits. Despite the fact that trends for the industry are improving—and I commend the housing, commercial and civil sectors for achieving this—these figures support the continued need for improvement and for legislative requirements to manage safety in the sector.

The WorkCover annual report 2010-11 and the WorkCover statistical review 2008-09 indicate that the construction industry accounts for a disproportionate number of fatalities and injuries as compared to the numbers employed in the sector. The construction industry in South Australia accounted for 22 per cent of compensatable fatalities over the period July 2006 to June 2011. In 2008-09, 2,334 claims represented 8.2 per cent of claims, despite only representing 6.5 per cent of remuneration. This is a proxy for numbers employed.

An amount of $50 million in claims payments in 2008-09 represented 10.5 per cent of claims costs, again despite only representing 6.5 per cent of remuneration. It is evident that this sector incurs a disproportionate level of death and injury. The system offered by the work health and safety regulations, where everyone who can influence safety has a role to play; namely, planning for safe design, consultation, coordination, site safety management plans and safe work practices, is an essential approach to reducing risk in the sector.

Safety assessments undertaken by SafeWork SA during the period 10 October to 28 October 2011 indicate continuing issues with the housing sector and its management of the risk of falls. Of the 122 worksite inspections involving 87 different building companies, 35 per cent were found to be non-compliant in instituting measures to manage risk of falling. The other major issue identified in the safety assessment concerned electrical safety, with 43 per cent of companies identified as non-compliant, particularly with those aspects of legislation requiring electrical equipment to be regularly tested and tagged.

I turn now to the issue of scaffolding. The Hon. Rob Lucas raised questions put to me by the Hon. John Darley in a radio interview with Leon Byner on 1 February 2012. I can advise the Hon. Rob Lucas that I have already written to the Hon. John Darley with responses to his queries, but I will restate those for the record. The central question was whether tradespeople undertaking tasks such as installing insulation, solar panels or a satellite dish on a roof, re-tiling a roof or cleaning gutters would be required to bear an additional cost for scaffolding for the work they undertake at heights.

As I indicated in my response to the Hon. John Darley, the short answer is no. The Work Health and Safety Bill and regulations provide workplaces with flexibility when it comes to controlling the risk of falling. Scaffolding is simply not required for all tasks. The selection of the control is dependent upon the specific job and the risk. The legislation takes a risk-based approach to the requirements expected of employers and recognises that different levels of risk require different control measures.

Not every task carried out whilst working at a height will require the erection of scaffolding. However, quite rightly, the work health and safety legislation mirrors current legal requirements and requires the risk of falling to be controlled so far as reasonably practicable. Let me repeat that: the requirement to control the risk of injuries arising from falls is entirely consistent with the current legal duty. This is, has been and always will be a feature of South Australian law. There are a number of effective controls to choose from in doing so and a choice is dependent upon the risk and what is reasonably practicable.

Controls that may be suitable range from scaffolding through to guard railing, edge protection, catch platforms or trestles or safety harnesses. Importantly, many of the prevention controls can be implemented by the workers and business operators themselves and can be shared across trades, providing safe and easy access to work areas that support efficient completion of tasks. For example, current industry practice for the installation of solar panels and satellite dishes includes a lanyard system which can be utilised at each site. Work scheduling and planning can also assist greatly, such as the construction of trusses.

For one-off jobs, as the honourable member has inquired about, the selection of the control is dependent upon what is reasonably practicable. This involves taking into account matters such as the likelihood of an injury, the resulting degree of harm, ways available to eliminate risk and, lastly, cost; that is, whether the cost is grossly disproportionate to the risk.

The work health and safety regulations outline controls to be considered, such as the use of prevention devices—for example, a secure fence, edge protection, working platform, covers—or a work-positioning system—for example, a harness attached to an anchor system that does not enable you to reach the edge—or a full arrest system—for example, a harness that if you fell would arrest your descent to the ground—or a combination of the above. Administrative controls, such as training and procedures, can be used to supplement physical controls. Light tasks may also be safely undertaken from a ladder or trestle.

Safe Work Australia has released three codes of practice to further assist the industry manage the risk of falls. These provide a number of examples of types of work that can use any of the above controls. The Hon. Rob Lucas has suggested that I am wrong in saying that controls for fall prevention will not change. I reiterate to this chamber, however, that fall prevention requirements, including the provision of scaffolding, under the Work, Health and Safety Bill and regulations are entirely consistent of those under the current Occupational Health, Safety and Welfare Act 1986 and the Occupational Health, Safety and Welfare Act Regulations 2010.

To demonstrate this I will directly compare regulations 78 and 79 of the Model Work Health and Safety Regulations with regulation 76 of the Occupational Health, Safety and Welfare Act Regulations. Regulation 78 of the Model Work Health and Safety Regulations requires that a person conducting a business or undertaking manage the risk of a fall that is likely to cause injury. The regulations then describe a hierarchy of controls to be considered, starting with finding a way

to work from the ground or from a solid construction. This would eliminate the risk—problem solved. If this is not reasonably practical, regulation 79 outlines other controls to be considered, such as fall prevention, a work-positioning system, a fall-arrest system, or a combination of the above. Administrative controls, such as training and procedures, can be used to supplement these controls.

So, let us compare these requirements with those of the current Occupation Health, Safety and Welfare Act Regulations. Regulation 76 requires that the risk of a fall that is likely to cause injury to a person be eliminated through providing reasonable protection against a fall, such as secure fences, covers or other forms of safeguarding. This does not describe a height threshold but addresses falls at any height. If this is not reasonably practical, regulation 76 requires that a safe system of work be provided that involves a safe working platform, safety harness or pole safety belt, a fall arrest device, training, supervision, assistance by other persons, or a combination of the above.

These requirements are entirely compatible. Decisions about what controls are required stem from consideration of what is reasonably practical and relate to the likelihood, degree of harm, availability and the cost of the control. None of the Model Work Health and Safety Regulations, nor the Occupational Health, Safety and Welfare Act Regulations prescribe any height threshold for the provision of fall protection. Controls are required if there is a risk of a fall that will result in injury, and the selection of the control is dependent on what is reasonably practical.

While safe work method statements are required for high-risk construction (work over two metres), these can be based on templates and simply be updated for site or job-specific hazards. As I noted before, Safe Work Australia has also released three codes of practice to further assist industry manage the risk of falls. None of these prescribe any height threshold for the provision of fall protection. So, this is another piece of misinformation being used to block this bill. That any work at any height requires scaffolding is simply not true. I state again that control measures are selected according to what is reasonably practical, according to the risk. I say again that there is no difference to the current situation.

Much comment has been made about the concept of a person conducting a business or undertaking, and I will make a few key points about this. First, I turn to the comments by the Hon. Rob Lucas regarding the person conducting a business or undertaking. The honourable member suggests that this is a completely new concept in work safety legislation, and quoted at length advice provided by Mr Dick Whitington, QC. What Mr Lucas and his learned adviser failed to grasp is that the concept of a person conducting a business or undertaking was discussed at length through the national reviews of work health and safety laws in Australia, and was it recommended for inclusion in the model laws as it was considered to be a fundamental element of addressing work practice in the 21st century.

Mr Lucas might want to tie this state to the outdated practices of the 1970s, where the employer/employee relationships were the norm, or, to put it another way, the master/servant relationship. However, this is no longer the case. The world of work is built on myriad working arrangements, spanning contractors, subcontractors, labour hires, franchises, itinerant and casual workers. These arrangements are not well suited to a legal structure built on employer/employee relationships. While the opposition may feel more comfortable with laws aligned to the old master/servant relationship, this government is prepared to implement legislation that is both modern and progressive.

The fact that our current occupational health and safety laws are built around the employer/employee relationship means that there is continuous ambiguity about the obligations and protections for those not working in this traditional arrangement. This bill breaks through the ambiguity of the past by bringing clarity and certainty to the duties owed by any person whose work activities may expose people to the risk of being injured.

The concept of a 'person conducting a business or undertaking' will improve clarity for people involved in contract work. The bill recognises model working arrangements and provides that the health and safety of all people in the workplace will be protected, regardless of whether they are a contractor, a labour hire worker, a work experience student or a volunteer. A person conducting a business or an undertaking will have a duty to ensure, so far as reasonably practicable, the health and safety of workers whom they engage, influence or direct.

Contrary to Mr Lucas's claims, a 'person conducting a business or undertaking' concept has proved to be workable and uncontroversial in Queensland (you only have to look at

sections 9 and 10 of that state's Workplace Health and Safety Act 1995) and the Australian Capital Territory (see sections 9, 21, 27 and 28 of that territory's Work Health and Safety Act) for a number of years. Further, occupational health and safety laws in most other jurisdictions contain extended definitions of 'employer' and 'employee' to capture a much broader range of work relationships in a manner similar to a 'person conducting a business or undertaking' concept. This brings me to the issue of control. I will read for the record the comments of the Hon Rob Lucas, which I wish to address. He said:

> The essential argument in relation to this, in lay person's terms...is that under the existing act there is a notion of control. If you control something you can be prosecuted for it.
>
> The main argument is that, under the new bill, that control element or test has disappeared completely. That is, there might be events that you do not control and you still might be prosecuted and held responsible for that...In essence, what [Dick Whitington] is saying is that there is a provision in the existing bill—section 4(2)—which is an issue in relation to control; that is, you are responsible for and prosecuted for issues over which you have control.

The national review of the occupational health and safety laws, conducted by a committee of experts in 2008, recommended that no control test should be included in the model work health and safety legislation. An important consideration in deciding not to include a control test was that a definition can encourage a focus on avoidance of control rather than on practical compliance measures taken to meet the relevant duty. The review has suggested that a test of control is counterproductive as the focus should be on ensuring active compliance.

The bill before you ensures that everyone has responsibility for health and safety in the workplace and everyone who conducts a business or undertaking has a duty to ensure, so far as reasonably practicable, the health and safety of workers. Contrary to the view of those who suggest that without a control test the issue of control is absent from the work health and safety legislation, I confirm that the issue of control is built into the legislation.

The Work Health and Safety Bill is very clear that, if a person conducting a business or undertaking is able to exercise, influence or control the safety outcomes of people at the workplace, then they have a duty to those people. If a person conducting a business or undertaking has no control or influence over the work activity, then it is not reasonably practicable for them to ensure the safety of those people. The person conducting the business or undertaking is only accountable for those things that it is reasonably practicable for them to influence and control.

The crux of the matter is that no-one who can influence a safety outcome can avoid their duty by claiming it was someone else's responsibility. This is surely how it should be. However, the duty is always couched in what is reasonably practicable, and what is reasonable practicable in any matter will depend on the level of influence or control a person has. Clause 16(3)(b) explicitly states that where more than one person shares the same duty a person must discharge their duty to the extent to which they have the capacity to influence and control the matter. This requires persons to carry out their duties only to the extent that they have control.

There is no doubt in my mind that control is very much embedded into the legislation. This view is supported by expert legal opinion across the country. Notwithstanding my decision in this matter, I have, as always, indicated my willingness to listen to the views of others and be open to constructive suggestions. I understand that there are members of the business community who are concerned about how the legislation may be interpreted.

Following extensive consultation with business leaders and legislative experts, I have agreed to move a government amendment to insert a new provision into the bill which will clarify the references to control. The proposed new provision at clause 17(2) mirrors the wording of clause 16 of the bill but provides a certainty to business operators that they cannot be held responsible for matters over which they have no control.

I understand that this has been a sticking point for many groups, and I am happy to say that that sticking point has now been removed and that key business groups in this state now support the bill. On this point let me say that, while I have been prepared to accommodate the issue, it does not compromise the integrity of the nationally harmonised legislation. The central pillars of this bill, the fundamental principles of the harmonised laws, are unchanged.

It will come as no surprise to some members in this house that despite this major concession on my behalf there still remain elements amongst the business and employer communities who continue to oppose the legislation. They demanded inclusion of the provision on control and, when they got it, they now say it is not enough. Let me be clear about this: if a person

conducting a business or undertaking is continuing to argue that the inclusion of a reference to control in the form of a proposed government amendment is unacceptable, then they are clearly signalling that they do not want any responsibility for safety, and this is an outrageous and shameful proposition.

Let me turn to the examples given by the Hon. Rob Lucas in his second reading speech on this point of control—firstly, Mrs Jones who owns a rental property and pays a management company to manage the property for her. One of the great advantages of this legislation is that it brings certainty to those who hold a legal duty of what that duty is. If Mrs Jones is a landlord of one or more properties, she has a duty to ensure that persons who undertake work at the property are not put at risk from any hazards that may be present in the property. Mrs Jones does not have a work health and safety duty to tenants because this is a domestic dwelling.

Mrs Jones' duty is only owed to those she engages to do work at the property but, importantly, this duty is qualified by what is reasonably practicable. In other words, if she engages a plumber, she needs to alert the plumber to anything that might cause the plumber harm, but she has no duty in relation to the conduct of the plumbing work itself. If, as in the example the Hon. Rob Lucas raises, Mrs Jones engages a managing agent, the agent has responsibility as the PCBU with management and control of the workplace. This will further limit Mrs Jones' duty, as it will be the responsibility of the agent to alert the plumber to any specific risk related to the property. None of this is different from Mrs Jones' responsibilities under the current laws.

The Hon. Rob Lucas also gave the example of farmers Dave and John, with Dave as a self-employed farmer who sometimes engages John, his mate who is also a farmer on an adjoining property, to help him with spraying his crops. He noted that under the Work Health and Safety Bill both Dave and John, as persons conducting a business or undertaking, will have a duty to ensure so far as reasonably practicable that John's health and safety are not put at risk while he is working for Dave.

Dave will owe a duty to John because he is a worker and, arguably, John will owe a duty to himself because he is a person conducting a business or undertaking and a worker. These obligations apply regardless of whether Dave is supervising or controlling John's work and regardless of the fact that John is not Dave's employee. It is important for the Hon. Rob Lucas to note that the health and safety obligations arising from his scenario are no different under the existing occupational health and safety act.

Dave would be deemed to be John's employer under that act and would hold the primary duty of care to ensure the health and safety of all employees. This duty is not changed under the Work Health and Safety Bill. The current occ health and safety act clearly states that a contractor—in this case, John—and any person employed by the contractor is taken to be employed by the principal. In this case, the principal would be Dave, who is deemed to be the employer.

The employer's duties apply to matters to the extent that the employer has control over them. Therefore, under existing law, Dave would owe John a duty. Under the proposed bill, he would also owe John a duty but only so far as is reasonably practicable. This encompasses consideration of the control able to be exercised by Dave. Under the existing occ health and safety act, John would also owe himself a duty as a worker, so nothing here changes either. It is simply scaremongering to suggest that drastic changes are being made. There is in fact no change to this duty.

Finally on this matter, and to ensure that there is no doubt about the application of these principles in the Work Health and Safety Bill, I consider the responsibility of a director of a company. While there are many possible scenarios, I refer to the question of liability. I raise the question: is it likely that a director of, say, a construction company would be liable for, or held responsible for, the specific work of, say, an electrician? Clearly, electrical work is a specialised activity undertaken by a qualified person. The director of the company could hardly be expected to be responsible for the conduct of electrical work.

It is not reasonably practicable for the director to ensure the safety of a person undertaking the work of a qualified electrician. This will obviously depend on the circumstances, but the central point is that a person's duty is categorically and unambiguously qualified by what is reasonably practicable. The director can only be held accountable for those matters over which the director has influence and control. That is the DNA of this legislation.

I turn now to a matter that has been grossly misrepresented in the debate, and that is how the Work Health and Safety Bill deals with volunteers. I will emphasise again that only volunteer

organisations that employ workers will have duty of care obligations under this bill. Volunteer associations that are operated exclusively by volunteers do not come within the definition of a person conducting a business or undertaking under the bill and, therefore, will have no duty of care responsibilities.

This actually clarifies and improves the situation greatly from the current laws. The current law requires volunteer organisations—even those that are 100 per cent run by volunteers—where they are incorporated and carrying on a business to appoint a responsible officer to train in occ health and safety laws. Volunteer associations have been asking for years to be released from this obligation, and this obligation is removed by this legislation.

Comments from the opposition in particular are downgrading the work of volunteers. The Hon. Mr Lucas has distributed for consultation amendments that will mean that, if a person volunteers at a business or undertaking where there are paid workers, there will only be a responsibility to protect the paid workers. There will be no responsibility to ensure the health and safety of volunteers. This is an absolutely ludicrous outcome. Effectively, what the opposition would have us do in this state is say that the life of a volunteer is worth less than the life of a paid worker.

These amendments would relieve business—including significant businesses like Anglicare, the Salvation Army and the Red Cross—of any responsibility for looking after the health and safety of their volunteers. This is an outrageous affront to the good people of the state who give up their time for the benefit of others. This legislation is about affording those people the protections they deserve and has been welcomed by volunteer associations. I do not doubt that there has been confusion about this issue. However, much of the confusion has been stirred up by those who would seek to defeat the bill for their own purposes.

It is important to note that extensive work has been undertaken with the volunteer sector to ensure that volunteers and those who manage volunteers are aware of their obligations. My commonwealth colleague the Hon. Bill Shorten has held roundtable discussions with a number of organisations and, as a result, a volunteer assistance package has been developed by Safe Work Australia in partnership with Volunteering Australia. The package includes a volunteer assistance line, email and web page designed to provide guidance and support for volunteers and volunteer organisations that may be affected by the bill.

I further note that Volunteering Australia and Volunteering SA&NT are supportive of the bill and have expressed so publicly on a number of occasions. The CEO of Volunteering Australia, Cary Pedicini, stated that the recent media coverage has created unnecessary fear and apprehension amongst volunteers and volunteer-involving organisations. VA is concerned that this is creating uncertainty amongst current volunteers and will discourage future volunteering.

Evelyn O'Loughlin, CEO of Volunteering SA&NT, stated that the negatives come in where organisations have not understood what their obligations are right now. They already have obligations under the current laws; bringing attention to them now is a positive thing so that people can ask, 'What am I meant to be doing? Why have I not been doing it before?' I table a media release from Volunteering SA&NT indicating its support for the bill.

The bill is designed to approve worker safety and, in the area of volunteers, this means continuing to give them the protection of law. This is a protection they deserve and something that the people of SA quite rightly expect. The Hon. Rob Lucas has consistently referred to the comments from the President of the Law Society, Mr Ralph Bonig, and his view that volunteers are not covered by the current occupational health and safety laws. He asked whether I had received legal advice on this matter. Well, I have and, as I have said before, Mr Bonig may be President of the Law Society but on this particular piece of law he has it totally wrong.

Advice was sought from the Crown Solicitor's Office in relation to the coverage of volunteers under the Occupational Health, Safety and Welfare Act and, by comparison, under the Work Health and Safety Bill 2011. The essential questions asked and answers received from that advice are as follows.

Question: can you confirm that under the Occupational Health, Safety and Welfare Act volunteers who do unpaid work in connection with the trade or business of an employer are deemed to be employees and are therefore covered by the Occupational Health, Safety and Welfare Act?

Answer: yes, by reason of the wording of section 4(2).

Question: can you confirm that under the Work Health and Safety Bill volunteer associations only have duties if they employ a worker?

Answer: yes, by reason of the combined effect of clauses 4, 5(7), 5(8) and 7.

Question: can you confirm that volunteers will only be brought into the scope of the Work Health and Safety Bill if they do unpaid work for a business or undertaking that employs a worker?

Answer: yes, by reason of the combined effect of clauses 4, 5(7), 5(8) and 7.

Question: can you provide a view on whether the practical outcome of the provisions of the bill are effectively the same as the Occupational Health, Safety and Welfare Act—that is, that a volunteer will only come within the scope of each legislative framework if they do unpaid work at a business that employs a worker?

Answer: under the Occupational Health, Safety and Welfare Act a volunteer may also be deemed to be an employee of an employer and, in that case, will owe duties under section 21. However, this will only be the case where the organisation already employs a person or engages a contractor to perform work in connection with the organisation's trade or business and the volunteer performs work for the organisation in connection with the organisation's trade and commerce.

The effect of clauses 5(7) and 5(8) of the bill is that a volunteer association would only be a person conducting a business or undertaking where the association already employs a person to carry out work for it, as the relevant duties imposed under the bill are only by a person conducting a business or undertaking or by workers, which includes volunteers carrying out work in any capacity for a person conducting a business or undertaking. Then the combined effect is generally the same under the current act in respect of the health and safety duties—that is, the duties in clauses 19 and 20 of the bill, the equivalent in the Occupational Health, Safety and Welfare Act being sections 19 and 25.

Question: can you confirm that the practical outcome is the same, i.e. that once brought within the scope of each legislative framework, a volunteer owes the same duties under the Work Health and Safety Bill as arose under the Occupational Health, Safety and Welfare Act?

Answer: provided that a volunteer comes within the scope of the bill, the volunteer will owe similar duties as under the Occupational Health, Safety and Welfare Act. Those duties are essentially to take reasonable care for their own and other's health and safety in the workplace, and to follow reasonable directions of a person in charge of a workplace in relation to health and safety.

Question: can you confirm that a volunteer can only be liable under the Work Health and Safety Bill for a breach in the circumstances as discussed above?

Answer: in so far as the health and safety duties established under clauses 19 and 29 are concerned, a volunteer will not have committed an offence in connection with a failure to comply with such duties, except the duties in clauses 28 and 29. However, volunteers may commit offences in connection with compliance and enforcement—for example, hindering an inspector, which is clause 188.

Question: can you confirm that a volunteer cannot be prosecuted for a breach of officer duties under the Work Health and Safety Act?

Answer: clause 27 of the bill imposes a duty on officers to use due diligence to ensure that a person conducting a business or undertaking complies with its health and safety duties. Clause 34 provides that volunteers do not commit an offence for a failure to fulfil this duty. Volunteers will only commit an offence if they fail to fulfil their duties in clauses 28 and 29.

In relation to the Hon. John Darley's comments about foster carers, I would like to clarify that a householder who is a foster parent is not a person conducting a business or undertaking. The organisation or agency that arranges and monitors the foster care would, however, be doing so as a person conducting a business or undertaking. This means that an organisation will have obligations to foster parents insofar as they can be affected by a person conducting a business or undertaking activities.

The Hon. Rob Lucas has mentioned that some business organisations do not support the bill. Firstly, I remind the chamber that this bill is a result of significant consultation between all states and territories, as well as employee associations and employer representatives. Major

businesses and trade union groups throughout Australia have voiced support for the harmonised legislation.

In particular, the Australian Industry Group and the Australian Chamber of Commerce and Industry are strong advocates for harmonised laws. These two peak bodies together represent the interests of over 410,000 businesses and employ more than five million people nationwide. Other supportive employer representatives include the Business Council of Australia, the Australian Institute of Company Directors, and the Roofing Tile Association of Australia.

I table the letters of support for the bill, including a letter of support received as late as yesterday, 5 September, from: Business SA, the International Federation of Consulting Engineers, the Australian Chamber of Commerce and Industry, the Australian Industry Group, the Australian Warehouse Association, and the Australian Roofing Tile Association.

Much has been made of the Housing Industry Association voicing opposition to the bill, particularly its assertion that the bill will substantially increase the cost of constructing a new house. Members will no doubt find it interesting, however, that opposition from the Housing Industry Association is a relatively recent change in its position on the issue. In its Occupational Health and Safety in Residential Building Work policy the HIA states that, 'A nationally consistent framework should be established for OHS laws.' In its submission to Safe Work Australia on the exposure draft Safe Work Act 2009 the HIA states:

> HIA supports national harmonisation of occupational health and safety (OHS) laws as a way of eliminating unnecessary barriers to businesses operating across jurisdictions. However HIA does not support harmonisation at any cost or to the detriment of existing practical safety solutions.
>
> In this regard the, HIA has considered Model Act provisions and generally supports the moderate and reasonable balance of obligations and liability.
>
> The provisions of the Model Act are a significant improvement to most current OHS legislation providing a fairer framework for balancing the responsibilities of all in the workplace.

I repeat: the national HIA considers that the bill before us provides a fairer framework for balancing the responsibilities of all in the workplace. It is also important to note that the national HIA is so committed to the work health and safety framework that it is working with its members to draft a code of practice specifically designed for the housing industry, providing further guidance on how to meet responsibilities under the new laws.

The Hon. Rob Lucas also mentioned the opposition, Master Builders Australia. The Master Builders Occupational Health and Safety Policy Blueprint 2009-15 states:

> Master Builders supports the development of a nationally consistent regulatory framework that will reduce the complexity of the regulatory burden on businesses operating across jurisdictions...Master Builders also supports more consistency in the OH&S regulation that affects the building industry, provided that the content of the regulations and codes are appropriate and reasonable for employers.
>
> Master Builders supports national hazard based standards supported by the national codes of practice, underpinned by guidance materials. We also support appropriate mandatory requirements for national introduction of OH&S training programs.

I believe this bill achieves everything that business and industry have been calling for. The most recent opposition to this bill is largely due to misunderstandings and misinformation, and I hope that the information I present here today can assist in remedying that.

The Hon. Mr Lucas also raised concerns about the provisions allowing union right of entry into workplaces under this bill. These fears of abuse of power and industrial leverage are unfounded. Union right of entry is about providing another set of eyes to improve safety. It is simply a further reference point to assist both workers and business to meet their safety obligations.

The bill will not give an open slather right of entry to workplaces. A union official will only be able to enter to inquire into a suspected contravention, to inspect employee records and to consult and advise workers in relation to work health and safety. Only appropriately trained union representatives can enter a worksite subject to specific conditions, and that right can and will be removed by the Industrial Relations Commission of South Australia if it is abused.

I would also like to emphasise that union entry permit holders will not have the power to stop work, conduct formal investigations or lay charges under the bill. Those duties remain with SafeWork SA's inspectors. There is no doubt that opposition to union right of entry is purely ideological. Union right of entry for occupational health and safety purposes has been in place in all other Australian states and territories for many years.

Union representatives in South Australia are already able to enter workplaces under the commonwealth Fair Work Act 2009 to consult with workers for industrial relations purposes. It is only logical to extend that right of entry to work health and safety matters, consistent with every other state and territory in the nation where, I might add, the sky has not fallen in.

The Work Health and Safety Bill requires codes of practice to be developed through a tripartite process, through consultation between government, unions and employer organisations and overseen by Safe Work Australia. This includes the engagement of the local SafeWork SA Advisory Committee. The process ensures that codes will meet the requirements of all relevant stakeholders. In addition, transitional arrangements under the Work Health and Safety Bill and the work health and safety regulations will allow duty holders time to make necessary adjustments to comply with any new requirement.

Safe Work Australia, in developing the work health and safety codes of practice, has access to a range of materials, such as:

- codes of practice and guidance materials developed by various jurisdictions, all of which have utilised internal technical experts and have often been informed by external technical and industry personnel through working groups or formal public comment processes;
- current and former national standards and codes of practice developed by Safe Work Australia. Safe Work Australia comprises members of occupational health and safety authorities and representatives of peak union and employer bodies. Such material is often being developed through technical working groups, involving industry representatives and always involving public comment;
- other well established industry technical standards, such as those of Standards Australia. The standards development process utilised by Standards Australia involves the formation of committees comprising just such technical experts and industry representatives;
- codes developed by industry stakeholders themselves, which are submitted to Safe Work Australia for consideration.

I am baffled by the request of some stakeholders to remove codes of practice altogether. Codes of practice do not impose additional obligations on duty holders, they merely provide practical guidance on how to meet standards of health, safety and welfare required under law. The fact of the matter is that the vast majority of codes have been in place in one or more jurisdictions for a number of years. They have been updated and improved, often at the request of businesses, to provide a better standard of guidance to workplaces.

The issue of penalties was also raised by the Hon. Dennis Hood. He suggested that a small business and the lives of those who run it may be ruined if they are gaoled or fined $3 million for even minor breaches. The honourable member refers here to a category 1 offence, which requires a person, without reasonable excuse, and being reckless to the risk, engaging in conduct that exposes an individual to a risk of death or serious injury or illness. This is in place, to deal with the most serious and reckless breaches of the legislation.

I note that the penalties in the bill reflect the recommendations of a national review which was undertaken by a panel of occupational health and safety experts and which preceded the drafting of the model work health and safety act. The national review recommended that the penalties in the model act should have a strong deterrent factor. The three levels of penalties allow for a differentiation that takes account of culpability and risk. They also allow sufficient room for a sentencing court to adjust the penalties within each category to suit the particular circumstances of the offence.

Before I go I would like to address some of the issues raised by the Hon. John Darley in his second reading contribution. The Hon. John Darley mentioned that the New South Wales government was the first state to introduce model legislation into its parliament. It is worth highlighting that in fact South Australia was the first state to introduce the model legislation into its parliament in May 2011. This is how long we have had to familiarise ourselves with the bill. This is how long workers and businesses have been waiting for these new laws. It is time for these new laws to progress.

The Hon. John Darley rightly pointed out that in order for the overriding principle of the bill to be achieved, that is, to afford workers and other persons the highest level of protection against harm to their health, safety and welfare, a single nationally consistent legislative regime makes

sense. The Hon. Mr Darley quoted from a media release from the Premier of Victoria, Ted Baillieu, which discusses a PricewaterhouseCoopers assessment of the model regulations. I have already addressed that assessment earlier in my speech.

The Hon. Mr Darley gave a sound summary of the reasons for inclusion in the bill of the concept of a person conducting a business. In particular, he noted that the definition is intended to reflect the broad range of modern working relationships and business structures that exist, as well as to remove uncertainty about where health and safety duties lie, given the increasing range of non-traditional employer/employee arrangements.

He also highlighted that this government and SafeWork SA have undertaken considerable consultation in order to explain the intention of the legislation and to overcome and allay concerns expressed, particularly in relation to the notion of control. It seems to me that had the HIA and MBA spent more time working with us, as a government, and less time joining forces with those opposite to oppose the bill at all costs, they too would have reached the same level of understanding of the issues as the Hon. Mr Darley has.

I have said it before and I will say it again: importantly, any duty in the legislation is qualified by what is reasonably practicable. Control is a key test of what is reasonably practicable. If you do not have direct control over a health and safety matter then clearly it is not reasonably practicable for you to be able to do anything about it. This is a basic principle that has been tested in the courts. Notwithstanding this, some business groups felt that the issue regarding control required further clarity.

The government worked closely with business groups to alleviate their concerns and, as I have indicated before, it agreed to insert a clause stating that if a person does not have direct control of a particular risk to health and safety the extent to which a person must eliminate or minimise the risk depends on the extent to which the person has the capacity to influence the matter. This clarification was supported by numerous business groups, including Business SA and the Australian Industry Group.

All that this legislation requires is that anyone who has the capacity to influence a work health and safety outcome should use that influence to prevent injury or death in the workplace. I repeat: surely this is as it should be. Those business groups who still oppose this bill appear to be looking for a legal framework where their members can wash their hands of any health and safety responsibilities. Would this state want to support a notion that a person has no responsibility for safety, even though they have the capacity to influence the safety outcome? I do not think so!

In terms of right of entry, Mr Darley has raised some concerns and the question of consistency with the Fair Work Act 2009, and whether there should be a right of entry where there are eligible union members. It is important to note that the right of entry to consult with workers is consistent across both pieces of legislation, and this right is not limited by requiring the union membership of workers.

It is also important to remember that the reference in the provisions dealing with suspected contraventions to workers 'who are eligible' to be union members is consistent with the work health and safety laws that were replaced by the Work Health and Safety Act in New South Wales, Queensland and the ACT, and is also consistent with the current Victorian Occupational Health and Safety Act 2004, which of course Premier Baillieu is holding up as an even better model of how things should be done.

In terms of red tape, this bill in fact reduces the requirements for written risk assessments, which are now only mandated for certain work activities. The Hon. Mr Darley suggests that he will seek to insert a provision in the bill that requires a review of the legislation. It is important to note that the Council of Australian Governments has requested that there should be a national review of the legislation under the auspices of Safe Work Australia by December 2014. It would not make sense to duplicate the review process in South Australia.

I will briefly address some of the concerns raised by the Hon. John Darley in his second reading speech, particularly regarding the performance of SafeWork SA. It is important to remember that one of SafeWork SA's primary roles at any workplace is to ensure compliance with the occupational health and safety legislation. This is achieved by: engaging with the industry and visiting workplaces to provide advice and information, to carry out compliance and enforcement action in the form of verbal direction, statutory notices and, in cases of serious breaches, prosecution; reporting and investigating notifiable work-related injuries, dangerous occurrences and complaints; and undertaking unannounced inspections to ensure that the occupational health and

safety management systems and site activities comply with relevant occupational health and safety legislation.

However, SafeWork SA is not responsible for the management of safety in the workplace. This responsibility rests with employers (PCBUs) and workers themselves. SafeWork SA has been actively involved at the Adelaide desalination plant since the beginning of the project in April 2009 and maintains engagement throughout the formal dialogue and site visits. In fact, since the project commenced almost 300 inspector visits have been undertaken, which has resulted in 83 compliance notices being issued.

SafeWork SA has ensured an occupational health and safety inspector presence at the site and regularly undertakes unannounced inspections. It has also had ongoing involvement with the desal plant through its investigation into the tragic death of Mr Brett Fritsch in July 2010. Charges have been laid in relation to that matter and it now rests with the Industrial Relations Court for determination.

I am also aware of SafeWork SA's other investigations relating to two other fatalities. In one situation the investigation concluded that there were no work-related factors that may have caused or contributed to the death, and the other fatality occurred on a public road away from the desal plant and was subsequently dealt with by SAPOL. In addition to all this, SafeWork SA has also worked closely with the desal plant parliamentary select committee, of which Mr Darley is a member, and has fully cooperated with that committee at all times.

This is a critical bill before us and, while I welcome the need for robust discussion, we should not prolong the debate as an obstructionist end in itself. I have consistently met with business groups and have consistently moved to allay fears and even to make amendments to the bill. The idea that this legislation is rushed is ludicrous, with the key legislative provisions finalised and publicly available for over two years. We as a Legislative Council are letting the workers and the majority of businesses in this state down badly if we continue to delay the progression of this important legislation.

The Work Health and Safety Bill represents a monumental and historic achievement in harmonising occupational health and safety laws across Australia. It represents the culmination of years of multilateral and tripartite engagement. The current bill has been endorsed nationally by the Workplace Relations Ministers' Council and Safe Work Australia.

We must not lose sight of the overriding key objective of improving work health and safety standards and particularly protecting working South Australians from death or injury. It is for these reasons that harmonised legislation has been passed in New South Wales, Queensland, the Australian Capital Territory, the commonwealth, the Northern Territory and Tasmania. It is for these reasons that it has support from governments, peak unions, national industry representatives—including the Australian Chamber of Commerce and the Australian Industry Group alike—and locally from Business SA, local unions and other industry groups.

It is for these reasons that I have been prepared to listen to local business groups, to reinsert the right to silence into the South Australian bill and to commit to a 1 January 2013 operation date, to ensure that the monumental work of the last five years does not go to waste and that we support the democratic processes that across the country have overwhelmingly voted for and supported the harmonisation of work health and safety laws.

The implementation of nationally harmonised work health and safety legislation is the final step on a long and challenging road. The bill represents South Australia's opportunity to improve the working lives of its citizens. It is an opportunity for South Australia to continue to be a part of a valuable history of continuous workplace reform, to provide 21st century work health and safety legislation and to improve people's working lives.

It provides the answers to the question industry and business have been asking for years: why can we not have consistent work safety laws across Australia? Most importantly, it is an opportunity to modernise and enhance legislation which protects our most precious resource: the rights of South Australia workers. I commend the bill to the house.

The council divided on the second reading:

AYES (11)

Darley, J.A.	Finnigan, B.V.	Franks, T.A.
Gago, G.E.	Gazzola, J.M.	Hunter, I.K.

AYES (11)

Kandelaars, G.A.	Parnell, M.	Vincent, K.L.
Wortley, R.P. (teller)	Zollo, C.	

NOES (10)

Bressington, A.	Brokenshire, R.L.	Dawkins, J.S.L.
Hood, D.G.E.	Lee, J.S.	Lensink, J.M.A.
Lucas, R.I. (teller)	Ridgway, D.W.	Stephens, T.J.
Wade, S.G.		

Majority of 1 for the ayes.

Second reading thus carried.

In committee.

Clause 1.

The Hon. R.I. LUCAS: I move:

That progress be reported.

The committee divided on the motion:

AYES (11)

Bressington, A.	Brokenshire, R.L.	Darley, J.A.
Dawkins, J.S.L.	Hood, D.G.E.	Lee, J.S.
Lensink, J.M.A.	Lucas, R.I. (teller)	Ridgway, D.W.
Stephens, T.J.	Wade, S.G.	

NOES (10)

Finnigan, B.V.	Franks, T.A.	Gago, G.E.
Gazzola, J.M.	Hunter, I.K.	Kandelaars, G.A.
Parnell, M.	Vincent, K.L.	Wortley, R.P. (teller)
Zollo, C.		

Majority of 1 for the ayes.

Motion thus carried.

Progress reported; committee to sit again.

STATUTES AMENDMENT (SERIOUS FIREARM OFFENCES) BILL

Adjourned debate on second reading.

(Continued from 17 July 2012.)

The Hon. S.G. WADE (17:12): I rise on behalf of the Liberal opposition to indicate our support for the Statutes Amendment (Serious Firearm Offences) Bill 2012. The government tabled the bill in the House of Assembly on 13 June 2012 in response to the escalation of gun violence that Adelaide has experienced in 2012. The opposition welcomes the bill.

In fact, the Liberal opposition has been calling for action on firearms since early 2012, and finally the government has heeded the call. The consideration of this bill is timely, especially in the light of yet another shooting on Tuesday night. It is the Liberal Party's view that firearm offences are some of the most serious offences and threats to public safety and that that fact should be reflected in the law.

Since the Howard government's national gun buyback of 1996-97, Australia has actively aspired to be a low-firearms community. This bill is another step in furthering that goal. We as a

party are keen to ensure that the bill does not unreasonably encroach on legitimate firearm possession on the one hand, and on the other hand we considered that it did not go far enough to protect those who put their lives on the line to protect our safety. In particular, we were concerned that the government's bill did not address misuse of firearms as it impacts on law enforcement officers.

It is in the public interest for law enforcement officers to be given enhanced protection from violence. Society has both a responsibility and a self-interest in actively discouraging violence against our police—police are those who regularly expose themselves to the risk of violence for the sake of protecting others from violence.

The need for enhanced protection was especially evident in the May 2010 shooting of SA Police patrol officers Nathan Mulholland and Tung Tran. These young officers responded to a domestic violence complaint in Salisbury at 5.15am. When they arrived, Mr Van Setten allegedly declared, 'You've been set up,' and shot them through the screen of the front door with a semi-automatic rifle.

Officer Mulholland received shrapnel wounds to the head and hand which required surgery. Officer Tran endured multiple shrapnel wounds in the right cornea, right forearm, left upper arm and chest. Today two metal fragments still remain in his eye. Mr Van Setten was originally charged with attempted murder, but the Office of the Director of Public Prosecutions downgraded the charges and Van Setten pleaded guilty to the lesser charges of aggravated acts to endanger life, aggravated recklessly causing harm, and possession of a prescribed firearm, and was sentenced to nine years gaol.

The case highlighted the need for law reform and the Liberal Party received representations from the Police Association to that end. That is why the Liberal opposition proposed amendments which created an offence with a maximum of 25 years imprisonment where a shooter intended to injure a law enforcement officer, and 10 years where they intended to harm a law enforcement officer.

On the morning of 10 July 2012, the Liberal opposition announced our intention to create those offences. Later that day, the government announced that it would support the reforms. We appreciate the government's support for our amendment in relation to firearms offences against law enforcement officers and look forward to working constructively to further refine those amendments.

The bill will make significant changes to probation, parole and bail laws. The Liberal opposition supports the changes and will monitor their impact, particularly on law abiding South Australians. Once you are deemed to be a serious firearm offender, the bill requires you to serve an immediate term of imprisonment. I note that there is no minimum term required.

While the Liberal opposition welcomes the government's action in relation to this bill, we remind the council that far more needs to be done. In the last decade, more than 11,000 firearms have gone missing. Labor has introduced 2,300 new offences over those 10 years but laws do not make a safe world.

South Australians need to ask themselves: in spite of having 2,300 new offences, with 11,000 firearms missing, how can they feel safer? The government has cut more than $100 million from the police budget over the next four years and that will make it even harder for police to effectively enforce firearms laws. Again, I express the support of the opposition for this bill.

The Hon. A. BRESSINGTON (17:17): I rise to indicate my support for the Statutes Amendment (Serious Firearm Offences) Bill first introduced in another place by the Attorney-General. As the title suggests, the bill seeks to address firearm offending by creating a presumption against bail and suspended sentences for those who commit a serious firearm offence amongst related reforms. While the media has no doubt played a role, our constituents are genuinely concerned about gun crime in our community.

Given the spate of shootings over the last year, particularly those occurring in public places such as the restaurant in O'Connell Street, this concern is understandable. Whilst time will tell, I am hopeful the measures proposed by this bill will see a reduction in offending and the danger to the public it poses. Further, the new offences of shooting at a police officer and of shooting at a premises, commonly known as a 'drive-by', I believe reflect the severity with which the community views such reckless and dangerous conduct and the desire to protect those charged with protecting us.

Whilst I do not plan to move any amendments, I want to record my concern about the trend in this government's bills to remove the requirement for the police to have a reasonable suspicion before searching people—in this case, those on conditional liberty such as on parole—for gunshot residue. I note that this concern is shared by the Law Society. However, I take some solace in the fact that these particular forensic tests are not cheap and that the police will no doubt invoke their right to do these tests on such people with reasonable suspicion that a crime has been committed.

Before supporting this bill, I have first made sure that it will be restricted to the criminal element and will not inadvertently capture and penalise legitimate gun owners or users, particularly the farming and sport shooting communities. On the latter, I am aware the bill is supported by the Sport Shooting Association of Australia. On the former, I was somewhat disappointed to learn that the South Australian Farmers Federation did not actively engage in the government consultation, given the potential for its members to be adversely affected. However that said, I am sure that if they had they too would have given the bill their support.

The series of presumptions in the bill, such as the presumption that bail conditions will include a prohibition on possession of a firearm, will not apply if the bail authority is satisfied that the accused has a cogent reason to possess a firearm, such as having a licence and needing it to manage feral species on their property and there is no risk to public safety. As a result, I am clear and convinced that this bill will not result in a farmer losing access to his lawfully possessed and necessary firearm.

As such, I am satisfied that in its attempt to crack down on illegal firearms use the bill has adequate safeguards, but I do concur with the concerns expressed by the Hon. Stephen Wade about the cuts in the police budget, therefore limiting our police in their ability to enforce these laws and do their job well.

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) (17:21): I wish to thank honourable members for their second reading contributions, and for the support they are able to offer this important bill. I look forward to the committee stage being dealt with expeditiously.

Bill read a second time.

CHARACTER PRESERVATION (BAROSSA VALLEY) BILL

In committee.

Clause 1.

The Hon. D.W. RIDGWAY: I have a couple of questions I would like to ask today, and have indicated to the minister that we intend to progress the bill in this next sitting week. First, last time I raised some questions in relation to the maps and the boundaries, in particular the industrial area around Vinpac. We have had no indication that the maps have been readjusted, we have had no communication from the minister's office, so I am not aware as to whether or not that has happened.

I would very much like that to be provided to both the opposition and the crossbenchers so that we know that the maps have been adjusted and have been double-checked to make sure that all of those industrial areas and little anomalies have been ironed out, because we all know that those maps will be lodged with the registry office and, if they are wrong, we will have to come back to parliament to lodge new maps, so we do want proof that they have been adjusted. That is the first question.

The second question troubled me a little. I met with a number of the stakeholders and in particular the stakeholders from the Barossa—Sam Holmes, Jan Angas and Linda Bowes—a couple of weeks ago. They had a new bill drafted and they were very confident that the minister would accept that new bill. I know I will get looks of astonishment from the other side of the chamber. It was still their view last Wednesday, when I spoke to Mr Holmes in person, that they were going to meet with the minister and they were confident he would accept a new bill.

I thought that was an optimistic claim but, nonetheless, I would also like some assurance from the minister's office that we are only dealing with the bill that is before us today and we will not see that one removed and one that they were very confident the minister would accept. It was a strange claim to me but, nonetheless, the people in the Barossa have been quite passionate

advocates now for two years and I gave them the courtesy of saying, 'We won't progress the existing bill until I've got a guarantee from the minister that we won't be having another bill.'

The Hon. G.E. GAGO: I realise that, during the second reading debate, Mr Ridgway requested further information about the number of industrial properties that fall outside the township areas. In particular, the Hon. Mr Ridgway queried the non-inclusion of two properties owned by Tarac Pty Ltd and land owned by North Para Environment Control Pty Ltd, which is operated, I think, as a wastewater treatment plant. The Hon. Mr Ridgway expressed concern about apparent industrial areas not included in the townships.

I would like to point out that, as a starting point, a variety of industrial uses are ancillary to primary production and are therefore considered appropriate for the rural areas of the Barossa Valley district. The bill has nothing direct to say on these matters and leaves them to the development plan. The NPEC wastewater treatment plant, which is located in the primary production zone, is a good example of this. The government therefore does not consider that this area should be included in the township boundaries.

Adjacent to this property are two property holdings owned by Tarac on, I think, Samuel Road. One of these is in the township boundary and one is not. The simple reason for this is that one is zoned for industrial use and one is zoned for primary production. While the allotment zoned for primary production may have been acquired in the hope that it might be rezoned at some stage, there is no right to that and, given the current zoning and the fact that the land is underdeveloped, it is appropriate that the land not be included in the township.

The other allotment owned by Tarac presents a slightly different issue. I am advised that the land in question is contiguous to the Beckwith Park industrial estate at Nuri and is partially developed with car parking associated with the nearby facilities. This land falls within the council's industry zone and I am advised that this occurred as a result of a general development plan amendment undertaken during 2011 to convert the Barossa Council's development plan to standardised zoning format.

This process merged two previous zones into one and, as a consequence of occurring contemporaneously with the mapping for this bill, the slight zoning change was not captured at that time, and so the township boundary reflected in this bill is incorrect. The government has moved to correct it, it having been drawn to our attention.

Given this anomaly, in response to the Hon. David Ridgway's suggestion in the second reading debate, the department has reviewed the township boundaries and picked up an additional anomaly resulting from this development plan amendment at Williamstown, and so this has also been corrected. Neither of these boundary changes alter the intent of the bill to define township boundaries based on existing zoning boundaries. Both changes represent anomalies only that have been now corrected, and we thank the Hon. David Ridgway for drawing that to our attention.

In relation to the issue about whether there is going to be a new bill, I can assure the honourable member that no new bill is anticipated. The government knows nothing about the proposal that the Hon. David Ridgway has talked about today. The only amendments that we have at present are those that are on file.

The Hon. D.W. RIDGWAY: Did you address the Vinpac issue which I also raised in the second reading speech? Vinpac is a wine packing facility that is on land in an industrial zone (Stockwell Road in Angaston). Again, it is a property of quite some magnitude and surrounded by vacant land that is zoned industrial, but it is still in the rural zone. The owners were just interested to know whether that would be identified as an industrial park, rather than rural.

The Hon. G.E. GAGO: I have been advised that the issue relating to Vinpac is a matter for the development plan. Industrial uses related to rural uses are already permitted, and the bill is silent on this and leaves it to the development plan.

Progress reported; committee to sit again.

GRAFFITI CONTROL (MISCELLANEOUS) AMENDMENT BILL

Consideration in committee of the House of Assembly's message.

The Hon. G.E. GAGO: As honourable members are aware, the House of Assembly rejected amendments made by this place to the bill. In an effort to avoid a deadlock conference, the government put forward a proposal to compromise, and put that forward to the Hon. Stephen Wade on amendments to the bill by letter on 20 August 2012. The government received no response to

this letter and so sent a further letter to the Hon. Mr Wade yesterday. The letter enclosed a draft of the government's proposed resolution. The government's proposed resolution would have this place not insist on its amendments to the definition of 'graffiti implement', together with the associated consequential amendments.

The resolution would also have this place not insist on the amendment requiring a sunset date for the driver's licence suspension provision, being Wade amendment No. 10. The government was advised at about 12 noon today that its proposed compromise was not going to be agreed to by the opposition, through the Hon. Stephen Wade. Rather than this bill simply going back to deadlock, however, the Hon. Stephen Wade at 3pm today filed an alternative proposal which, I have to say, is completely unacceptable; it is procedural insanity. Having said that, the government obviously does not support the Hon. Stephen Wade's amendment and the government will be seeking to put its resolution.

The Hon. S.G. WADE: Just briefly, and we will consider each amendment in due course, I indicate that I do regret that there was a procedural issue in terms of filing the amendments. It certainly had been our intention to get them to the government earlier. What is clear is that, in consultation with our crossbench colleagues—the members who share our concern about the review, the members who share our concern about the proposal to remove the definition from the act—the government's compromise was not acceptable. Those discussions continued until this morning. The government's alternative compromise is not really a compromise. It is called a compromise but it is the government insisting on pursuing regulations and commits to consulting with the one agency. I will address that in more detail in my comments on amendment No. 1.

Amendment No. 1:

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

That the council do not insist on its amendment No.1.

I will just say at this point, so that everyone is clear, that I think the Hon. Stephen Wade will now, no doubt, put his amendment. The government sees his first amendment as a test amendment. Just so everyone is clear, if the Hon. Mr Wade's amendment No. 1 is supported, then the government will not move its amendment or its resolution. However, if the Hon. Mr Wade's amendment No. 1 is not supported, then obviously the government will move its filed resolution or amendment.

The Hon. S.G. WADE: I thank the minister for that suggestion. I think that is a sound way to go ahead, depending on how the government wants to handle it. The government may want to take amendment No. 1 as a test clause on the implements definition cluster and it may choose to have a different test clause on the issues related to the review. Therefore, I move:

That the Legislative Council does not insist on its amendment but makes the following amendment in lieu thereof:

Clause 4, page 3, lines 1 and 2 [clause 4(2)]

Delete subclause (2) and substitute:

(2) Section 3—after the definition of *minor* insert:

prescribed graffiti implement means—

(a) a can of spray paint; or

(b) a pen, marker pen, or similar implement that—

(i) has a tip that is more than 6mm wide; and

(ii) contains a fluid that is not water soluble and that is capable of marking a surface;

I think it would be beneficial to talk to it now because it would put it in context. On Thursday 14 June the opposition was disappointed that the government gagged debate on this bill. We saw recommittal as the best way to negotiate on the clauses but the government chose to send it back to the house and insist. They chose the course to a deadlock conference. This is taking their decision through to its fruition. Unfortunately, that approach by the government has resulted in delays. They are completely the responsibility of the government.

The law, in our view, should target bad behaviour rather than using broad regulation-making powers to penalise every hardware, stationery and paint store across the state and, for that matter, a large range of other retailers and impacting on law-abiding citizens because of the actions

of a few. The opposition considers that it is appropriate for parliament to maintain more direct oversight of areas which impact most heavily on law-abiding citizens. That is the current approach in the act and we see no benefit in shifting the list of secure items into the regulations. Businesses and individuals should have a reasonable opportunity to be aware of any changes affecting them and to be involved in reviewing them through their parliament.

We believe the current practice of a short stable list of secure items should be maintained in the legislation; that is the appropriate approach. We support a broader approach in the context of the confiscation of items and so forth; however we do not consider that a broad regulation approach is appropriate when it comes to the secure list. The Liberal opposition amendment proposes that there are only two items on the secure list—cans of spray paint and wide tip markers. The current act already specifies cans of spray paint. The Attorney-General's second reading speech in the other place indicated that the government intended to add wide tip markers to the secure list. The opposition supports the addition of wide tip markers, so we moved a list of the cans of spray paint and wide tip markers. That is our intent.

The opposition is open to further improving the list. It seems clear that the government has decided that it wants a deadlock conference to work through improvements. The opposition puts this amendment down for consideration of the deadlock conference. The definition of 'wide tip marker' in our amendment is based on the relevant provisions on the Western Australian Criminal Code Act Compilation Act. They are used for a very similar purpose. These provisions specify a marker in terms of a 6mm wide tip. To this point, our amendments have referred to a 15mm wide tip. As we head to a deadlock conference, I have initiated consultation with a range of stakeholders on the proposed definition of wide tip marker. We are open to amendments on the width of the marker, other attributes of a marker or, for that matter, any other aspect of the list.

The government may well want other items to be on the secure list. The Attorney-General has already suggested that there could be four or five items on the secure list, but what are they? Why is the government not telling this parliament or the community what items they want on the list? What is the government hiding? I urge the government to come clean and name the items. I appreciate that the Hardware Association is happy with the government's commitment to our user regulation approach in the context of a government commitment to consult on the regulations.

However, even if the government's hidden list only adds wide-tip markers it is our view that the government would need to consult much more than the Hardware Association. Wide-tip markers are sold by a range of retailers. To name a few: newsagents, art stores, department stores, stationers. These businesses are not represented by the Hardware Association. I urge the council to support the alternative amendment No. 1 that I have moved.

The Hon. G.E. GAGO: I rise to oppose the Hon. Stephen Wade's amendment. I also put on the record that the government rejects the Hon. Stephen Wade's suggestion that there be a number of tests. I have said quite clearly that we believe that this amendment No. 1 is the test clause for all of the Hon. Stephen Wade's amendments. We are simply not going to waste the time of this chamber any further on this absolutely ridiculous pantomime that is going on. We see this as the test clause, and if this is supported then the government will withdraw its amendment and will not proceed with it.

The government opposes this Wade amendment. The government maintains that it is appropriate that the graffiti implement be defined as 'implements to be listed in regulations'. The government has committed to consulting with the industry groups who will be affected by these regulations. We spoke at length about this during the committee stage and I do not think there is any point in going over all of those arguments because they are all on the record and they are well documented. Let's get on with it.

The Hon. T.A. FRANKS: The Greens will be supporting the opposition amendment. I want to put it on the record that, while the minister feels that we spoke at length with regard to this issue, there was an agreement in the committee stage in the debate of this bill that we recommit this clause. This clause was inadequate in its wording then and I do believe it is inadequate in its wording now. However, at least it will be in the act, which is more preferable to it being in regulations, where we do not trust this government to get it right. We do not trust this government to give certainty to retailers, to young people, to their parents or to schools who might be affected by this.

I draw the attention of all members to the workings of this particular amendment and how it has been implemented in WA. From my understanding of reading the *Hansard* where this definition

of graffiti implement (which has been adopted in that state) was discussed, the Retailers Association expressed that 20 to 30 items at Officeworks would be caught by this. Certainly school kits and art kits would be caught by this. What has not been mentioned so far is that haberdashers like Spotlight, Lincraft and smaller ones would be caught by this.

I think that the government 'doth protest too much' about having consulted properly. Had they actually done the consultation before bringing this bill to this place, we would have a definition that the government could tell us was agreed to by all of those stakeholder groups.

The Hon. D.G.E. HOOD: I see no reason why these matters should not be inserted into regulation, which can be disallowed by this chamber (or the other) if we so choose. For that reason we will not be supporting the amendment.

The Hon. A. BRESSINGTON: I will be supporting the opposition amendment for all of the reasons expressed by the Hon. Tammy Franks and because of the Hon. Stephen Wade's accurate description that what we should be doing in this place is dealing with the bad behaviour. I remind the Hon. Dennis Hood, who still somehow holds onto this illusion that we successfully disallow regulations in this place and that it is a fair and proper process, that it has rarely been a successful process. If there was a subordinate legislation act that was already in place, I would have more faith in the fact that we could move forward with this. However, I stand by my decision and my vote the last time this came before the house, and I support the opposition amendment.

The Hon. J.A. DARLEY: I will not be supporting the opposition's amendment.

Motion carried.

The committee divided on the Hon. S.G. Wade's motion:

AYES (10)

Bressington, A.	Dawkins, J.S.L.	Franks, T.A.
Lensink, J.M.A.	Lucas, R.I.	Parnell, M.
Ridgway, D.W.	Stephens, T.J.	Vincent, K.L.
Wade, S.G.		

NOES (9)

Brokenshire, R.L.	Darley, J.A.	Finnigan, B.V.
Gago, G.E.	Gazzola, J.M.	Hood, D.G.E.
Hunter, I.K.	Kandelaars, G.A.	Zollo, C.

PAIRS (2)

Lee, J.S.	Wortley, R.P.

Majority of 1 for the ayes.

Motion thus carried.

Amendment Nos 2 and 3:

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

That the council do not insist on its amendment Nos 2 and 3.

The Hon. S.G. WADE: The opposition does not support the motion.

Motion negatived.

Amendment No. 4:

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

That the council do not insist on its amendment No. 4.

The Hon. S.G. WADE: I move:

That the Legislative Council does not insist on its amendment but makes the following amendment in lieu thereof:

Clause 8, page 3, lines 27 and 28 [clause 8, inserted section 5(1)]

Delete subclause (1) and substitute:

(1) A person must not sell a prescribed graffiti implement to a minor.

Maximum penalty: $5,000.

(1a) However, subsection (1) does not apply in relation to the sale of prescribed graffiti implements of a type excluded from the operation of subsection (1) by the regulations.

The Hon. G.E. Gago's motion negatived; the Hon. S.G. Wade's motion carried.

Amendment Nos 5 to 7:

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

That the council do not insist on its amendment Nos 5 to 7.

The Hon. S.G. WADE: The opposition does not support the motion.

Motion negatived.

Amendment Nos 8 and 9:

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

That the council do not insist on its amendment Nos 8 and 9.

The Hon. S.G. WADE: The opposition supports the motion.

Motion carried.

Amendment No. 10:

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

That the council do not insist on its amendment No. 10.

The Hon. S.G. WADE: The opposition does not support the motion.

Motion negatived.

Amendment No. 11:

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

That the council do not insist on its amendment No. 11.

The Hon. S.G. WADE: We support the motion.

Motion carried.

Amendment No. 12:

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

That the council do not insist on its amendment No. 12.

The Hon. S.G. WADE: The opposition does not support the motion.

Motion negatived.

MOTOR VEHICLES (DISQUALIFICATION) AMENDMENT BILL

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

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) (18:01): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill addresses a problem facing governments in this age of electronic information gathering, storage and transmission, namely, programming errors that cause systems to malfunction, resulting in information not being produced or actioned in reasonable timeframes.

Currently, when a driving offence is finalised (for example, through expiation or conviction), information relating to the offence is transmitted electronically from the Courts Administration Authority and South Australia Police to the Registrar of Motor Vehicles. Once received, the Registrar must add the offence to a person's driving record. Offences appear on the record in chronological order according to the date on which they were committed (or, in the case of expiated offences, allegedly committed).

If an offence results in a person becoming liable to be disqualified from driving, the Registrar must give the person a notice of disqualification. This would happen, for example, if the offence is a breach of a driver's licence or learner's permit condition, or if the offence attracts demerit points and when added to the person's record, the total number of demerit points incurred within a 3 year period equals or exceeds 12 points.

At present, the Registrar has a statutory duty to give a notice of disqualification if the person becomes liable to disqualification under the Motor Vehicles Act. The Registrar has no choice but to act in accordance with the law and is unable to withhold or determine not to give a notice of disqualification.

The Bill changes this position by not allowing the Registrar to give a notice of disqualification where the notice has been delayed by 12 months or more due to government error.

It is the delay in a disqualification being imposed, rather than the delay in information relating to an offence being notified to the Registrar, that causes the additional inconvenience to drivers.

Proposed section 94 provides that if as a result of a government administrative error, a notice of disqualification is not given to a person within 12 months after the person becomes liable for disqualification, the Registrar must not give the notice to the person.

In the case of a demerit points disqualification, demerit points are incurred when the persons expiates or is convicted of the offence by the court. When the total of the demerit points incurred by the person reaches 12 or more for offences committed within 3 years up to the most recent offence the person is liable for disqualification.

Section 94 will not assist a person who by their own acts delays action on an offence being finalised more than 12 months and therefore will not encourage deliberate manipulation of the system in an attempt to avoid a disqualification. Nor will it apply when due to legal processes action on the offence is finalised well after the offence was committed.

12 months is considered a reasonable period. Both the Courts Administration Authority and South Australia Police collect offence data (depending on how action on the offence is finalised). The data is processed on different systems and transferred to the Registrar, who must input the information onto another system, which operates the register of drivers licences.

The Government is taking this positive step as a result of a delay by the Courts Administration Authority that came to light in mid-2011 in transferring over 100,000 offence records relating to orders for relief (allowing for time-payment of expiation fees) dating back over several years. Approximately 8,000 notices of disqualification were given much later than they would have been without the delay.

Not all of these 8,000 people had to serve the disqualification, as 56% had the option of having a condition to be of good behaviour placed on their licence or of entering into a safer driving agreement with the Registrar which allowed them to continue to drive. The greatest inconvenience was to people who were a learner or a provisional licence holder at the time of the offence, had progressed to a higher licence stage prior to being disqualified and after serving the disqualification, regressed to a provisional licence or learner's permit.

The cause of the delay identified in 2011 was remedied and money has been allocated in the 2012-13 budget to develop a business case to consider improvements to the Courts Administration Authority computer systems. However, in undertaking an audit of its system this year, the Courts Administration Authority has identified approximately 1,200 further offences which were not transmitted to the Registrar at the time of their finalisation. These offences come within the ambit of the Bill.

This amendment should be welcomed by all members as a sensible response to the potential for future data delays and their unintended impact on driver's licence holders.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Motor Vehicles Act 1959*

4—Insertion of section 94

This clause inserts a new section 94 as follows:

94—Administrative errors and notices of disqualification

If, because of an administrative error, a notice of disqualification is not given to a person by the Registrar in accordance with the *Motor Vehicles Act 1959* within 12 months after the person became liable to be given that notice, the Registrar must not, despite any other provision of that Act, give the notice of disqualification to the person.

Schedule 1—Transitional provision

1—Application of section 94

Proposed new section 94 is to apply in relation to a notice of disqualification that would (but for the operation of that section) be given by the Registrar after the commencement of clause 4.

Debate adjourned on motion of Hon. D.W. Ridgway.

STATUTES AMENDMENT AND REPEAL (TAFE SA CONSEQUENTIAL PROVISIONS) BILL

The House of Assembly agreed to the time and place appointed by the Legislative Council for holding the conference.

At 18:02 the council adjourned until Tuesday 18 September 2012 at 14:15.