LEGISLATIVE COUNCIL

Thursday 12 September 2013

The PRESIDENT (Hon. J.M. Gazzola) took the chair at 14:15 and read prayers.

UNREGISTERED BIRTHING SERVICES

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:16): I lay on the table a ministerial statement made today by the Minister for Health and Ageing in another place on unregistered birthing services.

ANSWERS TO QUESTIONS

FORESTRYSA

In reply to the **Hon. D.W. RIDGWAY (Leader of the Opposition)** (10 April 2013).

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations): I am advised:

OneFortyOne Plantations Pty Ltd has appointed a Chief Operations Officer. The position is based in Melbourne and currently works two days per week in Mount Gambier.

CITRUS GREENING DISEASE

In reply to the **Hon. J.S.L. DAWKINS** (30 April 2013).

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations): I am advised:

There is a diagnostic protocol which can differentiate nutrient deficiency and citrus greening, a bacterial disease not currently present in Australia. This protocol is in the process of being endorsed as a National Diagnostic Protocol by Plant Health Committee to be used in the event of a suspected incursion. The process is managed by the Subcommittee on Plant Health Diagnostic Standards (SPHDS).

SARDI has a representative on SPHDS, who is currently the chair of the committee. SARDI pathologists have been trained to recognise potential symptoms, as well as the other conditions which may be confused with citrus greening. Suspect samples will be tested by plant health laboratories in NSW and QLD which have the national diagnostic protocol established in their laboratories.

As the cause of citrus greening is not present in Australia, in the event of any suspected incursion these two laboratories would undertake any identification using the National Diagnostic Protocol. The two insect vectors (citrus psyllids) are not present in Australia, and there are draft diagnostic protocols for their identification.

QUESTION TIME

MORGAN SAWMILL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:18): I seek leave to make a brief explanation before asking the Minister for Forests and Regional Development a question about the future of timber supply in the Mid North.

Leave granted.

The Hon. D.W. RIDGWAY: There is a sawmill near Jamestown called Morgan's, a family business owned and operated by three generations of the same family. It supplies structural timber, pallets, woodchips, sawdust and decking. Morgan Sawmill supports the preservation of timber supply from a locally-grown plantation forest maintained by ForestrySA.

Most of its raw timber comes from the Wirrabara and Bundaleer forests, Bundaleer being the state's first forest plantation, planted in 1876. Members will recall that last year we had quite a significant fire in that region, and now Morgan Sawmill is coping with a large supply of burned logs,

trying to harvest the timber before it becomes unmillable. They also create some 35 to 40 jobs in the town of Jamestown, and I visited them earlier this year.

Morgan's have a quandary, and it's of the minister's making. Early last year, the minister's department promised to do essential mapping of the Mid North forest resource. Morgan's need to know exactly how much timber is available and what type of timber it is. Morgan's would use the mapping of what is in the forest to target the market with the right timber products. This will give the company confidence to invest, to create even more jobs in a regional community and to hand the company on to the fourth generation. Despite being told that the mapping would be finalised last year, the company has heard nothing from the department. My questions to the minister are:

1. Why the delay?

2. When will the delay be over?

3. Has the minister visited Morgan Sawmill to see how important this industry is to a regional community?

The PRESIDENT: Before I call the minister, I ask the minister to ignore the opinion.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:20): Thank you for your advice, Mr President; I will ignore all opinion. I am advised that Morgan Sawmill have raised concerns with ForestrySA about their mix of log supply. This is obviously an operational issue for ForestrySA, and I understand that there are ongoing discussions around that to work on contractual arrangements for their supply over the long term.

ForestrySA, I understand, has previously advised that they would undertake a survey of the current tree stock in the Mid North plantations to provide better information about what might be the longer term supply options with respect to log mix. This assessment and review was expected to be completed early this year. However, I am advised—

The Hon. D.W. Ridgway: Last year.

The Hon. G.E. GAGO: My understanding is that it was expected to be completed early in 2013. I am advised that in about mid-January this year approximately one-third of the 1,344 hectares of pine resource in the Bundaleer Forest was severely damaged by wildfire, which I am sure the Hon. David Ridgway would be well aware of. I am advised that ForestrySA is communicating with Morgan Sawmill to work through the fire salvage issues. Recent survey work, I understand, and analysis to provide better information about the potential longer term supply options from the Mid North forests will now need to consider unsalvageable logs from the wildfire, and it is likely that the assessment and review are now expected to be completed around mid-2013.

It is most unfortunate that we had that fire; there is very little that we can do about that. These things happen; they are part of the environment we work in and part of the risks associated with our forestry industry. I understand that this dialogue has been going on with Morgan's for some time and that they understood why there were protracted mapping opportunities. My understanding is that they have been kept informed of this and understand what is going on, why it is going on and what the new time frames have been calculated to be.

I will double-check that Morgan's have been informed of all these things. I am confident that they have, but I will double-check to make sure that, if they haven't or if there is any uncertainty about any of those matters, they are kept up to date.

MORGAN SAWMILL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:24): Have you been up to visit them—a supplementary question.

The PRESIDENT: A supplementary interjection! The Hon. Mr Ridgway has a supplementary.

The Hon. D.W. RIDGWAY: Can the minister advise when the burned logs will be felled and when the replanting program will commence?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for

State/Local Government Relations) (14:24): They are operational matters. I am happy to take that on notice but, as I have said, I have been advised that that mapping exercise won't be completed now until about mid this year.

SA WATER

The Hon. J.M.A. LENSINK (14:25): I seek leave to make a brief explanation before directing a question to the Minister for Water and the River Murray on the subject of third-party access to the SA Water network.

Leave granted.

The Hon. J.M.A. LENSINK: A document, 'Access to water and sewerage infrastructure', was published by the Department of Treasury and Finance in February this year which anticipates that third-party access may lead to greater competition for non-household water users. ESCOSA's submission to Treasury and Finance indicated that it was looking for 'a strong, comprehensive and effective state-based access regime' in order to fulfil the objects of the Water Industry Act. It clearly indicates in its submission that it does not believe that the draft report goes far enough.

The report indicated that, once submissions closed on 15 March this year, the government was to draft a bill to be released 'by mid-2013 for further public consultation' and it is expected to be introduced to parliament in September 2013. Where is the draft bill and, if it has not been drafted, when will we see it?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:26): On Friday 1 February, I published a report on third-party access to water and sewerage infrastructure. The report was published in accordance with section 26 of the Water Industry Act 2012. The report was also required to be tabled in parliament. The report summarises the current status of third-party access to water and sewerage infrastructure and examines a number of options for access regimes in this state.

The options include: maintaining the status quo, that is, access seekers may seek a determination for access under the commonwealth Competition and Consumer Act 2012; the making of a ministerial direction to SA Water requiring SA Water to publish protocols regarding third-party access to its infrastructure, which would operate under the commonwealth act; the possibility of voluntary undertakings under the National Access Regime, which would involve water infrastructure owners giving a voluntary undertaking under the commonwealth act; and I advise the creation of a state-based legislative access regime.

The report is intended to facilitate consultation with industry participants and interested community members on the options for third-party access to water and sewerage infrastructure services. The closing date for submissions, as the honourable member said, was Friday 15 March. I am advised that submissions are currently being reviewed so that we can find the best option for third-party access in consultation with our communities of interest.

Once the best option for third-party access has been identified to me, I will then take that proposal through to government and prepare a draft bill, which should be released for public consultation. It was our intention to have that draft bill ready very soon, but at this stage I cannot give a timetable for its release.

SA WATER

The Hon. J.M.A. LENSINK (14:28): A supplementary question: does the minister anticipate that a draft bill will be available by the end of the year?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:28): I refer the honourable member to the original answer; that is the best I can give her.

RIVERLAND SUSTAINABLE FUTURES FUND

The Hon. S.G. WADE (14:28): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about the Riverland Sustainable Futures Fund.

Leave granted.

The Hon. S.G. WADE: The Riverland Sustainable Futures Fund was a $20 million agreement announced in February 2010. During the rollout of the program, the guidelines have

changed several times. The government decided to withhold $5.1 million from the futures fund to, as I understand it, leverage dollar-for-dollar funding from the former federal Labor government. Applications have recently opened again for the final $3.9 million of the fund. My questions are:

1. Can the minister explain why, after announcing $1.07 million to the Renmark Club, there is only $3.9 million left to be distributed?

2. Does that suggest that her attempts to leverage the dollar for dollar funding from the former federal Labor government were unsuccessful?

3. When will the remaining $3.9 million be distributed?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:29): I thank the honourable member for his most important questions. Indeed, the honourable member is quite misleading. The guidelines for the Riverland Sustainable Futures Fund have quite simply not changed several times. The criteria for eligibility for the Sustainable Futures Fund have remained consistent throughout the fund and, what is more, the time frames have been honoured as well.

I think the only change was to the first year of spending, when it took some time to get the prospectus completed and the uptake was slow, and so we carried over moneys for the second and third year. In terms of the $20 million being fully expended for the original intention—the original election commitment—we have fulfilled that. Not only have we fulfilled that but we have gone beyond that because I have been able to successfully use some of that money to leverage federal commitment into spending and contributing further funds to the Riverland.

Instead of the honourable member whinging and carping and misleading this parliament about changed criteria that have not changed at all, he should be putting forward a vote of congratulations to this government for the enormous contributions that this government and the former federal Labor government made to the Riverland and the river.

We have seen what the opposition's position is. The new Coalition federal government wants to step back from their commitment to the buybacks to the Murray. They want to step back from their commitment for regional spending. They do not want to honour some of those commitments that were made. That is what we see the Coalition doing—stepping back and stepping out of and letting down our regions, letting down our Murray River—and we continue to deliver. We continue to deliver because this Labor government stands up for South Australians, South Australian communities, our regions and our river.

The PRESIDENT: Supplementary question to the Hon. Mr Wade.

RIVERLAND SUSTAINABLE FUTURES FUND

The Hon. S.G. WADE (14:32): Could the minister outline what was the quantum of money that she was able to leverage over and above the $20 million for projects funded from the Riverland Sustainable Futures Fund?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:33): Because we were prepared to put our money on the table, we were also able to successfully negotiate $12.5 million for the Loxton development, and I do not believe that we would have been anywhere near as successful as we were if we had not been prepared to say, 'Not only have we put our money where our mouth is but there is this additional $5 million that we are contributing to Riverland spending as well,' though having that money on the table did assist in those negotiations. As I said, this Labor government stands for the commitments it has given. It has delivered and we continue to deliver on time, on budget, and we continue our—

Members interjecting:

The Hon. G.E. GAGO: $20 million.

The Hon. J.M.A. Lensink: You are misleading parliament, minister.

The PRESIDENT: Order! The minister has the call.

The Hon. G.E. GAGO: The $20 million that was budgeted for the Riverland Futures Fund—

The Hon. R.L. Brokenshire interjecting:

The PRESIDENT: Order! Minister, you have the call. Don't worry about the Hon. Mr Brokenshire.

The Hon. G.E. GAGO: I am talking about the money that I have control over. That $20 million will be delivered on budget, in time and according to the criteria we originally set out to achieve. It will all be fully expended in the Riverland and on time.

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

RIVERLAND SUSTAINABLE FUTURES FUND

The Hon. S.G. WADE (14:34): On the understanding that the Loxton project was funded out of River Murray money, is there any additional money beyond the $20 million for projects out of the fund—

The Hon. G.E. Gago: $25 million plus $12.5—but is there any more?

The Hon. S.G. WADE: Sorry, if I just finish my supplementary question—

The Hon. G.E. Gago: Where's the rest? You're mad.

The Hon. S.G. WADE: I just ask the minister to identify—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Wade is on his feet trying to get a supplementary question. He doesn't need any help from his backbench.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: The Hon. Mr Ridgway can return to his papers.

The Hon. S.G. WADE: I ask the minister to advise of one dollar, one project, over and above the $20 million from the Riverland Sustainable Futures Fund where she was able to match funding within that fund with commonwealth moneys, not warm fuzzy commonwealth relations.

The PRESIDENT: No debate, just the question; you've asked the question. The Minister for Regional Development.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:35): The honourable member stutters because he doesn't know what he is talking about. He is embarrassed. He gets to his feet and starts to shoot his mouth off—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: —and he realises he doesn't know what he is talking about. That is why he is stammering over his words: he doesn't know what he is talking about. He gets to his feet, shoots off his mouth and then starts stammering because he doesn't know what he is talking about.

How much more do we need to deliver? This government has committed to and will deliver the $20 million to the Riverland Sustainable Futures Fund, to the Riverland area, to those regions that suffered from drought, and we will deliver $20 million to stimulate business, investment, jobs and diversification in that region—$20 million.

We have also used our commitment to help negotiate with the former federal government $25 million for diversification and also $12.5 million towards our Loxton development centre. I am just gobsmacked that the honourable member then insists, 'Well, what more? Name another dollar.' These funds weren't contingent on that $5 million.

The Hon. S.G. Wade: Well, it's not leveraging, then.

The Hon. G.E. GAGO: It was leveraging because we were able to demonstrate our credentials. We were able to demonstrate our commitment, not just in terms of the previous $15 million commitment but also the $5 million that we were able to have on the table.

REGIONAL DEVELOPMENT FUND

The Hon. CARMEL ZOLLO (14:37): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about regional development funding in the Clare Valley.

Leave granted.

The Hon. D.W. Ridgway: She's rolling her eyes as she asks the question.

The PRESIDENT: The Hon. Mr Ridgway.

The Hon. CARMEL ZOLLO: I wasn't rolling my eyes.

The Hon. D.W. Ridgway: Yes, you were.

The PRESIDENT: The Hon. Mr Ridgway, just sit there quietly.

The Hon. CARMEL ZOLLO: He can't see very well.

The Hon. D.W. Ridgway: I can see you pulling faces.

The Hon. CARMEL ZOLLO: Well, I definitely can't see very well.

The PRESIDENT: Order! Don't be baited by the Hon. Mr Ridgway.

The Hon. CARMEL ZOLLO: You're right, Mr President; I shouldn't be baited by him.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Just drink your water and sit there quietly.

The Hon. K.J. Maher: Chuck him out!

The PRESIDENT: The Hon. Mr Maher, I don't need any of your advice either. The Hon. Mrs Zollo.

The Hon. CARMEL ZOLLO: Thank you, Mr President. I do have to say that I haven't got my glasses—I left them in my office—so perhaps that was what the Hon. Mr Ridgway was talking about.

Grant funding was approved from stream 2 of the Regional Development Fund (RDF) to Regional Development Australia Yorke & Mid North to promote the premium food and wine industry in the Clare Valley. Can the minister inform the chamber of how this funding will build worldwide demand for premium food and wine products from the Clare Valley?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:38): I thank the honourable member for her most important question. Stream 2 funding of the Regional Development Fund (RDF) is aimed at providing support to leverage funds to deliver projects that develop and support the priorities of premium food and wine from a clean environment, growing advanced manufacturing, or realising the benefits of the mining boom for all. Funding in this stream is available to various stakeholders, including the South Australian non-metropolitan regional development associations.

The South Australian government is committed to ensuring that real actions from industry are driving results from the premium food and wine from our clean environment strategic priority. Our food and wine industry is a significant contributor to our state's economy and crucial to our vibrant regions; Yorke & Mid North are obviously no exception to that. In 2008-09, the wine industry was the number one contributor to the GRP in the area covered by Clare & Gilbert Valleys. I am advised that approximately $102 million was attributable to the wine industry alone.

Further, I understand that the wine industry in this region was estimated to directly employ 784 FTEs and generate approximately 412 further FTE positions in flow-on business activity. These figures are even more impressive when you realise that this is without incorporating viticulture or tourism numbers. Numbers like these are tremendously telling on how important the premium food and wine industry is to our regions.

It is my firm belief that vibrant food and wine industries help grow our regions and, of course, they are a significant player in South Australia's economy. They are vital to our state's continued prosperity and, unlike those sitting opposite, this significant industry is not only acknowledged by a Labor government, it is supported financially by our RDF grants process. This

government puts its money where its mouth is when we talk about supporting South Australian industry in South Australian regions. We believe in providing funding which grows industry, business and community.

I am extremely pleased to be able to announce that the RDA Yorke & Mid North, in collaboration with the Clare Valley Alliance, has been successful in their RDF stream 2 grant application for up to $80,000 to build worldwide demand for premium food and wine products from the Clare Valley. The Clare Valley Alliance is a cross-organisation group that has come together to work with the RDA on a collaborative approach to marketing the Clare Valley.

The alliance consists of the Clare & Gilbert Valleys Council, Clare Valley Cuisine, Clare Valley Business and Tourism Association, Clare Valley Winemakers and the Clare Region Winegrape Growers Association. The alliance came together to support the development of food and wine experiences in the Clare Valley, to promote premium food and wine products made in the Clare Valley, and to market this region as one of our state's premium food and wine destinations.

The successful application will result in seven projects being funded, raising the profile of the Clare Valley and developing food and wine tourism. The project will encompass a range of initiatives and activities to assist farmers, aid winegrowers and also grow tourism, while highlighting the Clare Valley's clean green credentials.

The collaborative approach taken by the Yorke & Mid North and the Clare Valley Alliance should be encouraged. When regional stakeholders come together, we know that our regional communities benefit. I would certainly like to take this opportunity to congratulate the RDA Yorke & Mid North and Clare Valley Alliance on their partnership. I wish them every success, and I watch with interest as they roll out their seven projects.

REGIONAL DEVELOPMENT FUND

The Hon. J.M.A. LENSINK (14:43): I have a supplementary question. When the minister was in the region, did the Clare Region Winegrape Growers Association raise the issue of the exorbitant prices they are being forced to pay through SA Water?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:43): Yes. I visit the Clare region regularly, and I am well aware—

The Hon. S.G. Wade: You're up there all the time.

The Hon. G.E. GAGO: I am there regularly. I am very well aware of the water issues endured by the Clare district. They have raised that issue with me and, I understand, the Minister for Water as well. It has been a protracted issue. Its origins are quite complex, being due to the fracturing of the local aquifer and the overplanting of grapes beyond their water supply, and that has resulted in quite a glut there, as well. There have been some problems with planning.

There have been negotiations with SA Water to date to provide pricing of water at a discounted price, if you like, and those negotiations continue. The group did a presentation at my agribusiness council recently—not the last meeting but the one before that. It went through the issue. There was considerable discussion about moving forward, and a number of ideas were put on the table in terms of how further discussions and consideration could be done to progress this, including the building of additional storage dams in the area and a number of other applications as well. So again, work continues to be done in that space to try to assist that region.

The Clare Valley is an absolutely magnificent region and it is looking absolutely spectacular at this time of the year. It produces some of South Australia's finest wines and it has done some very clever marketing of itself to provide a clear, distinctive marketing niche for itself. A lot of really wonderful things have been done by winegrowers, their wine representative bodies and local councils to place that region at its greatest competitive advantage. They should be congratulated. I am sure that with all the assistance that has been given and the consideration behind it, we will hopefully find a way through their long-term water problems.

CARBON TAX

The Hon. R.L. BROKENSHIRE (14:46): I seek leave to make a brief explanation before asking the Minister for Environment a question regarding the repeal of the carbon tax.

Leave granted.

The Hon. R.L. BROKENSHIRE: I take this opportunity to record Family First's congratulations to the Hon. Tony Abbott MHR, the Prime Minister-elect of the federal government, and also to commiserate with the Labor Party and former prime minister Kevin Rudd for their loss.

The Hon. G.E. Gago interjecting:

The Hon. R.L. BROKENSHIRE: Crossbenches.

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

The Hon. R.L. BROKENSHIRE: It's pretty soft. One Labor Party member of parliament who has survived the electoral swing against Labor is the member for Wakefield, Nick Champion MHR, and I congratulate him on his win. Mr Champion, however, ruffled some feathers yesterday by backing the federal Coalition's call for the Labor Party to allow the repeal of the carbon tax by abstaining from voting in the Senate. Quotes attributed to the member for Wakefield include:

> But look, let's not forget, emissions trading was really the product of the Howard government. It was the product of, you know, the Greens Party. It's been a product of a bipartisan consensus. That consensus is now broken down and I don't see why the Labor Party should necessarily stay wedded to this concept when everybody else has walked away from it in one form or another. That doesn't mean we shouldn't tackle climate change and the Labor Party could have a range of policies based around regulation and lifting emission standards for instance in cars and the like, and wait in effect for the bipartisan consensus on carbon pricing to return.

My questions therefore to our minister in South Australia are:

1. Does the minister believe the Abbott government has a mandate for the repeal of the carbon tax?

2. Does the minister support the member for Wakefield's call for the Labor Party federally to allow the repeal of the carbon tax?

3. Can the minister clarify, with his portfolio perspective, whether there is any room for the Abbott government to shift to emissions trading and claim that it is an abolition of the carbon tax as such, as opposed to repealing any form of carbon pricing altogether?

The PRESIDENT: Before calling the Minister for Sustainability, Environment and Conservation, I would ask him to be aware of standing orders when he describes our honourable colleagues in Canberra.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:49): Thank you, Mr President. I take your advice and guidance, as always. I just wonder, in light of the preamble of some of that explanation the Hon. Mr Brokenshire gave for his question, who was it who said, 'If you put a price on carbon, why don't you just put a tax on it?' Who was that, Mr President? Could you remind me? Was that the then leader of the opposition Tony Abbott, Prime Minister-elect? Were those Tony Abbott's words, 'If you want to put a price on carbon, why don't you just put a carbon tax on?' I think they were.

I understand the member for Wakefield has been on the radio articulating a view that voters should get a chance to see the effect of the Coalition's alternative direct action policy because it would be a disaster for the country. Mr Champion has, I understand it, in line with policy reports and analysis undertaken by a number of experts, concluded that it would see emissions rise and see us not meet our carbon target. I think that on the basis of the reports that I have seen from a number of experts Mr Champion is probably right.

I can go all the way back to June 2007 with the Shergold report released to the Howard government which rejected direct action and regulatory approaches over an emissions trading scheme because they 'would impose a far heavier burden on economic activity'. That is it, the policies of the Prime Minister-elect, Mr Abbott, would impose a far heavier burden on economic activity in this country.

On 31 July 2008, the Wilkins review looked at failures of direct action-style schemes which have been implemented in Australia, such as the failed greenhouse gas abatement scheme, and warned that 'project-based abatement is difficult to achieve through a grants program, further demonstrating why an ETS is a superior approach to achieving large scale abatement'. On 1 December 2009, Tony Abbott then defeated Malcolm Turnbull by one vote for the leadership of the Liberal Party—one vote—and this was shortly followed by an opinion piece written by Mr Turnbull on 7 December 2009 which made clear that the new policy would be 'an environmental

fig leaf to cover a determination to do nothing'. That was Malcolm Turnbull's expert analysis of the Coalition policy put forward by Tony Abbott at the time in 2009, now our Prime Minister-elect.

On 2 February 2010, the so-called direct action policy document was released and remained unaltered on Greg Hunt's website for over 3½ years. On 5 February 2010, Danny Price, the Coalition's climate scheme modeller, started to back away from the costings, I am advised, and admitted direct action is not sustainable in the long term in an article in *The Australian*. On 8 February in 2010, Mr Turnbull explained to parliament how direct action would be 'a recipe for fiscal recklessness on a grand scale'—Malcolm Turnbull in parliament saying that direct action would be a recipe for fiscal recklessness on a grand scale. In March 2010, the Department of Climate Change tabled a comprehensive analysis of the direct action policy which demonstrated it was not able to achieve the stated emission reductions, even on optimistic assumptions.

On 14 April 2010, again, Dr Shergold, the architect of former prime minister John Howard's emissions trading scheme, told the *Australian Financial Review* that direct action was a more expensive and less effective response to climate change, a much more expensive way than setting a framework and then letting markets drive those decisions.

On 21 April 2010, the failures of the Howard government's greenhouse gas abatement program, which was a version of direct action, were exposed by an audit report prepared by the Australian National Audit Office. On 22 February 2011 Geoff Carmody, now a Coalition adviser on costings, I am advised, makes clear in an opinion piece rhetoric on direct action is 'unconvincing bluster' which should be subject to Productivity Commission review. That would be a nice suggestion to put to the new incoming government.

This is nicely followed on 9 June 2011 by the Productivity Commission's international review of emissions reduction policies which found a much lower cost abatement could be achieved through broad explicit carbon pricing approaches irrespective of the policy settings and competitor economies. That was the Productivity Commission's view. On 3 June 2011, Barnaby Joyce made clear in *The Sydney Morning Herald* that the Coalition direct action policy is just a meaningless gesture for global climate change.

Again, in June 2011, expert analysis by Ernst & Young for the Australian Industry Group sets out the key problems for direct action which could hinder Australia's participation and a deeper globally consistent response to climate change. This was followed by the Australia Institute's detailed analysis of direct action, and building on past schemes suggests about $100 billion would be needed for the program. This makes it clear that no clear costing has been undertaken or backed by any economists, agricultural scientists or climate scientists.

I could keep going and perhaps I will. On 23 February 2013, Tim Lubcke from Monash University published a new analysis of direct action, demonstrating that it cannot achieve the scale of abatement promised. This was followed by a *Lateline* report on 18 April 2013, which showed that Greg Hunt's soil carbon plan would require up to two-thirds of the land mass of Australia—two-thirds of the land mass of Australia—to do what he said he wanted it to do. Again in April 2013, the *Australian Financial Review* reported how power companies urged Tony Abbott to rethink direct action as it would be difficult to operate.

In August, AECOM released a business survey analysis showing that only 7 per cent of businesses support direct action. The message here is pretty clear: there is barely any support for this incredibly poorly researched policy. With the latest detailed analysis suggesting a total cost of $41 billion to 2020, it is little wonder that Mr Abbott is now walking away from Australia's international commitments and action on climate change. That contrasts very nicely with what we are doing here in South Australia.

In addition to the initiatives of the federal Labor government, the South Australian government is taking action to help South Australians deal with the impacts of climate change, and it has demonstrated leadership across a range of areas. This dates again back to 2003 and 2007, when internationally renowned thinkers, Mr Herbert Girardet and Stephen Schneider, provided insight into what South Australia could do to address climate change.

In 2007, South Australia established the framework for rising to the challenge by enacting Australia's first dedicated climate change legislation, releasing a strategy to reduce greenhouse gas emissions in South Australia and beginning a climate change awareness-raising campaign. This enabled the South Australian government to support those desiring a better and cleaner future for South Australia and the world. We in this Labor government will not shirk the leadership

required by governments on the issue of climate change, as we are seeing totally happening at the federal level right now.

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

The PRESIDENT: Order! If there are further interjections I will ask the minister to repeat his whole answer because I can't hear what he is saying. We can all sit here and actually learn something. The minister has the call.

The Hon. I.K. HUNTER: I have another 15 pages of supplementaries, however, to contend with. Suffice to say—

The Hon. R.L. Brokenshire: Are you going to answer the question?

The Hon. I.K. HUNTER: I think I have, Mr Brokenshire. As usual, Mr Brokenshire, you never listen to the answer.

The PRESIDENT: Therefore, minister, can you repeat your answer?

The Hon. I.K. HUNTER: Mr President, Mr Brokenshire will do what he usually does and read the *Hansard* tomorrow and understand that the answer was clearly given in my opening statement.

APY LANDS

The Hon. K.J. MAHER (14:58): My question is to the Minister for Aboriginal Affairs and Reconciliation. Does the minister have any concerns about the Abbott government's proposed budget cuts and their impact on APY lands communities?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:58): I thank the honourable member for his important question, his continued advocacy for the communities at APY lands and, as usual, he is right on the money. He has been paying attention to what has been happening in Canberra in relation to budget cuts announced by the Prime Minister-elect, Mr Abbott, only about 48 hours before polling day, I understand. As I have outlined this week, there are a number of issues the newly elected federal government has given cause for concern through its last-minute costings release. Is that not a shameful reflection on how transparent and open they said they wanted to be to the Australian electorate? They just could not help themselves.

One of particular concern to me in relation to the question the honourable member raises, and one that all members of this chamber should be concerned about I suggest, was the $2.485 billion cut to the Regional Infrastructure Fund. This fund of course is an important source of funding for regional communities right around the country. Communities have used it in the last few years to improve their infrastructure, but most importantly to promote economic development and productivity.

The Regional Infrastructure Fund was established by the former Labor government to invest the proceeds of the mining boom into the towns and regions of regional Australia, which of course aligns with the state government's commitment under the leadership of Premier Jay Weatherill to realise the benefits of the mining boom for all South Australians.

The Regional Infrastructure Fund is worth, I am told, $4 billion over 2010-11 to 2020-21, with $3.6 billion of the fund drawing on the proceeds of the mineral resource rent tax. However, outlined in Mr Abbott's and Mr Hockey's last-minute costings was a $2.485 billion cut, and I have very grave concerns about how this will affect our state—in particular, how it will affect the Aboriginal communities of the APY lands.

Members in this place would probably recall that I have previously advised the chamber that in recent federal and state budgets $85 million and $21 million were respectively committed to the upgrade of a 210-kilometre section of the main access road between the Stuart Highway and Pukatja and also to improve 21 kilometres of community roads. The community road upgrades included improvements on access roads to Pukatja, Umuwa, Fregon, Mimili and also to Umuwa power station.

The commonwealth component of the funding was identified in the forward estimates, through the Regional Infrastructure Fund. Understandably, the announcement to improve these roads was highly welcomed by the APY Executive, which was particularly attracted to the economic potential for the project to create jobs for Anangu. The state government and the APY communities

are now waiting to see whether this important project will go ahead because of these announced cuts.

Those members who have visited the lands would appreciate that the current road from the Stuart Highway to Pukatja is predominantly unformed, unsheeted, corrugated and, in many places, well below the natural surface of the surrounding soil. This project was intended to allow for formation and sheeting, utilising pit raised granular pavement material.

On completion, the upgraded road would have provided improved and safer access for services, increased access to markets for exports (for example, arts and crafts); increased opportunities to establish new routes for tourist operators; improved emergency management through reduced response times; improved access to training and employment opportunities; improved living standards as a result of enhanced service access; additional community interaction and social exchange; and, of course, improved road safety. This, of course, is now all up in the air. I am sure that there are many other projects and many other communities like this right around the country funded through the Regional Infrastructure Fund now also living with this uncertainty.

I can put to this chamber that the Weatherill government will do everything in its power to ensure that the federal government does not renege on this important program, that it does not walk away from the Aboriginal communities in this state, but in doing so I ask honourable members in the chamber to do the same. As Premier Jay Weatherill pointed out earlier this month, we want people to be confident about government, confident that we are spending money appropriately and confident that we have their best interests at heart. As the Premier has pointed out, we cannot achieve what we want to do if people are cynical about the process of government. Aboriginal communities, particularly those of the APY lands, are no different.

I call upon the federal government to make clear its intentions and to commit to funding this important upgrade of the roads in the APY lands, and I also call upon members present, particularly those opposite, to do the same: put South Australia first, like we did altogether for the River Murray. Put South Australia first, not your political party.

The Hon. S.G. Wade interjecting:

The Hon. I.K. HUNTER: Well, I'm giving you an opportunity, Mr Wade, to stand up for the people of South Australia. Put South Australia first, not your political party. Lobby with us the federal government to ensure that road funding for the APY lands will be continued.

VISITORS

The PRESIDENT: Before I call the Hon. Ms Bressington, I draw honourable members' attention to the presence in the gallery of our former colleague the Hon. Mr Gilfillan and his guest. Welcome back!

QUESTION TIME

GOLD CARD

The Hon. A. BRESSINGTON (15:04): My question is to the minister representing the Minister for Veterans' Affairs. Can the minister outline the benefits and services able to be accessed via the gold card system by our veterans in South Australia and what services are not available in South Australia in comparison with other states? Is the minister confident that South Australian vets are being looked after to the same standard as those in other states and, if not, why not?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:04): I thank the honourable member for her very important question on the gold card system and access by veterans to various services. I will refer that question to the Minister for Veterans' Affairs in the other place and seek a response on her behalf.

DINGOES

The Hon. J.S. LEE (15:04): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question about the soaring dingo numbers in northern South Australia.

Leave granted.

The Hon. J.S. LEE: The *Stock Journal* on 1 August reported that pastoralists south of the dog fence are reeling from soaring dingo numbers. The member for Stuart in the other place stated on 23 July that numbers were getting out of control because of a series of good seasons resulting in thriving native animals and pests, such as rabbits, cats and foxes. The member for Stuart confirmed that the animals could reach epidemic proportions in northern South Australia. He continued:

> Unfortunately, we are getting to a stage where they are breeding below the dog fence faster than they can be controlled. If we do not get onto this issue, we will not have a sheep industry in South Australia—sheep for meat or sheep for wool.

Retired chairman of the Outback Areas Community Development Trust and Outback Communities Authority, Mr Bill McIntosh AO, met with Mr van Holst Pellekaan and suggested formulating a working group of pastoralists representing the geography below the fence. My questions are:

1. What recent consultations has the minister had with the local pastoralists in northern South Australia?

2. How will the minister address the problem and ensure the growth in the numbers of dingoes is controlled?

3. What solutions have the minister and his department organised to prevent the growing numbers of dingoes?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:06): I thank the honourable member for her most important questions. I am told that dingo numbers have increased in rangeland areas south of the dog fence in recent years. In response to this, the South Australian Arid Lands Natural Resources Management Board has led a series of projects aimed at improving dingo control. In particular, the South Australian Arid Lands Natural Resources Management Board Biteback dingo control program has been highly successful, and I am pleased to advise that the program will now continue for a further three years, following renewed funding of $286,500 from the South Australian Sheep Industry Fund.

I am advised that Biteback targets dingoes inside the dog fence by coordinating and supporting 22 local wild dog planning groups south of the dog fence to tackle wild dogs across the landscape. Biteback has resulted in a substantial increase in landholder participation rates across the landscape. I am advised, in fact I am told, that since the introduction of Biteback there has been a fourfold increase in the number of properties participating in ground baiting.

There have also been improvements in the participation of landholders in aerial baiting. Biosecurity SA led the delivery of a dingo aerial baiting program in the South Australian Arid Lands NRM region, from 29 April to 7 May this year, involving 88 pastoral landholders. The program delivered 44,200 baits over an 8,600 kilometre flight path across the rangelands south of the dog fence. I am advised that feedback from landholders in the pastoral regions affected by dingoes has been positive, highlighting that the first three years of Biteback have improved landholder understanding of dingo control and provided additional management tools for them.

Three regional workshops at Olary, Blinman and Glendambo were held during the middle of last year to evaluate the aerial baiting trial. I am pleased to advise that participants were universally supportive of the program. Biosecurity SA, in collaboration with the Department of Health and DEWNR, provides oversight and implements statewide protocols for the safe preparation, use and storage of bait. Landholders must comply with these protocols.

I am advised that the bait injection service provided to landholders twice a year has been boosted by the installation of 14 freezers to help ensure a continual supply of baits to landowners year round. I am also advised that recent upgrades to the dog fence have been undertaken and that these works have included 24 kilometres of additional fencing. This will ensure that our dog fence continues to protect our regional communities and the sheep industries south of the fence from dingoes.

I am told that a national wild dog action plan has been drafted and public consultation is currently underway. I am also told that Biosecurity SA is convening a regional meeting in Port Augusta to seek advice from stakeholders on South Australian priorities and appropriate governance for implementing the national plan in South Australia. Following this meeting, a state wild dog advisory group will be established to develop an appropriate process for putting the plan into action in South Australia.

In addition to this, the government is currently working on a long-term strategy for dingo management. Biosecurity SA is leading the development of the state-managed dingo management strategy, which I am advised is planned to go out for public consultation later in the year.

WINE FORUM

The Hon. R.P. WORTLEY (15:09): I seek leave to ask the Minister for Agriculture, Food and Fisheries a question about wine.

Leave granted.

The Hon. R.P. WORTLEY: A wide variety of food and wine tourism experiences help showcase our premium food and wine from our clean environment. My question to the minister is: can the minister tell the chamber about the upcoming global wine forum to be held in South Australia?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:10): I thank the honourable member for his most important question. While I am on my feet, I will also make sure that the record is correct. In an earlier answer I said that a representative from the Clare Region Winegrape Growers Association presented to my agribusiness council; it was in fact my wine council.

I am very pleased to advise that Australia's first global wine forum, Savour Australia 2013, begins in Adelaide on Sunday 15 September and will showcase the state's first-class wine regions to the world. Running for three days, Savour has attracted global and local wine distributors, retailers, winemakers and commentators to Adelaide and South Australia's wine regions for the event. Approximately 700 attendees and 140 VIPs have been confirmed.

Savour offers a complete immersion into the Australian wine industry, including our wines, wine regions, winemakers and innovative approaches to winemaking, presented by Australia's leading winemakers and international wine personalities. South Australia features prominently in this line-up, with two-thirds of the wineries participating in Savour being from South Australia.

More than half of Australia's wine is produced in South Australia, generating nearly $2 billion towards the state's economy. Adelaide's role in hosting the inaugural three-day event reinforces our city's position as the wine capital of Australia and allows us to show influential delegates this state's premium food and wine against a backdrop of our world-class tourism offerings.

The forum at the Adelaide Convention Centre will attract global attention to Adelaide and our wine regions, invigorating interest in and driving sales of wine to our major international markets with a focus on China, the United States and the United Kingdom. On Sunday, a welcome reception will be hosted by the government of South Australia at our iconic Adelaide Central Market, established in 1869. The Central Market is the largest under-cover fresh food and produce market in the Southern Hemisphere. What a fantastic location to introduce our VIPs to Adelaide and South Australia!

The forum will also include a state dinner on Monday night showcasing the very best of South Australian food and wine to influential international delegates, and this is being hosted by the Premier at the SA film studios with 130 people attending. The government is thrilled to have South Australian food icon, Maggie Beer, assisting with the menu and one of the premium food and wine ambassadors, Paul Henry, matching our fabulous South Australian food with the best of South Australia's wine.

Throughout the forum, Savour delegates will be treated to an unforgettable array of Australian wine and food experiences, brought to life by Australia's leading wine and food producers and chefs at a number of daily lunches and also evening functions. The forum will close with a grand tasting—the largest and most comprehensive industry tasting ever held in Adelaide—providing the opportunity for local wineries to showcase their products to the world. In addition, 54 VIPs will be travelling to eight wine regions in South Australia to participate in regional familiarisation tours, increasing the international recognition of these wonderful regions.

This is a significant event not only for our wine industry but for all of South Australia. Through the government's strategic priority, premium food and wine from our clean environment, we are continuing to focus on building our brand through promoting our quality and clean credentials, growing our capability and securing production. Locally, support to deliver the event

has been provided by PIRSA, the South Australian Tourism Commission, the Department for Manufacturing, Innovation, Trade, Resources and Energy, the South Australian Wine Industry Association, Food SA and other industry representatives. I would like to thank all those agency and industry bodies for their assistance in putting together this global wine forum of which I think we will all feel very proud.

The PRESIDENT: Supplementary question, the Hon. Mr Ridgway.

WINE FORUM

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:15): I know she will not have this detail—

The PRESIDENT: What's the question?

The Hon. D.W. RIDGWAY: —but could the minister bring back to the chamber the budget for the event?

The Hon. R.L. Brokenshire: And the menu.

The Hon. D.W. RIDGWAY: And the menu—well, I have been fortunate enough to be invited to the dinner, so I will enjoy the menu, but I would like to know what the budget is for the event, please.

The PRESIDENT: The honourable minister, if you can find a supplementary question in there.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:15): I am happy to bring back an answer.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: Wine Australia, the federal organisation, contributed quite a bit of the funding.

The Hon. D.W. Ridgway: How much?

The Hon. G.E. GAGO: I will have to bring back the details. I do not have the actual figures with me, but they did contribute a significant amount from their industry fund, and both PIRSA and SATC contributed amounts as well. I cannot recall the exact amount but, as I said, I am happy to bring that back and present the overall budget for this important wine event.

I do want to stress the number of attendees: approximately 700 attendees and 140 VIPs have been confirmed. This has the potential to have an enormous economic impact for this—

The Hon. R.L. Brokenshire: Do they all go in free, the whole 700?

The Hon. G.E. GAGO: They pay; they contribute. They pay a conference fee.

Members interjecting:

The PRESIDENT: Order! Minister, you have the call and you can ignore some of the interjections.

The Hon. G.E. GAGO: Thank you for your protection, Mr President. Conference fees are charged; I do not have the numbers for those, but I am sure I can find those out as well. What it does demonstrate is that, irrespective of the cost to these delegates, 700 are being prepared to contribute and 140 VIPs as well. This has the potential to have enormous economic benefits to this state. If you just look at the number of visitors who will be attracted to this state who stay overnight, pay for accommodation—

Members interjecting:

The PRESIDENT: I have to do it—order!

Members interjecting:

The PRESIDENT: Order! Minister, you have the call.

The Hon. G.E. GAGO: I just did want to indicate the important economic contribution that these sorts of conferences have to South Australia, not only in terms of the spend that these visitors have whilst they are here but also that it attracts visitors to the state who might not ordinarily come, and hopefully they will get a taste of our fabulous state and might even visit at a later date and bring friends and family.

The economic spin-off is not just to our food and wine industry but to all of our hospitality industry, our accommodation, our hotels, the souvenirs that visitors buy and the general shopping and other spend—enormous economic potential for this state. We consider the contributions to these sorts of conferences to be an investment in the ongoing prosperity of this state and an investment in our food and wine industries and our hospitality industries. We think it is money well spent.

MOTOR VEHICLES (PERIODIC PAYMENTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 July 2013.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:19): I rise to speak on behalf of the opposition on the Motor Vehicles (Periodic Payments) Amendment Bill 2013. Essentially, this bill provides for a new payment scheme option—that is for owners of light vehicles—and that is to pay with monthly direct debit. Revoking of the registration stickers, along with the six and nine-month registration renewal options, was a Labor initiative which did have a positive effect on the budget, but it caused confusion and anxiety for many motorists.

As noted by the member for Bragg in another place, there are still some problems with the existing system. In the case where a vehicle's owner does not receive a renewal notice, they bear the associated risk of driving both an unregistered and uninsured vehicle. This measure, which the opposition supports, could potentially solve some of these problems. It would be an optional payment scheme for drivers, and I understand the government has modelled it on a 15 per cent uptake rate. The opposition believes that it could be significantly higher than that and very much hopes that the government will get the mechanics of this scheme right and not cause any undue anxiety or confusion to vehicle owners.

There is plenty of room for error in this proposed system and, in taking up such a scheme, motorists will be entrusting the government with their money even more than they already do. We assume that, as with most direct debit schemes in the private sector, a person will sign once for the total 12-month registration, stamp duty and admin fees. The authority will last until the transfer of ownership of that vehicle and whatever amount of fees are charged along the way. These are assumptions that the minister, when we get to the committee stage of the bill, may like to confirm.

The public will rely on effective communication from the government over any changes or technical problems, such as issues in accessing bank accounts. The minister advised my colleague, Ms Chapman, the member for Bragg, that the revenue is neutral from this measure. Quoting some of the figures stated by Ms Chapman, under the new regime there will be an administrative fee of $2 for each debit; that is $24 a year compared to $7 for an annual payment—so clearly there is a cost to the motorist there.

In the briefing, the following modelling was stated: there would be a net operating balance in the financial year just gone (2013) of minus $100,000; minus $558,000 for the financial year we are in; minus $117,000 for the next year; $100,000 in the following year; then nearly $300,000; and over $400,000 in the further out years of 2017-18. However, the opposition will wait to see whether these figures are affected given the government has stated in the summing-up in the other place that it expects the 15 per cent uptake expectancy was a conservative estimate and they expect that it may well be beyond that uptake.

We support the legislation in principle, but we will reserve judgement on the government's success with the mechanics of this initiative.

The Hon. K.L. VINCENT (15:23): I will speak briefly in support of the second reading of this bill and put a question on the record to which I would very much appreciate an expedient response. In debate in the other place it was suggested that it is a wonder that this periodic payment scheme has not been put in place before now. There are certainly large parts of it that constitute a very good idea.

In this state, since registration stickers were removed, we have had, as predicted, a significant increase in the number of cars driving around unregistered and drivers being fined as a consequence. There is some hope that this will improve the situation. The number of vehicles driving around in this state unregistered at any given time is quite extraordinary, particularly, as I see it, since stickers were abolished.

My questions to the government are: is there any evidence from interstate or elsewhere that the implementation of this scheme is likely to improve the registration rate of cars in South Australia; and also, by how much does the government anticipate this periodic payment scheme will reduce the current high levels of non-registration?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:25): I thank honourable members who have spoken in the debate today and particularly those who have left us hanging. This bill provides an additional option for motor vehicle registration renewal payments by allowing the Registrar of Motor Vehicles to create a periodic payment scheme and to set the terms of the scheme by gazette notice.

Detailing the rules for the scheme's operation by gazette notice will allow the rules to be modified relatively easily in keeping with technological advances into the future. This bill, by enabling the scheme, will allow registration periods to be less than three months and will allow registration fees, along with the fees collected at the same time, such as third-party insurance premiums, to be paid by automated charge or debit to a participant's bank or credit card account.

The work involved in creating this scheme has been a joint initiative between the Department of Planning, Transport and Infrastructure and Services SA. This initiative will offer flexibility to vehicle owners and help families and others in the community on limited incomes to manage their finances by allowing more frequent but smaller registration payments to be made by an automated means. It provides a convenient way for the community to meet their registration renewal obligations. Once again, I thank members for their contribution to the debate and their support for the bill. Hopefully, I might have some answers for the Hon. Kelly Vincent at clause 1.

Bill read a second time.

In committee.

Clause 1.

The CHAIR: Minister, you have some information for us at clause 1?

The Hon. I.K. HUNTER: I have indeed, sir. I am advised in relation to the Hon. Mr Ridgway's question about the signing-up period—and I think Mr Ridgway phrased it as whether you sign up for a 12-month period then you have to renew—my advice is: no, you sign up for one month at a time, but it is a rolling situation; you are always one month in advance.

In relation to the Hon. Ms Vincent's question, has there been any evidence from other jurisdictions, my advice is that we are the first jurisdiction in the country to implement such a scheme and so, no, there is no evidence to support this.

The second question was about the level of unregistered drivers. There appears to be a perception in the community that the removal of registration labels has increased the number of people inadvertently letting their registration expire and then getting expiation notices for driving unregistered or uninsured. In fact, the number of light vehicle owners who pay their registration after the actual date of expiry has not increased. The percentage has actually decreased by a small amount. This indicates that owners have adjusted to the absence of labels and they are using the reminder options available to them.

The Hon. D.W. RIDGWAY: I have a question of clarification in relation to what the minister is saying about how once you are on the monthly payment program it is a rolling arrangement. Are you required to renew, activate or whatever, every month so that you are covered for the next month or can you just sign up and it happens automatically?

The Hon. I.K. HUNTER: My advice is that you are only required to sign up once. You will be signing some sort of deduction authority when you do that to your bank account or credit card account perhaps—and, provided there are sufficient funds in your bank account to cover your monthly payment, you will be continuously renewed until you instruct us otherwise.

The Hon. D.W. RIDGWAY: Given that effectively your bank or your financial organisation will be doing this, why is a $2 a month admin fee being charged?

The Hon. I.K. HUNTER: My advice is that administration fees for registration and licensing transactions form a major component of the recovery of cost to the registration licensing service, essentially on a cost recovery basis. These costs include front counter and back of house transactions and information services, provision of customer services via the call centre, records management, leasing of premises, and development and maintenance of IT systems. My advice is that, in fact, this cost is spread across the whole customer base and represents the total administration costs that Service SA incurs.

The Hon. D.W. RIDGWAY: My recollection of what our shadow minister, member for Bragg, had said is that currently if you pay 12-monthly there is a $7 admin fee, but if you are paying monthly it is $2 a month, so it is $24. If the minister is saying that the fee is to cover all of the services in the back office, you would actually be penalised $17 extra per year to sign up to the monthly payment system.

The Hon. I.K. HUNTER: My advice is that extensive work was undertaken in calculating the existing $7 administration fee for renewal of registration transactions and this was used as a base for determining the $2 admin fee on direct debit payments. The reduced admin fee for a direct debit scheme transaction compared to the administration fee for the standard three or 12-month registration period reflects a reduction in merchant card fees, a transaction channel shift to the online channel and a reduction in printing and postage costs. Clearly, if there are more regular deductions there will be a slight increase in costs.

The Hon. K.L. VINCENT: Just to clarify, I may have misheard the minister, but I thought he said that the scheme had resulted in less printing and postage and yet the cost seems to have risen. I am not understanding the link there.

The Hon. I.K. HUNTER: My advice is that there is in fact a slight reduction in cost. For people doing their registration three-monthly, that is four times $7, which equates to a $28 fee per annum. If you are doing it over a longer period but monthly, then the cost comes down to $24 per year, I am advised.

The Hon. D.W. RIDGWAY: Given that I think the government is expecting at least a 15 per cent uptake, how many registered motor vehicles is 15 per cent, roughly?

The Hon. I.K. HUNTER: My excellent adviser advises that it equates to roughly 230,000 vehicles.

The Hon. D.W. RIDGWAY: So, on a quick calculation, if we are going from $7 to potentially $24 in fees annually, is it $2 once or $2 every month for the admin fee for the direct debit system? If it is, it has gone from $7 admin fee on a 12-month registration to $24 a year on monthly registrations, so that $17 increase would equal $3.4 million for 200,000 vehicles, and probably the other 80,000 vehicles would equate to about $4½ million extra cost to South Australian motorists.

The Hon. I.K. HUNTER: My advice is that it is not quite as simple as the honourable member might suppose. The 15 per cent of the overall 1 million light vehicles is made up, of course, of people who pay annually and also those people who pay quarterly, so it is not quite so easy to pull out the annual or quarterly fees as the honourable member might think.

The Hon. D.W. RIDGWAY: But, nonetheless, there will be a couple of million dollars' extra impost on South Australian motorists. On my simple calculations, it is $4.76 million if you had 280,000 vehicles by $17. I hear what the minister is saying—that it is hard to calculate—but what he is saying is that there will be a couple of million dollars' extra cost to South Australian motorists for this service.

The Hon. I.K. HUNTER: My advice is that the situation is not as the honourable member might suppose, and I have to correct him: 230,000 was the approximate number of light vehicles I mentioned earlier, not the 280,000 he used in his calculation.

My advice is that the vast majority of people who may move to this scheme—and of course it is optional; it is not to be obligated on anybody—will move from the three-monthly payment option down to the monthly payment option and therefore receive the minimal slight benefit in reduction of cost. This is a process put in place to increase affordability and as a bill smoothing process within

the system. There will be a slight decrease for those who move from the three-monthly option to the other option.

Clause passed.

Remaining clauses (2 to 5), schedule and title passed.

Bill reported without amendment.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:40): I move:

That this bill be now read a third time.

Bill read a third time and passed.

HOUSING AND URBAN DEVELOPMENT (ADMINISTRATIVE ARRANGEMENTS) (URBAN RENEWAL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 June 2013.)

The Hon. M. PARNELL (15:41): For the last year or so, the Legislative Council has been debating and passing important bills to reform the planning system, yet the government has at every opportunity declined to support those bills, and the government, as part of its reasons, has cited the review being conducted by the expert panel, chaired by Mr Brian Hayes QC, into planning law. It is therefore quite incredible that the government has brought before this parliament at this time one of the most fundamental changes to planning law we have seen for some time. This bill overhauls many of the accepted and traditional responsibilities and demarcations between local councils, the state government and various statutory authorities.

When planning minister John Rau introduced this bill into the House of Assembly back in May, he said the following:

> While the Expert Panel on Planning Reform will continue its comprehensive review of the planning system, this Bill will provide a kick start to an important reform of our planning and development system. The Expert Panel has reviewed and supports this Bill.

I took the opportunity on Tuesday to ask the Chair of the expert panel whether that statement was correct, and I remind members that the minister's statement was, 'The Expert Panel has reviewed and supports this Bill.' Brian Hayes said:

> The bill was referred to us, and we had a look at it, and we had a look at it strictly on the basis of the technical aspects of the bill, and that's it. We made some suggestions as to how it might be changed to make it, in our view, better in terms of those aspects, and that was all we did. I recall I did a report in writing on that saying, 'You should look at these sections. You might like to consider amendment this section in the following way.'

Mr Hayes then went on to say the following:

> It wasn't a lengthy report, from my recollection. It was literally a letter in which we went through some of the sections and said that maybe you should change these sections because they don't actually meet with other sections. It was very technical in that way. That's all it was. It was not a report which did any more than comment on those technical aspects of the bill.

Further, in evidence to the Environment, Resources and Development Committee—and for the information of the house, this is now the published *Hansard* record on the committee's website—

An honourable member: Not a leaked one.

The Hon. M. PARNELL: It's not a leaked version, as has been interjected. In this published version, the Hon. Michelle Lensink also weighed in and asked whether it was Mr Hayes himself or whether it was the panel that provided the report. Mr Hayes replied that it was the panel.

The Hon. Ms Lensink also went on to ask whether the panel had made a recommendation that perhaps the bill (the bill we are talking about, what we are calling 'the urban renewal bill') should wait until the panel's work had been concluded. Mr Hayes' response was, 'No, not that I recall. I really just did what we were asked to do. Have a look at it and give us your comments.' I do not see in that answer any support for the minister's comment that the expert panel had reviewed and supports the bill.

What I would like to do on behalf of the Greens is to put on the record now the fact that we are disinclined to deal with this bill in isolation. It seems that if it is good enough for the government to reject every other parliamentary suggestion for law reform, then it should wait before introducing its own bill. In any event, we certainly need to make sure that we do not progress any further with this bill until we see exactly what the expert panel has reported to the minister and also until we see the responses that the minister has made to the various detailed submissions, made primarily by local councils and the Local Government Association.

The bill itself is flawed at a number of levels, and I will go through some of those problems in a second. I also note that in the second reading contribution the government put this particular reform in the same category and regards it with the same degree of pride that it regards its notorious capital city development plan amendment. As members would recall, that rezoning of key parts of central Adelaide was brought in under interim operation, and that meant that binding development approvals were granted before the public consultation process had finished. In fact, the Mayfield development was approved two weeks before the public hearing at which members of the public got to have their say over whether they thought the rezoning was appropriate.

This house has appropriately dealt with that debacle by passing a bill which clarifies the interim operation powers under the act, but for the minister to state with pride that they regard the reform in this bill as an equivalent reform to that of the capital city DPA shows that they really do not care about what the community thinks about this particular bill or this law reform in general.

The minister in the second reading speech said that the capital city DPA was broadly welcomed by industry and the community. That is only half right. It was broadly welcomed by industry because the whole objective of that rezoning was to get cranes on the skyline. We now have cranes on the skyline. There are some happy people in the construction industry, but I have to say my inbox and my letterbox are not full of congratulatory communications from members of the community; in fact, it is quite the opposite.

This bill is being pitched to us as providing an alternative model to urban sprawl. If that was in fact what it was, then the Greens would be much more sympathetic in our treatment of it, but in fact it does no such thing, and it is certainly not a bill that applies exclusively to urban infill as an alternative to urban sprawl. The bill could just as easily apply to fringe development. We also note that the government's newfound love of urban consolidation or infill is following five years of going hell for leather after urban sprawl and the rezoning of farmland for housing. You need think no further than Mount Barker, the now notorious Buckland Park development, as well as Gawler East and a range of other urban fringe locations.

In effect, having secured what their mates in the development industry wanted, including major donors for the Labor Party such as the Walker Corporation (and again you only need to think of Buckland Park and Mount Barker), the government now says that a new model is needed so that we can manage the challenge of more complex urban infill developments. In some ways this bill, like many of the government's reforms, manages to get the question right, but the answer terribly wrong. The question that this bill poses for us is whether the model for decision-making and for planning in this bill is the way forward.

When assessing environmental legislation, including planning legislation, there are a number of very simple tests that I apply, and they include the following: first, does the model provide for improved or adequate access to information; secondly, does it provide for improved or adequate public participation; and, thirdly, does it provide for access to justice? When you analyse this bill against those three criteria, you will find that the answer in every case is either the situation is worse or there is no improvement. Again, for the record and for those students of environmental law and planning, those three elements I described are contained in a convention of the European Union, known as the Aarhus Convention, which is the standard for public engagement in environmental matters, including planning.

The objective of this bill, which is to try to set out a new regime that will improve the quality of planning processes and planning decisions in relation to complex urban redevelopment projects, is one that the Greens wholeheartedly support. We support what the government says it is trying to achieve, but we believe that such a fundamental change should come about following a comprehensive consultation and negotiation period which includes local communities and local government, and clearly that has not occurred in this case.

The Local Government Association is not happy and individual councils are not happy. I will not read the entirety of submissions that we have received from local government—as

disappointed as members might be enjoying the sound of my new croaky voice—I will just read a couple of the dot points that the Office of the Lord Mayor has sent to all members in a letter dated 13 June sent to the Hon. John Rau MP as Minister for Planning. They point out the following:

> Council is already the precinct authority which can exercise all necessary powers and responsibilities for precinct planning.

In other words, you do not actually need a new system because the councils are already well equipped and have the tools in legislation to do that job. The second point is:

> The proposed legislation is a major reform of the planning system and of governance generally and should not pre-empt the extensive consultation and review of the planning system within the remit of the Expert Panel on Planning Reform.

That is exactly the point that I made before. The government, largely to nip in the bud planning reforms that they could see being generated in the Legislative Council—because this chamber does take this issue seriously—was one of the reasons they decided that after 20 years they should review the planning system—and the Greens welcome that review—but given that it will not be reporting until the end of 2014, it has provided a very convenient excuse for the government to reject planning reforms, but now they expect us to hop to and pass their reform. I think the Lord Mayor has nailed it: this is pre-emptive. The third point that the Adelaide City Council makes is:

> It is noted that the proposed planning precinct tools could promote a range of development, including fringe growth, rather than urban renewal in accordance with the Planning Strategy...

That is the point I made earlier, that it is not exclusively confined to inner urban redevelopment projects, such as Bowden/Brompton, it could just as easily apply out on the fringe with farmland being rezoned for housing. Another point the council makes is that the public consultation provisions, including those for community reference groups and the limiting of local government's role to observer, do not facilitate participation by the community, and the Greens agree wholeheartedly with that sentiment. There is a range of other points they have made.

The Local Government Association as well picks up many of those points and, in a letter to all members of the Legislative Council, they advised us back in July that they were in discussion with the minister and that they were hoping that changes would be made. The Local Government Association also distributed a comprehensive list of comments and suggested amendments. To my knowledge, the government has not yet filed any amendments to this bill and I, for one, would be reluctant to proceed with this bill any further until we have had an opportunity to look at that and see whether the government has taken local council and community concerns seriously.

The bill also, as I alluded to earlier, seriously alters the balance of responsibility and authority in relation to a range of matters, not just zoning and not just matters concerned with planning. There are questions of rating and the ability of precinct authorities to establish different rates, and you also have something most people might not think of as that important: the ability for council by-laws to be overridden in these new developments.

What that effectively means is that by-laws that have been adopted by a democratically-elected local council could be overridden by new precinct authorities. You only have to look at the range of matters that the councils pass by-laws on to realise that they include environment protection by-laws—for example, restrictions on the keeping of cats. Other by-laws relate to the protection of public safety, public drunkenness, dry zones and things like that. All these democratically-driven by-laws could be overridden by undemocratic precinct authorities, so I think this bill needs to have a great deal more work done on it before it is ready for us in this chamber to seriously consider it.

I also put on the record that the Community Alliance, an organisation that was mentioned many times by me yesterday, has also expressed serious concerns about this bill and about the potential devaluing of community input into local planning. Their motto or mantra, if you like, is: they aim to put people back into planning. We have had several years now of the government giving free rein to developers and free rein to developers' lobbyists, and people really have been written out of the equation. The Community Alliance, representing community organisations from around South Australia, is determined to put people back into planning and the Greens are determined to help them.

With those brief remarks, I look forward to seeing what the government does next. I hope they draw breath and decide not to proceed with this bill at this stage but, at the very least, I would ask the minister if she could provide us with the documentation that was presented to the minister by the Expert Panel on Planning Reform so that we can test for ourselves the minister's assertion

that that panel did consider not just technical aspects but also the merits of this bill and whether the minister's statement to parliament, that they had supported it, is in fact borne out. I, for one, will be happy to move and support adjournment questions until that document or those documents are provided to us.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:59): I rise on behalf of the opposition to speak to the Housing and Urban Development (Administrative Arrangements) (Urban Renewal) Amendment Bill 2013. I will make a few comments. The opposition supports, in broad terms, the concept of having an urban renewal authority, which is Renewal SA, and also legislative arrangements for that authority to work. In broad terms, we think that the concept is a good model to have powers for precinct planning.

Having spent six or seven years as the shadow minister for planning, I was often consulted on areas where developments were proposed or proposals were put forward to government where you might have had multiple council ownership. I know a lot of work was done by government on a north-eastern corridor up Port Road that has never actually seen the light of day. However, I think there are some opportunities where there is multiple ownership or a highly contaminated site where you can use an urban renewal authority and that authority have the precinct planning powers this bill gives.

We have seen some examples overseas and in Australia, such as in Subiaco and the East Perth Renewal Authority, which I think has now been formed into the Metropolitan Redevelopment Authority in Perth. Whilst on a Commonwealth Parliamentary Association trip, I had the good fortune to see one of these on a very large scale, that is, the site for the London Olympics Village, where a development authority was put in place. I am sure that the government is not envisaging that we will host the Olympics and have some massive abandoned industrial area to redevelop, but in principle we see that it is an important tool of government to be able to have special powers, if you like, over a certain precinct.

Of course, we have some areas here currently—such as the Clipsal site, which was highly contaminated with multiple owners—and the government went in and bought them. That is, on a smaller scale, an area where we think that this type of regulatory approach would work. We have seen the debacle at Newport Quays over the last 11½ years or so, with this government, and it was proposed by a former Liberal government, so I guess we can say it is something like about 12 or 14 years that has been in process. Certainly, it was the Labor government that appointed Urban Construct to have control over the whole precinct.

That development would have been much better managed had there been a redevelopment authority, such as Renewal SA, with some planning powers so that it could oversee the development. In that case, we would have been much better to have had a range of developers putting in a range of different products at different price points and different styles so that you had some competition in the quality of build, price and all the amenities. I think that is probably one of the reasons the opposition supports this legislation, as we see that there are some opportunities going forward.

However, we are a little concerned with the government having planning control and being a developer at the same time. I know that the shadow minister in the other place, Vickie Chapman (member for Bragg) has raised on a number of occasions, in the media and in the second reading debates in the House of Assembly, the concern we have that this gives the government a chance to be the developer as well as having planning and building control.

A fundamental principle of the Liberal Party is that the government should not be doing things that the private sector can do and should not be doing them to the detriment of the private sector—that is, undercutting them, using our government balance sheet, if you like; in that sense, carrying something on the government's balance sheet if it is a contaminated site or takes the mechanics of government to get that particular parcel of land to market—but the government should not be the developer. We think the private sector should play a major role and that the government should not be in direct competition with the private sector.

We have had a number of meetings with the LGA; in fact, shadow minister Chapman has had a number of meetings with the LGA. Our understanding is that there have been a number of issues that the LGA has raised with the government. I am led to believe that the government has agreed to draft a range of amendments. We have not seen those government amendments as yet, so I am a little unsure as to that.

I was going to make quite a lengthy speech, but it is my intention to seek leave to conclude because we really do want to look at the amendments prior to progressing the debate any further. If they are areas that we are having issues with and they are covered by the government amendments, it seems fruitless for me to make a lengthy speech and find that next time we see all those issues have been dealt with by the government amendments. In the absence of those amendments, I indicate that the opposition will be, in principle, happy to support this bill, but I seek leave to conclude my remarks at a later date.

Leave granted; debate adjourned.

CHILD SEX OFFENDERS REGISTRATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 July 2013.)

The Hon. S.G. WADE (16:06): I rise on behalf of the opposition to speak on the Child Sex Offenders Registration (Miscellaneous) Amendment Bill 2013. The bill amends the Child Sex Offenders Registration Act 2006. It was introduced into the House of Assembly on 4 July by the Attorney-General. The act requires child sex offenders to register with the Commissioner of Police. These people are known as registrable offenders. Registration is mandatory for eight years, 15 years or life if a person commits a class 1 or class 2 offence as specified in the act. We are advised that there are approximately 1,400 registrable offenders in South Australia.

Under the act, registrable offenders are required to make an initial report to South Australia Police of certain personal information. They must report annually and they must update SAPOL when certain information changes. The government has been working for about two years to review the act, I am advised. In that sense, the bill draws on a range of sources. Firstly, it draws on the comparable legislation in other states and territories. Secondly, it draws on the 2012 Victorian Law Reform Commission report and, thirdly, it draws on the findings of the Debelle inquiry.

The opposition welcomes the fact that it does draw together these streams of ideas but finds it strange, considering the relatively long gestation period since the tabling of this bill, that we are having a rash of amendments.

The key elements of the bill itself are: to strengthen reporting requirements under the act; to create a new category of serious registrable offender for whom the Commissioner of Police will have enhanced monitoring powers; amend the Bail Act so that, unless a bail authority is satisfied that a person accused of a child sex offence poses no risk to the safety and well being of children, the accused will be subject to a bail condition that they cannot engage in child related work; to ban all registrable offenders from working as taxi or hire car drivers; to update the list of commonwealth child sex offences that trigger operation of the state act; for a limited category of child sex offenders, to empower the Commissioner of Police to modify the operation of the act; to strengthen provisions so that a person charged with a child sex offence, or suspected of committing a child sex offence, must provide police with details of their employment; and lastly, to empower police to contact employers to verify the information provided by the accused and notify the employer of the charge.

The bill proposes to create a new category of offender called a serious registrable offender, a serious registrable offender being a person who has committed on at least three separate occasions a class 1 or class 2 offence; on at least two separate occasions, a class 1 or class 2 offence against a person or persons under the age of 14 years; or has been declared to be a serious registrable offender, such a declaration being appealable to the Administrative and Disciplinary Division of the District Court.

After a person has been declared a serious registrable offender by the Commissioner of Police, he or she is liable to have their premises searched by an authorised police officer, more frequent reporting and a condition that they wear or carry an electronic tracking device. The Commissioner of Police has the discretion to specify a period of time that this declaration remains in force.

As I indicated before, given the two years' gestation of the bill and that it has now been tabled, I was surprised that further significant amendments have been foreshadowed. The Attorney-General introduced more amendments at the committee stage in the House of Assembly. The amendments vest the commissioner the power to publish on a website any or all of the personal details of a registrable offender if satisfied that the registrable offender has failed to

comply with any of his or her reporting obligations, has provided information that is false or misleading in a material particular and is at an unknown whereabouts.

It is up to the commissioner's discretion to remove any or all of the personal details of an offender from the website, but the commissioner must remove the personal details of registrable offenders who subsequently report their whereabouts to the commissioner. The commissioner is exempt from any criminal or civil liability attached to the publishing of information which is done in good faith under this part.

The registrable offender's noncompliance with their reporting requirements and the fact that their whereabouts are unknown significantly increases the risk profile, and we accept that it justifies publication of the person's image and name if it is in the public interest as an effective measure to lower this high risk profile. The Labor government has derived these amendments from similar provisions in Western Australia.

The Child Sex Offenders Registration (Miscellaneous) Amendment Bill places more discretion with SAPOL and the Police Commissioner to tailor reporting requirements and conditions around the circumstances of individual offenders. This would support a risk management approach and allow resources to more efficiently target high risk offenders. In doing this, the bill rests significant discretion in the police in circumstances which have been traditionally exercised by a court.

Police have the power to declare who is a serious registrable offender and impose additional reporting requirements upon this person, specify the length of the declaration, modify the reporting requirements, decide whether to allow a registrable offender to change their name and direct where an offender is to make their annual reporting obligations.

It is up to the Commissioner of Police to decide who is a serious registrable offender and to develop those reporting regimes. The decision of the commissioner to approve a registrable offender's application for change of name is not subject to appeal. It is also at the commissioner's discretion to serve written notice of the declaration on the registrable offender as soon as practicable but does not specify the period before the declaration takes effect. We are certainly sure that the police will be sensitive in the exercise of those discretions and I think parliament needs to be alert to the impact of these laws.

In that context I think it is quite timely that only yesterday in the House of Assembly the honourable member for Fisher highlighted an unintended consequence of this very legislation in relation to a school boy in the southern suburbs. The Attorney-General on this morning's radio indicated that he understood it was nobody's intention that this legislation would have caught a young person in that situation. I think that just highlights the need for parliament not simply to pass legislation and hope that it works, but to maintain active monitoring to make sure the legislation actually has the intended impact.

Members of the opposition in the other place express concern that the proposed amendments may inhibit an individual's chance of successful rehabilitation and reintegration into the community. This concern was also raised by the Australian Lawyers Alliance which takes the view that these provisions may create further stigmatisation of registrable offenders and alienate them from the community and increase their risk of offending. I think these concerns of the alliance reiterate the need for monitoring of the application of the legislation.

Since the legislation was considered by the House of Assembly, the government has foreshadowed a third wave of amendments in the media but has not tabled them. This demonstrates either yet more policy on the run or a focus on media management rather than orderly parliamentary consideration. The inability of this government to manage itself is shown by today's priority list by the government. The Attorney-General's office told us on Monday that it did not intend the legislation to go through this week, yet the government has issued a priority list today which says that this bill is to go through. I remind the council: how can it go through when the government has, on a front-page story, said it is intending further amendments and those amendments have not even been tabled?

It may well be that, following the discussion in the media over the last couple of days, the government may be able to introduce amendments to deal with the unintended consequences to which the Attorney-General was referring in this morning's media. We look forward to discussing further in committee the amendments we have and the amendments we are yet to receive.

The Hon. T.A. FRANKS (16:16): I rise on behalf of the Greens to indicate that we support the Child Sex Offenders Registration (Miscellaneous) Amendment Bill. This bill has been covered by both the minister and the opposition and amends the Child Sex Offenders Registration Act 2006, tightening the reporting requirements under the act. It also creates a new category of 'serious registerable offender' and enhances the power of the Commissioner of Police to monitor offenders, including the power to order electronic tracking, search their premises and require more frequent reporting.

Further, it amends the Bail Act so that a person accused of a child sex offence is subject to a bail condition that they cannot engage in child-related work. It also further bans all registrable offenders from working in occupations such as taxi drivers or hire-car drivers, where the risk may be enhanced. It empowers the Commissioner of Police to modify the operations of the act. It strengthens provisions so that persons charged with a child sex offence, or suspected of committing one, must provide police with details of employment, and empowers the police to contact that person's employer in that particular situation.

I note that they are recommendations 28 and 29 in the report of the independent education inquiry undertaken by the Hon. Bruce Debelle. However, in the briefing we received on this bill we were informed that, while that was a happy coincidence, in fact the processes were already in place to ensure they would be in this bill, regardless of that particular inquiry.

The bill lifts the penalties to create a more serious offence where a breach of the act involves working with children or reportable contact with children, and this offence will attract an increased penalty of five years' imprisonment and a fine of up to $25,000. Possibly the most controversial part of the bill I believe is, for those registrable offenders who are noncompliant, the ability for the Commissioner of Police to put them on a website.

Certainly, in some cases that may lead to undesirable outcomes, where a community perhaps may see a website such as that used in a way that is not conducive to public order and potentially could vilify people. However, I think that the way this proposal has been structured, and certainly looking at the WA example, which was the first in Australia to operate in a similar way, there are many protections in there to ensure we are not going to see that website unnecessarily infringe upon people's rights and certainly unnecessarily create situations where there are mistaken identities or create community fear. The website in Western Australia was recently introduced. I note that Edith Cowan University is currently reviewing that website, and the Greens will be paying close attention to the outcome of that review.

As I have said, it is of some comfort that it is indeed those noncompliant registrable offenders of the most serious order who will potentially find themselves on that website. Indeed, the website has been used to effectively ensure that people then become compliant with the requirements that are expected of them. Indeed, family members of the offenders, in the case of Western Australia, have been noted to have then assisted police to ensure that those people are within the system rather than beyond the system.

Child protection is such an incredibly serious concern to which, I do not doubt, all of us have a firm commitment, whether it be government or opposition benches or the crossbenches. The Greens support the bill.

The Hon. K.L. VINCENT (16:21): Of course, I will be speaking in support of this bill on behalf of Dignity for Disability. First, I thank the Attorney-General and his departmental staff, in particular, Kim Eldridge and others, for a comprehensive briefing on this bill. It certainly sounds as though research and work on this bill has been undertaken comprehensively in the development of this legislation.

I acknowledge, as I think we all do, that this is not an easy area of the law, nor is it easy to police. As Dignity for Disability has found in its three years in the Parliament of South Australia, there is a significant problem in this state with child sex offenders targeting children with disabilities, in particular, as victims. People with disabilities are far more likely to be victims of all types of abuse. The cases that have been brought to my attention, known as the Christies Beach bus case and the St Ann's case, to name two, are horrific and demand attention, resources and legislative reform so that we can protect some of our state's most vulnerable citizens—children.

Unfortunately, we find that some of our most serious predators are so expert, so covert, in their offending behaviour that they will never appear on a child sex offender register because they have never been charged. For all those who are charged and/or convicted, they can become highly skilled at working around the reporting requirements of being a registered offender.

Certainly, in many of the cases that have occurred, it is not teachers who are child sex offenders; it is the people who work in a more secondary role with children—instead, it is the bus drivers, taxi drivers, SSOs, out-of-school-hours-care workers, sporting coaches and extra-curricular activity officers who can—and I stress 'can'—be the offenders. This in no way suggests that the vast majority of people who perform these roles are not doing the right thing. I am sure that 99 per cent of these people do a fantastic job, but there is a small number who do these horrendous things and try to bend the system to suit their own criminal offending and abhorrent behaviour.

I appreciate that this bill attempts to solve some of the methods offenders have used and do use to work the system. Rarely does an issue evoke so much strong emotion in a community as child sex offences, and I think that strong emotional response is very well understood by everyone in this place today.

It is extremely difficult to balance a citizen's right to basic freedoms while also ensuring that vulnerable South Australians are protected and safe from some of our most serious alleged offenders—and I say 'alleged' because some of these offenders will remain that way forever so difficult is it to get a conviction when a child with an intellectual disability and/or communication disability, for example, is sexually abused, with the current limitations of our current justice system.

Of course, Dignity for Disability hopes that the disability justice plan, which we have been working alongside the Attorney-General on—not always agreeing, but working constructively—goes some way to resolving some of these matters. I realise it is not the place of this bill to resolve the many challenges our justice system presents, particularly to people with disabilities, but I do hope it is a step in the right direction.

In regard to this bill, I have a few questions I would like to put on the record for answers at some point from the minister. They are as follows:

1. How many people are on the South Australian child sex offenders register?

2. How many of the people on the register are known as 'young love' cases?

3. Is it possible to find out how many people on the register have committed offences against children with disabilities specifically?

Furthermore, I know that the Attorney-General is aware of the incident the Hon. Bob Such from the other place raised in the media regarding a 12 year old distributing an image of his genitals which could result in the young man being put on the register.

I am aware that the Attorney-General answered questions on radio this morning, and I appreciate that it is not the intention of this bill to see young people making mistakes ending up on the register. However, that does not change the fact that this child could indeed wind up on that register. We need to legislate so that we capture the people on the register we know to put our children at risk, without unintended consequences for those making silly or poor decisions, particularly as adolescents.

I also know that this bill is designed to give police the discretion to closely monitor the offenders they know need to be monitored while providing more freedom to those who are on the register but in reality provide little or no threat to the community. It will allow people who are on the register for so-called 'young love' reasons to have less onerous reporting requirements; however, it is not ideal that they wind up on there in the first place. I am not sure if there is a way we can use spent convictions legislation to deal with this, perhaps, but I would certainly hope so.

These are all my questions and comments for now. I look forward to working further on this bill in the committee stages and working on a very serious issue.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:27): There being no further contributions, I rise to close the debate. I would like to thank those members who have contributed to the debate on this very important topic. The bill is a result of the substantial body of work undertaken by the Attorney-General's Department and SA Police. These amendments to the Child Sex Offenders Registration Act contained within the bill ensure that this act is more targeted and effective, ensuring that SAPOL resources and enhanced powers are directed towards offenders who are sexual predators and who pose a risk to the safety and wellbeing of children.

The bill makes amendments to the act to significantly tighten and strengthen the reporting requirements for all registered offenders. Most importantly, the reporting of contact with children has been significantly tightened. The bill also makes changes to give the Commissioner of Police enhanced monitoring and search powers against a new category of registered offenders, to be called 'serious registrable offenders'.

This bill represents a substantial and important shift in how registered offenders are monitored by SAPOL. It is important that parliament supports SAPOL and the officers in the undertaking of this role, and I am very pleased with the indication of support provided to the council today. I commend this bill to members.

Bill read a second time.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) (NO. 3) BILL

Adjourned debate on second reading.

(Continued from 24 July 2013.)

The Hon. S.G. WADE (16:29): I rise on behalf of the Liberal opposition to indicate our support for the Statutes Amendment (Attorney-General's Portfolio) (No. 3) Bill 2013. In that context, a bit like the last bill I understand that this is not all the bill we are yet to see. I am advised that the government is preparing further amendments, and I have also noted the amendments filed by the Hon. Dennis Hood. In any event, on 5 June 2012 the Hon. Michael O'Brien introduced the bill into the House of Assembly. The bill is an omnibus bill to address a range of technical issues in a range of bills. I particularly wanted to highlight three categories. Firstly, I want to highlight changes to the District and Supreme Court rules.

The bill proposes to amend a number of pieces of legislation to reflect changes in terminology used in the District and Supreme courts, in particular changes to references to discovery, disclosure and taxation to adjudication. In the Criminal Law (Sentencing) Act, the bill proposes to require the Minister for Correctional Services to take into account the likely impact a decision to vary or discharge a bond might have on a registered victim and where a victim impact statement is furnished to the court at sentencing.

The third element is in relation to automatic suppression orders. Amendments to the Evidence Act are proposed to rectify unforeseen consequences arising from the passage of the courts efficiency reform bill, which enables the Magistrates Court to sentence a person for major indictable offences when they plead guilty to those offences in the Magistrates Court. Section 71A of the Evidence Act provides that the name of a person charged with a major indictable sexual offence is automatically suppressed until the relevant date.

Currently, the relevant date is the date on which the defendant is committed for trial or sentence. As a result of the courts efficiency reforms legislation, the relevant date will never occur, as a defendant sentenced by the Magistrates Court will never be committed for trial and, as a result, their name would be suppressed indefinitely. The bill proposes to amend subsection 71A(5) of the Evidence Act so that the relevant date will become the date on which the Magistrates Court is to determine and impose sentence—the date on which a plea of guilty is entered by the accused; that thereby prevents the automatic suppression order remaining in place indefinitely.

I note that, even after this amendment, the section continues the presumption on secrecy, rather than transparency. The amended section will continue to treat offences of a sexual nature differently from all other offences in South Australia by imposing an automatic suppression order. That further reinforces South Australia's reputation as the 'suppression city'. As this house well knows, the Liberal opposition opposes sexual offences being treated differently from other offences with respect to automatic suppression; nonetheless, the opposition will support the bill in this place.

As I said, I understand that both the government and the Hon. Dennis Hood have amendments to this bill, and we look forward to considering those amendments in the committee stage.

The Hon. D.G.E. HOOD (16:33): The Statutes Amendment (Attorney-General's Portfolio) (No. 3) Bill amends various statutes relating to law enforcement and the court system, being statutes committed to the Attorney-General and overseen by the Attorney-General. I will give only a brief overview of the changes encompassed in this bill, along with my comments on them.

Possibly the most significant change under this bill applies to the situation when the Minister for Correctional Services is considering varying or revoking a condition of a bond of a

probationer or waiving the obligation of a probationer to comply any further with a condition requiring supervision. The amendment requires the minister to take into account the likely impact to the victim of the offence. It is important that such decisions do take into account the interest of victims, and Family First therefore supports this amendment.

The next issue concerns suppression orders under the Evidence Act. An anomaly has come to light under which the name of a person charged with a sexual offence will, in certain circumstances, remain suppressed even after a plea of guilty has been entered. Clearly this was never intended and will be corrected by this bill. Other amendments result from a change in terminology adopted by our courts.

The somewhat archaic term 'taxation of costs' has been replaced by the term 'adjudication of costs', in reference to the process of quantifying the amount of costs to which a party is entitled. It is appropriate that the more modern terminology now used by the courts should be reflected in the legislation. The same considerations apply to the term 'discovery of documents' which is now referred to in court rules as 'disclosure of documents'. The new terminology is more easily understood and it is appropriate that legislation is also brought up to date to reflect this.

There is one further matter that is not dealt with by this bill but which I wish to raise by way of amendment to the bill and, indeed, I have filed such amendments. Whilst I could defer my explanation of this until the committee stage, my comments below will be relatively brief and I believe it will assist everyone in understanding the amendments that I have filed.

In the past, it has been government policy that statistics are published as to the outcomes of criminal cases for various offences. This has been done by the Attorney-General's Department through the Office of Crime Statistics and Research. Until 2007, this office used to publish very useful statistics indicating the outcomes of criminal cases. I will give one example.

For offenders convicted in the Supreme or District courts in the 2007 calendar year of selling cannabis, for example, or possessing cannabis for sale, the statistics published indicate that, of 36 persons convicted in that year, four were fined, three were placed on a bond, 21 were given suspended sentences, and eight were given prison sentences that were not suspended. The average term of suspended sentences was 15.6 months and the average term of actual imprisonment was 22.3 months.

Corresponding statistics were published for a large range of offences including robbery with firearms, rape, attempted murder and assaulting police, to name just a few. These statistics give the public a good overview of the penalties that the courts are imposing on those convicted of various types of offences. The statistics covered the Supreme and District courts in one set and the Magistrates Court in another set. They covered rates of acquittal as well as sentencing outcomes. These statistics, for some unknown reason, have not been published at all since 2007. I am not aware of the reason for this at all. It is a great pity that they are no longer published. Whatever views might be held by members about law and order issues, I would hope that we could all agree that the best decisions are made where relevant information is in fact available.

When bills are introduced to parliament seeking to change the way the courts determine penalties, surely it is beneficial for members of parliament to have statistics available. The Criminal Law (Sentencing) (Suspended Sentences) Amendment Bill 2013, presently before this chamber, is one example of such a bill. My amendments to this bill would require the State Courts Administration Council to include in its annual reports statistics as required by regulation. Of course that would be determined by the government of the day. My intention is that the statistics should correspond with those that used to be published up to 2007, as I have just outlined. Some additional specific requirements are also listed in the amendment for members to see.

I will defer any further explanation until the committee stage of the debate but, regardless of the outcome of the amendment, Family First supports this bill. It corrects various anomalies and updates language to match current terminology used in the courts. However, I would say that I think this amendment is a very important amendment and we are very keen to see it succeed.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (16:38): I understand that there are no further second reading contributions to this bill. I would like to thank those honourable members who have made second reading contributions, particularly those who have indicated their support for this bill.

In providing a second reading summary, the Hon. Mr Hood has filed an amendment to this bill regarding the reporting of sentencing statistics in the Courts Administration Authority's annual report. The government has written to the Chief Justice to seek his view on the amendment and we hope to have a response to this issue shortly. We look forward to speaking with the Hon. Mr Hood on receipt of that response.

Members will also be aware that the government filed amendments to this bill, I think, yesterday. The amendments will require the consent of members to suspend standing orders so that they may be included in the bill. The government has made this unusual request in the interests of expediency. Should members be opposed to this approach, the government will look to introduce a bill with the same amendments.

Members will have received a letter from the Attorney-General setting out the purpose of the amendments and seeking comment. Similar letters were also sent to the Chief Justice, the Law Society, the Bar Association, the Australian Lawyers Alliance and the Legal Services Commission. The government looks forward to engaging with members and the profession should there be any queries about the amendments. It is for this reason that the committee stage will not be pursued until the next sitting week. I again thank members for their contribution and commend the bill to members.

Bill read a second time.

STATUTES AMENDMENT (POLICE) BILL

Adjourned debate on second reading.

(Continued from 25 July 2013.)

The Hon. S.G. WADE (16:40): I rise on behalf of the Liberal opposition to indicate our support for the passage of the Statutes Amendment (Police) Bill 2013. On 19 June, the Minister for Police, the Hon. Michael O'Brien, introduced this bill in the other place. It enshrines aspects of the South Australia Police Enterprise Agreement 2007 in legislation. This is despite the agreement being ratified on 17 January 2008 by the Industrial Relations Commission of South Australia and thereby already having legal force.

The bill seeks to amend the Police Act 1988 and its regulations, the Police (Complaints and Disciplinary Proceedings) Act 1985 and the Public Intoxication Act 1984, with the intention of enshrining some aspects of the enterprise agreement between the Department of the Premier and Cabinet, South Australia Police and the Police Association. These amendments will ensure that officers are fit to perform their work and they do not compromise their own safety, that of their fellow officers and members of the public.

A number of miscellaneous amendments are included in the bill to address and identify difficulties and shortcomings in the administration of the Police Act. These include giving the police commissioner the flexibility to amend probationary periods for probationary officers when appropriate, allowing the Commissioner of Police to suspend the powers of officers who are absent from duty for extended periods of time and improving rights to review for unsuccessful job applicants. These amendments seem sound, from the opposition's perspective, and we support them.

It is important to acknowledge that this bill will make amendments to sections 59 and 61 of the Police Act to enable the police commissioner to verbally appoint special constables in terms of declared emergencies under the Emergency Management Act 2004. Amendment to section 4 of the Public Intoxication Act 1984, creates a new police position known as the 'responsible officer' who will have the responsibility for managing persons in custody in police cells.

By amending section 46 of the Police (Complaints and Disciplinary Proceedings) Act 1985, this bill will establish a right of appeal to the Administrative and Disciplinary Division of the District Court for officers who have been subject to an order from the Commissioner of Police as a consequence of being found guilty of any state, territory or commonwealth law. The opposition supports these aspects of the bill.

A major emphasis of the bill relates to the introduction of on-duty drug and alcohol testing of police officers, community constables and cadets in specific circumstances. A key outcome of the enterprise agreement was that all parties:

> ...agree to support the introduction of legislation that enables targeted and mandatory alcohol and drug testing of police officers in certain circumstances in support of the provisions of the act.

This agreement was reached despite there being no in-depth or ongoing research available to suggest the extent of the use of illicit drugs or abuse of prescription drugs by police in South Australia. A drug for this purpose is defined under the Controlled Substances Act and this was agreed in the enterprise agreement. It is noteworthy that most other Australian jurisdictions have legislation to permit the drug and alcohol testing of police.

In this bill there are no provisions for the random testing of officers, as is the case in New South Wales, or the Victorian approach of providing for random testing in the context of high risk police units. The government has preferred to adopt the model of specifying the actual circumstances where testing can occur. The bill specifies the circumstances in which a member of the South Australia Police or cadets may be required to undergo drug and alcohol testing at the direction of the commissioner.

These are as follows: (1) where there is a reasonable suspicion that a drug has been used or alcohol consumed; (2) where a defined critical incident has occurred involving death or serious injury; (3) following high risk driving; (4) where a police officer applies for a designated classified position; and (5) where a person is applying to join SAPOL.

In the other place, the opposition filed two amendments to the bill and one of those was moved. The amendment moved was to amend section 41B(2) of the bill to remove the words 'may be required to undergo testing' and replace them with 'will undergo testing unless not possible to do so'. This amendment was moved in order to avoid doubt that alcohol and drug testing will happen in the prescribed circumstances.

The reason the word is 'may' rather than 'will', I am told, is to provide for times when operationally it will not be practically possible to undergo testing in all of these circumstances. The opposition accepts that explanation but would still rather see the bill make it clear that SAPOL officers under those circumstances will be required to undergo drug and alcohol testing unless it is very clearly not possible in the circumstances.

The government chose not to accept either of the opposition amendments in the other place, citing the reason for its inability to accept these amendments that the bill flows out of an enterprise bargaining agreement between the government, the Police Association and the South Australia Police. It was argued that it was already a lengthy and reportedly torturous process.

Personally, as a parliamentarian, I am uncomfortable with commonwealth-state ministerial council decisions which bind the parliament. I am concerned about external agreements determining the shape of legislation, so it would hardly surprise members that I am uncomfortable that this parliament is being told that it cannot legislate to make what we might regard an improvement to the bill because it would contradict an enterprise bargaining agreement.

I would particularly assert that given the fact that the opposition amendment does not in any way want to change what we understand was the intent. The intent was that testing would be undertaken whenever possible. Our amendment makes it explicit that it will be undertaken whenever possible. I believe that it is a sensible amendment and I am disappointed with the government's response. I reiterate that the opposition supports this bill. We intend to reconsider these aspects of the bill and we look forward to the committee stage.

The Hon. T.A. FRANKS (16:48): I rise on behalf of the Greens to indicate that we will be supporting the Statutes Amendment (Police) Bill, No. 170 on the *Notice Paper.* I will not labour the history of the bill because the opposition has done that admirably. The bill amends the Police Act 1998 to provide the legislative infrastructure for the management and control of SAPOL. It also addresses a number of issues identified during the internal review by SAPOL that could not be rectified administratively.

These amendments include an amendment to the Police (Complaints and Disciplinary Proceedings) Act 1985 regarding appeals and minor complementary amendments to the Public Intoxication Act 1984 to create the new position of a responsible officer with responsibility for managing persons in custody in police cells. The chief amendments we will focus on in this bill relate to the new emphasis on drug and alcohol testing of police.

While most jurisdictions have legislated to permit the drug and alcohol testing of police, South Australia is not pursuing a model of random testing but is indeed adopting a model specifying the actual circumstances where testing can occur. These circumstances include when a person applies to join the force, following a high risk episode of driving, when a police officer applies for a designated classification position, and where there is reasonable suspicion that a drug

has been used or alcohol consumed, or indeed—and this is one of the areas I wish to focus on—where a defined critical incident has occurred involving death or serious injury.

Certainly those were the topic of questions that I asked in my briefing, and I thank the minister and his officers for the briefing from his office, but also I thank the Police Association for their time in responding to my questions about this bill. The bill, as it stands, will ensure that there is drug and alcohol testing in those particular critical incidences where a firearm or a taser has been used.

I have asked the government to indicate whether or not the use of capsicum spray would also potentially be included in this bill and to provide this council with the number of times capsicum spray—and I will not try to say the scientific name of capsicum spray because it is way too difficult—has been employed in the last three financial years. I will put on record the grave concerns that many organisations hold—and certainly that Amnesty International holds—about the use of capsicum spray. It can cause not only serious harm but also death, so it is not something to be treated lightly.

Further to that, I asked the government also if they could provide this council with information about the number of times that tasers have been discharged in this last financial year. I can inform the council about the following calendar years: in 2010 there were eight episodes when a taser was employed once and an additional one where it was used twice; in 2011 that had increased to 12 situations where it was used once and two cases within that where it was used twice. I would like to see the figures given that we have not had this technology for a significant period of time but already there is an increase in its use.

However, I commend SAPOL and I have been assured by both the former and the current commissioner that the technologies South Australia has adopted with regard to taser use to ensure that we have audiovisual recording where a device is employed are paramount and part of the procedures of our police force. I note that there has been one incident—and I received this information under freedom of information—where the audiovisual recording had not worked in those cases that I have just outlined.

The response I was given by the department at the time was that that taser had been sent to Taser International to determine what had caused the fault but that no additional information was available at that stage in May 2002. So, I ask the minister if we could be provided with an update about what had caused the fault in the audiovisual recording of that particular device at that time. Further, with the amendments that have been foreshadowed by the opposition, we will be looking to have further information about the wording. We have had advice from the Police Association that it could have unforeseen consequences, and we will certainly be looking to the government and the opposition to put their case on those particular scenarios.

I also flag that the Police Association has indicated that there may be possible amendments here in this bill to ensure that officers who find themselves having to face the courts in the course of their duty, but without the commissioner ensuring that both their case and their costs are defended and the Police Association having to stump up not only their costs but also run the defence of those officers, are not left high and dry in the future and that the Police Association is not left footing the bill for SAPOL employees.

With that, we look forward to the committee stage of the debate for those particular amendments and further information and ask the government if they could be prompt with their responses to the questions that I have raised.

Debate adjourned on motion of Hon. R.P. Wortley.

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

Second reading.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (16:56): 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.

The relationship between excessive alcohol consumption, offending and public disorder is well established. As well as the detrimental effect to individuals, families, businesses and the community, the costs of policing, emergency services and health services must be met from the public purse. This means resources are stretched and may not be available to respond to other needs within the community.

The statistics are alarming:

- There are approximately 12,500 hospital admissions and 600 deaths attributable to alcohol in South Australia per year.
- Recent Australian research indicates that an estimated 53 per cent of injured persons presenting to hospital emergency departments between the hours of 10pm and 7am had consumed alcohol in the preceding 6 hours.
- In South Australia in 2009-10, alcohol was the most common principal drug of concern for which treatment was sought from Drug and Alcohol Services South Australia, accounting for 56 per cent of all treatment episodes where clients were seeking treatment.
- South Australia Police data indicates that in 2008-09 in the Adelaide CBD, 58 per cent of victim-reported crime was related to alcohol.

This Bill amends the *Liquor Licensing Act 1997* (the Act) to better equip the Liquor and Gambling Commissioner, his staff and police to address problem drinking and alcohol-related violence. Greater responsibility will be placed upon licensees to prevent excessive alcohol-consumption occurring on their premises. The Commissioner's power to take action against licensees for inappropriate management of premises and to place restrictions on the sale of liquor where necessary for public order, safety, health or welfare grounds will be strengthened and the objects of the Act will be amended to specifically address alcohol-related violence and property damage.

At the same time the Bill introduces amendments to the Act to streamline administrative processes and to reduce red tape on both the liquor industry and government. The requirement that a responsible person be approved will be made more flexible so that approval will apply industry-wide. Notice requirements will be made less onerous. The requirement that separate entertainment approval be obtained for over-sized television screens will go. Companies limited by guarantee will be given the right to hold club licences. The processes by which dry areas are declared and educational courses are exempt from the need to be licensed will be made less onerous. The Bill also proposes a number of minor technical amendments to the Act to improve the efficiency and effectiveness of liquor regulation and to address out of date references to Commonwealth legislation.

Measures aimed at curbing excessive alcohol consumption and alcohol-related violence

I turn first to the amendments aimed at assisting regulatory authorities to address excessive alcohol consumption and alcohol-related violence.

Amendment to the Objects of the Act

The objects of the Act, as set out in section 3, make no reference to ensuring that the sale and supply of liquor occurs in a manner that minimises the risk of intoxication and associated violent or anti-social behaviour.

This has been highlighted by the Commissioner as a deficiency.

The Bill therefore amends section 3 to state this as an object of the Act.

This amendment will send a clear and important message to the community, licensees and regulatory officials about how licensed premises should be managed.

Codes of Practice

Section 11A of the Act provides that the Commissioner may, by notice in the Gazette, publish a code of practice that has been approved by the Minister. A Code of practice may impose on licensees measures to:

- minimise the harmful and hazardous use of liquor or promote responsible attitudes in relation to the promotion, sale, supply and consumption of liquor;
- minimise offence, annoyance, disturbance or inconvenience to people who reside, work or worship in the vicinity of licensed premises, or minimise prejudice to the safety or welfare of children attending kindergarten or school in the vicinity;
- prevent offensive behaviour on licensed premises;
- protect the safety, health or welfare of customers, staff, or minors on licensed premises;
- ensure public order and safety at events expected to attract large crowds;
- impose special requirements for the sale of liquor for consumption on licensed premises between 4am and 7am for the purpose of reducing alcohol-related crime and anti-social behaviour; and
- promote compliance with the Act.

The Commissioner has proposed an amendment to section 11A to better equip him to deal with excessive alcohol consumption in licensed premises.

One of the measures proposed to be included in the Late Night Liquor Code of Practice is a ban on licensees supplying free or discounted liquor to patrons.

'Happy hours', as they are known, give patrons access to cheap (sometimes very cheap) alcoholic drinks, promoting the type of rapid and excessive consumption that quickly leads to high levels of intoxication. In addition to the health implications, highly intoxicated people are more likely to be involved in acts of alcohol-related violence both as perpetrators and victims.

Of particular concern to the Commissioner and the government are happy hour promotions conducted late at night when many patrons have already consumed large amounts of alcohol. Both the Commissioner and the government believe these types of promotions should be limited to early in the evening when patrons have had far less to drink.

Unfortunately, as currently drafted, section 11A permits measures in a Code of Practice that impose special requirements for the sale of liquor, such as a limitation on promotions involving free or heavily discounted liquor, to apply only between the hours of 4am and 7am.

The government considers this to be an unreasonable restriction on the Commissioner's ability to regulate the behaviour of licensees.

The Bill therefore amends section 11A to include a new subsection (2)(fb) that allows a Code of Practice to impose special requirements in respect of the sale of discounted liquor, or the giving away of liquor for consumption on licensed premises between midnight and 7am.

Power of a licensing authority to impose conditions

Section 43 of the Act confers on a licensing authority the power to impose conditions on a liquor licence.

The Commissioner has recommended section 43 be amended to extend the power conferred on him impose conditions where he considers it necessary for public order or safety be extended to include reasons of public health and welfare. This will enable the Commissioner to act where the sale of liquor in a particular area is leading to excessive and dangerous consumption levels.

The negative impact of this on the community can be widely felt, going beyond public order and safety, affecting tourism, infrastructure (such as transport and accommodation) and local health services, including ambulance and emergency departments. An example that has been brought to the government's attention is of rural or remote communities where itinerant people descend on the town purchasing large quantities of cheap alcohol (such as large casks of cheap and fortified wine) which they consume in large quantities. As well as causing serious harm to their own health, these people often become victims or perpetrators of crime. This creates an enormous load on the resources of local councils, police and health services.

The government has accepted the Commissioner's advice. The Bill amends section 43 to extend the Commissioner's power to act of his own motion to where he considers it to be in the public interest. Section 4 of the Act is amended to include a definition of 'public interest', defined to include, but not be limited to, matters relating to:

(a) public order and safety; and

(b) public health (whether generally or in respect of particular groups or communities); and

(c) the welfare of particular groups or communities.

It is relevant to note that a licensee will retain the right to apply to the Licensing Court for a review of the Commissioner's decision if they are dissatisfied with the exercise by the Commissioner or his or her power under section 43 and amendments to subsection (1) make clear that a licensing authority may vary, suspend or revoke a condition impose on a licence.

Sale or supply of liquor to intoxicated persons

The offence of sale or supply of liquor to intoxicated persons is contained in section 108 of the Act.

Section 108 contains two offences. The first is the offence of selling or supplying liquor to an intoxicated person. The second is selling or supplying liquor to a person in circumstances in which the person's speech, balance, coordination or behaviour is noticeably impaired and it is reasonable to believe that the impairment is the result of the consumption of liquor.

Where liquor is sold in breach of section 108, the licensee, the responsible person for the licensed premises and the person by whom the liquor is sold or supplied are each guilty of an offence.

Prosecution of offences under section 108 has proven to be problematic. SAPOL has identified several aspects to the offence provision that make prosecution difficult:

- 'intoxication' is not defined. SAPOL must, as a consequence, rely upon the 'faculty impairment' offence in subsection 108(1)(b);
- neither 'intoxication' under subsection 108(1)(a) nor the faculty impairment test in subsection 108(1)(b) cover intoxication by drugs. SAPOL advise that this makes prosecution extremely difficult.

To address these shortcomings, the Commissioner and SAPOL propose that sections 4 and 108 be re-drafted to:

- include a definition of 'intoxicated', to be based on the definition used in New South Wales and the Australian Capital Territory, but extended to cover intoxication by drugs. The definition would be:

(a) the person's speech, balance, co-ordination or behaviour is noticeably affected; and

(b) it is reasonable in the circumstances to suspect that the affected speech, balance, co-ordination or behaviour is the result of the consumption of liquor or other substances; and

- repeal the 'faculty impairment' offence so that there is one offence, that of selling or supplying liquor to an intoxicated person on licensed premises.

The government has accepted this advice and the Bill amends sections 4 and 108 accordingly.

Offensive and disorderly behaviour

Section 117A of the Act creates the offence of behaving in an offensive or disorderly manner in or in the vicinity of licensed premises. The maximum penalty for the offence is $1,250. The expiation fee is $160.

Incidents of serious alcohol related violence all too often arise out of disorderly or offensive behaviour. The Commissioner advises that the current expiation fee of $160 does not properly reflect the seriousness of the consequences that can (and do) flow from a person who is affected by alcohol behaving disorderly or offensively.

The Commissioner recommends the expiation fee be increased to $500.

The government agrees with the Commissioner's view. While the offence of behaving in a disorderly or offensive manner is not, of itself, a particularly serious offence (reflected in the fact that the offence does not apply to behaviour involving violence or threat of violence), an exchange of insults can quickly spiral into something far more serious.

The Bill amends section 117A to increase the expiation fee in line with the Commissioner's recommendations.

Cause for disciplinary action

Section 119 of the Act sets out the circumstances in which there is proper cause for disciplinary action against a person licensed or approved under the Act.

Section 119(1)(c) provides that proper cause for disciplinary action exists if the person is or has been licensed or approved under the Act but is not a fit and proper person.

Section 56(1)(b) of the Act provides that where the applicant for a licence is a trust or corporate entity, each person who occupies a position of authority in the entity must be a fit and proper person to occupy such a position in an entity holding a licence of the class sought.

The Commissioner has asked that section 119 be amended to clarify that, where the licensee is a trust or corporate licensee, the person (being the trust or corporate entity) is not a fit and proper person if any person who occupies a position of authority in the trust or corporate entity is not a fit and proper person. This will allow disciplinary action to be taken against a licensee that is a trust or company where, for example, one of the directors ceases to be a fit and proper person and is not removed from that capacity.

I believe it sensible to clarify the effect of section 119(1)(c) as recommended by the Commissioner. The Bill amends section 119 accordingly.

Commissioner's power to deal with disciplinary matter by consent.

Section 119A(1) of the Act provides that if, the Commissioner is of the opinion that proper grounds for disciplinary action exist, and the person liable to the disciplinary action consents to such a course of action, the Commissioner may determine not to lodge a complaint with the Court and instead:

(a) obtain from the person an undertaking directed against continuation or repetition of the relevant conduct; or

(b) in the case of a person licensed under this Act, add to, or alter, the conditions of the licence; or

(c) in the case of a person licensed or approved under this Act, suspend or revoke the licence or approval.

Consistent with the Crown Solicitor's advice, the Commissioner has recommended his power under section 119A be expanded to empower him, with the consent of a licensee, to vary the trading hours fixed by the Act or a licensing authority in relation to a licence.

The government accepts the Commissioner's recommendation. The Bill amends section 119A accordingly.

Imposition or suspension of licence conditions pending disciplinary action

Section 120A of the Act provides that the Commissioner may, if of the opinion that it is desirable to do so in the public interest:

(a) suspend the approval of a person the subject of a complaint;

(b) impose conditions on the person's approval limiting the authority conferred by the approval,

pending hearing and determination of the complaint.

As a safeguard, where the Commissioner exercises his or her power under section 120A, the Licensing Court may revoke or vary the suspension or conditions imposed by the Commissioner.

This power does not extend to the imposition or suspension of conditions on a licence pending the hearing and determination of a complaint against a licence. This is because the Commissioner cannot make orders on a matter that is before the Court, i.e., where the Court's jurisdiction has been invoked under section 120 of the Act.

The Commissioner has advised that the hearing and determination of disciplinary action against a licensee can take several months during which time the ability to impose or suspend conditions of a licence would help him manage problematic licensees and premises.

To address this the Commissioner has recommended he be given the power under section 120A to:

- impose a condition on a licence (including a condition varying the trading hours fixed by the Act or a licensing authority in relation to a licence);or
- vary or suspend a condition of a licence,

where he believes disciplinary proceedings are warranted. I accept the Commissioner's advice. The Bill amends section 120A accordingly.

This power will be subject to an amended subsection 120A(2) which will provide a licensee dissatisfied by the Commissioner's decision to take action pending the determination of disciplinary proceedings with a right to seek a review of the Commissioner's decision.

Disciplinary action

Section 121 of the Act provides that, on the hearing of a complaint, the Licensing Court may, if it is satisfied on the balance of probabilities that there is proper cause for disciplinary action against a person, by an order or orders do one or more of the following:

(a) in the case of a person licensed under the Act, add to, or alter, the conditions of the licence;

(b) in the case of a person licensed or approved under the Act, suspend or revoke the licence or approval;

(c) in the case of any person—

(i) reprimand the person;

(ii) impose a fine not exceeding $15,000 on the person;

(iii) disqualify the person from being licensed or approved under the Act.

Subsection (5) provides that a condition may be imposed under section 121:

(a) limiting the kinds of liquor that may be sold under the licence;

(b) limiting the times when liquor, or liquor of a particular kind, may be sold under the licence; or

(c) limiting in some other way the authority conferred by the licence.

So as to ensure consistency with the proposed amendments to sections 43, 119A and 120A, the Bill amends section 121 so that a condition imposed by the Court upon a disciplinary finding may vary the trading hours fix by or under the Act. This amendment will have no legal effect. It is proposed simply to ensure consistency in the drafting of sections 43, 119A, 120A, 121 and 128B.

Powers of authorised officers

Section 122 of the Act provides that an authorised officer (the Commissioner, an inspector or a police officer) may:

- enter licensed premises; and
- inspect licensed premises; and
- require a person to produce those books of account or other records for inspection; and
- require a person to answer any question put by the authorised officer on that subject; and
- examine books of account or other records produced; and
- make copies of, or take extracts from, any such books of account or other records; and
- retain the books of account or other records for a reasonable period for the purposes referred to above.

The Commissioner has recommended amendments to section 122 to clarify that an authorised officer may exercise the powers stated in that provision individually. The lack of clarity stems from the current drafting. Subsection (1) for example provides that an authorised officer may, at any reasonable time, (a) enter premises, and (b) inspect premises, and (c) require the production of documents etc.

The Commissioners seeks a drafting change to clarify that the power to, for example, require the production of document, may be exercised without the authorised officer first having entered the premises.

The government agrees that, as the Act is being amended, it is better to clarify that an authorised officer may exercise any of the powers granted under section 122 individually or in combination. The Bill amends section 122 to so clarify the use of the powers.

Public Order and Safety Notices

Section 128B of the Act empowers the Commissioner, in his or her absolute discretion, to issue a public order and safety notice in respect of a licence if the Commissioner considers that the notice is necessary or desirable to address an issue or perceived issue of public order and safety or to mitigate adverse consequences arising from an issue or perceived issue of public order and safety.

A public order and safety notice may:

- impose a condition on a licence; or
- vary or suspend a condition of a licence; or
- vary the trading hours fixed by a licensing authority in relation to a licence; or
- require licensed premises to be closed and remain closed for specified hours (despite a requirement of the Act to keep the premises open to the public during those hours); or
- suspend a licence.

A public order and safety notice remains in force for no longer than 72 hours and the Commissioner may only issue another notice in respect of the same licence within 72 hours with the approval of the Minister.

To address the concern identified by the Crown Solicitor with regard to conditions that purport to vary statutory trading hours, the Bill amends section 128B to make clear the Commissioner may vary the trading hours of licence as fixed by the Act.

Subsection 128B(7) requires the Commissioner to replace the reference to the Commissioner including information about public order and safety notices in 'the Commissioners annual report'. The Commissioner advises there is no requirement that he provide an annual report and suggests this reference be amended to require him to report annually to the Minister about public order and safety notices. I agree. The Bill amends subsection 128B(7) to require the Commissioner to report annually to the Minister on the use of the power.

A new subsection (9) is also added. New subsection (9) is an evidentiary aid. It provides that a certificate issued by the Minister certifying approval to authorise the issue of a second public order and safety notice within 72 hours is, in the absence of proof to the contrary, proof of the matter certified.

Statutory trading rights

As a general rule, pursuant to the relevant section of the Act, a liquor licence authorises the sale of liquor during prescribed hours. Some, for example restaurant and entertainment venue licences, authorise the sale of liquor at any time for consumption with food.

There are a number of provisions in the Act that purport to give a licensing authority the power to vary the trading hours attaching to a licence. Section 17(1)(b)(i) provides that, where a contested application for a liquor licence is resolved by conciliation, the Commissioner must determine the matter so as to reflect the agreement reached at conciliation. Section 43(1) provides a licensing authority with the power to impose any condition on a liquor licence the authority considers appropriate.

Conditions limiting the trading hours of licensees are commonly imposed by the Commissioner under section 17(1)(b)(i) to reflect the agreement reached by the parties to a conciliation and by licensing authorities under section 43. This has been so since the Act commenced in 1997.

The Commissioner has raised concerns with the government that where the Act provides that a particular licence authorises the licence holder to trade at certain hours, a condition imposed by a licensing authority that purports to alter that right could be challenged as invalid. The risk identified by the Commissioner is that a court would find that imposing such a condition would have the effect of amending the Act, which is a function of Parliament only.

The effect of this is to cast doubt on the Commissioner's power to give effect to conciliated outcomes as required by section 17(1)(b)(i) where the agreement is that licensing hours be limited to less than the hours permitted by the Act, and to likewise cast doubt on a licensing authority's power to restrict a licensee's statutory trading rights by condition imposed under section 43, even where the licensing authority considers that necessary for reasons of public order and safety. It has also cast doubt on the validity of existing conditions.

In order to clarify that a licensing authority may vary the trading rights prescribed by the Act in respect of a particular category of licence, the Commissioner has recommended the provisions of the Act fixing the statutory trading rights for each category of licence be amended to make clear that these rights are subject to the power of a licensing authority to impose conditions, including conditions varying the prescribed trading hours. To prevent challenges to existing conditions, the Commissioner has recommended the inclusion of a provision retrospectively validating conditions restricting trading rights imposed before commencement of these amendments.

The government has accepted the Commissioner's advice and the Bill amends sections 32, 33, 34, 35, 36, 37, 38, 39, 39A, 40, 40A and 41 accordingly. Consequential amendments are made to sections 43, 119A, 120A, 121 and 128B. A provision retrospectively validating existing conditions is also included.

Red Tape Reduction Measures

I now turn to the amendments that will streamline administrative processes and reduce the regulatory burden on industry and regulators.

Approval to hold a Club Licence

Sections 49(1) and (2) of the Act provide that a club licence may only be held by a club that is:

- a non-profit association incorporated under the *Associations Incorporations Act 1985*; or
- an association that is unable to become incorporated; or
- an unincorporated association where it would be inappropriate for the association to become incorporated.

Sections 49(3) and (4) lay down additional requirements relating to membership and governance, membership fees and the keeping of records that must be satisfied by a club before it is entitled hold a club licence.

In its inquiry into the suitability of certain close associates of the South Australian Jockey Club, the Independent Gambling Authority recommended that the government amend the Act and the *Gaming Machines Act* to remove any impediment or disincentive to the SAJC or a body in a like position from becoming a body incorporated under the law relating to companies.

This requires an amendment to section 49 of the Act to permit a company that is limited by guarantee (being a company established for non-profit purposes) to hold a club licence.

Regulation of companies limited by guarantee by ASIC under the *Corporations Act 2001* and other Commonwealth legislation is rigorous. In many cases, the company structure suits the organisation better that the incorporated association structure. The government does not believe it is, or should be, the role of government to dictate, through the liquor licensing regime, the legal structure that must be adopted by not-for-profit clubs.

I have consulted the Commissioner. He has no objection to the Act being amended to permit the holder of a club licence to also be a company limited by guarantee.

The necessary amendment to section 49 is included in the Bill.

Approval of 'responsible persons'

Section 71 of the Act provides that the licensing authority may, on application by a licensee, approve a natural person or persons as a responsible person or responsible persons for the business conducted under the licence.

Section 97(1)(a) of the Act provides that the business conducted under a liquor licence must, at all times when the licensed premises are open to the public, be personally supervised and managed by a natural person (a 'responsible person') who is either:

(i) the licensee or a director of the licensee; or

(ii) a person approved by the licensing authority as a responsible person for the business conducted under the licence.

The effect of sections 71 and 97 is that a person is approved as a responsible person only for the premises operated under a particular licence.

This can be contrasted with approval to act as a crowd controller. Section 71A provides for the Commissioner to approve a person as a crowd controller. Once approved, the approval operates industry-wide.

The liquor industry has for a considerable period of time argued that approval of a person as a 'responsible person' for the purposes of section 97 should be industry-wide, as many people in the industry work in more than one premises. The requirement that a person be approved for each premises at which they work is unnecessary, as they are subject to the same test (whether they are a 'fit and proper person') in respect of each application, and the requirement imposes unnecessary regulation and costs on licensees.

To reduce the regulatory burden on licensees, the Bill amends sections 71 and 97 to provide for industry-wide approval as a 'responsible person'.

Display of licence

Section 109 of the Act requires a licensee to keep a copy of the licence, showing all conditions of, and endorsements on, the licence displayed at or near the front entrance to the licensed premises at all times. A licensee who fails, without reasonable excuse, to comply with this requirement is guilty of an offence which carries a maximum penalty of $10,000 or an expiation fee of $1,200.

The Commissioner has advised me that the current expiation fee is too high given the relatively minor nature of the offence. He advises that his officers are reluctant to issue expiation notices for this reason. He has suggested the expiation fee be reduced to $160.

The government agrees with the Commissioner's recommendation. The Bill amends section 109 accordingly.

Minors

Sections 111, 112 and 113 of the Act regulate the entry of minors into licensed premises and areas of licensed premises. Each provision refers to 'a part' of the licensee premises. The Commissioner advises that plans it issues refer to 'areas' not 'parts'. The Commissioner has requested sections 111, 112 and 113 be amended to refer to 'an area' rather than 'a part' of licensed premises in order to reduce confusion for licensees and inspectors. The Bill amends these provisions accordingly.

Both sections 112 and 113 require a licensee to erect notices regarding areas prohibited to minors both at the entrance to each area and the entrance to the premises.

Industry representatives have suggested that the display of a notice at the entry to premises is unnecessary and of little assistance to patrons or licensees. The Commissioner agrees and has proposed that the requirements to display a notice in sections 112 and 113 be amended so that a notice at the entry to the area that is prohibited to minors is all that is required. The Bill amends sections 112 and 113 accordingly.

Definition of 'entertainment'

Section 105 of the Act prohibits a licensee, other than one that holds an entertainment venue licence, from using any part of the premises that is subject to the licence for entertainment unless a licensing authority has issued an entertainment consent.

Section 4 defines 'entertainment' to mean:

(a) a dance, performance, exhibition or event (including a sporting contest) calculated to attract and entertain members of the public; or

(b) a visual display but not if provided by means of a television screen not exceeding dimensions fixed under the regulations.

Regulation 4 of the *Liquor Licensing (General) Regulations 2012* prescribes, for the purpose of paragraph (b) of the definition of entertainment, entertainment that includes a visual display but not if provided by means of a television screen the dimensions of which do not exceed 2 metres by 2 metres.

The government believes that requiring a licensee to obtain separate entertainment consent in order to run a television in the premises, whatever the size, is archaic. As technology progresses, television screens are becoming larger and larger. This requires regular amendment of regulation 4.

The Bill amends the definition of 'entertainment' so that it no longer includes a visual display by means of a television of any size accordingly.

Codes of Practice

I have already outlined two amendments to section 11A to enhance the Commissioner's power to regulate the conduct of licensees through Codes of Practice.

In addition to those amendments the Bill amends section 11A to address a concern raised by industry.

Section 11A of the Act provides that the Commissioner may, by notice in the Gazette, publish a code of practice that has been approved by the Minister.

The Commissioner has proposed a Late Night Trading Code of Practice (Late Night Code) that will apply to venues trading between 3am and 7am. One of the requirements that will apply under the Late Night Code will be that of a Drink Marshal.

A Drink Marshal is an RSA (responsible service of alcohol) trained staff member whose duties will be to patrol the premises and observe patrons, identifying those who should be refused service, as well as ensuring the other obligations under the Act and the General Code of Practice are being met. A Drink Marshal will provide assistance to bar staff to identify and stop service to intoxicated patrons and to security staff to identify troublesome patrons who need to be removed.

Industry representatives have raised concerns that a drink marshal's duties may come within the meaning of 'controlling crowds' under the *Security and Investigation Agents Act 1995* thereby requiring a drink marshal to be licensed under that Act.

This is not the government's intention.

To address these concerns the Bill amends section 11A to make clear that a person performing prescribed duties under a Code of Practice is exempt from the operation of the *Security and Investigation Agents Act 1995*. Amendments to the regulations will prescribe the functions of a drink marshal for this purpose.

Educational courses

Under section 29 of the Act, a person who sells liquor without a licence commits an offence. Section 29 is subject to section 30 which provides that a licence is not required for the sale of liquor in specified circumstances, one of which, in subsection 30(c), is where the liquor is supplied in the course of an educational course declared by the regulations to be an approved course for the purposes of section 29.

Approved courses are prescribed by regulation 7(1) of the *Liquor Licensing (General) Regulations 2012*.

In order to enable timely exemptions for schools and training institutions, the Commissioner recommends that it would be more appropriate that exemptions for schools and training institutions be approved by the Minister and published in the Gazette.

The government agrees with the Commissioner's suggestion. The Bill amends section 30 accordingly.

Wine Australia

Section 39(1e) of the Act provides that, if a licensee's production premises are in a particular wine region and are to be used for the production of wine, any site specified in a producer's event endorsement must be in that

wine region. A 'wine region' is defined in subsection (4) to mean a geographical area in relation to which a geographical indication is in force under the *Australian Wine and Brandy Corporation Act 1980.* The *Australian Wine and Brandy Corporation Act 1980* has been renamed the *Wine Australia Corporation Act 1980*. The Commissioner has asked that this reference be updated. The Bill amends section 39 accordingly.

Dry areas

Section 131 of the Act provides for the making of regulations to prohibit the possession and consumption of liquor in a public place.

The *Liquor Licensing (Dry Areas) Regulations 2012* define the particular public places where the possession and consumption of liquor is prohibited. The regulations include detailed maps and descriptions of the dry areas.

To streamline the process through which dry areas are proclaimed, the Bill amends the Act to remove the requirement that a dry area prohibition be imposed by regulation. Under the amended provision:

- long term dry areas will be approved by the Minister; and
- short term dry areas will be approved by the Commissioner.

Dry areas will be established by the publication of a notice in the Government Gazette which will include a description of the area. An application for a dry area will still be made by the Council to the Commissioner. Councils will be required to include with an application supporting documentation, including, but not limited to, a detailed description and map of the proposed dry area and a letter of support from the local police and Member of Parliament. The Commissioner will then assess the application and, in the case of a long term dry area application, advise the Minister whether or not to approve the application, and, in the case of a short term dry area application, determine whether the approve the application or not.

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 *Liquor Licensing Act 1997*

4—Amendment of section 3—Objects

This clause amends section 3 of the Act to add to the objects those set out in new paragraph (f).

5—Amendment of section 4—Interpretation

This clause amends section 4 of the Act, inserting or amending key terms used in provisions inserted or amended by this measure.

6—Amendment of section 11A—Commissioner's codes of practice

This clause relieves employees etc in licensed premises from needing to comply with the *Security and Investigation Agents Act 1995* in respect of certain functions prescribed by the regulations.

The clause also extends the scope of codes of practice to include the protection of the public interest.

7—Amendment of section 30—Cases where licence is not required

This clause amends section 30 of the Act to allow the Minister to exempt certain person from the provisions of the Act relating to sales by notice in the Gazette rather than by regulation as the Act currently requires.

8—Amendment of section 31—Authorised trading in liquor

This clause amends section 31 of the Act to make clear that the authorisations conferred by a licence are subject to modification under the Act.

9—Amendment of section 32—Hotel licence

This clause amends section 32 of the Act in the same way as the amendment in clause 31.

10—Amendment of section 33—Residential licence

This clause amends section 33 of the Act in the same way as the amendment in clause 31.

11—Amendment of section 34—Restaurant licence

This clause amends section 34 of the Act in the same way as the amendment in clause 31.

12—Amendment of section 35—Entertainment venue licence

This clause amends section 35 of the Act in the same way as the amendment in clause 31.

13—Amendment of section 36—Club licence

This clause amends section 36 of the Act in the same way as the amendment in clause 31.

14—Amendment of section 37—Retail Liquor Merchant's licence

This clause amends section 37 of the Act in the same way as the amendment in clause 31.

15—Amendment of section 38—Wholesale Liquor Merchant's licence

This clause amends section 38 of the Act in the same way as the amendment in clause 31.

16—Amendment of section 39—Producer's licence

This clause amends section 39 of the Act in the same way as the amendment in clause 31.

17—Amendment of section 39A—Direct sales licence

This clause amends section 39A of the Act in the same way as the amendment in clause 31.

18—Amendment of section 40—Special circumstances licence

This clause amends section 40 of the Act in the same way as the amendment in clause 31.

19—Amendment of section 40A—Small venue licence

This clause amends section 40A of the Act in the same way as the amendment in clause 31.

20—Amendment of section 41—Limited licence

This clause amends section 41 of the Act in the same way as the amendment in clause 31.

21—Amendment of section 43—Power of licensing authority to impose conditions

This clause amends section 43 of the Act, clarifying that the licensing authority may take the specified actions in respect of conditions on a licence, and setting out when that can occur. This includes imposing or varying conditions in a way that limits the authority conferred by a liquor licence, for example by reducing trading hours below those contemplated by Part 3 Division 2 of the Act.

22—Amendment of section 49—Special provision for club licences

This clause amends section 49 to of the Act to allow a company limited by guarantee under the Corporations Act to hold a club licence.

23—Amendment of section 71—Approval of management and control

This clause amends section 71 of the Act to provide that a person's approval under the section is transferable to other licensed premises or businesses. The current provision means that an approval is for a particular business only.

24—Amendment of section 97—Supervision and management of licensee's business

This clause amends section 97 of the Act, and is consequential upon clause 23.

25—Amendment of section 108—Liquor not to be sold or supplied to intoxicated persons

This clause substitutes section 108(1) of the Act, and is consequential upon the new definition of 'intoxicated' inserted by clause 5(3).

26—Amendment of section 109—Copy of licence to be kept on licensed premises

This clause amends section 109 of the Act, bringing the expiation fee into line with similar offences in the statute book.

27—Amendment of section 111—Areas of licensed premises may be declared out of bounds to minors

This clause amends section 111 of the Act to replace the word 'part' with 'area', reflecting current terminology.

28—Amendment of section 112—Minors not to enter or remain in certain licensed premises

This clause amends section 112 of the Act, and is consequential upon clause 27.

29—Amendment of section 113—Notice to be erected

This clause amends section 113 of the Act, and is consequential upon clause 27.

30—Amendment of heading to Part 7A—Offensive or disorderly conduct

This clause makes a consequential amendment to the heading of Part 7A of the Act.

31—Amendment of section 117A—Offensive or disorderly conduct

This clause amends section 117A of the Act, increasing the expiation fee to reflect the seriousness of the offence.

32—Amendment of section 119—Cause for disciplinary action

This clause amends section 119 of the Act, inserting a new subsection (1a) to provide that, when determining whether a licensed person is a fit and proper person for the purposes of section 119(1)(c), if any person who occupies a position of authority in a licensee that is trust or corporate entity is not a fit and proper person, then the licensee is not a fit and proper person.

33—Amendment of section 119A—Commissioner's power to deal with disciplinary matter by consent

This clause amends section 119A of the Act, clarifying that a condition imposed under the section can vary the trading hours in respect of the licence fixed or required by or under the Act.

34—Amendment of section 120A—Commissioner's power to suspend or impose conditions pending disciplinary action

This clause amends section 120A of the Act, extending the scope of the section to allow the Commissioner to take action under the section against a licensee pending the hearing and determination of a complaint.

New subsection (1a) further extends the provision to allow the Commissioner to take specified action even where a complaint has yet to be lodged against a person, provided the Commission is satisfied of the matters set out in the subsection.

The exercise of powers by the Commissioner is reviewable under section 22 of the Act, despite there not being proceedings on foot.

35—Amendment of section 121—Disciplinary action

This clause amends section 121 of the Act. Subclause (1) amends section 121(1)(a) clarifying that a condition imposed under the section can vary the trading hours in respect of the licence fixed or required by or under the Act. Subclause (2) is consequential upon the new definition of 'intoxicated' inserted by clause 5(3).

36—Amendment of section 122—Powers of authorised officers

This clause amends section 122 of the Act, substitution subsection (1) to clarify that the powers of authorised officers set out in the section can be exercised separately.

37—Amendment of section 124—Power to refuse entry or remove intoxicated persons or persons guilty of offensive behaviour

This clause amends section 124 of the Act, and is consequential upon the new definition of 'intoxicated' inserted by clause 5(3).

38—Amendment of section 128B—Power of Commissioner to issue public order and safety notice

This clause amends section 128B of the Act, clarifying that a condition imposed under the section can vary the trading hours in respect of a licence fixed or required by or under the Act, and modifying the reporting obligations of the Commissioner under the section so that he or she must provide a report to the Minister on the operation of the section at least once in every 12 month period.

39—Amendment of section 131—Control of consumption etc of liquor in public places

This clause amends section 131 of the Act, allowing the Minister (in the case of longer term dry areas) or the Commissioner (short term dry areas) to establish dry areas by notice in the Gazette rather than requiring it to be done by regulations.

40—Amendment of section 131A—Failing to leave licensed premises on request

This clause amends section 131A of the Act, and is consequential upon the new definition of 'intoxicated' inserted by clause 5(3).

41—Amendment of section 138—Regulations

This clause amends section 138 of the Act, allowing regulations to be made for transitional or savings purposes.

Schedule 1—Transitional provisions

1—Responsible persons

This clause provides that the approval of a person under section 71 of the *Liquor Licensing Act 1997* (as in force before the commencement of this clause) will be taken to be approved as a responsible person under section 71 of that Act, as amended by this Act. That is, an approval will be an industry-wide approval despite having been granted in respect of a particular business.

2—Certain conditions taken to be validly imposed etc

This clause clarifies that conditions imposed on a licence that limited the authority conferred by the licence are valid.

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

TORRENS UNIVERSITY AUSTRALIA BILL

Second reading.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (16:56): 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 recognises Torrens University Australia through an Act of the South Australian Parliament, and insofar as it is within the legislative powers of the State, facilitates the provision of higher education services by the University.

Established as a private company under the Corporations Act, Torrens University is a welcome addition to the South Australian higher education sector and will in time, make a significant contribution to Adelaide as a learning city.

The outcome of this Bill is to acknowledge Torrens University as part of the global Laureate International Education brand and will ensure the University is recognised in South Australia alongside other universities.

I commend the Bill to Members.

Explanation of Clauses

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines key terms used in the Bill.

4—Recognition of University

This clause recognises Torrens University Australia, and provides that it is not an agency or instrumentality of the Crown in right of South Australia.

5—Principles to be observed by the University

This clause sets out that Torrens University Australia should establish principles to be observed by the University in respect of the management of the University.

6—Declaration of logo

This clause enables the Minister to declare a particular design to be a logo of the University, with such logos forming part of the official insignia of the University and hence being protected under proposed section 7 of the measure, as well as other applicable State or Commonwealth laws.

7—Protection of proprietary interests of University

This clause creates an offence for a person to use certain names and insignia without the permission of the University, and sets out procedural provisions in respect of how that permission may be given. The clause also confers a right to seek an injunction restraining a breach of the proposed section in the Supreme Court.

8—Gifts etc to University

This clause clarifies that a person may, by their trust, give property to particular elements of the University, rather than just the University as a whole.

9—Minor's legal capacity in relation to contracts etc

This clause enables minors—that, is students under the age of 18 years—to enter contracts in relation to their education at the University, and other matters to be prescribed by the regulations.

10—Governing body of University to notify Minister of certain events

This clause requires the governing body of the University to advise the Minister of changes to its composition, and of the occurrence of other events of a kind to be prescribed by regulation.

11—Annual report

This clause requires the governing body of the University to provide the Minister with an annual report of its operations. This report must be laid before both Houses of Parliament.

12—Regulations

This clause is a standard regulation making power.

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

STATUTES AMENDMENT (DANGEROUS DRIVING) BILL

Second reading.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (16:57): 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.

The Bill amends sections 19A and 19AC of the *Criminal Law Consolidation Act 1935* ('CLCA') and section 46 of the *Road Traffic Act 1961* ('RTA').

A key element of the section 19A and 19AC offences is proving that the accused drove in a manner 'dangerous to the public'. Judicial consideration of this phrase has led to a limited interpretation of who constitutes 'the public'.

The courts in South Australia have held that, in some circumstances, a death caused by dangerous driving on private property will not fall within the circumstances contemplated by sections 19A and 19AC. This is not good enough.

In *R v Palmer* [2008] SADC 122 the accused was charged with the offence of aggravated causing death by dangerous driving under section 19A of the CLCA.

The charge arose out of a motor vehicle accident that occurred on a private property. The accident occurred as a consequence of the accused performing dangerous manoeuvres in his motor vehicle. Those manoeuvres caused the vehicle the accused was driving to fall onto its side, crushing the skull of a passenger.

The trial judge in this case directed the jury to return verdicts of not guilty to the offence of aggravated causing death by dangerous driving and the alternative non-aggravated offence because:

- The relationship (of friendship) between the three passengers and driver negated the view that the passengers were to be regarded as members of the public;
- The activities in question took place on private property and away from any road;
- The accused and his three passengers were all, knowingly, engaged in a form of skylarking;
- The four willingly got into the vehicle in question together for the purpose of amusing themselves by a particular, and somewhat dangerous, form of recreational activity directly connected with the driving of the vehicle (in tight circles with the steering wheel on full lock and the accelerator applied);
- The activity constituted a danger to all four of them, but to nobody else;
- In circumstances where it is proper to regard the activity as a part of a joint escapade on the part of the accused and the passengers—they being the only persons endangered by the activity—then it was not proper to characterise the passengers as 'the public'.

The trial judge further stated that his conclusion might well have been different if the relevant words of section 19A of the CLCA had read driving in 'a manner dangerous to any other person' rather than 'a manner dangerous to the public'.

In reaching the decision, the trial judge applied the decision of the NSW Court of Appeal in *R v S* (1991) 22 NSWLR 548. The facts of *R v S* were similar to Palmer, in that the death of a passenger was caused by dangerous driving on private property. As a result of *R v S*, the NSW Parliament passed the *Crimes (Dangerous Driving Offences) Amendment Act 1994* to replace the words 'the public' with 'another person' in the relevant section of the Crimes Act.

This Bill will make an identical amendment to the relevant sections in the CLCA, namely sections 19A and 19AC. The words 'the public' will be replaced with the words 'any person'. A similar amendment will be made to section 46 of the RTA because it is the alternative offence to sections 19A(1) and 19A(3) of the CLCA. It is important to note that the RTA only applies to offences committed on roads (see section 5A), so will not capture an offence committed on private land.

The limitation on the offences set out in sections 19A and 19AC ought to be removed given the very serious subject matter involved, namely dangerous driving that causes the death of another.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Criminal Law Consolidation Act 1935*

4—Amendment of section 19A—Causing death or harm by use of vehicle or vessel

This clause amends section 19A to replace the reference to the public with a reference to 'any person'.

5—Amendment of section 19AC—Dangerous driving to escape police pursuit etc

This clause amends section 19AC to replace the reference to the public with a reference to 'any person'.

Part 3—Amendment of *Road Traffic Act 1961*

6—Amendment of section 46—Reckless and dangerous driving

This clause amends section 46 to replace the reference to the public with a reference to 'any person'.

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

SOUTH AUSTRALIAN CIVIL AND ADMINISTRATIVE TRIBUNAL 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 the Status of Women, Minister for State/Local Government Relations) (16:58): 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.

The South Australian Civil and Administrative Tribunal Bill 2013 seeks to establish in South Australia a new tribunal, with jurisdiction to review certain administrative decisions and to act with respect to certain disciplinary, civil or other proceedings; to confer powers on the tribunal; and for other purposes.

The purpose of the South Australian Civil and Administrative Tribunal ('the Tribunal') is to make and review a range of administrative decisions in one tribunal. Its objectives in exercising its jurisdiction are to be accessible to all, especially people with special needs, to ensure efficient and cost effective processes for all parties involved, to act with as little formality and technicality as possible and to be flexible in the way in which it conducts its business. The Tribunal will also be transparent and accountable, headed by a President who will hold concurrent office as either a Judge of the Supreme or District Court.

Currently in South Australia merits review functions are conferred on a wide array of decision making bodies including Ministers, commissioners, ombudsman, courts and other specialist boards and tribunals. Each merits review body has limited jurisdiction and undertakes the review of selected decisions under a host of individual legislative schemes. A further complication is that these bodies each have their own administrative structure, procedural processes and infrastructure, resulting in inconsistency and unnecessary duplication. These factors all contribute to creating an inefficient and confusing barrier to members of the public attempting to enforce their rights.

The introduction of this Bill constitutes a significant reform in the field of administrative law in the State of South Australia, the beginnings of which trace back to 1984, when the South Australia Law Reform Committee recommended the establishment of a General Appeals Tribunal to streamline and simplify the review of administrative decisions in this State.

Thereafter, in 2006, the merits review processes in the State, that is, the processes for review of administrative decisions made by government, were again reviewed by the Attorney-General's Department with the South Australian Law Society's Administrative Law Committee. The idea of a civil and administrative tribunal was proposed as a consolidated body for adjudication of administrative decisions. This committee identified a number of problems with the existing merits review system, most of which related to the fragmentation of the system.

In August 2011, the Government publicly announced a review of the feasibility and desirability of establishing a general administrative tribunal. Accordingly, the review project was established to investigate potential efficiencies and improved decision making opportunities. This project was overseen by a Steering Committee, comprised of members from the Attorney-General's Department, the Crown Solicitor's Office and the Courts Administration Authority, the then President of the Law Society and chaired by the Member for Light, the Hon. Tony Piccolo MP.

The review project explored the benefits of a single, easy to find, easy to use body for fair and independent resolution of disputes relating to administrative decisions, and more broadly investigated whether the use of such a body could improve access to justice if extended to other areas. It did not aim to introduce a general right to review all administrative decisions or otherwise propose law reform. It was evident, however, that minor amendments to specific review and appeal decisions would be necessary for consistency.

The Steering Committee concluded that there are various benefits to be gained from altering the current administrative review system and made a number of recommendations in support of the establishment of a

generalist Tribunal. As evidenced by this brief chronology, the establishment of a South Australian Civil and Administrative Tribunal in South Australia is a long overdue and significant reform regarding accessibility to justice.

South Australia is one of the last jurisdictions to address the ad hoc tribunal system. The Commonwealth was the first to do so in 1976 with the Administrative Appeals Tribunal (AAT), established under the *Administrative Appeals Tribunal Act 1975* (Cth). From a State and Territory perspective, Victoria was the first to follow in the Commonwealth's footsteps by establishing the Victorian Civil and Administrative Tribunal (VCAT) under the *Victorian Civil and Administrative Tribunal Act 1998*(Vic), with NSW following suit in 1997 with the Administrative Decisions Tribunal established under the *Administrative Decisions Tribunal Act 1997*(NSW). I note, however, that NSW is currently undertaking further reforms to consolidating these tribunals with the recent passage of the *Civil and Administrative Tribunal Act 2013*(NSW) and further reforms to shortly follow.

Western Australia followed suit in 2005 when the State Administrative Tribunal (SAT) commenced operations under the *State Administrative Tribunal Act 2004*(WA). The Australian Capital Territory Government established the Civil and Administrative Tribunal (ACAT) under the *ACT Civil and Administrative Tribunal Act 2008*(ACT). The most recent jurisdiction to create a single generalist body to conduct merit review functions of government was Queensland, establishing the Civil and Administrative Tribunal (QCAT), under the *Queensland Civil and Administrative Tribunal Act 2009*(Qld).

As already foreshadowed, establishing the Tribunal requires the introduction of at least two separate Bills, the first being the current Bill, which sets out the structure, membership, constitution and other provisions that are required to facilitate the establishment of the Tribunal. This Bill does not however confer any jurisdiction on the Tribunal. Conferral of jurisdiction and other related matters will be the subject of a separate Bill or Bills. The 'Statutes Amendment' Bill or Bills will be needed to amend the many various Acts that presently confer jurisdiction on courts, tribunals, boards and other persons or bodies to deal with the disciplinary and other administrative decisions and reviews proposed to be transferred to the Tribunal.

The introduction of legislation required to support the Tribunal is being done in separate phases so as to allow the Government to undertake extensive consultation with existing tribunals and other bodies or matters that could be included. Targeted consultation with these tribunals and other bodies is necessary for a number of reasons. Firstly, to inform the drafting of the Statutes Amendment Bill or Bills and to ensure there is minimal disruption during the transition and implementation, once all legislation has been passed. The second reason for the Government introducing legislation in separate phases, commencing with this current Bill, is to enable the appointment of the President of the Tribunal. Appointing the President shortly after the passage of this Bill will ensure that she or he plays an integral part in overseeing, assisting and informing the nature, extent and scope of the integration of existing tribunals, boards and other bodies into the Tribunal.

The staged implementation of legislation to implement the Tribunal is not without precedent. New South Wales is currently in the process of establishing the NSW Civil and Administrative Tribunal, where more than 20 of the State's tribunals will be integrated into NCAT, which will provide a single gateway for tribunal services to the people of NSW. With the first Bill, the *Civil and Administrative Tribunal Act 2013*(NSW) having passed both Houses of Parliament without amendment in February 2013, a separate Civil and Administrative Tribunal Amendment Bill, which sets out NCAT's jurisdiction, powers and functions, is reported to be under preparation.

Turning now to the main features of the Bill.

Members of the Tribunal

The Bill proposes that the Tribunal be led by a President, supported by one or more Deputy Presidents, Magistrates, Senior Members, Ordinary Members and Assessors.

In order to be eligible for appointment, the President must hold concurrent office as either a Supreme or District Court Judge. The process of appointment to the role of President is by means of appointment by the Governor, by proclamation, in consultation with the Chief Justice or Chief Judge.

The President, aside from participating as a member of the Tribunal, has primary responsibility for its administration and will not be subject to the direction or control of a Minister. The President's functions are expressly prescribed in the Bill to include both administrative and managerial responsibility, which are as follows:

- managing the business of the Tribunal, which includes ensuring it operates efficiently and effectively;
- providing leadership and guidance to the Tribunal and ensuring a collective cohesiveness amongst the members and staff;
- giving directions about practices and procedures to be followed by the Tribunal;
- developing and implementing performance standards and benchmarks;
- being responsible for promoting the training, education and professional development of members;
- overseeing the provision of proper use of resources; and
- providing advice about the membership and operation of the Tribunal.

There will be at least one Deputy President. In order to be eligible to be appointed to the role of Deputy President, the person must be either a judge of the District Court or eligible for appointment as a judge of the District Court.

Aside from participating as a member of the Tribunal, the Deputy President, will assist the President in the management of business and members of the Tribunal.

In order to provide maximum flexibility, the Bill provides a mechanism to temporarily appoint Supplementary Deputy Presidents, upon the Attorney-General receiving a request from the President, in relation to a particular matter or matters or for a specified period, irrespective of whether there is any vacancy in the office of Deputy Presidents. Magistrates will also have a role in the Tribunal, as and when required.

Senior and ordinary members

The Bill proposes that the Tribunal should be comprised of senior and ordinary members who may be legally qualified, but may also be experts from different fields or vocations. Legally qualified members must be practitioners of not less than five years standing and for other members must have, in the Minister's opinion, extensive knowledge, expertise or experience relating to a class of matter for which functions may be exercised by the Tribunal.

The Bill makes provision for the Minister to appoint a panel of persons who will, at the request of the Minister and after consultation with the President, recommend the selection criteria for the senior members and ordinary members of the Tribunal. This same panel of persons may also be requested by the Minister to assess a candidate or candidates for appointment as either a senior or ordinary member and provide advice to the Minister about this.

All members should be assessed by a panel against selection criteria and appointed by the Governor, after consultation between the President and the Minister, for a term of office, of between three and five years. A senior or ordinary member will be eligible for reappointment at the expiration of a term of office. Both senior and ordinary members will be appointed on conditions specified in the instrument of appointment.

The Bill proposes mechanisms for removal and suspension of senior and ordinary members of the Tribunal, in addition to specifying the grounds upon which a senior or ordinary member ceases to be a member of the Tribunal.

In order to manage unforeseen spikes in workloads, the Bill provides a mechanism to temporarily appoint senior and ordinary members for a particular matter or for a specified period, either at the request or with the agreement of the President of the Tribunal.

Assessors

The Bill proposes that there be panels of assessors as may be necessary for the purposes of any relevant Act. Assessors will be appointed by the Governor on recommendation of the Minister.

To be eligible for appointment as an assessor, the person must be qualified, by reason of his or her knowledge, expertise and experience, to provide specialist knowledge in a field or fields in which the Tribunal exercises jurisdiction.

An assessor will sit on a sessional basis and will be appointed for a term of office, not exceeding five years, but will be eligible for reappointment at the expiration of the five year term.

Constitution of Tribunal and its decision-making processes

Subject to the provisions in the Bill, the President may determine, in relation to particular matters, or particular classes of matters, which member or members of the Tribunal will constitute the Tribunal. Unless the conferring Act states otherwise, the Tribunal is not to be constituted by more than three members.

The Bill also clarifies which member in what circumstance will be considered the presiding member in the hearing of matters and the order of precedence generally, amongst all members of the Tribunal.

Clarification is also provided about how the Tribunal resolves cases that come before it. For questions that do not amount to a determination of a question of law, the opinion of the majority will apply. Where there is no majority, the opinion of the presiding member prevails. There is also a mechanism for the member of the Tribunal, or if there is more than one member, the presiding member, to refer a question of law to a Presidential Member for determination.

A range of other matters related to the constitution of the Tribunal are set out to assist the day to day operations of the Tribunal, these include:

- permitting the listing of matters into various steams that reflect the areas of jurisdiction
- validating the acts of the Tribunal
- setting out requirements of Tribunal members to disclose interests (pecuniary or otherwise)
- authorising of the President of the Tribunal to delegate a function or power under the Bill.

Jurisdiction

The Tribunal will be the primary forum for the review of administrative decisions, including reviews currently conducted by ministers (departmental reviews and appeals), courts (administrative reviews and appeals) and appellate tribunals (including boards and committees). The Tribunal will also make specific original administrative and civil decisions currently made by a range of disciplinary boards and tribunals.

Original jurisdiction of the Tribunal

The Tribunal exercises its original jurisdiction if the matter that a relevant Act gives the Tribunal to deal with does not involve a review of a decision, which in other words means the Tribunal is the original decision-maker.

The Bill provides that where jurisdiction to make original decisions is conferred upon the Tribunal, wherever possible the original hearing should be conducted in accordance with the processes already provided for in the existing legislation.

There will then be an internal right of review from an original decision of the Tribunal. As the internal reviews may be conducted by the President or Deputy President sitting alone or with others, an appeal would then lie, with permission, to the Full Court of the Supreme Court against the decision of the Tribunal from its internal review jurisdiction.

Review jurisdiction of the Tribunal

The Tribunal will exercise its review jurisdiction if the matter that a relevant Act gives the Tribunal jurisdiction to deal with is a matter that expressly or necessarily involves a review of a decision. The Tribunal will examine the decision of the original decision-maker by way of re-hearing.

In order to assist the Tribunal in exercising its review jurisdiction, the Bill imposes obligations upon the original decision-maker for the purposes of assisting the Tribunal so that it can make its decision on the review. The Bill also confirms the effect of the review proceeding on the decision being reviewed.

The Bill also allows for the Tribunal, at any stage of a proceeding for the review of a reviewable decision, to invite the decision-maker to reconsider the decision. Upon being invited to do so by the Tribunal, the original decision-maker may either affirm, vary or set aside the decision and substitute a new decision.

Principles, powers and procedures

Principles

The Bill sets out the principles that are to guide the Tribunal in the hearing of any proceeding for which it has jurisdiction. In summary, these principles include: minimising any formality, dispensing with rules of evidence and informing itself as it thinks fit and finally, acting according to equity and good conscience, without regard to legal technicalities.

Evidentiary Powers

To discharge its various functions as an administrative tribunal, the Tribunal will need powers to establish processes, obtain evidence, control parties and make adequate and appropriate determinations. Certain powers are proposed for inclusion in the Bill, whereas others will be located in the Regulations or Rules.

First, the Tribunal will be equipped with the power to require the production of evidentiary material or to require an individual to give evidence, which may be exercised by the Tribunal upon the application of a party or by means of its own initiative. This power will be exercised by the issuing of a summons. Failure to comply with this provision of the Bill without reasonable excuse will amount to an offence, which will attract a maximum penalty of a $25,000 fine or imprisonment for one year.

Second, a member of the Tribunal will have the power to enter any land or building and carry out any inspection that the Tribunal considers relevant to a proceeding before a Tribunal. Obstruction of a member of the Tribunal, or a person authorised by the Tribunal who is exercising this power, will be guilty of an offence, attracting a maximum penalty of $10,000 or 6 months imprisonment.

Finally, there is a power for the Tribunal to refer any question arising in any proceedings for investigation and report by an expert in the relevant field. However, the Tribunal must seek submissions from the parties to the proceedings, prior to making such a reference.

Practice and procedures

The Bill outlines a number of obligations upon the Tribunal in terms of practices and procedures generally, and regarding the conduct of proceedings and interaction of parties to proceedings. More specifically, it confirms the Tribunal's ability to give directions, consolidate proceedings, split proceedings, move a proceeding to a more appropriate forum and finally to dismiss or strike out a proceeding that is frivolous, vexatious or an abuse of process. There is also a mechanism for the Tribunal to manage proceedings being conducted to cause disadvantage to a party, either by the application of a party or on its own initiative.

Conferences, mediation and settlement

An important emphasis is placed on the role of alternative dispute resolution and proceedings before the Tribunal. The Bill provides the Tribunal with the scope, at an initial directions hearing or at any other time, to require the parties to attend a compulsory conference, or refer the matter, or any aspect of the matter, for mediation by a person specified as a mediator by the Tribunal. The Bill also sets out the procedures for both conferences and mediation. The Tribunal itself may also endeavour to achieve a negotiated settlement of a matter before the Tribunal.

Parties and representation

The Bill defines who is considered a 'party' for the purposes of a proceeding before the Tribunal, confirms who may be joined as a party, and who can intervene in a proceeding before the Tribunal and on what grounds. Further, the Attorney-General may, on behalf of the State intervene in any proceedings before the Tribunal at any time. For all others however, leave of the Tribunal to intervene must first be obtained. The matter of representation before the Tribunal is also addressed.

Costs

Unless specified in the Bill, a relevant Act, or an order of the Tribunal, it is proposed that parties bear their own costs in any proceeding before the Tribunal. Nonetheless, the Tribunal may make an order for the payment by a party of all or any of the costs of another party, or of a person required to appear before the Tribunal or to produce evidential material. However, where the Tribunal dismisses or strikes out any proceeding in any prescribed circumstances, it is proposed that the Tribunal should also make an order for costs against the party against whom the action is directed unless there is good reason not to.

Further, the Bill provides that the power to make an order for the payment by a party of the costs of another party includes the power to make an order for the payment of an amount to compensate the other party for any expenses or loss resulting from any proceeding or matter. The Bill provides guidance to the Tribunal as to the relevant considerations in exercising this power.

Other procedural and related provisions

The Bill addresses a range of other miscellaneous, procedural and related provisions, which are summarised as follows:

- the time and location of Tribunal sittings;
- the requirement for hearings to be heard in public, unless the Tribunal is satisfied that it is desirable to either hear all or part of a hearing in private or there is a need for example to prohibit/restrict publication of the name and addresses of persons appearing before the Tribunal and/or evidence given at the Tribunal;
- the power to make any order that may be necessary to preserve the subject matter of proceedings or interests of a party;
- security as to costs;
- the power to make interlocutory orders;
- the power to make conditional and alternative orders;
- the power to refer questions arising in a proceeding to a special referee;
- the power to provide relief from time limits for doing anything in connection with a proceeding or the commencement of any proceeding;
- equipping the Tribunal with the capacity to undertake electronic hearings and proceedings without hearings (on the basis of documents);
- privilege against self-incrimination; and
- other claims of privilege.

Reviews and appeals

As already stated, there is a mechanism to review an original decision of the Tribunal and the Bill sets out measures for this to occur. Also set out in the Bill is an avenue to appeal:

- to the Full Court of the Supreme Court of South Australia, if the Tribunal was constituted for the purpose of making the order by the President or a Deputy President, whether with or without others; or
- to a single judge of the Supreme Court in any other case.

The requirement for leave to appeal is designed to ensure that appeals that do not raise points of importance are not unnecessarily maintained. The Bill then sets out what orders can be made by the Supreme Court on appeal.

Further, the Bill confirms that a Presidential member of the Tribunal may reserve any questions of law arising in any proceedings for determination by the Full Court of the Supreme Court. If a question of law is reserved, the Supreme Court may determine the question and give any consequential orders or directions considered by the Court to be appropriate to the circumstances of the case.

Staff of the Tribunal

The President and members of the Tribunal will be assisted by staff. It is proposed that the Tribunal have one principal registrar, supported by one or more other registrars (to be known as 'Deputy Registrars').

The functions of the Registrar will be:

- to assist the President of the Tribunal in the administration of the Tribunal;
- to be responsible for the registry and records of the Tribunal;
- to undertake responsibility for the day-to-day case management of the Tribunal;
- to constitute the Tribunal to the extent specified under this Act; and
- to fulfil other functions assigned to the Registrar by the President or under the rules of the Tribunal.

The Bill also confirms that there will be other staff of the Tribunal, consisting of persons employed in a public sector agency and made available to act as members of the staff of the Tribunal. Further the Tribunal may, by arrangement

with the relevant body, make use of the facilities, staff or equipment of an administrative unit in the Public Service, or the State Courts Administration Council or another public agency or authority.

Miscellaneous

Finally, the Bill contains a number of miscellaneous measures relating to the operation and functions of the Tribunal.

The Bill contains a regulation making power and confirms that the Minister must appoint one or more independent persons to conduct a review to undertake an assessment of the performance of the Tribunal, whether the Tribunal's objectives are being met and the extent to which it would be advantageous to extend the jurisdiction of the Tribunal. The review must be incorporated into a report and submitted to the Minister for tabling before both Houses of Parliament.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause contains definitions of words and phrases used in the Bill, including applicant, decision-maker, evidentiary material, legally qualified member and Tribunal.

4—Relevant Acts prevail

A 'relevant Act' is defined in clause 3 to mean 'an Act which confers jurisdiction on the Tribunal'. There will be numerous relevant Acts that confer jurisdiction on the Tribunal. In the event of an inconsistency between a relevant Act and this Act, the relevant Act prevails.

Part 2—South Australian Civil and Administrative Tribunal

Division 1—Establishment of Tribunal

5—Establishment of Tribunal

This Bill establishes a new tribunal called the South Australian Civil and Administrative Tribunal ('the Tribunal').

6—Jurisdiction of Tribunal

This clause provides that Tribunal's jurisdiction is set out in proposed Part 3.

7—Tribunal to operate throughout State

This clause provides that the Tribunal is to facilitate access to its services throughout South Australia and may sit at any place. The President after consultation with the Minister will determine where Registries of the Tribunal will be located.

Division 2—Main objectives of Tribunal

8—Main objectives of Tribunal

This clause sets out the Tribunal's primary objectives. These will enable the Tribunal to be an accessible 'one-stop shop' that can resolve disputes quickly, with minimal formality and costs and utilise Tribunal members who have the appropriate experience and expertise.

The objects of the Tribunal are—

- to promote the best principles of public administration;
- to be accessible and be responsive to parties, especially people with special needs;
- to ensure that applications are processed and resolved as quickly as possible while achieving a just outcome;
- resolving disputes through high-quality processes and the use of mediation and other alternative dispute resolution procedures where appropriate;
- to keep costs to parties involved in proceedings before the Tribunal to a minimum;
- to use straight forward language and procedures;
- to act with as little formality and technicality as possible;
- to be flexible in the way in which the Tribunal conducts its business.

Division 3—Members of Tribunal

Subdivision 1—The members

9—The members

The proposed section provides for membership of the Tribunal. This clause specifies that the Tribunal is to have judicial members (including a President, at least one Deputy President, and magistrates who are designated as members) and other members (either senior members, ordinary members or assessors).

Subdivision 2—The President

10—Appointment of President

This clause provides for the appointment of the President of the Tribunal. The Tribunal President must be a judge of the Supreme Court or the District Court appointed by the Governor, by proclamation. Appointment to the position of President of the Tribunal is subject to conditions determined by the Governor. Appointment as the President does not affect that person's tenure, status, rights or privileges as a judge, and service as President is to be taken for all practical purposes as service as a judge. The appointment of a judge as the President of the Tribunal will be for a term of 5 years and the person will be eligible for reappointment at the expiration of a term of office. This clause also sets out the circumstances in which the person may cease to be the President of the Tribunal.

11—President's functions generally

This clause outlines the functions of the President of the Tribunal.

12—Acting President

This clause provides for the appointment of an Acting President of the Tribunal if there is a vacancy in the office of President or the President is absent or unable to perform the functions of office.

Subdivision 3—The Deputy Presidents

13—Number of Deputy Presidents

The proposed section provides that there will be at least 1 Deputy President of the Tribunal.

14—Appointment of Deputy Presidents

This clause provides for the appointment and removal of the Deputy Presidents of the Tribunal. It also specifies that a Deputy President must be a District Court Judge or a person who is eligible to be appointed as a District Court judge. The appointment of a judge as a Deputy President of the Tribunal will be for a period of 5 years and the person is eligible for reappointment at the expiration of a term of office.

15—Deputy President's functions generally

This clause outlines the functions of a Deputy President of the Tribunal.

16—Acting Deputy Presidents

This clause provides for the appointment of an Acting Deputy President of the Tribunal if there is a vacancy in the office of Deputy President or a Deputy President is absent or unable to perform the functions of office.

17—Supplementary Deputy Presidents

Under this clause, even if there is no vacancy in the office of Deputy President, the Attorney-General may on the request of the President of the Tribunal, temporarily appoint a person to act as a supplementary Deputy President of the Tribunal.

Subdivision 4—Magistrates

18—Magistrates

Under this clause, magistrates may be designated by the Governor as members of the Tribunal. Before the Governor makes such a proclamation, the Attorney-General must consult with the President of the Tribunal and the Chief Magistrate. Appointment as a magistrate of the Tribunal does not affect that person's tenure, status, rights or privileges as a magistrate.

Subdivision 5—Senior members and ordinary members

19—Appointment of senior members and ordinary members

The proposed section provides for the appointment of non-judicial members to the Tribunal. Senior and ordinary members must be legal practitioners with at least 5 years experience, or have extensive or special knowledge or experience involving a class of matter which can be dealt with by the Tribunal. Before these members are appointed by the Governor, the Minister must consult with the President of the Tribunal. Members of the Tribunal may be appointed on a full-time, part-time or sessional basis. The Minister may also appoint a panel of persons from time to time, at the Minister's request, to recommend the selection criteria for members. This panel may also at the request of the Minister, assess candidates for appointment as senior and ordinary members.

20—Member ceasing to hold office and suspension

This clause contains standard provisions regarding the removal or suspension of members of the Tribunal.

21—Supplementary members

This clause allows the Attorney-General, after consultation with the President of the Tribunal, to temporarily appoint a person to act as a supplementary senior member or a supplementary ordinary member of the Tribunal in relation to particular matters or for a specified period.

Subdivision 6—Assessors

22—Assessors

The proposed section provides for the appointment of assessors. An assessor must be a person, in the opinion of the Minister, who is qualified by reason of his or her knowledge, expertise and experience, to provide specialist knowledge in a particular field in which the Tribunal exercises jurisdiction.

Division 4—Constitution of Tribunal and it's decision-making processes

23—Constitution of Tribunal

This clause provides for the constitution of the Tribunal. Generally, the composition of the Tribunal is to be determined by the President. Under the proposed section, the Tribunal is to be constituted by not more than 3 members. A person who made the original decision cannot also be a member of the appeal Tribunal. Under the measure, the President of the Tribunal will have discretion to organise the Tribunal's business and regulate proceedings before the Tribunal.

24—Who presides at proceedings of Tribunal

This clause makes provision for who will preside over proceedings in the Tribunal where the Tribunal is constituted by 2 or more members.

25—Decision if 2 or more members constitute Tribunal

If the Tribunal is constituted by 2 or more members to resolve a question, it is resolved according to the majority opinion. If the opinion on how to resolve a question is split between members, it is resolved according to the opinion of the presiding member.

26—Determination of questions of law

This clause provides that the member of the Tribunal, or if there is more than 1 member, the presiding member, may refer a question of law to a Presidential member of the Tribunal.

Division 5—Related matters

27—Streams

Under the measure, the President of the Tribunal will be able to establish various streams or lists that reflect the areas of jurisdiction of the Tribunal.

28—Validity of acts of Tribunal

Acts or proceedings of the Tribunal are not invalidated by reason of a vacancy or defect in appointment.

29—Disclosure of interest by members of Tribunal

The proposed section provides procedures for disclosure where a member has a pecuniary interest or conflict of interest in proceedings before the Tribunal.

30—Delegation

This clause provides for delegations by the President of the Tribunal.

Part 3—Jurisdiction

Division 1—Preliminary

31—Sources of jurisdiction

This clause provides that the Tribunal will have the jurisdiction conferred on it by or under this measure or any other Act.

32—Kinds of jurisdiction

The Tribunal will have original and review jurisdiction.

Division 2—Original jurisdiction

33—Original jurisdiction

In exercising its original jurisdiction, the Tribunal will act as the original decision-maker in the matter in accordance with this measure and the relevant Act.

Division 3—Review jurisdiction

34—Decisions within review jurisdiction

In exercising its review jurisdiction, the Tribunal will examine the decision of the decision-maker by way of rehearing in accordance with this Act and the relevant Act. On a rehearing the Tribunal must reach the correct or preferable decision, but in doing so, must have regard to, and give appropriate weight to, the decision of the original

decision-maker. A rehearing will include an examination of the evidence or material before the decision-maker and any further evidence or material that the Tribunal decides to admit.

35—Decision-maker must assist Tribunal

In review proceedings, the decision-maker for the reviewable decision must use his or her best endeavours to help the Tribunal so that it can make its decision on the review.

36—Effect of review proceedings on decision being reviewed

This clause provides that the commencement of a review does not affect the operation of the original decision unless provided for by the relevant Act, or the Tribunal or decision-maker makes an order for a stay of the decision.

37—Decision on review

The Tribunal may on a review affirm, vary, or set aside the decision of the original-decision maker. If the Tribunal sets-aside the decision it may substitute its own decision or send the matter back to the original decision-maker for reconsideration. Any decision made upon reconsideration is open to review by the Tribunal. Once the Tribunal has decided to affirm, vary, or substitute the original decision then this reviewed decision is to be regarded and given effect as a decision of the original decision-maker. The reviewed decision has effect from the time of the original decision, unless the relevant Act allows or the Tribunal orders otherwise.

38—Tribunal may invite decision-maker to reconsider decision

At any stage the Tribunal may invite the original decision-maker to reconsider the decision the subject of review. Upon reconsideration the decision-maker may affirm, vary, or set aside their decision and substitute a new decision.

Part 4—Principles, powers and procedures

Division 1—Principles governing hearings

39—Principles governing hearings

This clause provides the general principles that the Tribunal will uphold in the performance of its functions. The main principles are that the Tribunal:

- will act subject to the relevant Act;
- will conduct itself with minimal formality;
- is not bound by the rules of evidence;
- will act according to equity, good conscience and the substantial merits of the case;
- will act without regard to legal technicalities and forms.

Further, this clause makes clear that nothing in this measure affects any rule or principle of law relating to legal professional privilege, 'without prejudice' privilege or public interest immunity.

Division 2—Evidentiary powers

40—Power to require person to give evidence or to provide evidentiary material

The proposed section provides powers for the Tribunal to order persons to appear before the Tribunal or to produce to the Tribunal documents or materials relevant to the Tribunal's proceedings. In addition it contains provisions relating to the giving of evidence on oath or affirmation. The clause also creates an offence relating to refusal to comply with the requirements of the proposed section, the maximum penalty being $25,000 or imprisonment for 1 year.

41—Entry and inspection of property

Under this clause, a member of the Tribunal may enter any land or building, or authorise an officer of the Tribunal to enter any land or building, that the member considers relevant to a proceeding before the Tribunal. In addition, the clause creates an offence of obstructing a member or authorised officer of the Tribunal while exercising powers under the proposed section, the maximum penalty being $10,000 or imprisonment for 6 months.

42—Expert reports

The proposed section enables the Tribunal to appoint experts to assist the Tribunal and to require the parties to proceedings to contribute to the costs of engaging such a person.

Division 3—Procedures

43—Practice and procedure generally

This clause indicates that the Tribunal is bound by rules of natural justice except to the extent that legislation otherwise provides. The Tribunal can inform itself on any matter as it sees fit and is to determine its own practice and procedures except where these matters are prescribed by legislation. The Tribunal is to assist the parties by, for example, explaining procedures and enabling them the opportunity to be heard or otherwise have their submissions received. The Tribunal must ensure that all relevant material is available to it and may require documents to be served outside of the State.

44—Directions for conduct of proceedings

This clause enables the Tribunal to give directions and do other things to enable the proceedings to be fair and expeditious. These directions can require the production of a document or material or provision of information.

45—Consolidating and splitting proceedings

The Tribunal may consolidate proceedings into one proceeding or require proceedings to be heard together. The Tribunal may also direct that proceedings commenced by 2 or more persons jointly be split into separate proceedings or that any aspect of proceedings be heard and determined separately.

46—More appropriate forum

This proposed section enables the Tribunal to strike out a proceeding or part of a proceeding if another tribunal, court or person can more appropriately deal with the matter.

47—Dismissing proceedings on withdrawal or for want of prosecution

This clause sets out provisions relating to the ability of a party to withdraw proceedings. The Tribunal will also have power to dismiss or strike out proceedings for want of jurisdiction.

48—Frivolous, vexatious or improper proceedings

This clause allows the Tribunal to make an order that a proceeding is dismissed or struck out, if the Tribunal considers that the proceeding is frivolous, vexatious, misconceived or lacking in substance, or involves a trivial matter or amount, or is being used for an improper purpose. If a proceeding is dismissed or struck out under the proposed section, another proceeding of the same kind in relation to the same matter cannot be commenced before the Tribunal without the leave of a Presidential member.

49—Proceedings being conducted to cause disadvantage

This clause enables the Tribunal to dismiss or strike out proceedings if a party is conducting proceedings in a way which unnecessarily disadvantages another party to the proceedings. A list of examples of such conduct is provided. This can be done on the Tribunal's own initiative or following an application by a party to the proceedings.

Division 4—Conferences, mediation and settlement

50—Conferences

The proposed section empowers the Tribunal to hold compulsory private conferences to identify and clarify issues and promote settlement of disputes.

51—Mediation

This clause enables the Tribunal to refer the matter, with or without the parties' consent, for private mediation by a person approved by the President to resolve the matters in dispute.

52—Settling proceedings

The proposed section allows the Tribunal to make an order giving effect to parties written agreement to settle proceedings where the Tribunal would otherwise have power to make a decision in accordance with that settlement. A settlement under the proposed section must not be inconsistent with a relevant Act.

Division 5—Parties

53—Parties

This clause outlines that parties to the Tribunal's proceedings include the applicant; persons subject to disciplinary proceedings under relevant acts; decision-makers in review proceedings; persons joined as a party by order of the Tribunal; intervener and other persons specified in legislation. The decision-maker is to be described by their official description, not their personal name.

54—Person may be joined as party

The proposed section enables the Tribunal, in specified circumstances, to join persons as parties to proceedings and may make an order on the application of any person.

55—Intervening

The clause indicates the Attorney-General may intervene at any time in the Tribunal's proceedings. In addition, any other person may be given leave to intervene if the Tribunal thinks fit.

Division 6—Representation

56—Representation

The proposed section enables parties to the Tribunal's proceedings to appear in person and represent themselves or be represented by a lawyer. With leave of the Tribunal, parties may be represented by persons who are not lawyers. Unless specified by the Tribunal, a party appearing may be assisted by another person as a friend. Nothing in this clause, however, authorises a person who is not a lawyer from acting for fee or reward in relation to proceedings before the Tribunal. The clause also makes it clear that a legal practitioner who has been suspended, struck off or would be acting contrary to disciplinary proceedings is not permitted to act as a representative in proceedings before the Tribunal.

Division 7—Costs

57—Costs

This clause makes provision for costs liability between parties to the proceedings in the Tribunal. In general, parties are to bear their own costs, unless there are reasons for the Tribunal to order otherwise.

58—Costs—related matters

This clause provides that the power of the Tribunal to make an order for the payment by a party of the costs of another party may include the power to make an order for the payment of an amount to compensate the other party for any expenses or loss resulting from the proceedings. The rules of the Tribunal may deal with the effect of certain offers to settle (and any response to such an offer) on an order for the payment of the costs of another party.

Division 8—Other procedural and related provisions

59—Sittings

The Tribunal will sit at such times and places as the President of the Tribunal may direct.

60—Hearings in public

This clause provides that hearings are to be public unless the Tribunal specifies (for reasons outlined in the Act) that the hearing or part of the hearing is to be private. In exercising its powers, the Tribunal can also place restrictions on the publication of all or any part of proceedings where the Tribunal considers it is necessary to do so.

61—Preserving subject matter of proceedings

Under this clause, the Tribunal may make any orders it considers necessary to preserve the subject matter of proceedings.

62—Security as to costs etc

This clause allows the Tribunal to order a party to proceedings to give security for costs or an undertaking in relation to payment of costs. An order under the proposed section may be made by a legally qualified member or a non-legally qualified member with the concurrence of a legally qualified member.

63—Interlocutory orders

The proposed section gives the Tribunal the power to make interlocutory orders.

64—Conditional, alternative and ancillary orders and directions

The Tribunal may make orders and give directions on conditions the Tribunal considers appropriate. The Tribunal will, by ancillary order, be able to provide that a decision of the Tribunal is to be implemented by a third party.

65—Special referees

The proposed section enables the Tribunal to refer questions to a special referee for the referees decision or opinion and to require parties to contribute to the costs.

66—Relief from time limits

The rules may provide for the Tribunal to extend or abridge a time limit for doing anything in connection with a proceeding.

67—Electronic hearings and proceedings without hearings

This clause enables the Tribunal to have proceedings using telephones, video links or other communication systems. It also allows the Tribunal to conduct proceedings solely on the basis of documents without need for a hearing.

68—Completion of part-heard matters

Under the proposed section, persons who no longer hold office as members of the Tribunal may continue to act in the relevant office for the purposes of completing part-heard proceedings (other than where the member has had his or her appointment revoked or has been removed from office).

69—Privilege against self-incrimination

The proposed section provides that persons are not excused from answering questions or producing documents or materials on the ground that this might incriminate them or render them liable to a penalty. However, any answer given or document or material produced in response to a requirement to answer or produce is not admissible in criminal proceedings against that person other than perjury proceedings or the offence of providing false or misleading answers.

70—Other claims of privilege

A person may not be compelled to answer a question or produce a document or other material in proceedings before the Tribunal, if the person could not be compelled to do so if the proceedings where before the Supreme Court.

Part 5—Reviews and appeals

Division 1—Internal reviews

71—Internal reviews

This clause makes provisions for the application for a review of a decision of the Tribunal in the exercise of its original jurisdiction. On a review, the Tribunal will examine the decision of the Tribunal at first instance on the evidence before the Tribunal at that time. However, the Tribunal may, as it thinks fit, allow further evidence or material to be presented to it. The Tribunal must reach the correct or preferable decision, whilst having regard and giving appropriate weight to the Tribunal's original decision. The clause also inserts definitions necessary for the purposes of the proposed section.

Division 2—Appeals

72—Appeals

Under the proposed section, appeals from decisions of the Tribunal lie to the Supreme Court. This clause outlines the procedure in relation to appeals. Generally, the Supreme Court may, for example, affirm, vary, or set-aside the Tribunal's decision or make any decision that the Tribunal could have made, or send the matter back to the Tribunal for reconsideration. The clause also provides that the regulations may prescribe scales of costs that are payable in respect of proceedings before the Supreme Court on an appeal under this clause.

Division 3—Related matters

73—Reservation of questions of law

This clause enables a Presidential member of the Tribunal to refer any question of law arising in proceedings to determination by the Full Court of the Supreme Court.

74—Effect of review or appeal on decision

The proposed section enables the Supreme Court or the Tribunal to stay the operation of a Tribunal's decision while the Supreme Court decides whether to grant leave to review or appeal and, if so, while it decides the review or appeal. If the Supreme Court or Tribunal does not make such an order, the review or appeal does not affect the Tribunal's decision or prevent implementation of that decision.

Part 6—Staff

Division 1—Registrars

75—Registrars

The proposed section provides that there will be a principal registrar of the Tribunal (to be known as the Registrar), as well as 1 or more Deputy Registrars.

76—Functions of registrars

This clause outlines the functions of the Registrar of the Tribunal.

77—Delegation

This clause provides for delegations by the Registrar of the Tribunal.

Division 2—Other staff of Tribunal

78—Other staff of Tribunal

This clause makes provision for the Tribunal to use persons employed in a public sector agency who are made available to act as staff of the Tribunal.

Division 3—Use of services or staff

79—Use of services or staff

This clause allows the Tribunal to use the services, facilities or staff of a government department, agency or instrumentality.

Part 7—Miscellaneous

80—Immunities

This clause provides for the protection of members of the Tribunal, and other persons, who must perform functions under this Act or who are parties, legal representatives or witnesses.

81—Protection from liability for torts

A member of the Tribunal, or a member of the staff or an officer of the Tribunal, will be protected from liability in tort for anything done in the performance, or purported performance, of a function under this Act or a relevant Act.

82—Protection from compliance with Act

No liability will attach to a person for compliance, or purported compliance, in good faith, with a requirement under the Act.

83—Alternative orders and relief

This clause empowers the Tribunal to grant any form of relief that it considers appropriate, notwithstanding that another form of relief may be sought by an applicant.

84—Power to cure irregularities

It also allows the Tribunal to dispense with the fulfilment of conditions stipulated by the Act, or any other Act or law to the extent necessary for the purpose.

85—Correcting mistakes

This clause allows the Tribunal to correct its decisions or statement of reasons so as to rectify, for example, clerical mistakes or formal defects.

86—Tribunal may review its decision if person was absent

Under the proposed section, persons who did not appear and were not represented at hearings before the Tribunal may apply to the Tribunal for a review of the decision. The Tribunal must be satisfied that the applicant for the review had a reasonable excuse for not attending or being represented at the relevant hearing. The Tribunal may, on such a review, revoke or vary its decision. As far as is practicable, the Tribunal should be constituted by the same members who made the original decision.

87—Tribunal may authorise person to take evidence

The Tribunal will be able to authorise a person (whether or not a member of the Tribunal) to take evidence on behalf of the Tribunal. The Tribunal may authorise evidence to be taken under this section outside the State.

88—Miscellaneous provisions relating to legal process and service

This clause is a standard provision setting out how notices and documents may be served.

89—Proof of decisions and orders of Tribunal

Generally, an apparently genuine document purporting to be a copy of a decision or order of the Tribunal and certified as such by a registrar will be accepted in any legal proceedings as a true copy of a decision or order of the Tribunal.

90—Enforcement of decisions and orders of Tribunal

If the Tribunal makes a monetary order, the amount specified may be recovered in an appropriate court by a person recognised by the regulations for the purposes of this subsection, as if it were a debt.

91—Accessibility of evidence

This clause outlines the procedures that will apply where an application or member of the public seeks to inspect or obtain documentary material.

92—Costs of proceedings

The Tribunal will be able, in limited circumstances, to order that a party pay for all or a part of proceedings before the Tribunal.

93—Annual report

The President of the Tribunal will prepare an annual report, which will be tabled in both Houses of the Parliament.

94—Additional reports

The Attorney-General will also be able to request the President of the Tribunal to provide a report on a matter relevant to the administration of the Tribunal.

95—Rules

The proposed section enables the President and a Deputy President of the Tribunal to make rules for the Tribunal.

96—Regulations

This clause makes provision for the Governor to make regulations for the purposes of the measure.

97—Review

A review of the operation of the measure is to be conducted by 1 or more independent persons appointed by the Minister as soon as practicable after the expiry of 2 years from the commencement of Part 3 of this Act. The Minister must table a copy of the report resulting from the review in Parliament within 6 sitting days of receiving the report.

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

POWERS OF ATTORNEY AND AGENCY (INTERSTATE POWERS OF ATTORNEY) AMENDMENT BILL

Returned from the House of Assembly without any amendment.

At 17:00 the council adjourned until Tuesday 24 September 2013 at 14:15.