LEGISLATIVE COUNCIL

Thursday 31 October 2013

The PRESIDENT (Hon. J.M. Gazzola) took the chair at 11:00 and read prayers.

SITTINGS AND BUSINESS

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) (11:01): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 2.15 pm.

Motion carried.

MAJOR EVENTS BILL

In committee.

Clause 1.

The Hon. S.G. WADE: I was wondering if I could ask the minister, who is it that it is intended will be the responsible minister for this act?

The Hon. I.K. HUNTER: My advice is that it will be the responsibility of the Minister for Tourism.

The Hon. S.G. WADE: I ask the government what its attitude is to the proposals from the Adelaide City Council in relation to both the letter that was sent to the government, as I understand it, and the proposed amendments to it, and what the government's response to the council's concerns were?

The Hon. I.K. HUNTER: My advice is that the three concerns raised by the Adelaide City Council go to issues around the Parklands: one being remediation after a major event; another being conformity of an event with principles governing the use of the Parklands; and, thirdly—

The Hon. S.G. WADE: On a point of order, Mr Chair, can you ask the minister to offer his answer again? There is no point in getting an answer if we can't hear it.

The Hon. I.K. HUNTER: My advice is that correspondence from the Adelaide City Council went to three issues in relation to the Parklands: one is remediation after an event; secondly, the conformity of an event with principles governing use of the Parklands; and, thirdly, overriding parking controls. Our response to that is that regulations contemplate the requirement that any major event will have a major event plan. Common sense would say that major events require a major event plan, and that is what we anticipate doing. Our government's amendments, I am advised, will require the government to consult with local government over these issues, but the government is not prepared to offer a power of veto to local government over major event functions.

The Hon. T.A. FRANKS: Hopefully visitors will stop talking so I can hear the answer. What would be the process if somebody is an event organiser? How will they go about having an event declared a major event, should they be organising something that they would like declared so? Will it simply be a letter to the minister, and will they need to know that process, or will there be some sort of promotion that this option exists more broadly?

The Hon. I.K. HUNTER: My advice in response to the question of the Hon. Tammy Franks is that the minister responsible for the legislation will be in charge of the making of regulations which he or she will take to cabinet in the normal way. There are no specific requirements in terms of rules or a form to fill out, but if an organiser of an event would like to ask government to make it a major event, then they would enter into correspondence presumably with government or directly with the minister, and that would make its way to the responsible minister for a decision.

Certainly, regulations will be published in the normal way and one would expect that it would not be too long before promoters of events who are in the business of major event type issues would of course find out about these also in the normal way, but they will be public and transparent. They will be debated in this place, I am quite sure, and like all regulations, they will of course be disallowable.

The Hon. T.A. FRANKS: To clarify for the minister the specificity of my question, I have had advice from the drafters of this bill that, indeed, an event organiser of what might be determined to be a major event—although that is still somewhat unclear—would be able to avail themselves of the provisions with regard to ticket scalping under clause 9.

Certainly there is some interest and I would cite two examples. The Big Day Out organisers in this country have long wanted to be able to avail themselves of provisions to stop ticket scalping of their event and in my conversations with the Entertainment Centre, for example, in relation to the Bruce Springsteen concert that is coming up, I understand that Bruce Springsteen is very opposed to ticket scalping of his events.

I will not mention Neil Diamond at this stage, who likes to scalp his own tickets. Clearly he is not going to want to stop ticket scalping, but in terms of a Big Day Out promoter or the promoters for an upcoming large tour which would probably fall prey to those ticket onsellers, who in some cases do indeed exploit people, how will they be able to be informed about this; and what will be that decision threshold for those events to be considered major events? Where is the transparency? Will it have to simply rely on people being in the know or will there be some sort of promotion, say, on the website for the department?

The Hon. I.K. HUNTER: My response to the Hon. Tammy Franks' question is in two parts, as was her question. It is not the policy of the government in this legislation to enact specific prohibition versus ticket scalping generally. That is something that the government will apply if it determines to grant major event status to an event. The expectation is that those people who are in the business of putting on such functions will know about this legislation because, of course, it affects their business.

A promoter that wants to avail itself of the provisions, for example, those raised by the Hon. Ms Franks in terms of ticket scalping or any other provisions listed in this bill, would need to apply to government, and it will be up to the government to determine on a case-by-case basis on the merits of the application whether it grants major event status.

The Hon. S.G. WADE: In terms of the government considering on a case-by-case basis to decide whether an event is a major event, does the government have any either draft policies or general intention in terms of what they mean when they talk about a 'major event'?

The Hon. I.K. HUNTER: My advice is that there are no draft policies or written intention of what would qualify for a major event, the two reasons being: first, you do not want to put down in writing what might qualify in advance, you do not know what applications may come to you in the future, and those draft intentions may or may not rule out someone's application; secondly, having such draft rules does open up the government to some sort of legal challenge on the basis of any decision the government might make. So, the government's intention is not to have specific policies in that regard but, as I said, to make decisions on a case-by-case basis on the basis of the application and its merits.

The Hon. S.G. WADE: I thank the minister for his answer. Referring back to the event organisers the Hon. Tammy Franks was talking about, I just wonder if the government runs the risk of having a large range of promoters, considering that they will not have any guidance on what the government means by a major event, deciding that theirs is such an event. After all, an event such as the Catholic schools sports day would have thousands of people, with major catering challenges and all sorts of other issues. That might be a major event. Certainly, Heaven nightclub on any Saturday night is a major event in a lot of young people's lives. I wonder—

The Hon. D.W. Ridgway: Liberal Party preselections are a major event.

The Hon. S.G. WADE: That's right. The honourable member reminds me that you do not need to have large numbers to have large significance. I appreciate the point the minister made about not wanting to invite litigation but, on the other hand, surely we do not want to invite a flood of applications that are not warranted.

The Hon. I.K. HUNTER: The Hon. Mr Wade is correct in one respect, I suppose, that we run a very real risk that every person in the Liberal Party might apply to have a major event function for, as he raises, Liberal Party preselections, but common sense has to prevail, and it is unlikely that Catholic sports days organisers will want to avail themselves as some of the functions under this legislation. They probably do quite well enough on their own.

The other aspect is that making an application will require some cost on the part of the promoter. They will need to have an extensive event plan that will require them to talk about, for

example, traffic management plans, crowd management plans and private security. Not every person and their dog is actually going to come in and apply for a major events function licence or permission just because they can. They will have to go through a rigorous process to explain to government why it should be granted.

We think common sense will prevail. Those people who want to have major event status will do so because they require some of the protection of the provisions in the legislation, and they are the ones who will make the application to government.

The Hon. T.A. FRANKS: Minister, following on from my previous questions in regard to the ticket scalping provisions, would an event organiser be able to apply for major event status for only one section of the act—in this case, obviously, ticket scalping?

The Hon. I.K. HUNTER: My advice is no. Once you get the grant of a major event status, everything applies that is in the legislation.

The Hon. T.A. FRANKS: I just note for the minister that that was not the conversation I had with parliamentary counsel on this bill and that was not my understanding of this bill. I was informed that, indeed, there would be provisions and mechanisms where one could apply to take advantage of only those provisions and that therefore an amendment to enable that process was not necessary to this bill. I just flag that at this stage.

The Hon. I.K. HUNTER: On further clarification from parliamentary counsel, I retract my previous statement. The Hon. Ms Franks is right in her contention.

The Hon. S.G. WADE: For those of us who were following that interchange, do I take it that the minister is suggesting that the Hon. Tammy Franks is correct—that an event organiser could apply for major event status and have only part of the act applying to their event?

The Hon. I.K. HUNTER: My advice is yes.

The Hon. S.G. WADE: Thank you for that clarification. How is the public supposed to know?

The Hon. I.K. HUNTER: I go back to my previous answer: I do not think every member of the public is going to be applying for an application with this legislation. Those people who are in the business of putting on an event that wants major event status will be aware of the regulations they need to conform to. They will know because they have to put in place a very comprehensive event plan which will take into consideration those major things they want to avail themselves of.

The Hon. S.G. WADE: The minister is picking up a different point to the one I was trying to make. I was not actually so concerned about the people who were receiving and giving letters. They are fine, they are in the loop, but what about the community organisation that wants to organise a community event and, unbeknownst to it, some bits of the legislation apply and some bits of the legislation do not apply? How are they supposed to know if they are vulnerable to the ambush marketing provisions?

The Hon. I.K. HUNTER: My advice is simply this. We are not talking about functions like the Catholic schools sports days which were raised earlier. We are talking about major events, like the Santos Tour Down Under, which will be extensively publicised, and you would expect that obviously. My advice is that the department would also be in a position where it would publicise the conditions that it would operate under, potentially on its website or through other means of communication.

The Hon. S.G. WADE: The expectation of the government is that there will not be any obligation on the event organiser or the government to publicise which bits of the legislation do or do not apply, but somebody may see it is good practice to do that on a case-by-case basis?

The Hon. I.K. HUNTER: My advice is there has been no obligation, of course, in the legislation, but it is good practice and there is an expectation that it will be undertaken for the strong reason that the organisers will need to protect the commercial interests of the partnership. If they have a requirement that something not happen they would, of course, be interested in publicising those requirements so they do not have to be in conflict with other organisations.

The Hon. S.G. WADE: The minister mentioned earlier that the major event declaration is disallowable. Now, considering that—and I am sure the Clerk will correct me if I am wrong—I think it is 12 sitting days pass before a regulation is no longer disallowable, that could be a matter of months, particularly if it breaches a summer or winter break. In that context I am just concerned

about the commercial arrangements that the government and the event organiser have gone into. It may not be significant expenses for a government, but the undertakings of the commercial entity might be quite significant.

I am just concerned about the risk of a disallowance of a regulation representing a severe commercial problem for event organisers. If the government also sees that problem: is there an intention to have regulations declared early enough, if you like, so that disallowance will be cleared early enough that a commercial interest can go ahead and make their arrangements with lower risk?

The Hon. I.K. HUNTER: My advice is that, yes, there is that provision, and I am reminded that we are talking about events of the size and scope of the Santos Tour Down Under, and those events are organised well into advance years—certainly months.

The Hon. S.G. WADE: As I move on to the next question, I just make the point that that seems to be a significant business risk for those involved, which brings me to the issue of the Tour Down Under. The bill was tabled in this place on 15 May, the other place earlier again, yet it has not been brought on to debate until 31 October, and we are now getting publicity towards the Tour Down Under. My understanding is that members of the opposition have been contacted by members of the tourism administration emphasising the urgency of the matter. I am curious as to why it was urgent before winter and was not urgent after the winter break.

The Hon. I.K. HUNTER: Mr Chairman, I cannot speculate on the Hon. Mr Wade's speculation.

The Hon. D.W. RIDGWAY: I have some questions of a less technical nature in relation to the operations and how it will impact members of the public. I want to ask one question in relation to the World Cup. When we were briefed on the bill after it was tabled in the House of Assembly, we were told that it was a requirement to have it in place for the 2015 Cricket World Cup. We were also told in the briefing that the Tourism Commission, the government or whoever had had some correspondence with the World Cup body, International Cricket or whatever they call themselves these days. We asked for a copy of that, but we did not ever receive that, so I am interested to know: is it a requirement of World Cup cricket to have it or is just that we are falling in line with other states that have major events legislation?

The Hon. I.K. HUNTER: We have a general view that it is a requirement, but I am not in a position to confirm that, neither is my adviser.

The Hon. D.W. RIDGWAY: I will start with the cricket. We will have the World Cup here, and I think that we will have either Pakistan or India; I am not quite sure which teams are coming. Can the minister clarify that for a major event there will be a declared area, which I assume for Adelaide Oval would be the land that is sort of bounded by King William Road and War Memorial Drive and that area—the extension of Morphett Street that goes up the hill and across the top? I assume that would be the designated area, and the activities that would take place in that area would be under the jurisdiction of the major events legislation.

The Hon. I.K. HUNTER: My advice is that the designated area would be determined on a case-by-case basis, but my general advice is that, when you think about provisions for ambush marketing, the area may be larger than the specific function centre and car park; it might take in a little more area than that.

The Hon. D.W. RIDGWAY: From an ambush marketing perspective, I can understand that the area would be on a case-by-case basis, but if there is a certain branding that goes with a particular event, and I will use the cricket—let's say that Coke or a particular beer is the major sponsor, and that is part of the branding of that particular event, what I am interested in is the inadvertent advertising, such as two or three mates going to the cricket and they all have XXXX jumpers and actually it is a West End event. So, members of the public going to a major event and inadvertently sit together—and I know there have been examples where companies have paid for 200 or 300 people to wear their particular company logo and to sit together and be a brand inside a venue, but I am concerned more about, if you like, the accidental capture of half a dozen mates going to the cricket all wearing a particular jumper or T-shirt that is at odds with the event sponsor.

The Hon. I.K. HUNTER: My advice in terms of the definition of ambush marketing—and you can turn to clause 6, page 5, of the bill—is that you need to be able to qualify for that definition by taking advantage of the holding and conduct of a major event to promote a person, goods or

services without the written approval of the event organiser, etc. So in the unlikely case that the Hon. Mr Ridgway suggests, where half a dozen blokes/mates—

The Hon. D.W. Ridgway: It could be girls.

The Hon. I.K. HUNTER: Could be, that is why I went to 'mates'—sat together wearing identical clothing, in the first instance you would probably say that is not accidental if they are all wearing identical clothing at that level but they probably still would not fall into the remit of the definition unless they were trying to take advantage of the situation.

The Hon. D.W. RIDGWAY: I am also interested in activities inside the designated area, that nothing will be permitted inside that area that does not comply with the operator of the event, so referring to branding and products that are for sale. I assume that any activities inside the designated area will be a breach of this act.

The Hon. I.K. HUNTER: My advice is that the Hon. Mr Ridgway is a little bit too broad in his description.

The Hon. S.G. Wade: He's not. I'd say that is an offensive remark. He's trying to lose weight.

The Hon. I.K. HUNTER: I certainly wouldn't make reflection on an honourable member's waistline. That would be throwing stones at glasshouses from my perspective. No, the terminology is 'any events or any activities' and we say that is too broad. It would need, again, to come back to the definition. It would have to be conduct that falls into the prohibitions that are in the legislation which are designed to protect the commercial interests of the promoter.

The Hon. D.W. RIDGWAY: Let's say it is the Adelaide Oval. It always seems outrageous the price you are charged for a bottle of water or a pie or a bag of chips, but you are there on the day and you are enjoying the cricket and you are hungry or thirsty so you line up. If somebody was offering food and beverages for sale outside, but inside the designated area—well, they wouldn't be permitted to do that inside the designated area, I would assume, because the operator would say that detracts from their event.

The Hon. I.K. HUNTER: In general that is correct, but it comes down again to the specific event and the regulations that are enacted.

The Hon. D.W. RIDGWAY: Outside of the designated area, and I will be hypothetical. Let's just say for the Adelaide Oval it is the area I described which is the bitumen roads surrounding the oval—War Memorial Drive, King William Street and the other two roads. If somebody was on the other side of the road with a sausage sizzle or a big box of bottles of water to sell or pies saying that pies are $8 in the Adelaide Oval and these are only $2 here, if they are outside the designated area, does the event organiser or the government have any jurisdiction over them?

The Hon. I.K. HUNTER: No, they have to be inside the designated area to be captured by this legislation is my advice. If they are outside the designated area, they are outside.

The Hon. D.W. RIDGWAY: I think we did ask this in the briefing, and this is in relation to the Clipsal, which I assume will be declared a major event for all of those reasons. I have had the pleasure of going to a number of events around the Clipsal, and I will describe one, which is on Dequetteville Terrace, it is a private grandstand and as you walk past there you walk past the CWA city headquarters and they always have a sausage sizzle, which is a great thing. You cannot see the race, but what I am interested in is where the boundary would be for the designated event, because clearly the CWA are absolutely exploiting the fact that there are people walking past who are hungry, who have maybe had a couple of refreshments late in the day and are even hungrier on the way home, and there is an opportunity to make some money out of an event that is there. I am just interested in making sure that those people, who are genuine charities doing good work, will not be captured by this legislation.

The Hon. I.K. HUNTER: I cannot guarantee the member where a designated area or boundary is going to be, that will be part of the application of an individual event. Again, I come back to the position that common sense would prevail. I cannot imagine any promoter of a function wanting to incur the ire of an organisation such as the CWA, or indeed many others that you could think of, for such a thing as a sausage sizzle held for charitable purposes.

The Hon. D.W. RIDGWAY: That takes me now to the Tour Down Under, which I guess is a different event in that every year it changes its route, which is a great aspect of it, as it takes the

event to country towns. I assume the designated area will be the road and the shopfronts that front the road they travel along. How will you deal with proprietors of shops that have—and I will use the Coke/Pepsi comparison again. Coke is the sponsor of the event and the shop right on the front row, who has been there for 100 years, has a massive Pepsi sign that will be visible on television. How do you deal with, if you like, people inadvertently being captured who are at odds with the intent of the legislation, to stop people getting that, if you like, unfair advantage?

The Hon. I.K. HUNTER: My advice is that we should go back to clause 6 again, which is the meaning of ambush marketing. They would need to be shown to be taking advantage of the holding and conduct of a major event to promote a person, goods or services without written approval. So, if a shop, for example, in the situation the Hon. Mr Ridgway raises, is going on doing its normal activities, it has its normal signage up and is not doing anything out of the ordinary, I cannot imagine it could possibly be seen as taking advantage of the function, it is just doing its ordinary everyday work. If, on the other hand, they go out of their way to import new products to take advantage of it and put up a display then that could very well be captured by the legislation. We need to draw that distinction between normal course of events, normal signage, and going out of their way explicitly to take advantage of a function.

The Hon. D.W. RIDGWAY: In relation to the Tour Down Under where I described the designated area as probably the roadway and the shops fronting it, or the footpath, we have often seen a number of aerial shots, in fact that is probably one of the things that is so good about the Tour Down Under from a broadcast point of view, it shows our wonderful landscape, and we have often seen messages written on hay bales or somebody has gone and mown some stubble. That is not just a roadway, it is many of hundreds of metres, maybe a kilometre, either side of it. Will this legislation capture that, so that somebody is not able to put some message that is of a commercial nature out in a paddock?

The Hon. I.K. HUNTER: I go back to my earlier answer about sausage sizzles on the side of the road across from an oval, if it is outside the designated area it is outside and will not be captured by this legislation.

The Hon. D.W. RIDGWAY: So, technically, somebody could put a message, whatever it may be, promoting a product or a joke or whatever. I guess the designated area will only be the roadway and the immediate area that fronts it, not the paddock. So, somebody could do what they like in the paddock.

The Hon. I.K. HUNTER: The Hon. Mr Ridgway is being much too broad again in his description. Of course, if it is outside the designated area, it is outside the designated area, clearly, but if you want to do something in terms of a paddock a kilometre away a couple of things apply. You would have to, of course, get permission from the landowner, you would probably, of course, need to consult the council about its local regulations, and you take a very big risk that you probably will not be seen by anybody at all.

In addition, I am advised that under division 4, clause 14, you cannot also use official logos or titles, and that is covered on page 11 of the draft bill. So, you cannot do anything you want—you need also to take into consideration the other aspects of the bill in terms of logos, official logos and title, but also local government restrictions, private landowner requirements, etc.

The Hon. D.W. RIDGWAY: By way of clarification, I am getting creative in my thinking now: given that the Tour Down Under will be in the lead-up to the next election, would there be no restriction on a loyal Liberal Party member, who is a farmer, mowing a message in the paddock that could give the viewing public some guidance as to which way they should vote at the next election? He owns the land. When I was farming you could do what you like on your farm, and if it is not in the designated area, and if it is creative enough, I am sure it will get on TV.

The Hon. I.K. HUNTER: I cannot imagine anyone saying that they should vote No.1—Mr Ridgway. However, there is a constitutional freedom of speech or implied constitutional right to freedom of speech, and I should think that that would trump almost anything in that regard.

Clause paused.

Clauses 2 to 6 passed.

Clause 7.

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

Amendment No 1 [Wade–1]—

Page 5, line 26 [clause 7(2)(g)]—Delete paragraph (g)

Under clause 7 of the act penalties up to $1,250 can be prescribed by regulation. Fines imposed under regulations could be for relatively minor breaches of a regulation, such as bringing food into an event where it is banned. These penalties go further than current conditions of entry imposed by event organisers. Section 5(3) of the Expiation of Offences Act provides that these offences could be expiable.

The opposition does not object to the broad scope of the regulations, but we are concerned in relation to one aspect of clause 7, namely, clause 7(2)(g), which reads:

(2) Without limiting the generality of subsection (1), the regulations may—

(g) prohibit disorderly or offensive behaviour at the major event venue; and

Also, we have concerns about paragraph (i), which states that the regulations may:

(i) prohibit or regulate any other conduct or activities for the purposes of maintaining good order, and preventing interference with events or activities conducted, at the major event venue; and

The clause, effectively, would give the government the power to create special classes of criminal law through regulation for specific events. We are concerned that the power to make regulations in this situation is too open ended in terms of both offences and enforcement powers.

The criminal law is already well developed to manage public order and specifically to prohibit disorderly or offensive behaviour. If there are special risks, the government can already access enhanced powers under the public safety audit provisions of part 4 of the Serious and Organised Crime Control Act 2008, and, under the Summary Offences Act 1953, sections 72A to 72C, the special powers to prevent serious violence.

So, if there is a need to enhance the current provisions of the criminal law, then the opposition's view is that that should be done, but not through the introduction of broad offences by regulation. The opposition appreciates there is a need for some regulation-making power under this section, but does not think it is appropriate to include offence-type provisions.

The Hon. I.K. HUNTER: The government opposes this amendment and the other amendment to which the Hon. Mr Wade spoke, and I will come to that in a moment. In terms of his first amendment, this amendment deletes the paragraph of the regulation-making power that allows the making of regulations to prohibit disorderly or offensive behaviour at a major event venue. The amendment is opposed. It is true that clause 25 places into the statute itself a provision dealing with disorderly and offensive behaviour.

Clause 25(1)(a) empowers a police officer to require any person behaving in a disorderly or offensive manner to leave the venue under penalty for failure to leave, but that is a different matter, and deliberately so. It is different in two respects. First, it does not create any general offence of behaving in a disorderly or offensive manner and, second, there is no specific offence of types of disorderly or offensive behaviour. If there are to be such, these are to be left to the regulations in general or to regulations that govern a particular major event.

A good example—and we can all probably understand why this would be desired—might be the prohibition of the display of certain flags or national symbols at a soccer match. All of us, I think, would be aware of some of the situations that have happened even in this country in terms of display of national symbols, and it may well be a very desirable thing to have the power to, in fact, ban or prohibit the display of those symbols at such a function. The object of this bill is to be as flexible as possible and to be the least intrusive it can be on the ordinary freedoms of people. Removing that flexibility, we believe, is a retrograde step and should not be supported.

The other point the Hon. Mr Wade raised about this is that we are putting in place a special criminal offence as well. I am advised that, thinking about the Australian Road Rules, they are offences that are all comprised by regulations. In relation to the Hon. Mr Wade's concerns about paragraph (i), to which he will be moving an amendment shortly, can I say that this amendment deletes that paragraph of the regulation-making power that allows the making of regulations to prohibit or regulate any other conduct or activities for the purposes of maintaining good order and preventing interference with events or activities conducted at a major event venue.

The amendment is opposed for much the same reasons I have stated about the other amendment. In general terms, it is at least highly desirable that this kind of behaviour be dealt with. It is all very well to think that it should be covered in the bill itself, but that detracts from a desirable flexibility just described in my example. It is also paradoxically contrary to the desirable legislative

objective in maximising freedom. If everything must be in the bill, then all possible objectionable behaviour will be subject to extensive criminal sanction all the time, without discrimination as to the event or the practical need for that. Removing the flexibility inherent in the current scheme is a retrograde step and should not be supported, we say.

The Hon. S.G. WADE: I thank the minister for his comments. The minister's comments have tended to focus on the choice of having offence-type provisions in the regulations or having them in the major events act itself. The focus of my comments was actually: why does the general law not do the job? If I could distinguish particularly in relation to (g) and (i), the term 'disorderly or offensive behaviour' does conjure up issues of the Summary Offences Act and criminal law more generally.

Admittedly, (i) is broader and more general and does not have the same flavour, if you like, but if I could put it in these terms: could the minister explain why the government does not think that the general order offences available under criminal and other laws will suffice in major events? I accept the minister's point about, shall we say, inflammatory acts, but those acts themselves are acts threatening public order.

The Hon. I.K. HUNTER: My advice is in two parts. First, in reference to earlier parts of the discussion, where people wanted to see more clarity in terms of legislation, what we are trying to do in this instance is create a self-contained package, providing the single source of information and rules in one place so that people can be comforted, if you like, to see what will be applied to them. Secondly, major organisations, overseas organisations in particular, do want that package. What they do not want to be told is, 'Just rely on the general law. Go and look up the Summary Offences Act or the Criminal Law Consolidation Act and be comforted by that.' They will not find that attractive and the very real risk to this state is that they will bypass us and go to another state that gives them more clarity and is willing to deal with them.

In the situation of the hypothetical we talked about earlier, about national flags and symbols at a function, it is not clear, I would say, that police would have powers to confiscate flags or other national symbols before an altercation eventuated. The whole provision of this series of amendments is to make sure that such a confrontation does not eventuate and that they could prescribe those certain national symbols and flags so that there is not such an altercation. That is the purpose of the legislation. The police probably would not be able to confiscate those on entry; they could only do so if a fight broke out, for example, and that is why these provisions are so important.

The Hon. S.G. WADE: The opposition does accept the government's point, that to a certain extent this is—and I do not want to use an offensive word—an omnibus piece of legislation which significantly duplicates other legislation for the comfort of major event organisers and, as the minister said, they may be overseas interests who do not want to go to the inconvenience of getting an understanding of South Australian law. I do doubt, though, the issue about clarity, particularly in relation to this section. That may be true of all the ambush marketing and the duplicated provisions that are in others, but this is a regulation-making power. All they are being told is that the relevant minister can issue a regulation in that area.

Moving on, though, could the minister suggest what might be picked up under (2)(g) which would not be activities relating to the maintaining of good order in paragraph (i)? For example, the national flags, which I think is a good example, might well be something that you might need to impose. We could avoid criminal offence-type wording in (g) if we managed the behaviour in (i). I appreciate that I have another amendment that proposes to knock out (i), but let's put it this way: I am much more comfortable with (i) than I am with (g).

The Hon. I.K. HUNTER: In an attempt to answer the honourable member's question, I am advised that there are different heads of power in the different sections so that they cover different things: in (g) we are covering, for example, disorderly behaviour; in (i) we are covering any other conduct.

The Hon. S.G. WADE: I am sorry; I didn't understand that. With the heads of power, we are referring to sections within the act, are we? If that is the case, what sections does (g) link to and what sections does (i) link to?

The Hon. I.K. HUNTER: Each of those sections, I am advised, provide heads of power to make regulations. They refer to, as I said earlier, different terms: (g) disorderly behaviour and (i) any other conduct.

The Hon. S.G. WADE: I do appreciate I am thick, but what sections do they refer to? Which sections does (g) link to and which sections does (i) link to?

The Hon. I.K. HUNTER: We have not understood the Hon. Mr Wade's question, but I am advised that these are just regulation-making powers: they do not link to other sections.

The Hon. S.G. WADE: So, the heads of power you are referring to are actually the sections themselves. So, (g) is a head of power to deal with disorderly or offensive behaviour, and (i) is a head of power in relation to maintaining good order, which I think means that I am still unclear as to what activities that would be classified as disorderly or offensive behaviour in (g) would not come under good order and, therefore, could be dealt with under (i).

The Hon. I.K. HUNTER: I am advised we can assist the honourable member by considering a couple of hypothetical situations. One is that, for example, disorderly behaviour may include racist sledging of a sportsperson on a playing field, whereas the other is not necessarily disorderly or offensive but requires, for example, people to queue up at the entrance and open their bags for inspection. There is nothing disorderly about it, but it is required to maintain good order.

The Hon. S.G. WADE: Thinking about, if you like, the capacity to have clarity and consistency, and particularly thinking about these regulation-making powers, I wonder if there might develop a need to have, shall we say, venue specific regulations. For example, the disorderly behaviour that might be a risk at a particular venue might relate to the infrastructure of the venue itself. They might have metal wires holding up certain pieces of infrastructure so, therefore, there might be value in having regulations that are specific to the venue.

My understanding is that Victoria does have venue specific behaviour rules, but my reading of the regulation is that the regulations have got to relate to a major event. So, in other words, even though we might have dozens of events at Adelaide Oval, we could not make a standing regulation, if you like, for Adelaide Oval. Could the minister clarify that for me?

The Hon. I.K. HUNTER: My advice is that the honourable member is correct. The Victorian legislation has a head of power specific to, for example, the MCG. I think that is the only specific one, but I am not 100 per cent on that. It was something that was contemplated, but was not proceeded with. We do not think that we are in the same area in terms of number of events and number of participants but, having said that, with different functions that would be having an event at Adelaide Oval, even though there are not venue-specific regulations, you would imagine that the regulations imposed for disparate functions at Adelaide Oval probably would be very similar in many respects.

The Hon. D.G.E. HOOD: I think members would agree that Family First has had an established history of supporting the police, in particular, but also other organisations in giving them the powers to ensure good public order, but we do not do so lightly and we do so when we think there is a clear need. On this occasion I think—and I do not mean any disrespect to the minister—I have not heard a specific compelling reason as to why these extra powers need to be enacted and for that reason, in the absence of any particular example that the government might want to put to us, we would be inclined to support the Hon. Mr Wade's amendment.

The Hon. I.K. HUNTER: I can only reiterate to the honourable member my concerns, that if we do not have these specific powers in place we will find international event promoters leaving South Australia and going to Melbourne or Sydney instead. Is that something he wants to contemplate? Secondly, I come back to my point that, in fact, existing law might very well cover the police doing something after a fracas has broken out, but will not prevent that from happening by giving them the powers to remove, for example, national symbols or national flags at a soccer game. That is what these specific regulations are required for, and I would ask the honourable member to reconsider his position.

The Hon. S.G. WADE: The honourable member and the minister referred to police, but my understanding is that these regulations, (g) and (i) in particular, could actually be enforced by people under section 26—authorised persons. Could the minister clarify this? Are these going to be in the hands of trained and sworn police or are they in the hands of contract staff?

The Hon. I.K. HUNTER: My advice is they could be in the hands of security personnel, for example, as I indicated earlier in my example about the two different heads of powers, if you like. You have one that stops people at the gate and asks them to open their bags for inspection which is a standing practice. I would not imagine you would be using police to do that work.

The Hon. S.G. WADE: The minister mentioned security staff. My reading of section 26 is that an authorised person does not need to be a licensed security or investigation officer under the relevant legislation, so the government clearly intends that we will have untrained private sector people exercising police-like powers at major events.

The Hon. I.K. HUNTER: My advice is to draw the honourable member back to my earlier answers. Let us think about the major sort of functions that are going to be captured by this legislation. Again, it is not going to be Catholic sports days. This is the Santos Tour Down Under and cricket world cups. If you seriously think that these event promoters are going to take the risk of having untrained staff at such major functions, I would say you would need to think again.

The Hon. S.G. WADE: My understanding is that events do use contract staff regularly. They are not highly trained. In fact, a number of my friends have those roles and I would not think they would regard themselves as highly trained. Let us look at subsection 26(3):

A person must not, without reasonable excuse, refuse or fail to comply with a requirement of an authorised person under this section. Maximum penalty: $2,500 or imprisonment for 6 months.

We have a SERCO contract staffer enforcing police-like powers at Adelaide Oval and they risk six months' imprisonment. I should say that I do not think that I have amendments on clause 26. All I am saying is that, if we are having—

The CHAIR: Come on!

The Hon. S.G. WADE: Sorry, Mr Chairman; I was making the point that it is very unusual for the parliament to allow offence-type provisions in regulations, and I would say to the parliament that it is particularly a risk if we are talking about untrained personnel enforcing them.

The committee divided on the amendment:

AYES (10)

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

NOES (7)

Finnigan, B.V.	Franks, T.A.	Gago, G.E.
Hunter, I.K. (teller)	Maher, K.J.	Parnell, M.
Wortley, R.P.		

PAIRS (4)

Bressington, A.	Zollo, C.
Vincent, K.L.	Kandelaars, G.A.

Majority of 3 for the ayes.

Amendment thus carried.

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

Amendment No 2 [Wade–1]—

Page 5, lines 30 to 32 [clause 7(2)(i)]—Delete paragraph (i)

I suggest to the council that it is consequential on the amendment just dealt with.

The Hon. I.K. HUNTER: The government does not accept that it is consequential and we will be opposing it for all the reasons we have outlined earlier.

The Hon. S.G. WADE: Sorry, it is not consequential in a technical sense but considering both the minister and I spoke to it that is the sense in which I took it as consequential. Nonetheless, I move it.

The Hon. I.K. HUNTER: I am not quite sure I understand the sense of the term 'consequential' in that usage, but we say it is not consequential in a technical or any other sense and we will be opposing it.

The committee divided on the amendment:

AYES (10)

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

NOES (7)

Finnigan, B.V.	Franks, T.A.	Gago, G.E.
Hunter, I.K. (teller)	Maher, K.J.	Parnell, M.
Wortley, R.P.		

PAIRS (4)

Bressington, A.	Kandelaars, G.A.
Vincent, K.L.	Zollo, C.

Majority of 3 for the ayes.

Amendment thus carried.

The Hon. S.G. WADE: I do have some questions of the minister in relation to this clause. The opposition appreciates the need for regulations to support good order, and I certainly appreciate the arguments the minister made in relation to national symbols at certain events. I would indicate the opposition's eagerness to talk to the government between the houses to see if alternative words could be used. We believe that regulations might be necessary to support good order, and national symbols are a good example; we simply seek to avoid having criminal type offences being laid down in regulations, so if we can perhaps look at a way forward there.

If I can ask some questions of the minister in relation to clause 7(2)(j). Who has the minister—and when I say the minister I mean here the Minister for State/Local Government Relations—consulted about the proposal to overrule local government in relation to road closures?

The Hon. I.K. HUNTER: My advice is that the government consulted with the LGA and some councils over these provisions.

The Hon. S.G. WADE: I appreciate the minister may not have the information to hand, but would he be able to identify which councils were consulted?

The Hon. I.K. HUNTER: No, but I am sure that something could be determined between the houses when we come back to fix the problems the honourable member is creating with this bill.

The Hon. S.G. WADE: I thank the minister for that touch of arrogance. The fact of the matter is that this council repeatedly improves legislation and we look forward to doing so in this case as well. I ask: have draft regulations been provided to the council?

The Hon. I.K. HUNTER: There are no draft regulations to be provided.

The Hon. S.G. WADE: How is it intended that the regulations will interact with other powers, such as those under section 33 of the Road Traffic Act 1961, which give councils the power to close roads?

The Hon. I.K. HUNTER: Sorry, Mr Chairman—

The CHAIR: The Hon. Mr Wade.

The Hon. S.G. WADE: I asked the minister: how will the proposed regulations interact with other powers, such as those under section 33 of the Road Traffic Act 1961, which give councils the power to close roads?

The Hon. I.K. HUNTER: My advice is that the government does have power to override local government, but apparently the process is cumbersome and difficult. This is a much more targeted approach, and again we come back to the situation of putting into the code the powers that an international event promoter would want to see in one place to assure them that they will be able to run a successful event here in Adelaide. Once again, we run the very real risk of saying to these international event promoters, 'No, we aren't going to provide you with an easy point of approach into Adelaide—go away, go to Melbourne, go to Perth or go to Sydney instead.'

For example, in terms of road closure, the promoters would want to know that the government does have the ability to close roads—for example, the Tour Down Under—over the objections of a local council that may be sandwiched between two other councils that are fully supportive of it. We will need to have these provisions and this makes perfect sense to do so.

The Hon. S.G. WADE: Will the regulations have the capacity to provide that, rather than closing a full road, arrangements might be put in place such that a particular resident might lose access to their property, either in part or in full? I should declare that I am on about stage 4 of the Tour Down Under.

The Hon. I.K. HUNTER: The answer is, yes, it could for a period of time.

The Hon. S.G. WADE: I thank the minister for his answers. I move:

Amendment No 3 [Wade–1]—

Page 5, lines 33 to 37 [clause 7(2)(j)]—Delete paragraph (j)

As I indicated earlier, the opposition is keen that councils be engaged in relation to managing major events in their area. The Adelaide Hills Council in particular—and perhaps I need to again declare that I am a resident of the Adelaide Hills Council—has indicated deep concern about the changes. Council moved a motion on 9 April 2013, directing their CEO to write to the Attorney-General to express concern about:

(a) the negative impact on council's decision-making ability;

(b) the negative impact on our local communities;

(c) the lack of consultation with the council and community;

(d) negative impacts on council's finances and infrastructure for the hosting of such events.

The Adelaide Hills Council has suggested that local government should retain the authority in relation to road closures, that local government be the decision-making body that consults about its decisions and that councils be compensated and resourced to provide the required infrastructure for such events.

In relation to the first point, about the council retaining the authority in relation to road closures, the opposition is inclined to agree. Accordingly, we are proposing to delete clause 7(2)(j). We believe that local councils are well placed and well experienced to consult with residents and make appropriate accommodation for their concerns.

The Hon. I.K. HUNTER: This is an absolute joke! What the honourable member over here is saying to us is that he agrees—the Liberal Party agrees—that absolutely councils can say, 'We don't like this and we're going to stop a major international event coming to our city.' That is what they're saying: they are saying, 'We are going to give councils the right to veto a major international event into Adelaide.' Let's be absolutely clear that this is what they are after.

This amendment deletes the paragraph in the regulation-making power that allows the making of regulations to close roads. We oppose the amendment, clearly. The government is quite aware that there are some elements of local government, and one council in particular, that want to remain the sole arbiter of what roads in their area can be closed and when. The government does not, and will not, accept that the planning and viability of a declared major event can be stymied at the whim of one local government authority.

I refer the honourable member to the extensive provisions for road closures in the New South Wales Major Events Act 2009 and division 5 of the Victorian Major Sporting Events Act 2009. I also foreshadow that two government amendments coming up at clause 7 actually say

that we recognise the arguments of the Local Government Association and that we agree to consult with them about these issues.

The Hon. S.G. WADE: Do I take it from the minister's comments that the Adelaide Hills Council is the only council that has expressed concerns about this provision?

The Hon. I.K. HUNTER: This provision applies to every council. We do not accept that a council or a collection of councils should have the power of veto over major international events in this city. What the Liberals are doing through their series of amendments will drive international events away from Adelaide.

The Hon. D.G.E. HOOD: We supported the last amendment but we will not be supporting this one. I do believe that, whilst it is important that councils have input—and I understand that the bill allows for that, anyway—when we are talking about major events as we are dealing with in this bill, in our view it should be the domain of the state government, whether that be Liberal or Labor, to be at least the primary negotiating force in these decisions.

The Hon. T.A. FRANKS: The Greens will not be supporting this amendment.

Amendment negatived.

The Hon. I.K. HUNTER: I foreshadowed these amendments. I move:

Amendment No 1 [AgriFoodFish–1]—

Page 6, after line 26—After subclause (4) insert:

(4a) Before a regulation is made declaring an event to be a major event, the Minister must consult with any council in whose area the event is to be held or whose area will be directly affected by the holding of the event.

Amendment No 2 [AgriFoodFish–1]—

Page 7, after line 10—After subclause (8) insert:

(9) In this section—

council has the same meaning as in the *Local Government Act 1999*.

This is the first of the two government amendments and I will speak to the second as well because it is consequential, we believe. After the bill passed in another place, the Local Government Association wrote to the government asking that the government amend the bill so as to allow for formal consultation with local government on a declaration that an event be treated as a major event. The government has decided on balance that there is merit to this argument and has brought in these amendments to give effect to that.

Amendments carried; clause as amended passed.

Clause 8.

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

Amendment No 4 [Wade–1]—

Page 7, lines 21 and 22 [clause 8(2)]—Delete subclause (2)

Once again, the government is attempting to undermine the basic rights of individuals through a series of clauses in this bill. It is putting the onus of proof on the accused in a number of cases. The opposition fundamentally disagrees with that change in approach and so in 10 instances will be seeking to put the onus back on the authority.

These are offences like ambush marketing which has a penalty for a natural person of $50,000 and for a body corporate, $250,000; for the distribution and sale of non-approved goods, $5,000 for a natural person and $25,000 for a body corporate; and ticket scalping, $5,000 for a natural person and $25,000 for a body corporate.

These are not insubstantial offences. We are not challenging the offences themselves but we believe that, the normal approach in English law with the presumption of innocence has been removed in these offences and instead the onus of proof is on the accused to show that they had a reasonable excuse.

In the particular circumstances prohibited in this clause, if a person is charged with selling a prescribed article in the controlled event area, they are liable for a $5,000 fine as an individual or a $25,000 fine as a body corporate. A prescribed article may be simply merchandise or other

marketing material. Rather than the burden of proof resting on the event organisers to show that they were selling or distributing the material and did not have approval, instead the burden of proof rests on the accused person to show that they had been approved.

Examples of this kind of reversal of proof are, as I said, repeated throughout the bill. The opposition strongly believes that individuals should have the right to be presumed innocent, particularly if they are going to facing fines of up to a quarter of a million dollars such as in the ambush marketing case, and that the case should have to be made out against them rather than having to prove their innocence. The Law Society specifically commented on this aspect of the bill and said:

> The Society objects to placing on the accused the evidential burden of establishing that the accused had the approval of the organiser. The general rule is that it is incumbent on the prosecution to prove all aspects of a criminal offence against an accused. The accused need not do anything.

The submission later goes on to say:

> The prosecution should be able to readily lead evidence as to whether the event organiser has given approval. There is no proper policy or practical reason why the accused's right to silence should be abrogated.

The government's approach is not supported and we would seek the support of the house to maintain the appropriate onus of proof and the presumption of innocence.

The Hon. I.K. HUNTER: This is the first of a list of amendments in the name of the Hon. Mr Wade that delete what looks to be a reversal of the usual onus of proof from the prosecution to the defence in minor prosecutions, so I will speak to them all. I do not know whether they are consequential, but they are all identical. These amendments are all opposed and the reason for doing so is very much the same in each case. The first point to be made is that it is a general principle of criminal law that the onus of proof is on the prosecution to prove the elements of the offence beyond a reasonable doubt but defences justifications and excuses are not elements of the offence and should in general be proven to some degree by the defence. Allied to this is the idea that the burden should be on the accused to prove defences justification and excuses, particularly where the facts in question are peculiarly within the knowledge of the accused.

That means very little to me but I am sure it was written very well. We can have a look at an example which might make more sense to the chamber. The fact in question is whether the accused had the approval of the event organiser to sell or distribute merchandise related to the major event. Who is likely to know that? Who is likely to have the proof of that? More importantly, who should have the obligation of keeping the required record? The person selling the merchandise will well know whether he or she had the required approval and should be obliged to keep a record of it in exactly the same way as any owner of a business is in fact and in law required to keep records that he or she had required licences (if any) and has complied with tax obligations and similar provisions.

You can see in this instance when you talk about the actual cases that might be captured by this, how it is practically no burden for a person who is setting themselves up to sell licensed goods to be able to show that they have a licence to do so or permission to do so. It should also be noted that the onus is only on the accused in each case to discharge an evidential burden. That is, it is not required that the accused prove approval or licence beyond a reasonable doubt and it is not even required that the accused prove on the balance of probabilities. All that is required by this formula is that the accused raise sufficient evidence of the fact in issue to raise a reasonable doubt about the issue and, if that is done, the onus shifts back on the prosecution to prove that there was no approval beyond a reasonable doubt.

It is not too much to ask we say. In addition, the defence of reasonable excuse which is involved in some of these amendments is invariably placed on the accused but more harshly on the balance of probabilities. See section 5B of the Criminal Law Consolidation Act 1935 sections 18(4), 33DA, 33GB and further, of the Controlled Substances Act 1984, and section 5 of the Summary Offences Act 1953.

Lastly and vitally, the amendments will make the offences unworkable. It is clear law that as the offences will be constructed if the evidential onus is removed, the prosecution will have to negative every possible defence, in some cases every possible reasonable excuse, beyond reasonable doubt in advance. This is plainly impractical. It will render some plain prosecutions impossible. There is no harm at all, we say, and no breach of principle in letting the prosecution know what case it has to meet. It is now being recognised that defence by ambush is

unreasonable, unfair and unjust and so it is too here. So, for those reasons, all of the amendments in the name of Mr Wade in relation to this issue will be opposed.

The Hon. S.G. WADE: Amendment No. 4 [1], that we are discussing now, relates to the sale and distribution of prescribed articles. Subclause (1) provides that:

> A person must not, without the written approval of the event organiser for a major event, during the sales control period for the event, sell or distribute, in a controlled area for the event, a prescribed article.

Subclause (2) provides that:

> Subsection (1) places an evidential burden on the accused to show that the accused had the approval of the event organiser.

The only element of that clause that I am seeking to remove is subclause (2), which goes to the need for the person to prove that they had written approval of the event organiser.

The minister raises the question of who is in the best position to prove it. I think it is moot as to whether the person who is carrying it or the person who issued it—for example, the event organiser—is in the best position. The point is it is quite likely that the prosecution will get full cooperation from the event organiser. In fact, I am not even sure if the event organiser might be taking the proceedings. The case I make is that it is a very focused burden but, still, it is being shifted. I cannot see how it is unreasonable that the event organiser should not be expected to keep copies of written approvals that they have issued, and I cannot see the need to shift the burden.

The Hon. I.K. HUNTER: Can I attempt to give the honourable member another example that might be closer to home for him. We say it is not an unreasonable burden for the person who is doing prescribed activities—selling prescribed products, for example—to carry on them some evidentiary proof that they have permission to do it.

I can only draw his attention to the example of being a scrutineer at the last election, as I was down at Glenelg with Mr Duncan McFetridge. We had to carry with us a form that we gave to the booth returning officer to prove to them that we had a licence, if you like, to scrutineer on behalf of our respective candidates. So, it is expected of us to actually carry on us a piece of paper to prove that we have the permission of the candidate to go and scrutineer for them. How can it be any different to require a person who is doing prescribed activities or selling prescribed products to actually have a letter on them, or a licence on them, to say they have the permission of the organiser? How is that any different?

The Hon. D.G.E. HOOD: Family First will be supporting this amendment. We have had a history of supporting changes to various pieces of legislation that have passed through this place which have reversed the onus of proof in various circumstances. To refresh members' memories, we have dealt with that in serious and organised crime and other, what I would consider, very high-level legislation, which has attracted a lot of attention and made very significant changes to the law.

It is very hard for me to justify that sort of approach when it comes to carrying around pieces of paper. I just think that is not something that requires an exception, if you like, to the normal way of doing things. That being the case, we will be supporting the amendment.

The committee divided on the amendment:

AYES (8)

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

NOES (10)

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

PAIRS (2)

Bressington, A. Vincent, K.L.

Majority of 2 for the noes.

Amendment thus negatived; clause passed.

Clause 9.

The Hon. S.G. WADE: I am almost scared to use the word because the minister has a different understanding of the word consequential to me, but consequential or related or whatever it might be—

An honourable member interjecting:

The Hon. S.G. WADE: Yes, they look a lot like each other to me. I propose not to move amendments 5, 6, 7 and 8.

Clause passed.

Clauses 10 to 18 passed.

Clause 19.

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

Amendment No 9 [Wade–1]—

Page 12, after line 30—Clause 19—after subclause (1) insert:

(1a) A person may use an official logo or an official title without authorisation under this Division if—

(a) the use is for a public, charitable or other community purpose; and

(b) the use would not suggest to a reasonable person that there is any official sponsorship, approval or affiliation with—

(i) a major event; or

(ii) the event organiser of a major event; or

(iii) any event or activity associated with a major event.

Major events in South Australia are intended to bring the community together and build community spirit. Indeed, many of our state's major events achieve this brilliantly. South Australians who come from far and wide to join the festivities build our regions, build our state. They set up breakfast parties and barbecues. Again, declaring the fact that I am on a Tour Down Under stage, I know full well that they come in the early hours of the morning to make the most of the day. These events serve to build community spirit for both locals and visitors. Our concern is that this bill may make much of that activity illegal.

The ambush marketing provisions and the use of the logos and official titles of the bill to us seem so restrictive that they could potentially penalise community organisations, private property owners and small tourism operators seeking to join in the spirit of some major events, such as the Tour Down Under. For example, small regional tour operators, bed and breakfasts or mum-and-dad type small businesses are prohibited from using the logo or titles unless the minister has issued an authorisation for them to do so; for example, a Tour Down Under breakfast would be prohibited without authorisation.

If a property owner sets up a Tour Down Under barbecue along the road of a TDU stage, under the act this would be an example of an unauthorised use of a title and make them liable to a fine of $50,000 for an individual or $250,000 for a body corporate. The Country Women's Association barbecue at the Clipsal 500 may potentially attract a fine if the barbecue has any unauthorised logos or titles. There is no assurance that charitable and/or community groups will be able to participate in major events without penalty.

I would be surprised if it is the government's intention to stop groups such as this; they, in many ways, enhance rather than detract from major events. To that end, the amendment creates an exemption for this kind of community engagement. It does not allow groups to indicate any sort of commercial relationship or arrangement with the event or to claim any sorts of rights over the logo.

Intellectual property rights over the design of a major event logo and title continue to apply; the amendment merely provides an exemption from the penalties of up to half a million dollars proposed in clause 20. I hope that members will support the amendment so that we can continue to support community engagement in major events in the life of our state and regions.

The Hon. I.K. HUNTER: I thank the honourable member for his contribution. In great extent, the government is fully supportive of the ideas and the intentions the Hon. Mr Wade is trying to pursue in this amendment but, for various reasons I am about to go through, I would like to encourage honourable members not to support the amendment because we think that it does just the opposite. In fact, it legislates for ambush marketing, and I will be arguing that we do not want to be in a position to be doing that. We have discussed it; the Hon. Mr Ridgway raised it in an earlier contribution in terms of the CWA and the sausage sizzle.

The argument is that, in theory, the prohibition might catch, for example, the CWA holding a Tour Down Under cake stall at the local church hall, for example, and there are two answers to this, one of which I gave earlier. The first is that, in practice, it is simply not realistic to expect that the resources of the state would be thrown at such a trivial breach. It would be a waste of time and resources and, quite frankly, as I said earlier, hold the prosecuting authority, if not the event promoter, up to widespread public ridicule. Why would we do that?

Secondly, I do not accept that the prohibition on the use of the official logo is too widely cast. It seems to me that, if a person or organisation is using the official logo, they are necessarily suggesting affiliation with the major event and, really, what they should be doing is asking permission from the event organiser to do so. I do not think that any of us should be in a position where we are allowing, opening up, the possibility for an official logo to be misappropriated by anybody; if someone wants to use it, they need to get permission to use it.

Thirdly, the amendment is just too wide. Apart from the reference to the official logo already mentioned, the amendment is too wide in that it does not recognise what a big business charitable sponsorship is these days and what is put at risk by such a hole in the scheme. For example, the Cancer Council involvement in the Tour Down Under is worth many millions to the Cancer Council, and it is a fact that a rival charity set out to leverage off the tour with a black tie fundraiser in the past. That did not amuse the potential sponsors and it puts at risk large sums of money. I put it to this council: why would we as a parliament want to set up a provision like this that would set charity against charity? We do not want to be doing that; that is not our business. Why would we be there?

There is no obvious solution to the issue, otherwise the government would have proposed it. It is not possible to define minor or insignificant charitable interests. People who want to use the official logo, as I said, and protected symbols need to seek permission, but to think that the government would actually go out to seek to prosecute small organisations like the CWA or local churches having a cake stall is really nonsense. We would be bringing ridicule upon ourselves and on the event promoters and we just would not be doing that.

The Hon. D.G.E. HOOD: Yes, I had intended to support this amendment, frankly, when we came to the debate but I am persuaded by the minister's points that he raised. The particular issue is the unauthorised use of the logo, but if the minister would put on record that the government would not prosecute these small groups that he is mentioning just once and for all, then I think we would be satisfied not to support the amendment.

The Hon. I.K. HUNTER: I am very happy to take the opportunity to say that is not the intention of the government at all. We would be very mindful of the ridicule we would face were we to do that.

The Hon. T.A. FRANKS: To make it clear, the Greens are not supporting this amendment.

Amendment negatived; clause passed.

Clause 20 passed.

Clause 21.

The Hon. S.G. WADE: If it would assist the council, I indicate that I do not intend to move any other remaining amendments because I regard them as having been determined by the test clause at [Wade-1] 4.

Clause passed.

Remaining clauses (22 to 27) and title passed.

Bill reported with 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) (12:58): I move:

That this bill be now read a third time.

Bill read a third time and passed.

[Sitting suspended from 12:58 to 14:16]

PATIENT ASSISTANCE TRANSPORT SCHEME

The Hon. J.M.A. LENSINK: Presented a petition signed by 740 residents of South Australia requesting the council to call on the government to reform the Patient Assistance Transport Scheme particularly to ensure that patients and their carers receive the subsidies that they are entitled to.

PAPERS

The following papers were laid on the table:

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

Reports, 2012-13—
- Capital City Committee
- Dairy Authority of South Australia
- Food Act 2001
- Health and Community Services Complaints Commission South Australia
- Liquor and Gambling Commissioner—Barring Orders under the Liquor Licensing Act 1997
- Principal Community Visitor—South Australian Community Visitor Scheme
- Safe Drinking Water Act 2011
- Serious and Organised Crime (Unexplained Wealth) Act 2009
- South Australian Government Financing Authority
- State Emergency Management Committee

Evaluation of the Cross-border Justice Scheme—Final Report, 28 August 2013

Report into the Inquest into the deaths of Robyn Eileen Hayward and Edwin Raymond Durance

The State of Public Health for South Australia—Report, 2012

By the Minister for Sustainability, Environment and Conservation (Hon. I.K. Hunter)—

Principal Community Visitor—South Australian Community Visitor Scheme into disability accommodation and supported residential facilities—Report, 2012-13

Department for Education and Child Development Response to the Final Report of the Economic and Finance Committee's Inquiry into Workforce and Education Participation

By the Minister for Water and the River Murray (Hon. I.K. Hunter)—

Direction to the South Australian Water Corporation pursuant to the Public Corporations Act 1993

QUESTION TIME

LANCE ARMSTRONG

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:19): I seek leave to make a brief explanation before asking the minister representing the Minister for Tourism a question about secrecy.

Leave granted.

The Hon. D.W. RIDGWAY: The disgraced drug cheat, Lance Armstrong, sat side by side with premier Mike Rann during the cheat's three Tour Down Under appearances from 2009 to 2011. The dope fiend called the premier 'my mate Ranny' and urged people to vote for him in the upcoming elections. Details of the financial arrangements between the drug peddler and the government remain a closely guarded secret, although we know that as well as an appearance fee taxpayers shelled out for his lodgings, his food, refreshments, a hire car and a police guard. We now learn from the tourism minister that former Olympic track cyclist Chris Hoy will be coming to Australia in January to spruik the 2014 Tour Down Under. My questions are:

1. How much is Chris Hoy being paid?

2. What is the total cost to taxpayers of bringing Chris Hoy to Adelaide two months before the election?

3. If the Victorian government feels no need for confidentiality over the money it pays to sporting figures like Tiger Woods, why does the South Australian government keep the money our citizens pay to these identities a closely-guarded secret?

4. Finally, has the government made any progress in getting our money back from Lance Armstrong since the then tourism minister (Hon. Gail Gago) promised in parliament in October last year that the government would investigate that avenue?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:20): I thank the honourable member for his important question. It is a shame, really, that he is asking these old, dead, tired questions when what he should really be asking about is how the Minister for Tourism (Leon Bignell) in another place has brought AirAsia X to South Australia to fly more Asian customers and more Asian tourists to Adelaide.

That is the question he should be asking. He should be asking about the economy of the state. He should be asking about the great goals that the Minister for Tourism in the other place is kicking but, no, he is rehashing old stories. That is all they can do—rehash old stories—because they have no new ideas of their own.

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

AIRASIA X

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:21): How many empty seats are there on international flights coming to Australia every 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) (14:21): I am not responsible for international flights coming into Australia. If he wants to know about international flights coming to Australia every year, he can correspond with the federal minister.

Members interjecting:

The PRESIDENT: I will recognise her when the chat stops. It is chat time. The Hon. Ms Lensink.

CARBON EMISSION LIMITS

The Hon. J.M.A. LENSINK (14:21): I seek leave to make a brief explanation before directing a question to the Minister for Sustainability, Environment and Conservation regarding carbon emission limits.

Leave granted.

The Hon. J.M.A. LENSINK: One of the last duties of the former premier Mike Rann was to make some announcements in December 2010 regarding intentions to set carbon emission limits for new electricity production, which he described as 'by far the toughest in Australia'. Consultation was to begin in 2011 with a bill to be introduced into parliament to set 'a maximum carbon content for electricity generated from any new plant in South Australia'. My questions are as follows:

1. Can the minister provide the house with an update on the consultation process and explain what has happened to the time frame?

2. Can he explain why this consultation process has taken so much time?

3. Can he explain why this, as well as a number of climate change issues, have fallen off the government's agenda since Mike Rann's departure?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:23): I thank the honourable member for her most important question, but I have to indicate that in fact the major gist of her question goes to a minister in another place, the Minister for Mineral Resources and Energy, so I undertake to take that particular part of the question to the minister in another place and seek a response on her behalf. However, I can make some preliminary or general comments about climate change and what we are doing as a state.

As I have said before in this place many times now, the climate is, of course, changing. Greenhouse gas emissions caused by human activity are contributing to this change and if we do not tackle this as a state and as a country—and, indeed, as a world—we will face significant human, environmental and economic costs. The State of the Environment report released in 2013 is wideranging and explains the effects of climate change that have already been seen and the more challenging changes that we need to prepare for.

Global average temperatures rose by just over 0.7 degrees in the hundred years from 1910 to 2009. There has been a clear decline in average rainfall in southern Australia since 1970, which has been linked to rising temperatures, and most analysts would say that this drying trend is likely to persist. We are also seeing increased climate variability. Increased climate variability is leading to increased frequency and severity of extreme weather events such as heatwaves.

Australia, sir, as you probably know, has an international commitment to reduce greenhouse gas emissions by 5 per cent of 2000 levels by 2020. I note with interest that the Climate Change Authority has released a draft report for consultation on this particular target suggesting that it could be revised. I understand that the draft report indicates that Australia's commitment to cutting emissions by 5 per cent from 2000 levels by 2020 could leave Australia behind other countries.

I am advised that the draft report has not recommended a final tougher target but has canvassed options for emissions reduction targets of a level of 15 per cent reduction by 2020, with a trajectory range of between 35 to 50 per cent by 2030, and they are high aspirations. There are other targets they talk about as well. In addition to looking at the target, I understand that the draft report looks at Australia's progress in reducing emissions. Given that past experience is part of the context for considering future reductions in emissions, the authority has incorporated its response in this requirement in the draft report.

The draft report outlines the emissions experiences and outlook for different sectors of the Australian economy. It provides insights into the opportunities and challenges for effecting further sectoral reductions in emissions in the years ahead, and it highlights several areas where future reductions and emissions might be pursued. I understand at the macro level, and relevant to the consideration of appropriate emissions reduction targets for 2020 and beyond, the review indicates that over the past two decades Australia has achieved solid economic growth while halving its emissions intensity and that has been calculated as emissions per unit of GDP.

I understand that the Climate Change Authority will accept submissions on the draft until 29 November, so honourable members who may have an interest in this might care to make submissions. The final report is due to be handed to the federal government by the end of February 2014. I sincerely hope that the federal government will pay attention to this draft report. It is a debate we need to have, and I would like to see the independent voices of the scientific advisers maintain this debate, rather than shut down by the loud voices of people such as Mr Andrew Bolt and his ilk.

This draft report has been released in the wake of a new federal government that has made a series of very disappointing decisions in this area to date. Again, I encourage them to rethink their policy on the basis of solid science. The Coalition, I am advised, intends to introduce legislation to abolish the Climate Change Authority. The authority was set up by the former Labor government, as the former government saw the importance of having expert advice on carbon pricing and climate policy.

I do not have a lot of hope because one of the very first acts of the new Prime Minister was to abolish the minister of science. There is no minister for science in the federal government anymore, and that speaks volumes, I think, for the approach the new federal government is going to be taking to dealing with difficult policy decisions—ignore the science listen to Sharman Stone.

She is the expert now. Listen to Sharman Stone. She wants to take away all our water rights. That is who they will be listening to at a federal level, not independent scientists.

Members interjecting:

The Hon. I.K. HUNTER: Sharman Stone? Charmaine is a better sounding name isn't it? Whatever her name is—the honourable member.

The Hon. R.I. Lucas interjecting:

The Hon. I.K. HUNTER: The Hon. Mr Lucas is talking about my inner bogan. Perhaps we can get together and talk about our shared inner bogans later on. There is an awful lot to be proud of in being a inner bogan. I have many traits that could be ascribed to that without having the mullet the Hon. Mr Stephens used to have many years ago.

Members interjecting:

The Hon. I.K. HUNTER: That hurt! It is a very sad environment in Canberra at the moment—an environment which saw the first act of the new Abbott government close the Climate Commission just a week before the world's leading climate science body, the Intergovernmental Panel on Climate Change, handed down its assessment on the status of global climate change. This contrasts greatly to one of the former federal Labor government's actions, which was to ratify the Kyoto Protocol regarding climate change.

Let's have a look at the new Prime Minster's track record. He is abolishing three entire bodies dedicated to tackling climate change: the Climate Commission, the Clean Energy Finance Corporation and the Climate Change Authority itself. He has failed to appoint a minister for science, and he wants to repeal the most effective and efficient way of taking action in relation to climate change. This echoes very closely his tactics in terms of the boats. First of all, it was, 'Look at all the boats that are coming! Look at all the boats!' and then it's going to be, 'Let's buy all the boats,' and now it's, 'Look over here; don't look at the boats. Look at this shiny thing over here; don't look at the boats.'

That's exactly what he's doing about climate: 'Don't look at the science. We are going to axe the science minister. Don't look at the information coming from the Clean Energy Finance Corporation because we've done away with it. Don't look at the information coming from the Climate Change Authority because we've cut it to pieces.' That is how we see this federal government approaching policy in this country. We should all be very, very scared of the future under this new Prime Minister.

The Hon. R.L. Brokenshire: I'm not scared: I'm looking forward to it.

The Hon. I.K. HUNTER: Well, some people are just deluded forever.

The PRESIDENT: I am tempted to call order, but I won't be.

The Hon. I.K. HUNTER: This new Prime Minister is going to pursue a policy, called 'direct action', which even his own federal election candidates could not articulate. He claims to have a direct action policy which will establish an emissions reduction fund to create a so-called green army and explore soil carbon projects.

Well, Mr Abbott, leading economists have overwhelmingly rejected this direct action policy and have backed carbon pricing. A Fairfax media survey reported in the *Sydney Morning Herald* and *The Age* on 28 October that, of 35 prominent university and business economists, only two believed that direct action was the better way to limit Australia's greenhouse gas emissions and that 30 (86 per cent of them) favoured the existing carbon price scheme.

An internationally-renowned Australian economist, Justin Wolfers, of the Washington-based Brookings Institution and the University of Michigan, said he was surprised that any economist would opt for direct action under which the government will pay for emissions cuts by businesses and farmers from a budget worth $2.88 billion over four years.

So, that's what the Hon. Mr Tony Abbott is going to do—not actually embrace the economic argument around emissions trading. He is going to reach into the taxpayers' funds and dole out $2.88 billion to direct action to pay businesses who are polluting. Professor Wolfers said direct action would involve more economic disruption but have a lesser environmental payoff than an emissions trading scheme under which big emitters must pay for their pollution.

BT Financial's Dr Chris Caton said that any economist who did not opt for emissions trading 'should hand his degree back'. I don't know what degree Mr Abbott has, but I am pretty sure it's not one that Dr Chris Caton would recognise. In light of this reality—

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Look who's talking, David.

The Hon. I.K. HUNTER: In light of this reality that we face, it is even more important than ever that the South Australian government is taking action to help South Australians deal with the impacts of climate change. Our leadership dates back to 2003 and 2007, when internationally-renowned thinkers provided insight into what South Australia could do to address climate change.

In 2007, South Australia established the frameworks 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.

Entering into agreements with willing members of industry and the community promoted climate change awareness and prepared the community for a potential carbon price and prepared for a changing climate. Those willing to invest in large wind energy projects were provided tax rebates and smaller investors—

Members interjecting:

The PRESIDENT: And he's got 45 minutes to go.

The Hon. I.K. HUNTER: —were provided legislative and financial support to use solar panels. South Australia then moved to policies such as legislation for energy—

Members interjecting:

The Hon. I.K. HUNTER: Well, the honourable members are kicking up because they don't want to hear the successes. They don't want to hear about a government that is actually kicking goals in this area. They want to talk to a government that's got no plan and that matches their own no-plan zone.

In 2010-11, South Australian emissions were almost 9 per cent lower than 1990 levels, and you should be giving credit to the government that led that. South Australian emissions were almost 9 per cent lower than 1990 levels. In addition, over 25 per cent of South Australia's electricity generation now comes from over $2 billion worth of privately-funded wind farms. An additional 2 per cent comes from solar panels.

It is a government of South Australia—Jay Weatherill's Labor government—that has the plan for the future. We will combat this issue, even if we have to go it alone against all the Eastern States naysayers and the Sharman Stones of the world who want to take away our water and who want to take water out of the River Murray.

Where do the state Liberals stand? Do they stand with the rest of South Australia? Will they stand up for South Australian water rights and the River Murray? No. They are out there with their hands in the back pocket of the federal Liberals saying, 'Please look after us. We will take whatever is on offer.' The South Australian government, the Labor government, still stands up for South Australia at every stage.

ALMOND INDUSTRY

The Hon. S.G. WADE (14:35): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question relating to the establishment of the almond centre of excellence.

Leave granted.

The Hon. S.G. WADE: This year the Australian almond crop will have a farm gate value of $500 million, with the South Australian industry contributing more than 20 per cent of national production. The Almond Board of Australia is investigating the establishment of a $10 million almond centre of excellence and they are in the process of deciding whether it should be constructed in either the Riverland or Sunraysia. The centre is planned to be a base for the development of advanced production systems, likely based on dwarfing rootstocks, enabling high

density orchards with increased yields, shortened time frames to full production and a host of production benefits. My questions to the minister are:

1. What steps are the South Australian government taking to support the establishment of the centre in South Australia and what financial support is being offered to that goal?

2. Has the state government met with the Almond Board of Australia to discuss the proposal?

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) (14:36): I thank the honourable member for his most important questions. I have not been approached, to the best of my recollection, about the development of this centre of excellence. My door is always open. I have done a lot of work with the almond industry, particularly in the Riverland area. Honourable members would be well aware, as I have reported in this place on a number of occasions, of the assistance that we have given leading industry members like Almondco, and there have been others as well, through our Riverland Sustainable Futures Fund.

One of those assistance packages was to help them implement pasteurisation processes that would enable the industry to enter new markets, markets that were demanding pasteurisation of nuts, so we have a longstanding record of working with the almond industry and providing considerable assistance. As I said, I have not been approached, to the best of my recollection, about this centre or assistance for this centre. I would be very interested to receive information. As I said, I would be very pleased to offer whatever support this government is able to, depending on the details of the project, of course. I would welcome further information about this initiative.

WORKCOVER BOARD

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 table a copy of a ministerial statement relating to WorkCover made earlier today in another place by the Hon. John Rau.

HOLDEN COINVESTMENT

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 table a copy of a ministerial statement relating to cars made earlier today in another place by the Hon. Jay Weatherill.

QUESTION TIME

FOOD AND WINE INDUSTRY

The Hon. G.A. KANDELAARS (14:38): I seek leave to ask the Minister for Agriculture, Food and Fisheries a question about premium food and wine from our clean environment.

Leave granted.

The Hon. G.A. KANDELAARS: The government has previously announced seven strategic priorities to help focus the government's efforts. Can the minister update the chamber on the progress of premium food and wine from our clean environment strategic priority?

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) (14:39): I thank the honourable member for his most important question. In the 18 months since government outlined its seven strategic priorities, significant progress has been made. The premium food and wine from a clean environment priority is about growing South Australia's reputation as a producer of premium food and wine.

These industries are worth more than $16 billion a year to our economy and account for between 36 and 42 per cent of South Australia's merchandise exports and they employ one in five working South Australians. With world demand for food expected to increase by 70 per cent by 2050, this represents an enormous potential for these important sectors of our economy. The South Australian government is investing strongly with our food and wine industries, capitalising on more than $16 million in state government support to secure their markets, to take advantage of

new opportunities and to grow the global recognition of the state's premium food and wine from our clean environment.

As members might recall, we have appointed a group of 19 ambassadors, including two based overseas, who are expertly conveying to our community, the nation and the world the message about South Australia's beautiful food and beverages and our fabulous clean environment. The ambassadors group features some very important players in the state's food and wine, amongst them Simon Bryant, Paul Henry, Michael Angelakis, Kris Lloyd, Glenn Cooper, Richard Gunner and many more, all respected, driven, award-winning industry figures and personalities.

After industry and community consultation was undertaken by PIRSA, we have released a premium food and wine from a clean environment action plan. This action plan currently includes around 80 projects to be delivered across government and industry. Ten new projects have already been added since I launched the plan, which was only last month. The action plan will assist in focusing the efforts of both the government and the food and wine industries.

This government has a long history of working with industry and, through this collaboration, we can maximise the tremendous opportunities for this very important sector. The government is already working closely with industry sectors and groups for them to lead specific projects within the priority, and this includes the development of a new certification for farmers markets, for instance, created with the Adelaide Showground Farmers Market.

We have also been spreading the message of just how good our food and wine sector is. We have hosted a number of regional community forums. Just last week, I hosted three industry forums in the CBD, Gawler and Seacliff to talk about the development of the action plan and how industry can partner with government. At the industry forums, we were fortunate to hear from a number of industry people who are delivering innovative projects, including Linda Bowes from the Barossa Grape and Wine Group, who spoke about the development of the Barossa Trust Mark, as well as Catherine Barnett from Food SA, who spoke about the development of the SA Food Users Guide and also the Eat Local program.

In addition, the government has also delivered $10.3 million just in the 2013-14 state budget to support food and wine industries. Other support for food and wine industries has included $2.2 million over four years to support the work of Food SA; $1 million over four years to the South Australian Wine Industry Association to support a program to create greater demand and to develop new and existing markets, particularly in China; $270,000 a year over four years for a food technology program at the South Australian Research and Development Institute; $125,000 to support the development of the Barossa Trust Mark as a brand certification program guaranteeing a truly local Barossa food, wine or tourism experience. They did some fabulous work there. It was a great partnership of industry groups coming together to develop that Barossa Trust Mark.

In addition, the government has also provided sponsorship of the Cellar Door Wine Festival, Savour, the Australian Seafood Directions Conference, Cheesefest 2013, the Advantage SA Regional Awards, the SA Food Industry Awards and LambEx for 2014—and the list goes on. While the Labor government has been rolling out a new policy initiative to support our food and wine sectors, those opposite are doing their best to keep their plans secret. We know that they only have one plan and that is to cut back and savage the public sector, and they are our schools, teachers, nurses and roads. That is what the public sector is all about, and we know that is the only plan they have: to cut and slash the public sector which is about very important services and facilities for this society.

Members interjecting:

The Hon. G.E. GAGO: Well, I can't imagine what PIRSA is going to look like if there was to be a Liberal state government because we know they plan to slash somewhere between 25,000 and 35,000 people from our Public Service. I just can't imagine what sort of state our public sector is going to be in.

Anyway, it is only this government that has committed to supporting these important sectors because we have always believed in helping industry grow and change and we are committed to building our food and wine producer's reputation by seeking out new opportunities for them in key Asian markets. While we are getting on with the job of supporting South Australia's food and wine producers, those opposite continue to remain silent.

FOOD AND WINE INDUSTRY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:46): A supplementary question, and I apologise to the chamber, why haven't you published the South Australian Food Users' Guide in Chinese?

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) (14:46): A great deal of our literature has been translated into Chinese. We are looking at what elements of that guide are appropriate to the Chinese market and we plan eventually to translate that into Chinese. That particular piece of literature is not necessarily appropriate or suitable for that particular market. We need to streamline it and have information presented in appropriate ways with appropriate photography, etc. that picks up on the values from that market and highlights those values. Our market is slightly different, but as I said we are very committed to this. We have already translated a number of our key premium food and wine messages into Chinese and have distributed those extensively, and we are very proud of that.

FOOD AND WINE INDUSTRY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:48): A further supplementary: if it is not designed for the Chinese market, why did you take it to China and show it to people on your last trip?

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) (14:48): It is just appalling to see an opposition—we were very pleased to launch that at a particular restaurant there. It was a very suitable backdrop to launch that publication and we had a huge launch here. As I have said, we are looking at what aspects of that are best to be translated into Chinese and that is something that we are considering and will do in due course.

NORTH-EASTERN PASTORAL AREAS

The Hon. R.L. BROKENSHIRE (14:49): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries questions about drought conditions in the state's far north-eastern pastoral areas.

Leave granted.

The Hon. R.L. BROKENSHIRE: My constituents have contacted me about the drought declarations—

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

The Hon. R.L. BROKENSHIRE: Yes, a lot of doorknocking up there—and assistance that follows from those declarations currently in force in Queensland in parts or whole of 27 council areas and that were just concluded a month ago in Western Australia.

My constituents have pointed out to me the deficiency in rainfall in the pastoral areas of this state's far north-east. Just this morning I received a map from the National Climate Centre (which I am sure minister Hunter has already studied) indicating that the far north-east of South Australia, central Western Australia, eastern and northern parts of the Northern Territory and Western Queensland are most likely to experience higher the median maximum temperatures for the next three months commencing tomorrow.

On 3 October the latest Bureau of Meteorology drought statement included north-eastern South Australia as an area with 18-month long-term rainfall deficiencies. If the minister wants to look at the map linked to that page, it shows large areas of our state's far north-east have the worst rainfall percentages in the nation and—the drought statement notes—ranks among the worst for dramatic decreases in upper soil moisture.

Queensland graziers can now access $10,000 in rebates from their state government's Drought Relief Assistance Scheme for freight and emergency water infrastructure, including carting water to animals. Queensland has also frozen the 2013-14 rural land rents, has allowed grazing on national parks and reserves for starving cattle, has provided more transport assistance for farmers and schoolchildren, and has provided mental health workshops.

Western Australia, meanwhile, during their drought declaration, processed 146 rural assistance payments contributing over $800,000 in assistance and $320,000 for their Rural Support Trust as their drought was described by their government as the worst in 70 years.

Finally, the New South Wales government claim that there was a new national approach adopted last year that looks to transition states from declaring drought affected areas but, instead, sees seasonal conditions declared and a more flexible approach to drought assistance so farmers can be assisted before the drought begins to bite, rather than waiting for exceptional circumstances declarations. Having said that, my questions to the minister are:

1. Is the government considering, or will the government consider, for South Australia's far north-east some drought assistance similar to that currently on offer in Queensland and recently on offer in Western Australia?

2. How is the government managing the process to replace drought declaration and exceptional circumstances eligibility so farmers can access funding help sooner, not later, in conditions like we are experiencing now in the far north-east of South Australia?

3. Can the minister clarify whether South Australia has signed up to the Farm Finance debt relief package announced by the former Labor federal government in April, or is it now too late?

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) (14:52): I thank the honourable member for his most important question. Of course, drought here in South Australia is often a looming issue for us. It seems to be that if it is not one—

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: Well, at least I don't have an intellectual drought like you do. Water might fix my problem but water is not going to fix your problem.

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

The PRESIDENT: To clear the record, she was talking about the Hon. David Ridgway.

The Hon. G.E. GAGO: I am being distracted by the Hon. David Ridgway, Mr President. The response to drought really sits under a national approach, a national drought policy position, to which all jurisdictions are partners. In fact, an intergovernmental agreement was implemented in May 2013. That was with the former government and, until we are told differently, I assume that this is still in place. This policy was about emphasising building the preparedness and resilience to droughts and other periods of hardship while providing for mainstream access to social security support for farmers in need. That arrangement is effective from July 2014 and we have been active in developing transitional arrangements since then.

Since 1992, the national drought policy has been centred on exceptional circumstances, the EC measures that we are all familiar with: EC interest rate subsidies, household relief payments, exit grants triggered by EC declarations of defined regions. A review of the policy assessed that its objectives were not being realised and that EC are more likely to be the norm with climate change.

The new approach will no longer make declarations of drought and provide assistance according to lines on maps. It will instead focus on building preparedness of the farm sector to manage businesses through droughts and other adverse periods, while providing time-limited financial support for farm businesses and families experiencing hardship on an ongoing basis as part of the mainstream social security arrangements.

The IGA sets out a number of responsibilities so, unless the federal government has changed its position on this, the commonwealth is responsible for funding and delivering a time-limited farm household support payment based on individual need, including reciprocal obligations aimed at driving behavioural change, case management to support reciprocal obligations and promoting primary producer taxation concessions, including the Farm Management Deposits Scheme.

The role of states and territories is to encourage the delivery of uptake of the national approach to farm business training, and the shared roles and responsibilities are to coordinate an approach to the provision of social support services, contributing to tools and technologies to

inform farmer decision-making. The IGA sets out principles where a jurisdiction decides to implement drought support measures, and the principles then allow for additional support during droughts that will not contravene the intent of the overall reform process. Those measures have been put in place, and any of our farmers here in South Australia who are suffering from drought-related financial pressures have those measures available for them.

I was also asked about the Farm Finance initiative. What a sad story this is! The Australian government announced this initiative to build on the ongoing financial resilience of the farming sector that currently is struggling at high levels of debt. I have reported in this place that, prior to caretaker mode, the South Australian government signed off—finalised—the components we were responsible for in terms of outlining a system and process to put in place to enable us to do this. We sent that back prior to caretaker provisions being put in place, but unfortunately it was not able to be processed in time; the government of the day went into caretaker mode, and we were not able to proceed with the rolling out of that Farm Finance assistance. As soon as the new minister was appointed—

The Hon. R.L. Brokenshire: Barnaby.

The Hon. G.E. GAGO: Yes, I wrote to the Hon. Barnaby Joyce the day (or day after) he was appointed minister, outlining where South Australia was up to and what aspects we had agreed to and finalised. I urged him to expedite the federal government's further consideration and rollout of this, outlining how important it was to South Australia that our farmers have access to this, and again—a bit like what we hear from our opposition here in this state—silence! I have not heard from him about that, and I do not believe that any of our opposition colleagues in this place, to the best of my knowledge, have contacted him either to urge intervention and expedition of this really important reform.

What I did happen to pick up in the paper—I think it was the *Stock Journal*—was that the federal agriculture minister, Barnaby Joyce, wants to 'rejig'—'rejig' is the policy colloquialism—the $420 million Farm Finance package to try to provide urgent assistance for drought-stricken farmers in Northern Queensland, New South Wales and Northern Territory.

The Hon. I.K. Hunter: Not South Australia.

The Hon. G.E. GAGO: Not South Australia—not a mention of South Australia, but he wants to 'rejig' the $420 million that we still have not got our share of to distribute to northern Queensland, New South Wales and the Northern Territory. What does that mean? Is the federal government going to rob us again? Are they going to take our share, our contribution, and distribute it to other states? Is that what this federal Coalition government is up to?

Are they going to redistribute our share to farmers in other jurisdictions? And what has this lot done? What has this lot done to champion South Australian farmers? What have they done? Nothing, complete silence—complete and utter silence because we know that the Hon. Steven Marshall does not have the guts to go and stand up to Abbott. He absolutely doesn't have the guts. He is in his back pocket. He is a yes-man to Abbott, an apologist for Abbott, and here we see possibly our fair share—

The Hon. J.S.L. DAWKINS: Point of order!

The PRESIDENT: Point of order. Thank goodness, the Hon. Mr Dawkins is listening.

The Hon. J.S.L. DAWKINS: The Prime Minister of Australia should be referred to as 'the Hon. Tony Abbott', not 'Abbott'.

The PRESIDENT: You will refer to the honourable Prime Minister by his proper title, minister.

The Hon. G.E. GAGO: I have said more than enough, Mr President.

The PRESIDENT: Supplementary, the Hon. Mr Brokenshire.

NORTH-EASTERN PASTORAL AREAS

The Hon. R.L. BROKENSHIRE (15:01): Has the minister been advised of the serious situation with drought in north-eastern pastoral South Australia and, if so, has she developed, or is she developing, a package to assist them through the state government?

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) (15:01): I am aware of the conditions of all our regions, and I am kept up to date with that. I am aware that there are certainly issues in the north-east. As I have outlined, in terms of the drought policy measures, that assistance is already available to those farmers, so I would urge anyone in need to be availing themselves of that assistance. This state government continues to monitor the plight of those farmers and other businesses in that region.

WATER SENSITIVE URBAN DESIGN

The Hon. R.P. WORTLEY (15:02): My question is to the Minister for Water and the River Murray. Will the minister inform how the state government is encouraging water sensitive design solutions to be incorporated within developments across South Australia's towns and cities?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:02): I thank the honourable member for his most important question. As many members will know, I have frequently been known to speak about the need to find smarter and more sustainable ways of using water across our communities. While South Australia is already the national leader in stormwater harvesting and our irrigators in the Riverland are some of the nation's most efficient, it is important that we do not rest on our laurels in this regard.

I am therefore pleased to advise that today I have released the state government's water sensitive urban design policy, entitled 'Water sensitive urban design: creating more liveable and water-sensitive cities in South Australia'. How we plan and build and look after our urban areas is essential to ensure more liveable environments and a higher quality of life into the future.

Urbanisation has a significant impact on a region's hydrology, and we need to take every opportunity to maximise economic, social and environmental benefits by planning how our planning processes interact with the water cycle. Flooding, the provision of green open space, urban heat island effects, impacts of stormwater on coastal environments and maintaining stream ecology can all be managed through a stronger approach to water sensitive urban design. That is why this policy is designed to manage the process of urbanisation and its effects on the natural water cycle.

The water sensitive urban design policy promotes urban design principles that integrate the management of the water cycle into land use and developmental processes and will contribute to our efforts in making South Australia a water sensitive state, as outlined in our Water for Good policy. Some of these principles include encouraging best practice in the use and management of water to minimise reliance on imported water; promoting the safe, sustainable use of rainwater, recycled stormwater and wastewater; and mimicking more natural run-off regimes, such as rainfall run-off, to avoid potential for flooding.

This can be as simple as using more porous pavers for driveways or more efficient gutter systems to catch rainwater, or involve more complex projects such as stormwater harvesting projects that I have spoken about in this place before that are currently occurring right across state.

Members may recall that earlier this year I spoke in this place about recipients of the Australia Day Awards and made mention of Professor John Argue, an expert on stormwater and water sensitive urban design. Professor Argue received the Officer in the General Division Award for his work in this area. Some of the very first projects involving water sensitive urban design such as Parfitt Square at the new Brompton Estate were commissioned on his watch. Professor Argue also published the book *Water Sensitive Design: Basic Procedures for 'Source Control' of Stormwater, A Handbook for Australian Practice* and I am told this is often the go-to resource for those beginning their studies in water sensitive urban design.

These design principles, which use the best available science from the Goyder Institute of Water Research and which take the experiences of other jurisdictions and ultimately rely on our strength as a state when it comes to matters of water, thanks to the efforts of people such as Professor Argue, have great potential for reducing our impact on the water system of the state but also of using water more wisely. Water sensitive urban design is internationally accepted as delivering community benefits through providing more green spaces, reducing urban temperatures, maintaining gardens, and potentially offsetting the need for major water infrastructure upgrades.

Through the implementation of the 30-Year Plan for Greater Adelaide, I am advised that developers have demonstrated a desire to adopt water sensitive design principles and objectives into their developments. Significant advances have already been achieved by state and local government and the private sector with the integration of land use design with the urban water

cycle. However, until now, there has been no single guiding framework to assist in designing appropriate solutions.

The water sensitive urban design policy addresses that by providing a number of guiding principles for all development, and also provides a number of objectives for our state as a whole to meet in this regard. And, in a first for South Australia, the water sensitive urban design policy outlines specific targets for local water conservation, water pollution and flood management in new developments. The water sensitive urban design policy also sets out a number of performance principles and performance targets by which we can measure ourselves.

It also outlines actions the state government will pursue collaboratively with industry, local government, and others to encourage cost-effective water sensitive approaches in urban developments and redevelopments. Importantly, the water sensitive urban design policy will be implemented in full consultation with local government and with industry.

This policy will go a long way to ensuring new developments are both conscious of water and also responsible with water. In the short time I have served as Minister for Water and the River Murray I have been constantly reminded of how passionate South Australians are about water. And these are South Australians across the state, not just those who rely on water for their economic wealth or those who live near a major water resource like the River Murray. Perhaps this is part of the reason why our state is a national leader, and in some cases has been recognised as a world leader, when it comes to managing our water resources.

LOCAL GOVERNMENT, REGIONAL MEETINGS

The Hon. J.S.L. DAWKINS (15:07): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question regarding regional Local Government Association meetings.

Leave granted.

The Hon. J.S.L. DAWKINS: I refer the council to the response the minister gave in this place on 16 October this year where she said, and I quote:

> I, too, believe it is completely unnecessary to be having government officers sitting around for meetings that often go for many hours if it is not relevant and not needed and does not produce any positive outcomes.

The minister's immediate predecessor in this portfolio, the Hon. Russell Wortley, found it appropriate and necessary to attend a wide range of regional local government meetings regularly, along with staff from both his ministerial office and the then office of state/local government relations. It is also worth noting that meetings of these bodies rarely consist of more than a morning session and not many hours as the minister described. I should also indicate that local representatives of natural resources management and Regional Development Australia boards, as well at the Murray Darling Association and other similar bodies regularly attend and participate in these meetings. My questions to the minister are:

1. Given that former minister Wortley and local representatives of other bodies find regional LGA meetings valuable meetings to attend, will the minister reconsider her lack of priority for agency attendance at these forums?

2. If so, will she consider the possibility of the state government's six regional managers, often co-located with RDAs, taking up these responsibilities?

VISITORS

The PRESIDENT: Before I call the minister, I wish to acknowledge the attendance in the gallery of the Aboriginal Employee Network from the Department of Planning, Transport and Infrastructure. Welcome, and enjoy your experience. The Minister for Agriculture, Food and Fisheries.

QUESTION TIME

LOCAL GOVERNMENT, REGIONAL MEETINGS

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) (15:09): I don't really thank the honourable member for his question, I have to say. It's a direct repeat of a question he asked not very long ago, and I thought I answered the question in considerable detail. It's most unfortunate that the honourable member

comes back. I guess it's just typical of the lazy opposition that we see opposite us that they just continue to ask the same old questions over and over.

The Hon. John Dawkins takes my comments completely out of context again, which is misrepresenting me again. I explained last time, and I am happy to take up more valuable time of this chamber repeating it over and over again because the opposition just has so much trouble understanding change.

There have been considerable machinery of government changes around local government fairly recently. Considerable change has taken place, so the structure is not the same as it was when the Hon. Russell Wortley was minister and also when I was formerly minister as well. There were completely different structures in place. There was an agency that was sitting under the minister.

Now, as I have already articulated very, very clearly in this place, the responsibilities of local government are broad, their policy responsibilities are broad and we now have a much more direct relationship with those policy needs of local government and direct government agencies. So, for instance, most of the issues that local government are concerned with are things like planning and developments, and roads and transport—two really large issues. If they want information about those issues or want advice on those issues, they go directly to those appropriate agencies. We have shifted some responsibilities into Finance, and the regional elements continue to sit with me.

What is appropriate is if a local council, whether it's a regional council or otherwise, irrespective of their need, requires government information or advice on any policy matter, then I invite them to contact the appropriate agency and invite the appropriate person along. If it's information on transport that they want and need, then I would advise them to advise Transport of what their needs are and invite a government representative to come along, and so on. I don't need to go through all the different portfolio areas.

That was the point that I made. There have been significant machinery of government changes that mean that the structure of government now is far more directly responsive to local government needs. It's a much more mature and well-developed model, instead of bypassing agencies and double-handling most issues—that's what my agency used to do in the past. A lot of its time was spent double-handling issues that really belonged and should have gone to other agencies. So, it's much more efficient, much more effective and I believe that the needs of local government are met in a far more timely and efficient way.

That's what I outlined in my last comments. Again, whether it's the regional councils or individual local councils, if they require government assistance, advice, information or briefings, I encourage them to approach the appropriate agency, and you will find, as always, a very responsive state government.

PULSE BREEDING AUSTRALIA

The Hon. CARMEL ZOLLO (15:14): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about agriculture.

Leave granted.

The Hon. CARMEL ZOLLO: I know we all appreciate the importance of consuming vegetables and fruit to keep us healthy, and pulses are an important component of this food group; indeed, in some countries they are the staff of life of many cuisines. You look a little bit worried about this, Mr President. South Australia is a production base for many of these important legumes and the research needed to support them. My question to the minister is: can she advise of a recent development in relation to pulses?

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 thank the honourable member for her most important question. Mr President, South Australia is a leader in pulses; I know that that may be a bit of a surprise to you, but we are. We are a leader in pulses, with five temperate pulse crops. Mr President, I know you are interested in this because I know how fond of chickpeas you are. You love chickpeas on your steak and with your chips, don't you, Mr President?

The five temperate pulse crops—chickpeas, field peas, faba beans, lentils and lupins—are all being grown here in South Australia, so it was a logical choice for Pulse Breeding Australia

(PBA) to hold its inaugural pulse conference in Adelaide, and it was held in October this year. I was very pleased to be able to attend and open that conference. The conference, which was co-hosted by SARDI, aimed to bring together the Australian pulse industry; the pulse breeders and agronomists; pulse marketers and pulse growers, to examine ways of expanding pulse production within Australia's cropping systems.

Members may not be aware of the importance of pulses, both as a crop and as a rotation in agriculture, and also the variety of benefits they have to offer. They are a vital crop in a number of different ways. They are a nitrogen-fixing crop, so they help fix nitrogen in the soil, which is very important for the nutrients and further production of our soils. They help reduce soil degradation and provide a valuable rotation crop with cereals for pasture, which helps in turn reduce the risk of pests and diseases and, of course, as a food I know that you enjoy eating them, as many people do. They are also used for animal feed consumption. All round, Mr President, as you can see, pulses have a great deal to recommend them.

Pulse Breeding Australia aims to increase pulse production to more than 15 per cent of the total cropping area in Australia, generating more than $1 billion in economic activity. The South Australian government strongly supports this campaign. One of the government's seven strategic priorities is premium food and wine from our clean environment. It seeks to secure our position as a producer of premium food and wine from our clean water, our clean air and our clean soil, and it is also working to capitalise on the increasing global demand for premium products.

International demand in some of the world's largest markets is supporting our pulse exports, and they provide a nutritious and popular food for millions of people all over the world. Australia produces nearly two million tonnes of pulses a year, and much is exported to India. I know it is hard to believe that South Australia exports lentils to India, as well as pasta to Italy, and also pulses to North Africa and the Middle East.

The conference was a great success. There is a lot more that I could say about it, but I will save that for next time. As I said, the conference was a great success and it was a wonderful privilege to be able to host it here in Adelaide.

SOUTH AUSTRALIAN CIVIL AND ADMINISTRATIVE TRIBUNAL BILL

In committee.

Clause 1.

The Hon. S.G. WADE: I ask the minister what the government intends as the time frame for the appointment of the president? I understand that the Attorney-General was keen to use this as an enabling act, as an act to establish the tribunal such that the president could work to develop the tribunal. In that context, I am wondering whether the government has an indicative time frame for the appointment.

The Hon. G.E. GAGO: I have been advised that the Attorney-General's preference is to make the appointment to the president's position as soon as possible after this bill has been proclaimed.

The Hon. S.G. WADE: Considering that the Courts Administration Authority budget for the 2013-14 year is predicated on the fact that the current level of judicial vacancies in the Supreme Court and the District Court is expected to be maintained to be able to maintain budget, I am wondering whether the appointment of the president will be an appointment to a current vacancy or whether it will be the appointment of an extra judicial officer.

The Hon. G.E. GAGO: I have been advised that that has not been decided yet.

The Hon. S.G. WADE: In terms of the SACAT budget, and the 2013-14 budget had a specific budget line for SACAT, I ask whether that SACAT budget provided for a judicial salary? Whether it is a vacancy or an extra appointment, is there funding within the SACAT budget itself for a judicial officer?

The Hon. G.E. GAGO: I am advised that we do not have that level of financial detail with us, so I am happy to take that on notice and bring back a reply.

The Hon. S.G. WADE: I thank the minister for that undertaking. I ask how many deputy presidents does the government intend to appoint?

The Hon. G.E. GAGO: I have been advised that while there is a capacity to have more than one deputy, the intention at this point in time is to only have one.

The Hon. S.G. WADE: In briefings and discussions with the Attorney, he has indicated that he has a likely shortlist for early adopters. My understanding is that Residential Tenancies Tribunal and the Guardianship Board were a couple of tribunals that might be looked at earlier rather than later. I was wondering if the minister might be able to indicate: does the government have a current short list of tribunals most likely to be transferred into the tribunal?

The Hon. G.E. GAGO: Yes, I am advised that the short answer is yes. A short list has been developed (obviously not finalised) but the shortlist includes the Residential Tenancies Tribunal, the Guardianship Board, and the Administrative and Disciplinary Division of the District Court. There are a couple of others. These have all been listed in *Hansard* in the other place. I do not have the list with me but they are on the record.

The Hon. S.G. WADE: The Attorney indicated, as you would expect, that there would be consultation with the tribunals and the communities they serve in developing the acts for the transfer of particular tribunals. Do I take it that formal consultation has not started on any other tribunal?

The Hon. G.E. GAGO: That is correct. Further consultation will resume once this bill has been passed.

The Hon. S.G. WADE: To remind honourable members, the act we are looking at today is very much a framework act. My understanding is that if this act passes, nothing will happen in the sense that there is no jurisdiction for it to exercise but as each tribunal act comes before the parliament the authority of the tribunal will grow and they will take that up. In terms of accommodation—

The Hon. G.E. Gago interjecting:

The Hon. S.G. WADE: I thank the minister for confirming that is her understanding as well. In relation to accommodation, the government has previously indicated that the Sturt Street courts might be used as accommodation for the tribunal. Could I clarify whether that is still the intention? If so, when is it likely that the tribunal will take over the site?

The Hon. G.E. GAGO: Yes, the Sturt Street courts have been considered but no final decision will be made and will not be made until after this bill is in place.

The Hon. S.G. WADE: Is the Sturt Street placement, or for that matter any other possible placement, intended to be the long-term home of the tribunal or is it intended that SACAT become part of the new courts precinct?

The Hon. G.E. GAGO: It is too early to make those decisions. It will depend on who else might come into the building. Those are all decisions that will need to be made at a later date.

The Hon. S.G. WADE: Does the government have indicative figures as to the number of staff that it is anticipated the new SACAT will need? I appreciate that that will escalate, shall we say, over time, if it is one tribunal, two tribunals or three tribunals, but even if it was for the current financial year.

The Hon. G.E. GAGO: The member has really answered his own question. It is just too early to have those estimates. Obviously, as the tribunal develops and different components come in and are added to it, so too will the staff increase. However, at this point, no estimate is available. I am advised that work is currently being done though.

The Hon. M. PARNELL: I apologise in advance if the minister believes that she has answered this question, because I did step out for about 90 seconds and I know that the Hon. Stephen Wade did ask about members of the tribunal. My question is in relation to the working conditions of members of the new body.

As the minister might know, the two bodies that she has identified as likely first starters—the Guardianship Board and the Residential Tenancies Tribunal—have had, in my opinion, some of the worst industrial practices. The workers there, the quasi-judicial members, were not entitled to sick pay or annual leave, they had no redundancy and they could have their contracts terminated a day before they expired. Has the government given any thought to whether any security of tenure or other working conditions would apply to the people who are working at the tribunal and effectively acting in a judicial capacity? Will they least have conditions of employment similar to public servants, for example?

The Hon. G.E. GAGO: The president, as you would be aware, would be appointed for a term of five years and senior and ordinary officers for three to five years, with a right of renewal. Senior members and ordinary members of the tribunal will be appointed on conditions specified in the instrument of appointment, which is section 8 of clause 19. Those conditions of appointment will be established by the president; however, it should be noted that this administrative tribunal will sit within the Attorney-General's Department, which is a government department.

The Hon. M. PARNELL: I thank the minister for her answer. Part of the problem, as I understand it, is that many members who are brought in to do specialist work—for example, on the Residential Tenancies Tribunal—are paid sessional rates. They are basically paid an hourly rate for the hours they sit, and that is the end of it. There is no guarantee of how many hours they would get, but in practice they are part-time jobs. You have someone who works two full days a week at the Residential Tenancies Tribunal. Yet, their tenure has always been insecure. Whilst they may be appointed for a period of time, that period of time can expire and they will have no indication of whether or not they will be reappointed.

To frame my question slightly differently: will there be any professional employment oversight in relation to the terms and conditions of employment, other than the Attorney-General or the president? When I say 'professional oversight', I mean things like making sure that someone is not allowed to see their contract expire and not be given any indication of whether or not it will be renewed. Most workers get some sort of redundancy, they get some notice period, they get told they will lose their job, that they will be given a certain amount of pay in lieu of notice. Will any arrangement like that be put in place for the members of this tribunal?

The Hon. G.E. GAGO: I am advised that those matters are not a matter for the act, they are not within the act, but are operation and implementation matters, and that level of detail is under consideration now and that work is being developed. The honourable member makes a very good point and they are matters that are very worthy of considerable consideration.

The Hon. S.G. WADE: By simple way of concluding in that area, if Mr Parnell is happy, I presume, therefore, that those terms and conditions will be determined by the government and not by the president of the tribunal?

The Hon. G.E. GAGO: I have been advised that it will be the government, in consultation with the president, and it is outlined in clauses 19(8) through to (11).

The Hon. S.G. WADE: The Hon. Mark Parnell used that provocative word in the context of SACAT—'judicial'. It would be fair to say that the Bar Association, the Law Society and the Council of Australasian Tribunals all raised queries as to whether the government intended that the tribunal be a court or tribunal in terms of the chapter III considerations, and my understanding is that a number of the government amendments that were completed in the House of Assembly were to underscore the government's intention that this be a tribunal and not be a chapter III. Will the minister clarify why that was important to the government? What are the practical benefits to either the government or the tribunal by not being regarded as a chapter III court?

The Hon. G.E. GAGO: I am advised that because of the nature of the powers that were required in relation to the administrative outcomes we were seeking—for instance, around residential tenancies, guardianship, etc.—they were responsibilities better described in a tribunal than under the powers of a chapter III court. It is simply that it better describes the powers that we are looking for through making it a tribunal rather than a court.

The Hon. S.G. WADE: I appreciate this is very much a question for advisers—and perhaps advisers who are not present—but do we have any indication that any of our current tribunals are regarded as chapter III; and are we aware of any other, shall we say, SACAT equivalents—VCAT and so forth—that are regarded as chapter III?

The Hon. G.E. GAGO: Here in South Australia, are you talking about?

The Hon. S.G. WADE: Yes, firstly South Australia, but also then in relation to other jurisdictions in relation to their equivalent of the SACAT.

The Hon. G.E. GAGO: I have been advised that here in South Australia, the Workers Compensation Tribunal has been found to be a court and that there is currently a challenge in Queensland to the equivalent of our SACAT.

The Hon. S.G. WADE: I accept the minister's answer earlier that the government has not decided which tribunals will go in first, and I appreciate that therefore the list of tribunals going in

has hardly been started, but have there been any decisions made as to any tribunals that definitely will not be going in with SACAT?

The Hon. G.E. GAGO: I am advised no, that we are looking at considering a wide range of possibilities.

The Hon. M. PARNELL: I want to ask the minister about access to justice because one of the important elements of access to justice is the cost of accessing justice. One of the objectives of the tribunal as set out in clause 8 under paragraph (d) is to keep costs to parties involved in proceedings before the tribunal to a minimum insofar as is just and appropriate.

If we take the two jurisdictions likely to come within this tribunal, one is residential tenancies and my understanding is that for a long time applications were free. There is now a modest charge, I think, but there are other cases where it would be completely inappropriate to have any application fee. For example, a person who is involuntarily detained under mental health legislation should not have to pay a fee in order to get an umpire to review whether or not they should be kept in Glenside or whether they should be allowed to go home.

My question is: will the matter of application costs in terms of a cost to bring a case—as opposed to legal costs, where the bill already sets out that generally parties will bear their own legal costs—simply be set out in regulations under this bill or will it be a matter for each of the originating pieces of legislation?

The Hon. G.E. GAGO: I have been advised that the application costs will be a matter for regulation in relation to this bill. I do not believe a great deal of work has been undertaken around that so your comments are noted.

Clause passed.

Clauses 2 to 9 passed.

Clause 10.

The Hon. S.G. WADE: In discussions with the government, the government indicated its interest in flexibility in terms of who could be appointed to be president of the tribunal. The bill as it currently stands envisages either a Supreme Court judge or a District Court judge could be appointed as a president of the tribunal and, for that matter, whether on a part-time or full-time basis. In the opposition's view, the District Court option is not appropriate. Any District Court judge could be appointed to the Supreme Court for the purpose of taking the role, and to us it smacks more of an opportunity to keep the cost down rather than a real issue in relation to flexibility.

It is noteworthy that similar tribunals interstate are headed by Supreme Court judges on a full-time basis and two of the key stakeholders in this area strongly advocated for a Supreme Court judge. The Law Society, for example, stated in its submission and I quote:

> The President of each of the general administrative tribunals in Victoria, Queensland and Western Australia is required to be a judge of the Supreme Court. It is recommended that the Bill be amended to include a requirement the President of SACAT be a judge of the Supreme Court. Without in any way reflecting adversely upon judges of the District Court, and with due respect, it is considered necessary in order to give the Tribunal the necessary status and impetus, that a Supreme Court judge be its head. Given the functions of the President and leadership required under sections 11(2)(d) and (f) of the Bill, the question of status is crucial.

Likewise, the Council of Australasian Tribunals South Australia said:

> COAT-SA's very strongly-held view is the President of the Tribunal should be a judge of the Supreme Court, appointed to hold office as President of the Tribunal on a full-time basis. The status of the President establishes the status and credibility of the Tribunal and COAT-SA notes that throughout Australia, (Queensland, Western Australia and Victoria and proposed in New South Wales) the President of the equivalent Tribunal is a judge of the Supreme Court appointed on a full-time basis.

The opposition considers that advice as sound and we are moving this amendment that the words 'or the District Court' be deleted so that the only appropriate candidate would be a Supreme Court judge. I would note as an aside that, in spite of the submissions of the stakeholders, we do not think it is appropriate to legislate that the person be full-time, particularly as, as the tribunal evolves, it may be some time before it needs to be a full-time role.

In terms of the need for the person to be a Supreme Court judge, the only exception to this would be an instance of an acting president, at which point we accept there may be a need for the deputy president or another District Court judge to step in on a temporary basis. If the council and the government are agreeable, I would suggest that this amendment could be treated as a test

clause for consequential amendments, whatever that means, for Nos 2 to 4, and 6 and 8 in [Wade-1].

The Hon. G.E. GAGO: The government rises to support this amendment in the interests of expediting the passage of this bill. The amendment removes the eligibility of a District Court judge to be appointed to the role as president of the tribunal, restricting this only to a judge of the Supreme Court.

The government's reasoning in making a District Court judge eligible for appointment to the role of president was to provide maximum flexibility with respect to the pool of judicial candidates available to undertake this role. The government maintains that nothing in the bill as currently drafted precludes a Supreme Court judge being appointed. It simply provided an option to appoint a District Court judge should a current Supreme Court judge either not express an interest or be unavailable, for any reason, to take the role when expressions of interest are sought. For these reasons, we are prepared to support this amendment.

The ACTING CHAIR (Hon. J.S.L. Dawkins): Just a point of clarification: I do not think the Hon. Mr Wade has actually formally moved his amendment.

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

Amendment No 1 [Wade–1]—

Page 8, lines 34 and 35—Delete 'or the District Court'

I thank the government for its indication of support and seek the support of other honourable members.

The Hon. M. PARNELL: I actually was not inclined to support it for one of the reasons the minister gave, but which she says is surmountable; that is, if District Court judges were included in the pool of potentially eligible candidates, there is a greater pool to choose from. But I would imagine that, if a District Court judge appeared to be the appropriate candidate, they would immediately be promoted to the Supreme Court bench and appointed to this position.

The point that I was going to make was that one of the most important qualifications that the presiding member will need to have is some experience in dealing with self-represented litigants and, in my view, District Court judges are more likely to have that experience. For example, this morning, the Hon. Dennis Hood and I were sitting in the District Court, just before the bells rang for the start of session. It was a matter that I will not go into here that may or may not have involved raw milk, but we were in the District Court and His Honour was, I think quite fairly and reasonably, dealing with an unrepresented litigant and explaining to him what was going on.

Whilst I can see Liberal and Labor have reached agreement on this, I can see that there is a way through where the pool of potential candidates could be expanded to beyond existing Supreme Court judges. I just want to put on the record that it would be my hope that, in finding an appropriate appointment, regard would be had to the experience the person had in dealing with unrepresented litigants.

The Hon. S.G. WADE: If I could respond to that, my understanding is that a person is eligible to be appointed as a Supreme Court judge if they have served seven years as a legal practitioner in the state. That being the case, anybody could be a mere mortal today and be head of the tribunal tomorrow.

On the opposition's behalf—and I think the government is of the same view—this is certainly not limiting flexibility at all. It might, if you like, mean that a District Court judge has one more piece of paper to fix before he or she is eligible for appointment, but the pool is not diminished, it is just that the appointment is at a higher level.

In our view, it is a relatively small marginal cost to the state. The strong advocacy of the stakeholders and the best practice of other jurisdictions suggest that it is an appropriate investment, and I thank the government for sharing that view.

Amendment carried.

The Hon. S.G. WADE: If the government is agreeable that [Wade-1]—

The Hon. G.E. GAGO: You want me to say that word again, don't you?

The Hon. S.G. WADE: Yes, because I get into trouble when I use it.

The Hon. G.E. GAGO: But the answer is yes.

The Hon. S.G. WADE: It is minister Hunter who tries to confound me. I am not sure what it technically means, but I used to think I knew what 'consequential' meant. Anyway, considering the house provided support to amendment 1, I would suggest to the government that the house is likely to support amendments 2 to 4, and I move them together:

Amendment No 2 [Wade–1]—

Page 9, line 1—Delete 'or the District Court'

Amendment No 3 [Wade–1]—

Page 9, lines 7 and 8—Delete 'or the District Court (as the case may be)'

Amendment No 4 [Wade–1]—

Page 9, lines 11 and 12—Delete 'or the District Court (as the case may be)'

The Hon. G.E. GAGO: I am happy to support all of those amendments.

Amendments carried.

The Hon. S.G. WADE: The minister kindly just indicated that the government will also be supporting this amendment, but I still have eight more members of the house to persuade. I think for the sake of the record this one would actually be quite easy for historians to understand, but some of our amendments are a bit obtuse and people might say, 'Well, why on earth did they do that?' I move:

Amendment No 5 [Wade–1]—

Page 9, lines 18 to 22—Delete subclause (6) and substitute:

> (6) Without limiting subsection (5), the Remuneration Tribunal may determine that the President's salary or allowances as a judge will have an additional component on account of holding office under this Act (and the jurisdiction to make such a determination is conferred on the Remuneration Tribunal by this Act).

Both the Law Society and the Council of Australasian Tribunals propose that salaries and entitlements should be set by the Remuneration Tribunal. In their submission on the bill, the Law Society says:

> In order to ensure the independence of the President from the Executive Government...The additional salary or allowance should be fixed by the Remuneration Tribunal, not the Governor.

As an aside, that is an interesting observation because we normally talk about independence from the government in relation to courts, but I appreciate there is a need for tribunals, too, to be seen to be not at the beck and call of the executive. COAT SA also shared that view. As I said in my opening remarks, I understand that this amendment has the support of the government and we believe that it is an important safeguard for the independence of the tribunal.

The Hon. G.E. GAGO: The government rises to support this amendment. The president's salary is determined by the Remuneration Tribunal because the president will be a Supreme Court judge. As presently drafted, any top-up in salary to reflect extra responsibility as president of the tribunal was to be determined by the Governor. This amendment would provide that the Remuneration Tribunal, rather than the Governor, determine any top-up salary for the Supreme Court judge appointed as president to the tribunal.

The government prefers the approach of having the tribunal members' salaries, other than the presidential members who are already judges, determined by the Governor rather than the Remuneration Tribunal, consistent with other bodies likely to be assumed into SACAT, such as the Guardianship Board and the Residential Tenancies Tribunal. However, in the interests of expediting the passage of this bill, we would be prepared to agree to the amendment, noting that several submissions, in particular from the legal profession and the Council of Australasian Tribunals, called for this.

The Hon. S.G. WADE: I thank the minister for her comments and clarify that the opposition will be moving amendments for the president and deputy president's remuneration to be determined by the Remuneration Tribunal but accepting the point the minister makes that a number of other tribunals have other arrangements. Also because of the point that the Hon. Mark Parnell raised about the sessional nature and the diversity of these tribunals, we will not be pursuing Remuneration Tribunal determinations for ordinary members.

Amendment carried.

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

Amendment No 6 [Wade–1]—

Page 9, line 26—Delete 'or the District Court'

I suggest to the council that it is consequential.

Amendment carried.

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

Amendment No 7 [Wade–1]—

Page 9, lines 27 to 29—Delete paragraph (b) and substitute:

(b) the person, with the approval of the Governor, resigns as President by written notice to the Attorney-General; or

As originally drafted, a person who was appointed as president of the tribunal, but at some point resigned subsequently, would maintain their tenure and status as a judge of either the Supreme Court or the District Court. The government amendment in the other place sought to insert an additional requirement prior to resignation of the concurrence of the Chief Justice or the Chief Judge as the case requires.

The opposition certainly appreciates the desire of the government and the wisdom of the government not to leave itself open to unplanned additional judicial officers by unexpected resignations as the president of the tribunal. However, we thought that requiring the concurrence of a particular person may, in some circumstances—rare, I am sure—lead to unreasonable lack of agreement. The opposition was reminded of the provisions the government inserted in the District Court Act, section 11(10); if you like, we are trying to manage a similar risk. In that context, the concurrence needed to be of the Governor. We think that that is an appropriate alternative.

The Hon. G.E. GAGO: The government supports this amendment.

Amendment carried.

The Hon. S.G. WADE: I would suggest to the committee that [Wade-1] 8, 9 and 10 are all consequential: [Wade-1] 8 is consequential on Wade amendment No. 1, and [Wade-1] 9 and 10 are consequential on [Wade-1] 5. If the committee is agreeable, I will move all three together as consequential.

The Hon. G.E. GAGO: Yes, consequential, and the government supports all three.

The CHAIR: I understand that. However, the amendment we are about to deal with is at clause 10 and the other two are at clause 14. We will deal with the clause 10 amendment [Wade-1] 8 first.

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

Amendment No 8 [Wade-1]—

Page 9, lines 39 to 41 and page 10, line 1—Delete subclause (1) and substitute:

(1) Before the Governor makes a proclamation under this section, the Attorney-General must consult with the Chief Justice.

Amendment carried; clause as amended passed.

Clauses 11 to 13 passed.

Clause 14.

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

Amendment No 9 [Wade–1]—

Page 12, lines 1 to 5—Delete subclause (6) and substitute:

(6) Without limiting subsection (5), in the case of an appointment under subsection (1)(a), the Remuneration Tribunal may determine that a Deputy President's salary or allowance as a judge will have an additional component on account of holding office under this Act (and the jurisdiction to make such a determination is conferred on the Remuneration Tribunal by this Act).

Amendment No 10 [Wade–1]—

Page 12, lines 18 to 20—Delete subclause (10) and substitute:

(10) Without limiting subsection (9), in the case of an appointment under subsection (1)(b), the Remuneration Tribunal will determine the salary or allowances to be paid to the person on account of holding office under this Act (and the jurisdiction to make such a determination is conferred on the Remuneration Tribunal by this Act).

Amendments carried.

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

Amendment No 11 [Wade-1]—

Page 12, line 41—Delete 'agreement of the Chief Judge' and substitute 'approval of the Governor'

It is not a dissimilar issue to the previous issue in relation to the president, this being in relation to the resignation of the deputy president. I do not know whether the committee is happy for that to be regarded as consequential as well.

The Hon. G.E. GAGO: The government is and we support this amendment.

Amendment carried; clause as amended passed.

Clauses 15 to 18 passed.

Clause 19.

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

Amendment No 1 [AgriFoodFish-1]—

Page 16, lines 29 and 30—Delete 'or advertising under subsection (3)'

I am advised that this is a consequential amendment to a government amendment passed in the other place; this amendment, I am advised, was overlooked in error. The amendment applies to clause 19 of the bill. Clause 19 provides for the appointment of nonjudicial members of the tribunal. Senior and ordinary members must be legal practitioners with at least five years' experience or have extensive or special knowledge or experience involving any class of matters which can be dealt with by the tribunal.

By way of background, the government amended No. 30 in the other place, removed from clause 19 of the bill as required that in order to select a person for appointment as a senior or ordinary member of the tribunal the minister must advise for applications from appropriately qualified persons to be considered for selection. The rationale for this amendment was that the technicalities of the appointment process for senior and ordinary members did not need to be set out in legislation. Specifically this amendment seeks to remedy the error of omission in the other place to make the consequential amendment to clause 19(7) by deleting the reference to 'or advertising under subsection (3)'.

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

Amendment carried.

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

Amendment No 12 [Wade–1]—

Page 16, lines 36 to 39—Delete subclause (10) and substitute:

(10) A senior member or ordinary member of the Tribunal—

(a) must advise the President of the Tribunal of the nature of any paid employment or professional work undertaken outside his or her duties as a member of the Tribunal; and

(b) must not engage in any such employment or work if the President informs the member that, in the President's opinion, to do so would or may conflict with the proper performance of the member's duties of office.

Clause 19(10) requires that tribunal members can only perform work outside the tribunal that has been positively approved by the president. On the one hand, there is a risk of a president being unreasonable—and the beauty of not having a president at the moment is that we cannot offend him or her—and on the other hand there is a risk of a president being overwhelmed by a large number of approvals, particularly for part-time specialist members who may well undertake a range

of consultancy work. As the Hon. Mark Parnell indicated, many tribunal members of established tribunals have their tribunal work as a part (and possibly a minority part) of their total work involvement.

This was another of the concerns raised with the opposition by the Council of Australasian Tribunals. In order to maintain the disclosure of the work that could lead to a conflict of interest while reducing the risk of bureaucratic restrictions being placed on tribunal members, the opposition proposes amendments to introduce Western Australian-style provisions which allow the president to veto employment but do not require prior approval.

In addition, I propose that tribunal members be allowed to disclose their external work to the president as a category of work rather than as specific instances within that field to the extent that that is consistent with probity. We think that strikes a balance between what is proposed in the bill and will ensure that outside employment is not unreasonably held up while still ensuring that genuine conflicts of interest are managed.

The Hon. G.E. GAGO: The government supports this amendment. It is the government's view that this amendment is not going to significantly change the operation of clause 19(10) in requiring notification and effectively approval for members to engage in specified outside work; however, we are willing to agree to this amendment in the interests of securing passage of the bill.

The Hon. M. PARNELL: I want to put a couple of things on the record as well. The Greens also are supporting this measure. It has just occurred to me that while I do not have any particular conflict of interest in relation to this matter, I should put on the record that my wife was deputy president of the Guardianship Board for many years and a senior member of the Residential Tenancies Tribunal for 14 years.

Members interjecting:

The Hon. M. PARNELL: No, but these were years ago! The relevance to this amendment is that I know from that personal experience that both those positions were part-time and certainly my wife had other work, including university lecturing and things like that, and it would be unreasonable for that veto power to be exercised unreasonably.

I think the way the Hon. Stephen Wade has put this, that the person notifies the nature of the work and then there is the power if there is a conflict for the president to determine that that is not appropriate—and you would hope that someone who said, 'Look, I am happy to do my two days a week doing residential tenancies work and the other three days a week I am going to be a property manager for a real estate agent' would be clearly viewed to have a conflict and that it would be inappropriate. I appreciate that it is everyone's intention to make this provision sensible, and I think the opposition's amendment improves the wording that was in the bill as presented to us originally.

Amendment carried; clause as amended passed.

Clauses 20 to 68 passed.

Clause 69.

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

Amendment No 1 [AgriFoodFish–2]—

Page 38, after line 37—Insert:

(3) This section does not apply in any circumstances prescribed by regulations made for the purposes of this subsection.

This amendment is moved as an alternative to Wade amendment No. 13, which opposes clause 69 of the bill abrogating the privilege against self-incrimination. Clause 69 of the bill abrogates the privilege against self-incrimination in that it states that a person is not excused from complying with a requirement under the SACAT Act to answer a question or produce a document or other evidence on the grounds that to do so might incriminate the person or render the person liable to a penalty. However, as a safeguard for that person, clause 69 provides that this evidence cannot be used against a person in any criminal proceedings other than for perjury or giving a false or misleading answer.

The government has relied on the precedents in equivalent generalist tribunals for including a provision abrogating the privilege against self-incrimination in tribunal proceedings, both in the WA State Administrative Tribunal and the Victorian Civil and Administrative Tribunal. Their

establishment acts abrogate the privilege against self-incrimination in the same way that we are proposing in this SACAT bill.

There are arguments as to why abrogation is appropriate for disciplinary proceedings, which will form a significant part of the tribunal's work; for example, the argument that part of submitting to an occupational licensing regime includes submitting to a requirement to provide documents and answer questions about how you have been practising in that occupation and a recognition that these documents may be the only evidence on which it could ever be hoped to succeed in disciplinary action against a licensee.

In the interests of securing passage of this bill, the government is moving this alternative amendment that would allow for the abrogation to be disapplied to certain types or streams of tribunal work. This recognises that once final decisions are taken as to which existing bodies and matters are to be assumed by SACAT it may be determined, after detailed consultation, that it would not be appropriate to abrogate the privilege against self-incrimination for that type of matter. So I recommend to members this alternative to the Hon. Stephen Wade's amendment No. 13.

The Hon. S.G. WADE: I am sure the Clerk will tell me if I should be doing this another way. In speaking against the amendment I will effectively be arguing the case for my other amendment, which is to delete the clause. The government's bill, as it stands, proposes to constrain the privilege against self-incrimination within the tribunal.

In response to my amendment to protect the privilege, the government has moved this additional amendment to allow the privilege to be restored at the whim of the government by regulation. In a moment I will explain why the opposition considers it important to protect the privilege, but I humbly suggest to members that, if they want to protect the privilege, they should vote against the government amendment and for my motion to delete the clause. I propose that we delete the clause and consider what privileges are appropriate in each jurisdiction in the context of future bills that will confer jurisdiction.

The privilege against self-incrimination has been repeatedly whittled away by this government, and this council increasingly is standing against that trend. The honourable minister in her comments in support of her amendment made a couple of points to which I would like to respond. First, she mentioned that the government was relying on interstate precedents. I think it would be fair to say that this bill particularly relies on Western Australian precedents.

It was interesting that in the last amendment, the amendment in relation to how external work was to be notified to and approved by the president, the government chose not to follow the Western Australian precedent, and in that context the council accepted an opposition amendment that chose to do so. I make the point that we have chosen precedents when it suits us and not accepted precedents when it does not suit us.

We in South Australia in this parliament, and particularly in this council, have increasingly taken a stand to protect the privilege against self-incrimination. We are not alone in parliaments in that regard: a number of other parliaments in Australia have also had cause to stop and reflect on whether the trend towards abrogation in recent decades is helpful.

For our part, the Liberal opposition in this parliament explicitly considered this issue in 2011, and since then we have consistently sought to protect the privilege. We have opposed the removal of the privilege against self-incrimination in a range of bills, including the Natural Resources Management (Review) Amendment Bill 2013, the Burial and Cremation Bill 2013, the Work Health and Safety Bill 2012 and the Electrical Products (Energy Products) Amendment Bill 2011.

As members would be aware, the opposition's basic approach is that we do not support the abrogation of the privilege, unless there are strong policy grounds to do so, and we have supported the abrogation of the privilege in relation to, for example, drinking water supply. The Liberal Party has often made a point of defending the privilege against self-incrimination in this place. Unfortunately, it was only in the last sitting week that I had to argue in defence of the right again during the debate on the Legal Practitioners Bill 2012.

The government's disregard for the privilege was highlighted by the Attorney-General's public attacks on the opposition for protecting people's legal rights. The Legislative Council has acted as a bulwark protector, and we urge the council to do so again. Some people suggest (and I thank the government that it did not argue this today) that the privilege is an anachronism of a

previous time. In a modern age, it is the opposition's view that it is a key protection of the accusatorial system of justice.

A fundamental principle of that system is that the prosecution bears the onus of proving to the relevant threshold that an accused is guilty of an offence with which he or she has been charged. The principle of the presumption of innocence is said to undergird the privilege. Those who allege the commission of offence should not be able to compel the accused to provide evidence of his or her own guilt. The privilege also helps to prevent against abuse of power; it helps protect the quality of evidence; and, in legal terms, it is said to help avoid the cruel trilemma.

The Liberal Party's opposition to seeing this privilege whittled back in our view is part of the need for enduring protection of the fairness of our legal system. The Law Society's submission of 19 August 2013 on this bill specifically addressed this point. It reads:

> Despite its more limited heading, this clause prevents a person from relying upon either the privilege against self-incrimination or the privilege against self exposure to penalties.

I pause to say that the Law Society, of course, was referring to an earlier draft. I assure members that this is the clause to which it is referring. It continues:

> Clause 72(2) prevents answers given, etc, from being relied upon in most criminal proceedings against the person. There is no equivalent in relation to other proceedings in which a person might be exposed to a penalty, or in which civil liability might flow from an answer, etc, in relation to which the privilege against self-incrimination or the privilege against self-exposure to penalties might, but for cl 72(1), have been claimed.
>
> We question whether it is really appropriate that the Tribunal's powers extend to requiring persons to answer questions in such a way as to override long-established common law rights, such as the right against self-incrimination and the right against self-exposure to penalties. Those are compulsory powers that are not generally available even to the Supreme Court or other courts of law. Such powers are often conferred on investigative or intelligence bodies, but those bodies serve a purpose that is quite different from resolving disputes in the manner of a court or the Tribunal.

However, whereas in past bills members had a clear idea of the circumstances where the privilege was being removed, in this bill we do not even have the public policy grounds on which we can, if you like, determine the balance. We have a framework bill that we are taking on, and we are not even faced with the balancing of policy priorities.

The minister did use the example of disciplinary tribunals as a case where the government may want to argue that the privilege against self-incrimination be wound back, but I would remind members that the first two tribunals the government is considering—the Residential Tenancies Tribunal and the Guardianship Board—are not disciplinary tribunals.

I suppose, to put it simply, if we want to take a carte blanche blank cheque approach, let's take a carte blanche, blank cheque approach to maintaining well-established legal principles of our English common law system. If there is a case to wind that back on a case-by-case basis, let's hear the argument then.

I would remind the council that we are being asked to take away a fundamental right not in urgent circumstances to protect public safety but for disputes where individuals are seeking an affordable avenue to exercise their rights. As I said, this bill is an enabling statute and we do not know which tribunals will in fact be wound into the SACAT. We have not been told which tribunals it will be applied to. We will need to look at each case.

Could I take a moment to reflect on the practical implications of the government's proposed approach to this. They are saying that the default position should be abrogation but that a regulation could be issued which, if you like, reinstates the privilege. It goes without saying to members of this house that regulations are issued by the executive. The parliament can disallow them, but if we want to reassert the privilege against self-incrimination in a particular tribunal and the government chooses not to issue a regulation, we are stymied. There is not a way that we can control the regulation under the clause that has been put in.

Of course, the government could respond to that by saying, 'Well, you could try and amend the enabling act,' but, again, it is a government veto because, even if this house does change it, the government has to agree to the amendment in the other place. I would suggest to the council that, rather than the government's starting point of abrogation, we should use the starting point of the maintenance of the privilege.

Whether or not the privilege needs to be abrogated should be done on a case-by-case basis and not with a government veto where the default position is that the privilege will be

abrogated. I reiterate that I would encourage those members who are seeking to maintain the privilege to vote against this amendment put forward by the government and consider favourably my amendment to delete the clause.

The Hon. M. PARNELL: The line proposed by the Hon. Stephen Wade—that is, to reject the government amendment, which he refers to as the government veto and to support his amendment, which is to completely delete clause 69—does have a deal of merit. Just to remind members, the privilege against self-incrimination needs to be cross-referenced with the obligation in clause 40 for people to answer questions. Basically, clause 40 provides that if you do not answer the questions you can be guilty of an offence and incur a $25,000 fine or go to gaol for one year unless you have a reasonable excuse.

A reasonable excuse, under the common law, is, 'Well, I don't have to incriminate myself,' so if we take out clause 69 that reasonable excuse remains. I also accept what the minister has said, which is that there may well be some categories of work that this tribunal does where it is important to abrogate that privilege. Whilst that may have merit in disciplinary proceedings—someone's entitlement to a trade accreditation, for example—it is pretty hard to see how it would apply in relation to questions about a person's behaviour that suggests whether or not they deserve to stay in a mental institution or whether they should be allowed to go home.

Another set of situations would be questions about a landlord's practice in issuing receipts and whether they self-incriminate themselves by saying, 'Well, I never did give receipts even though I was obliged to.' There is a range of situations you can consider where the answer would be different from the question, should the principle that you do not have to incriminate yourself apply. It seems to me that all is not lost if we pursue the line that the Hon. Stephen Wade suggests, because every single act of parliament that is going to confer jurisdiction on this tribunal will have evidentiary principles in it which will be read in conjunction with this bill once it is passed.

When we come to look at the transfer of responsibility from the Residential Tenancies Tribunal to this tribunal, we can reconsider self-incrimination. When the mental health legislation comes across, we can consider it again, and the same with licensing, trade accreditation and disciplinary matters. It seems to me that it is more appropriate, rather than having a carte blanche approach, to look at each jurisdictional area that is in the domain of this new tribunal and decide what particular rules should apply to that sub-part of the jurisdiction. The Greens will be doing what the Hon. Stephen Wade suggests, that is, voting against this government amendment, and we will be supporting the opposition amendment to delete clause 69 in its entirety.

The Hon. D.G.E. HOOD: I have always taken the view, and it may be somewhat simplistic but I think there is merit in it, that if somebody does not do anything wrong they have nothing to hide and, therefore, they should be able to answer questions put to them about their behaviour, their conduct, whatever it may be. However, I think in this particular case, there is merit for this situation to apply in the individual jurisdictions rather than as a sweeping reform across all the jurisdictions and that is my understanding of what the Hon. Mr Wade's amendment does.

I think it likely, should we look at it on an individual basis across those jurisdictions, that Family First would support removing the right to silence, etc., in certain circumstances—perhaps in each and every one of them—but, as the Hon. Mr Parnell said, it does make more sense to us at least to do that at the individual level rather than across the board. For that reason, we will be supporting the Hon. Mr Wade's amendment.

The committee divided on the amendment:

AYES (6)

Finnigan, B.V.	Gago, G.E. (teller)	Hunter, I.K.
Maher, K.J.	Wortley, R.P.	Zollo, C.

NOES (13)

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

PAIRS (2)

Kandelaars, G.A.	Bressington, A.

Majority of 7 for the noes.

Amendment thus negatived; clause negatived.

Clause 70.

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

Amendment No 14 [Wade–1]—

Page 39, line 2—Delete 'Unless it would be contrary to section 69, a' and substitute 'A'

I suggest this is consequential to amendment No. 13 [Wade-1].

The Hon. G.E. GAGO: The government considers this to be consequential. Because it is a drafting issue, we now have to support it, even though we oppose it in principle.

Amendment carried; clause as amended passed.

Clause 71.

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

Amendment No 2 [AgriFoodFish–1]—

Page 40, lines 1 to 4—Delete subclause (8)

I believe that this is consequential on amendment to clause 71 of the bill.

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

Amendment carried; clause as amended passed.

Clauses 72 to 77 passed.

Clause 78.

The CHAIR: The Hon. Mr Wade, we are going to need a bit of clarification on this.

The Hon. S.G. WADE: I am happy to give that, Mr Chairman. I indicate that I will not be moving amendment No. 15 [Wade-1], and I now move:

Amendment No 1 [Wade–2]—

Page 43, line 4—Delete 'made available to act as members of the staff of the Tribunal' and substitute:

selected by the Registrar with the concurrence of the Chief Executive of the Department

In speaking to the amendment, I would like to thank the government for working with the opposition to understand what we were trying to achieve. Certainly, we appreciate that the new amendment is a simpler and clearer reflection of our original intent. The bill, as this council received it, said that staff will be made available to the tribunal. While I agree that the staff of the tribunal should be public servants within the department, I think it is important to ensure that the tribunal can select staff.

Members will remember that this is an issue that we discussed in the context of the ICAC. It is one thing for the ICAC to inherit staff from all over the place, but it is important that they be subject to the direction of the ICAC and so forth. The bill defines department as:

...the administrative unit of the Public Service that is, under the Minister, responsible for the administration of this Act;

At present I understand that is the Attorney-General's Department. Just as we thought it was important to protect the independence of the tribunal by having salaries set by the Remuneration Tribunal, it is the opposition's view that the tribunal's independence would also be strengthened by the staff being selected by the registrar staff. However, we also recognise that it would be unreasonable to allow the tribunal to appoint staff at the expense of the department without their agreement, so the amendment I have moved requires the concurrence of the chief executive of the department for any staffing selections made.

As I said at the beginning of my remarks, I thank the government for working through the issues with us, and I hope that in its final form it meets with the approval of the government and other members of this council.

The Hon. G.E. GAGO: The government rises to support this amendment; as the Hon. Stephen Wade has outlined, it as an alternative to his amendment No. 15 from his first set. We indicated opposition to that, and we appreciate the Hon. Stephen Wade's efforts to remedy the issues with this amendment, and we are pleased to support it.

Amendment carried; clause as amended passed.

The Hon. S.G. WADE: There are no further amendments, and this may be more of a third reading comment, but—

The CHAIR: Well, why don't we do that at the third reading?

The Hon. S.G. WADE: I just thought I would put on the record on behalf of the opposition that, through processing this bill, it was clear that it was a quality bill. It received very strong support from the stakeholders, in spite of the fact that they suggested tweaks, so I commend the officers who have been involved in the project, obviously for some years. I also thank the government for working through with the opposition issues that both we and stakeholders had raised and hope that the house might think favourably on our amendment.

Remaining clauses (79 to 97) and title passed.

Bill reported with amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (16:40): I move:

That this bill be now read a third time.

Bill read a third time and passed.

PARLIAMENTARY COMMITTEES (FUNCTIONS OF ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 July 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) (16:42): I do not believe that there are any further second reading contributions to this bill. I thank honourable members for their contribution and for the qualified support that was given. I look forward to this bill being dealt with expeditiously through the committee stage.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.L. BROKENSHIRE: With respect to clause 1, and given the time before the next state election and the fact that I am advised—

Members interjecting:

The Hon. R.L. BROKENSHIRE: Third Saturday in March next year, if you're interested. Whilst I am a strong advocate for a separate standing committee for primary industries because of its huge importance to our state, where one in four jobs directly and indirectly is created because of agriculture, I am wondering whether the minister wants to pursue this any further in clause 1 because I cannot see any purpose in it because no-one is going to be able to do anything on this until after the election, so I would like comment from the minister.

The Hon. G.E. Gago interjecting:

The CHAIR: Order! The Hon. Mr Brokenshire, I have given you the call to move your amendment here. Are you moving your amendment or not?

The Hon. R.L. BROKENSHIRE: I just wanted to flag that I still move:

Amendment No 1 [Broke–1]—

Page 2, lines 3 and 4—Delete '*Environment, Resources and Development Committee*' and substitute:

Natural Resources Committee

I move this amendment because I believe that if there is to be a reference to primary industries between now and the next state election, my amendment fits better with the NRC than it does with the ERD Committee.

The Hon. G.E. GAGO: The government opposes this amendment. The amendment bill recognises the good work of the parliamentary Select Committee on the Grain Handling Industry that recommended amongst other things that the South Australian parliament establish a standing committee on primary industries to provide a forum to monitor and keep the parliament informed of developments and issues relating to primary industries.

The government has exercised its prerogative to determine how best to achieve the outcome envisaged by the select committee and it opted to empower the Environment, Resources and Development Committee (the ERD Committee) to deal with matters relating to primary production. Even though the functions of the ERD Committee are already broad enough in scope to embrace primary production technically, we wanted to make sure that we clarified this beyond doubt.

While the ERD Committee has already taken on specific inquiries into some matters relating to primary industries—for example, biosecurity fees and aquaculture—the government believes that giving the ERD Committee the statutory imprimatur to inquire into, consider and report on any matter concerned with primary production better recognises that the primary production sector is a significant sector to the state's economy and its general wellbeing and is a cornerstone of rural and regional communities across South Australia.

As a dairy farmer, I know the Hon. Mr Brokenshire will know that primary production is about much more than just natural resources, and I acknowledge that he has been a tireless advocate for those dairy farmers whose current financial circumstances have been quite challenging, although there is a ray of sunshine on the horizon which is very pleasing. So, why would we want to give the Natural Resources Committee carriage of this matter when the Parliamentary Committees Act constrains its deliberations to matters relating to soil, water resources, geological features and landscape, native veg, native animals and other native organisms and ecosystems? It is really not something that we want to support.

I cannot look beyond the farm gate to the broad gamut of issues that impact on primary production in the way the ERD Committee can, so supporting this amendment would be a retrograde step and I think we would be selling farmers short. I know the Hon. Robert Brokenshire would prefer a separate select committee; nevertheless, this government wants to make the best of the committee structure that we already have in place.

I have spoken to the Chair of the NRM committee and the Chair has consulted, I understand, with all members of the NRM committee currently and no-one on that NRM committee currently supports the scope of the NRM committee being extended to include primary products, except for—

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

The Hon. G.E. GAGO: Let me finish—except for the Hon. Robert Brokenshire. He is the lone voice on that NRM committee supporting any change to those terms of reference. I guess the bottom line is that it is important that this role or function is clarified and clearly identified somewhere in our committee structure. The government obviously prefers it to be with the ERD Committee, and for those reasons we are opposing the Hon. Robert Brokenshire's amendment.

The Hon. D.W. RIDGWAY: I can tell that the Hon. Robert Brokenshire is upset. From the opposition's point of view, I can indicate that we also will not be supporting the Hon. Robert Brokenshire's amendment. I may as well make some comments while we are doing this. We will not be supporting the government bill at all. I think they have actually missed the point that the select committee of the House of Assembly asked for a standing committee with primary industries as its primary focus.

What the minister could have done is said that they would establish a primary industries committee and natural resources management or environment, resources and development. She is

the minister. She said today that one in five jobs in the state belongs to food or the flow-on effects of food in food manufacturing and food delivery. It is worth 25 per cent to our state's economy and it deserves to be the primary reference with either natural resources management or environment, resources and development as the secondary focus.

The opposition is going through an internal policy development process at the moment, too, where we are looking at the structure of committees. We are now 135 days, one hour and eight minutes from the close of polls at the next election. We have only six sitting days after today, so whatever the outcome of this ballot today will have no impact on future operations between now and the election.

So I urge members not to support the Hon. Robert Brokenshire's amendment but also not to support the government's bill. We will, I suspect, probably before the election, have an indication of what we will do in a policy sense in relation to committee structures if we are fortunate enough to win the next election. With those words, I urge members not to support the government. We will have a better and closer look at the structure of committees in this parliament after the election.

The Hon. M. PARNELL: The Greens will not be supporting this amendment. The minister gave some fairly cogent reasons why it is better that the Environment, Resources and Development Committee of parliament retain its brief to look into matters concerning primary production. As the minister pointed out, it is a function that the committee has been exercising already over many years, certainly over my nearly eight years on that committee, some examples being biosecurity fees and aquaculture.

Having said that, the Environment, Resources and Development Committee has on occasion decided that there were parts of its work that better lay elsewhere. Drains, I think, have gone off to the Natural Resources Committee, and that made sense given the range of responsibilities of that committee.

So the Greens' position is that we will not be supporting this amendment but we will ultimately be supporting the bill. I am somewhat surprised that we are even discussing it, because it seems to me that if the bill goes down then the status quo remains and the ERD Committee will continue to deal with primary production matters, so we will be back where we started.

The Hon. R.L. BROKENSHIRE: I ask the minister, given her government's fierce rebuttal of my amendment, whether, first, she can explain why the government is so keen to get up this reference with a standing committee on the eve of an election, because a select committee made a recommendation on this, and yet we have some fairly detailed and serious other select committees that table reports in this house that are ignored by the government. Why is the government all of a sudden rushing around on the eve of an election pushing this in any case?

The Hon. G.E. GAGO: I have to say that it is largely symbolic. Every new government, whether a re-elected government or a newly-elected government, reviews its committee structure. That is a normal function for any new government, and no doubt when the Jay Weatherill Labor government is re-elected we will be looking at our committee structure again.

I feel very strongly that the grains committee did a lot of good quality work. It put down a number of recommendations, many of which we have acted on already, one being to have a select committee for primary production. The current terms of reference for the ERD Committee already allow for that, albeit that it is not overtly expressed in its current terms of reference. It would be most negligent for an outgoing government not to take every action it can to put in place recognition of the importance of our primary sector to be part of our committee structure. That is most important.

It is important as a government that we can tick the box, that we have demonstrated our commitment to do this, albeit there are not likely to be a lot of practical outcomes seen in this particular calendar year. It is negligent of the opposition to be dismissive of this bill. I do not believe they will be, but if they are elected as the new government they will be able to review their committee structure and do exactly as they wish.

Rejecting this bill outright is a slap in the face to our farmers and to our primary producers, and I believe they deserve some recognition. We are not able to establish a new committee at this point in time for them, but I believe they deserve at least some basic recognition in this place, and it is a disgrace that the opposition will not afford that recognition.

The CHAIR: Before I call any further speakers, I point out that the bill has three clauses. The bills with the smallest number of clauses seem to be taking the largest amount of time to deal with.

The Hon. D.W. RIDGWAY: I may just make a couple of comments in response to what the minister said, namely, that we should be ashamed of ourselves for not supporting this legislation. I actually spoke to the members of the committee from the opposition side and to the Chair, Mr Geoff Brock, member for Frome, about exactly what they wanted. I asked Mr Brock and the opposition members what they wanted, and they said that they absolutely wanted—and the evidence they took supported—a stand-alone committee with a primary reference for primary industries.

That is actually what the farmers and the people who gave evidence to that committee said they wanted. The government, again, is not listening. That is why we are opposing it, that is why we do not support Robert Brokenshire's amendment: because we want to deliver exactly what that committee recommended. Piccolo was on that committee as well, wasn't he?

The Hon. R.L. BROKENSHIRE: Did a good job, too. I declare, as I always do, my interest as a farmer, but to the minister for primary industries, on behalf of the government, does the minister have any concerns as to what will be a situation where the primary industries may be jeopardised by going into a standing committee whose number one focus is on the environment? There are a number of us in agriculture who want a balance between a sustainable environment and having flourishing, growing and strongly sustainable primary industries in this state.

I know some of my farming colleagues—and I declare, myself—have concern that it may end up, if this reference goes into the ERD, that environmental matters again override primary industries and we again are pushed further down and have bigger slaps in our face as a result of the restrictions that often happen with farming practices through the number one focus being on the environment and not primary industries. I would like a response to that for the public record.

The Hon. G.E. GAGO: The short answer is, no, not at all. I believe that it can be enhanced by the relationship. The Hon. Robert Brokenshire would absolutely acknowledge that the success of primary production relies heavily on environmental values. They are in direct partnership with each other, not in competition, and we have to shift our mindset because it is the quality of our soils, the quality of our air and the quality of our water that our primary producers heavily rely on. It is a partnership and a collaboration that needs to continue to be enhanced and not to be set up against each other in competition.

Amendment negatived; clause passed.

Clause 2 passed.

New clause 2A.

The Hon. M. PARNELL: I move:

Amendment No 1 [Parnell–1]—

Page 2, after line 8—Before clause 3 insert:

2A—Amendment of section 8—Membership of Committee

Section 8(4)—delete 'House of Assembly' wherever occurring and substitute in each case: Legislative Council

This is a very simple amendment. It simply replaces the words 'House of Assembly' wherever they occur with 'Legislative Council'. That very simple change would have the effect of making this committee a Legislative Council-administered committee. What that would mean—and the Hon. Rob Brokenshire should pay attention to this—is that it would not be a government-dominated committee. It is a committee of six people.

The Hon. S.G. Wade interjecting:

The Hon. M. PARNELL: I am happy to go in open competition with the Hon. Rob Brokenshire for Chair of the Environment, Resources and Development Committee. In all likelihood it would be two government, two opposition and two crossbench members of the committee. That is pure speculation—I do not want to pre-empt the will of the Legislative Council—

The Hon. S.G. Wade: Or the electorate.

The Hon. M. PARNELL: —or the electorate, for that matter. Certainly, it would have that effect. It would no longer be government controlled. The Chair would be provided by the Legislative Council and that would mean—and this is most important—that in decisions to, for example, overturn planning schemes, the power in the Development Act would become effective.

All of a sudden, if the Legislative Council controlled this committee, if that committee felt that a rezoning exercise were inappropriate, then it would have the ability to refer it to both houses of parliament and parliament would decide whether a rezoning exercise should go ahead or not. At present, that power is illusory and, as I have said probably four million times in this chamber, since 1994, the parliament has never rejected a rezoning because it has never got through the ERD Committee. It has never got through ERD because—

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

The Hon. M. PARNELL: Anyway, the vast bulk of its history, it has been government dominated—not always but mostly it has. This simple amendment would make this a committee that will, if this bill passes, have express power to deal with primary production. It would make it a much more relevant and more democratic committee that would have real power for a change.

The Hon. D.W. RIDGWAY: I indicate the opposition will not be supporting the Hon. Mark Parnell's amendment. As I indicated earlier, we are looking at the structure of all the committees of the parliament, and we will be presenting something later to the people as we get closer to the election in that respect.

The Hon. G.E. GAGO: The government opposes this amendment. Put simply, if it ain't broke, don't fix it. The current arrangements work extremely well. The Development Act requires the minister to whom the act is committed, among other things, to take reasonable steps to consult with the ERD Committee before the minister adopts or varies the codes of conduct, under 21A, and refer a development plan amendment approval by the minister, under subdivision 2, to the ERD Committee to consider within 28 days of approval.

In the case of the development plan amendment, certain actions follow depending on whether the ERD Committee resolves that it does not object to the amendment or resolves to suggest amendments to the relevant department as amended, or resolves to object to the amendment. I think it is a bit rough to suggest that the ERD Committee's independence and integrity are somehow compromised because the presiding member must be one of three members from another place.

Honourable members who have taken time to scrutinise the Parliamentary Committees Act will notice that presiding members of operational committees of parliament—Economic and Finance; ERD; Public Works; Occupational Safety, Rehabilitation and Compensation; and Natural Resources committees—tend to come from another place, while the presiding members of review committees of parliament (Legislative Review and Statutory Review) tend to come from this house.

As I said, it has been in place, it is working well, and I believe the honourable members who serve on the lower house committees would have to acknowledge the level of high integrity of officers of those committees.

The Hon. M. PARNELL: I will not delay the chamber on this; I can see where the numbers lie. I remind members that we will have another opportunity to consider this question on private members' day next Wednesday. That is all I wanted to say about that. If I could get some guidance from you, Mr Chairman, I have a nagging suspicion that my next amendment might have some difficulties. Will I be able to speak briefly to it before you rule it out of order?

The CHAIR: No.

The Hon. M. PARNELL: I might make some observations now before moving on. All members know this, but one of the great consolation prizes in this place is that if you miss out on being a minister in government you get a car and a driver if you score the gig as the Chair of the ERD Committee or the Economic and Finance Committee.

The CHAIR: The Hon. Mr Parnell, you are now speaking to a future amendment under your name which will be ruled out of order. We are still dealing with your first one, but my view will not change once we get to the next one, I can assure you. Are there any further contributions?

New clause negatived.

Clause 3.

The CHAIR: The Hon. Mr Brokenshire, I understand that you will not be pursuing your amendment.

The Hon. R.L. BROKENSHIRE: No, sir, given the course of this debate and the business still to get through the house.

Clause passed.

New schedule 1.

The Hon. M. PARNELL: I move:

Amendment No 2 [Parnell–1]—

Page 2, after line 11—After clause 3 insert:

Schedule 1—Related amendment to *Parliamentary Remuneration Act 1990*

1—Amendment of section 4A—Non-monetary benefits

Section 4A—after subsection (1) insert:

(1a) However, a determination of the Remuneration Tribunal must not provide for the provision of any motor vehicle, or services relating to the provision of a motor vehicle, to a member by virtue only of the fact that the member holds office as a member of a committee under the *Parliamentary Committees Act 1991* as specified in the Schedule.

2—Amendment of section 6A—Ability to provide other allowances and benefits

Section 6A—after subsection (1) insert:

(1a) However, the Parliament or the Crown must not provide for the provision of any motor vehicle, or services relating to the provision of a motor vehicle, to a member by virtue only of the fact that the member holds office as a member of a committee under the *Parliamentary Committees Act 1991* as specified in the Schedule.

This amendment removes the consolation prize of car and driver from the chairpersonship of the ERD Committee. It is an absolute rort. It has nothing to do with the obligations of members—

The CHAIR: Order, the Hon. Mr Parnell!

The Hon. M. PARNELL: I could go on, but—

The CHAIR: You could, but I will not let you. These amendments insert a schedule 1 which concerns an amendment to the Parliamentary Remuneration Act and the provision of chauffeured motor vehicles to presiding members of certain standing committees.

I rule that these amendments cannot be considered in this legislation as they are not within the Order of Reference. Not even a prior instruction would give the power to the Committee of the Whole to consider these amendments, as an instruction must be relevant to the subject matter of the bill and does not allow an amendment to the title to introduce a subject matter which is different from the bill in question.

Title passed.

Bill reported without amendment.

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) (17:11): I move:

That this bill be now read a third time.

The Hon. M. PARNELL (17:11): The Hon. David Ridgway said that his party would be considering the committee structure and how it works, and I would hope that, in the lead-up to the next election, the government would as well. I certainly would not dream of dissenting from the President's ruling—it was most correct—but I urge my colleagues in the other parties to seriously consider whether taxpayers' money should be spent on consolation prizes of cars and chauffeurs that are unrelated to the work of being a Chair of a committee.

It is an absolute rort. I know it goes back in history to disappointed members who did not get the job of minister. They needed to give them something to shut them up and keep them placid on the backbench, so they gave them a car and driver. It is a rort, it is a waste of taxpayers' money and it must end. Here endeth the sermon.

The council divided on the third reading:

AYES (8)

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

NOES (10)

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

PAIRS (2)

Kandelaars, G.A.	Bressington, A.

Majority of 2 for the noes.

Third reading thus negatived.

STATUTES AMENDMENT (ARREST PROCEDURES AND BAIL) BILL

Adjourned debate on second reading.

(Continued from 29 October 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) (17:18): I do not believe there are any further second reading contributions in relation to this bill. I thank honourable members for their contributions. The core proposal of this bill is to achieve greater efficiencies in the bail process by amendments to the Bail Act 1985 and the Summary Offences Act 1953, and to clarify some ambiguities in the Bail Act 1985 that have led to some variations in court practice.

This legislation will have benefits for police and community alike, and I am advised that further amendments are being filed in this place by the Hon. Stephen Wade. I understand the government will be supporting these amendments during the committee stage, just so he knows in advance and can prepare his debate notes accordingly.

Bill read a second time.

In committee.

Clause 1.

The Hon. S.G. WADE: I need to correct the record. In my comments on Tuesday, I informed the house that the police officer who had carriage of this bill had been working on it for seven years. I am advised that, in fact, he has been working on it for eight years.

Clause passed.

Clauses 2 to 8 passed.

Clause 9.

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

Amendment No 1 [Wade-1]—

Page 5, line 10 [clause 9, inserted section 13(6), definition of *remote area*, (a)]—Delete '400' and substitute '200'

I choose to be brief in addressing this amendment, but for the sake of the record and my mother, who often reads *Hansard*, I indicate that this amendment proposes to change the definition of

'remote area' from 400 kilometres between a police station or designated facility and a Youth Court or Magistrates Court, as the case requires, to 200 kilometres from the relevant court.

Consultation with the Law Society indicated its view that the current definition of '400 kilometres' was too great a distance and does not encompass highly populated areas of country South Australia, such as Ceduna, Roxby Downs and Leigh Creek. Coober Pedy is the largest population centre that comes within the current definition of the remote area. This amendment supports the intent that there will be greater utilisation of technology, and we trust that it will be of benefit to citizens, police and the courts. I thank the government for the indication of its support, and I urge honourable members to support the amendment.

The Hon. G.E. GAGO: I indicate that the government supports this amendment which changes the definition of 'remote area' by changing the distance from 400 kilometres to 200 kilometres when allowing for bail applications to be made by audio link. The amendment is supported as it is going to allow additional people arrested and refused bail in remote locations to be able to make a bail application by audio link without having to come before the court or a police station, thereby saving time and resources. For those reasons, we support this amendment.

Amendment carried; clause as amended passed.

Clause 10.

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

Amendment No 2 [Wade-1]—

Page 7, line 7 [clause 10, inserted section 15(8), definition of *remote area*, (a)]—Delete '400' and substitute '200'

I would suggest that this amendment is consequential.

The Hon. G.E. GAGO: This amendment is consequential.

Amendment carried; clause as amended passed.

Remaining clauses (11 to 17), schedule and title passed.

Bill reported with amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (17:24): I move:

That this bill be now read a third time.

Bill read a third time and passed.

CRIMINAL ASSETS CONFISCATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 November 2012.)

The Hon. S.G. WADE (17:25): I rise on behalf of the Liberal opposition to indicate our support for the bill. The bill makes sensible amendments to the act to ameliorate some unjust elements of the current scheme consistent with judicial determinations. The bill is also identical to the version of the bill created by Liberal amendments to the Criminal Assets Confiscation (Prescribed Drug Offenders) Amendment Bill 2012 in September 2011 and March 2012.

The first change is to the use of pecuniary orders where a court orders that a sum of money be paid equivalent to the proceeds or instruments of crime. The current act provides that a pecuniary order must be made in relation to proceeds or instruments of crime; however, the courts have interpreted that the lack of discretion in this provision and the inability to consider public interest or ameliorating factors means the law results in harsh consequences.

Further, the courts found that the provisions have the potential to bring the administration of justice into disrepute and seem inconsistent with the parliament's intention when viewed together with statutory forfeiture provisions. The bill proposes to amend pecuniary order provisions to allow for this court discretion.

Another change relates to the forfeiture of property. Property forfeiture under the act is automatic following the expiry of a restraining order period on an asset. If an application to exclude

property from the order has not been accepted within the expiry time, a literal reading of the act would mean that the property is permanently forfeited. It has been identified that this may cause an injustice whereby an application is underway but not yet resolved for property to be excluded.

If the expiry period is reached before the matter has been heard, it might be technically impossible for the application to exclude the property that is subject to the application. The bill seeks to amend the act so that the expiry period for forfeiture is extended while an application is made to have property excluded. This then allows time for exclusionary proceedings to be completed before forfeiture is finalised.

There are also some changes in relation to sentencing. The bill proposes an amendment so that a person cannot receive a discounted sentencing compensation for the forfeiture but then also a discounted forfeiture for the same reason. The bill seeks to amend the act so that the discount is only applied to one or the other, not both. This legislation has been operating for some time in South Australia and over recent years has consistently brought over $2 million in revenue for the Victims of Crime Fund.

By way of an aside, honourable members would have already read the report of the Office of the Director of Public Prosecutions that was tabled earlier this week and it indicated that in the 2012-13 financial year, $2,320,296 was deposited to the Victims of Crime Fund as a result of criminal assets confiscation. The act rightly ensures that those who are caught for criminal acts cannot profit from them and the opposition supports the bill and the technical changes to ensure the act operates as intended.

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) (17:29): I do not believe there any further second reading contributions. I thank the Hon. Stephen Wade for his contribution and the indication of opposition support for this bill. I look forward to it being dealt with expeditiously through committee.

Bill read a second time.

Bill taken through committee without amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (17:31): I move:

That this bill be now read a third time.

Bill read a third time and passed.

MOTOR VEHICLES (LEARNER'S PERMITS AND PROVISIONAL LICENCES) AMENDMENT BILL

In committee.

Clause 1.

The Hon. J.A. DARLEY: I have some questions at clause 1. I would like to make a couple of very general comments about the bill before asking the minister some questions on what appear to be loopholes or unintended consequences of the bill.

Unfortunately, young drivers continue to be overrepresented in motor vehicle collisions, accounting for 12 per cent of our road deaths and serious injuries. The fact that South Australia has the worst fatality rate for the 16 to 19-year-old group of all Australian states and territories, and almost double that of Victoria and New South Wales, indicates quite clearly that something needs to be done. These are alarming statistics. I appreciate that not all young drivers are reckless, and in some instances young drivers will be adversely affected by the new graduated licensing scheme.

That said, the fact still remains that their lack of experience on the roads is a contributing factor to these statistics. The question is: how do we address this problem? My first question to the minister is: are there any statistics available on the limitations previously imposed on young drivers, for instance, with regard to high-powered motor vehicles and, if so, what do those statistics demonstrate? Further, my advice is that under the proposed scheme it would be quite plausible to have a young driver at the wheel of a carload of peers, most of to whom he or she happens to be related.

For example, 18-year-old Tim could be driving with his 19-year-old brother, his girlfriend, their 21-year-old sister and their 19-year-old stepbrother, and this would be considered okay. Similarly, 18-year-old Tina could be driving with her 26-year-old boyfriend, as well as her two 18-year-old friends, both of whom are drunk, but because her boyfriend is not over the prescribed alcohol limit this would also be considered to be acceptable.

Will the minister advise whether any consideration has been given to these sort of scenarios and, if so, how does the government intend to address them? Furthermore, if 18-year-old Lisa is accompanied by Greg, and she elects to be prosecuted because she thought Greg was over 25, who has the burden of establishing that she, as the driver, knew that Greg was not of the required age or, alternatively, is this even a valid defence to the charge?

Lastly, can the minister explain how the Motor Vehicles (Driver Licensing) Amendment Bill, which seeks to provide exemptions from licensing arrangements for Aboriginal people living in remote communities, will fit in with this bill? I appreciate that that bill has only just been introduced this week, but an explanation would be useful in the context of the current debate. Whilst I support the intent of the bill, I think these are very valid questions that need to be addressed.

The Hon. G.E. GAGO: I am sorry, Mr Darley—you have a very quiet voice. What was the third question, please?

The Hon. J.A. DARLEY: Can the minister advise whether any consideration has been given to these sort of scenarios and, if so, how does the government intend to address them?

The Hon. G.E. GAGO: Perhaps in response to the last question first, whilst advisers are organising responses, in relation to the proposed bill and changes to provisions for L and P-plate drivers on the APY lands, it is complementary to this bill. The APY bill is trying to address the issue of the difficulty of having licensed drivers on the APY lands because of the requirement to have supervised licensed driving time with another licensed driver. I have just forgotten the number of hours that you are currently—

The Hon. I.K. Hunter: Seventy-five.

The Hon. G.E. GAGO: Seventy-five, I am advised. In terms of accessibility for learner drivers to have access to a licensed driver to obtain those hours, it is extremely difficult. What we find is people getting in their cars and driving anyway because they need transportation. What is being proposed is to replace that requirement on the APY lands with an intensive training course that the learners would be required to undertake with a very strong emphasis on safety. It is trying to address that particular problem.

In terms of the first question in relation to the statistics and the size of the vehicle, the department has collected these statistics. These figures are for the number of those involved in fatal crashes for the period 2008 to 2012. They show that for metro drivers between the ages of 16 and 19 years, for a four-cylinder car there were 20; for a six-cylinder car there were 13. For 20 to 24 year olds, for a four-cylinder car there were 15 fatalities and for a six-cylinder car there were 15. For rural areas, for 16 to 19 year olds for a four-cylinder car there were 18 fatalities, and for a six-cylinder car there were seven. For 20 to 24 year olds, those figures are almost reversed: for a four-cylinder car there were seven fatalities, and for a six-cylinder car there were 13.

In relation to question 2, which went to the issue of exclusion for immediate family members, the reason for that, I have been advised, is that it has been indicated that there is less likelihood of being distracted with family members in the car compared with a car load of mates and, therefore, less risk of accident. The intention of the exclusion for immediate families was really to enhance the convenience for families who rely on being able to commute children, parents and people backwards and forwards for their commitments and family obligations.

I want to take this opportunity to put on record some answers to questions the Hon. David Ridgway asked during his second reading contribution. Apparently, he raised issues in relation to two to three years on a provisional licence. Extending the provisional licence period will extend the duration of protective conditions, such as the zero blood alcohol limit, speed and vehicle power restrictions, and lower demerit allowance.

Extending these conditions will help to keep novice drivers out of high-risk situations without impinging on their mobility. The minimum provisional licence period is three years in New South Wales, Queensland, Tasmania and ACT, and four in Victoria. All the jurisdictions which have a three or four-year P licence period have much better safety records than South Australia.

Extending the total minimum provisional licence period from two to three years will change the minimum age at which novice drivers can graduate to a full licence to 20 years. There will be no change to the age at which a learner's permit can be obtained, which is 16 years, and there will also be no change to the age at which a provisional licence can be obtained, which is 17 years.

The main point is that by extending the time from two to three years it will not mean that young P drivers are subject to the night and passenger restrictions for three years. The night and passenger restrictions as proposed will only apply to P1 drivers for 12 months. The extension of the P period to three years will mean one year on a P1 and two years on a P2. This will not affect employment or any other access that young P2 drivers currently have. A P2 driver is also not required to display a P-plate. You did not ask a question on proposed night time restrictions; you just indicated that you were not supportive.

The Hon. D.W. RIDGWAY: For the benefit of the committee, the shadow minister, Vickie Chapman (member for Bragg), advised me this morning that the minister has arranged a briefing with the Motor Accident Commission—on Tuesday next week, I think, but I am not sure of the exact date—in relation to the proposed amendments I flagged in the second reading debate so, pending that meeting, I move that we report progress.

Progress reported; committee to sit again.

COMMUNITY HOUSING PROVIDERS (NATIONAL LAW) (SOUTH AUSTRALIA) BILL

Adjourned debate on second reading.

(Continued from 29 October 2013.)

The PRESIDENT: Minister, will you be summing this up?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (17:50): Yes, sir, I will take the opportunity to sum up. Before I commence, however, I would like to take a moment to address some questions raised, I think, by the Hon. Tammy Franks in her contribution.

Clarification has been sought in relation to the government's processes for operating the scheme, which ensures 15 per cent affordable housing targets for all new significant housing developments. The 15 per cent affordable housing inclusion policy was introduced by the Housing Plan for South Australia in 2005. There have been 1,226 new affordable housing outcomes delivered to date, with a further 1,795 under negotiation in future developments. Inclusion of these affordable properties is mandatory in all government land sales and developments by government agencies.

The policy has also been adopted into the planning strategy and, therefore, must be considered by councils when amending their development plans. Consequently, many development plans now have objectives and principles of development control which call for inclusion of at least 15 per cent affordable housing.

Individual developers are asked to prepare an affordable housing plan showing the proposed mixed of affordable rental and affordable home ownership. Developers have several options by which to deliver affordable housing, including to work with a not-for-profit provider to develop affordable rentals, sales of NRAS-funded properties to private rental investors for affordable rental, development of home ownership opportunities and sale to other community and social housing providers.

I understand that not-for-profit providers have been provided with full information on opportunities in new developments and have been invited to participate. Several have taken up that invitation and are working in partnership with developers in Bowden, St Clair, Adelaide city and other developments.

Home ownership opportunities must be targeted to eligible low to moderate-income buyers for an exclusive offer period—generally of 90 days—and be advertised through the Affordable Homes Program site and listed as affordable homes on realestate.com. The total number and distribution of these affordable properties are identified by the developer in consultation with Renewal SA's affordable housing unit. An affordable housing plan is developed, setting out the tenure type, house form and sale price.

Information has been requested by the Hon. Ms Franks about what evidence there is that these affordable properties are actually benefiting people from a low socioeconomic background. Of the 474 affordable properties sold on the open market to date under this scheme, 295 were purchased by low to moderate-income households. All of the 752 sales to affordable rental providers are targeted to low to moderate-income households. Of these, approximately 200 new homes have been acquired by community housing providers and further strong take-up is expected over coming months.

The Hon. Tammy Franks also seeks information on Housing SA properties transferred to community housing organisations over the past five years. Housing SA constructed and transferred 616 properties to preferred growth providers over that period, with the final 23 properties being transferred during 2012-13.

The honourable member also refers to arrangements with local governments to contribute land to social housing developments. There has been a wide range of such joint venture-type programs in previous years, most recently through the Affordable Housing Innovations Fund, initiated by the state government in 2005. Over the subsequent five years, grants were provided to community organisations to deliver around 480 houses, with partnering organisations, including local government, contributing land and other resources on an approximately fifty-fifty basis with the state.

For example, PARAQUAD SA developed five dwellings on council-donated land in Mount Gambier for people with disabilities, valued at $150,000. The Unity Housing Company developed a further four dwellings in Gumeracha on council-donated land, valued at $225,000. I am advised that, while joint ventures continue to be encouraged, recent grant programs calls have not attracted significant land contributions.

I turn my attention to the question regarding the arrangements for appointing community housing providers as preferred growth providers. There are currently 16 such providers. They were appointed by Housing SA in July 2009 following a tender process to determine which community housing organisations had the capacity to prequalify for growth opportunities, for example, through transfers that I have mentioned. It is expected that the national regulatory system, which includes recognition of high capacity providers through a tiered registration structure, will replace the preferred growth provider arrangement during 2014.

The national regulatory system, introduced in South Australia through this legislation, will provide governments at all levels, financiers and other contributors with a high level of confidence about the governance and skill of community housing organisations. This is important as these organisations are key to the social housing of the future. While it is not possible to provide the honourable member with specific numbers of houses, as this will depend on the decisions of governments and the efforts of the organisations themselves, we can be confident that a strong regulatory system will underpin growth. For example, the state government has already announced the transfer of 5,000 public housing dwellings to community housing organisations ranked as having high capacity under the new regulatory arrangements.

In summing up, I would like to acknowledge those who have assisted in the carriage of this bill. Firstly, I would like to thank those opposite for their interest and comments on the bill and for their support in ensuring its passage. The bill was widely consulted on and groups, such as the Community Housing Council of SA and their member organisations have contributed their concerns and support. Their views were instrumental in the wording of the bill in its current form, I am advised. The Local Government Association also had input into the wording of this bill and I thank them for their support of the bill.

The bill will introduce a nationally consistent approach to the registration of registered community housing providers and will provide a platform for these providers to operate more easily across jurisdictions. It will also establish a separation of the government's current dual roles of funding and regulation, and establish a greater flexibility for new and innovative funding arrangements. The result will be a more robust and influential community housing sector which will complement Housing SA in the provision of high quality social housing in this state, and I commend the bill to the house.

Bill read a second time.

In committee.

Clause 1.

The Hon. T.A. FRANKS: I have two questions, both of which are issues which came up in our consultations. I am afraid I could not quite get them together for the second reading part of the questions, so I apologise for that, but I knew that we still had clause 1 to go.

One of the concerns I would like to raise is the ability of the minister to place a charge over the assets of an organisation. There was concern from some groups and stakeholders that we spoke to that that charge may be out of proportion to the support that they may have received from government and, indeed, it may place a limit or impact on the ability of that community housing provider to access finance leveraging the government funding it does receive. Could the minister provide some assurances that that will not be the case?

The Hon. I.K. HUNTER: My advice is that exactly that issue was raised with the government and led to a government amendment in the other place in relation to the interest the government has in the asset, and that was amendment No. 2 at clause 20, page 12, to delete paragraph (d) and substitute a new paragraph (d), the imposition of a charge over land, etc.

The Hon. T.A. FRANKS: I thank the minister for that response. I have a final issue to raise, which is in regard to the open space levy. I understand from stakeholders I have spoken to that, indeed, they are impacted by the open space levy to the tune of around $6,000 to $6,500 per allotment. There was widespread support for an exemption to be given for not-for-profits in regard to some sort of a waiver of the open space levy. I ask the minister whether or not that is being considered and whether it is possible.

The Hon. I.K. HUNTER: My advice is that it is possible and that it is currently under discussion with stakeholders, but the stakeholders have also advised the government that they do not want to hold up the passage of this bill for those discussions; they are prepared to continue with the government on this matter.

Clause passed.

Remaining clauses (2 to 37) and schedules 1 and 2 passed.

Schedule 3.

The Hon. I.K. HUNTER: I move:

Amendment No 1 [SusEnvCons–1]—

Clause 5, page 40, lines 20 to 24—Delete paragraph (c) and substitute:

(c) without limiting paragraph (b), accommodation provided by a community housing provider registered under the *Community Housing Providers National Law* that is incorporated on a not-for-profit basis for the benefit of the public, other than accommodation provided by such a body—

(i) that has as a principal object of the body the provision of housing for members of the body; or

(ii) that is excluded from the ambit of this paragraph by the Minister by notice published in the Gazette;

Amendment No 2 [SusEnvCons–1]—

Clause 5, page 40, lines 26 to 29—Delete subsection (1a) and substitute:

(1a) For the purposes of paragraph (c) of the definition of *supported accommodation* in subsection (1)—

(a) a body will not be regarded as incorporated on a not-for-profit basis—

(i) if a principal or subsidiary object of the body is—

(A) to secure a pecuniary profit for the members of the body or any of them; or

(B) to engage in trade or commerce; or

(ii) if the constitution or rules of the body provide that the surplus assets of the body on a winding-up are to be distributed to its members or to another body that does not have identical or similar aims or objects; and

(b) the Minister may, by notice in the Gazette, vary or revoke a notice that has been previously published in the Gazette under that paragraph.

Amendment No 3 [SusEnvCons–1]—

Clause 16, page 47, after line 1—Insert:

(8) A transitioning housing association will (while its registration under the SACCH Act continues) be taken to continue to be within the ambit of paragraph (c) of the definition of *supported accommodation* under section 4 of the *Local Government Act 1999* despite the substitution of that paragraph by an amendment made by this Act.

All three of my amendments are related. The first amendment seeks to provide additional clarity and certainty for the Local Government Association, I am advised, and its members of the government's intention to maintain the status quo in relation to community housing providers which are eligible to receive council rate rebates. The Local Government Act 1999 needs to be updated through a related amendment under this bill to ensure that housing cooperatives which primarily provide accommodation for their members and which do not now receive a council rate rebate will continue to be ineligible. The Local Government Association, on behalf of its board and members, has been consulted in the drafting of this amendment, and it is in agreement with the government's intention.

In relation to my second amendment, the South Australian Cooperative and Community Housing Act 1991, which is set to be repealed with the passage of this bill, currently requires housing associations to be established as a not-for-profit entity and as such limits the rate rebate of not-for-profit entities. In keeping with the government's intention of maintaining the status quo for local governments, this amendment will ensure that rate rebates will be limited to community housing providers which are incorporated on a not-for profit basis.

The Hon. T.A. FRANKS: The Greens will be supporting all the government amendments.

The Hon. K.L. VINCENT: Likewise.

The Hon. I.K. HUNTER: I will explain amendment No. 3. I am advised that it is a technical addition to ensure that housing associations which currently receive the rate rebate in the Local Government Act 1999 will continue to do so throughout their transition from registration under the South Australian Co-operative and Community Housing Act to registration under this bill.

The Hon. R.I. LUCAS: The member for Morphett advises that the Liberal Party will support all three amendments.

Amendments carried; schedule as amended passed.

Title passed.

Bill reported with 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) (18:06): I move:

That this bill be now read a third time.

Bill read a third time and passed.

DISABILITY SERVICES (RIGHTS, PROTECTION AND INCLUSION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 September 2013.)

The Hon. R.I. LUCAS (18:07): I rise on behalf of Liberal members to indicate support for the second reading of the bill. The member for Morphett has had carriage of the legislation for the Liberal Party and spoke on the legislation in the House of Assembly. In summary, this bill introduces safeguarding complaints policies and amends the act to provide a legal process and remedy in the event of victimisation by providers of disability services. The amendments also give the minister the ability to review funded services or activities and introduces regulations accordingly. The bill also introduces the principles of the United Nations Convention on the Rights of Persons with Disabilities as a set of best practice principles to guide policy development, funding decisions and the administration and provision of disability services.

As I said, the member for Morphett has had carriage of the legislation for the Liberal Party. He has indicated his support for the process of consultation the government engaged in during the development of the legislation and, on that basis, he recommended support to the Liberal Party in the party room. Accordingly, the Liberal Party is supporting the legislation through both houses of parliament.

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

STATUTES AMENDMENT (OCCUPATIONAL LICENSING) BILL

Adjourned debate on second reading.

(Continued from 17 October 2013.)

The Hon. R.I. LUCAS (18:12): I rise on behalf of the Liberal Party to support the second reading of the Statutes Amendment (Occupational Licensing) Bill. Carriage of this bill has rested in the hands of the member for Goyder, who has indicated on behalf of the Liberal Party that we are supportive of the legislation.

Briefly, the reforms within the bill include a range of initiatives, such as removing the requirement that building work contractors may only nominate their directors or employees to be building work supervisors; enabling builders, plumbers, gas fitters and electricians who are the subject of a bankruptcy order to work as subcontractors; increasing the powers of the Commissioner for Consumer Affairs to improve administrative efficiencies and increase consumer protection; providing the commissioner with increased power under the Fair Trading Act in certain circumstances, which are outlined in the bill; simplifying the audit requirement for land agents and conveyancers in certain circumstances, which again is outlined in the bill; clarifying and expanding the definition of building work to include tasks considered to constitute building work, such as the installation of solar panels or an air-conditioning system; and increasing the maximum penalties in certain circumstances as well.

The member for Goyder has advised Liberal members that he consulted with a number of industry representatives in relation to the proposed legislation. We are unaware of any industry opposition to the government's proposed legislation, although I could put one question to the minister and ask whether he can confirm whether or not there have been any objections from any industry associations to the government's proposed legislation from the government's own consultation. With that, I indicate the Liberal Party's support for the second reading.

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

DISABILITY SERVICES (RIGHTS, PROTECTION AND INCLUSION) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (18:15): I rise to conclude the debate and, in so doing, I acknowledge that the Hon. Ms Franks would like to make some comments at a later stage in committee at clause 1, which we are happy to entertain. This bill is the result of the work I commenced when I was minister for disabilities last year, and it gives me a strong sense of pride to guide its passage through this place on behalf of the current Minister for Disabilities.

The analysis for requirement of this bill identified two key issues: the need to legislate for safeguards for vulnerable adults living with disability and to create a legislative basis for the disability stream of the Community Visitors Scheme. We have covered the Community Visitors Scheme by regulation, but I also indicate that we will be looking at a bill in its own right at a future time to strengthen that very worthwhile program.

I am confident that this bill satisfies the first of these two issues for those living with disabilities and their carers. The bill, as mentioned, references the United Nations Convention of the Rights of Persons with Disabilities, enshrines the right of people with disability to exercise choice and control in relation to decision-making, which reinforces the principles underlying the NDIS. This bill also references other national and state discrimination legislation. In particular, I would like to mention that, in interpreting this act, we also take into account other acts, for example, the Carers Act, and the important role carers play in supporting and assisting people who are living with disability.

This bill also mandates a requirement for disability service providers to have accessible and well-publicised complaints and grievance procedures. Also, as a first step to safeguard people who are vulnerable and living with a disability, this bill protects people who complain or report any bad treatment of people living with a disability.

The bill also mandates a requirement for disability service providers to have in place safeguarding policies and procedures. The bill also enables the minister of the day to make

regulations covering the issue of reporting on outcomes, with a view to monitoring and taking action on the lack of appropriate performance by government and government-funded agencies. In closing, I thank all honourable members who contributed to the debate and look forward to their support of this very worthy bill before the house.

Bill read a second time.

STATUTES AMENDMENT (NATIONAL ELECTRICITY AND GAS LAWS—LIMITED MERITS REVIEW) 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) (18:19): 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 Government is again delivering on a key energy commitment through new legislation to improve the governance arrangements of the Australian energy sector, for the benefit of South Australians and all Australians.

Under the National Electricity Law and the National Gas Law, parties affected by the decisions of the Australian Energy Regulator, or other relevant decision makers, are provided an opportunity for limited merits review of these decisions. These reviews are performed by the Australian Competition Tribunal.

As part of its Energy Market Reform Implementation Plan, the Council of Australian Governments committed to changes to the limited merits review regime to be introduced prior to the commencement of the next round of revenue determinations for regulated energy network businesses in mid-2014.

The *Statutes Amendment (National Electricity and Gas Laws—Limited Merits Review) Bill 2013* will amend the National Electricity Law, set out in the schedule to the *National Electricity (South Australia) Act 1996*, and the National Gas Law, set out in the schedule to the *National Gas (South Australia) Act 2008*, for the major reform of the limited merits review regime.

In light of significant energy price rises and concerns that inappropriate use or operation of the review process may have contributed to such rises, Energy Ministers agreed to a review of the limited merits review regime and established an independent expert panel to undertake this review. The review was consistent with a legislated requirement to review the limited merits review regime within seven years of the commencement of the requirement.

The panel delivered two reports, in June and September 2012, and found that the original policy intent of the regime remained relevant, but that the operation of the regime had not delivered on the national electricity objective, the national gas objective, or the original policy intentions agreed by Energy Ministers.

In particular, the panel found that, despite the long term interests of consumers being central to the national electricity objective and national gas objective, the implications of review decisions on the long term interests of consumers had not explicitly featured in the review process.

The panel also found that, contrary to the original policy intent of the merits review framework, reviews have had a narrow focus, with the Australian Competition Tribunal limited to considering parts of the original decision, rather than examining the decision as a whole in light of the national energy objectives.

Consequently, the panel made a number of recommendations to improve the operation of the regime.

Energy Ministers issued a *Statement of Policy Intent* in December 2012, in which they affirmed the policy intent that in interpreting the national electricity objective and national gas objective, the long-term interests of consumers (with respect to price, safety, reliability and security of supply) are paramount in the regulation of the energy industry.

The *Statement of Policy Intent* also affirmed that the objective of the review framework is to ensure that relevant decisions promote efficient investment, operation and use of energy infrastructure, and are consistent with the revenue and pricing principles of the National Electricity Law and National Gas Law, in ways that best serve the long-term interests of consumers.

Energy Ministers considered that the long-term interests of consumers should be the sole criterion for determining the preferable decision, both at the initial decision making stage and at merits review.

In June 2013, Energy Ministers released their policy position and the *Regulation Impact Statement; Limited Merits Review of Decision-Making in the Electricity and Gas Regulatory Frameworks—Decision Paper*.

Energy Ministers agreed to retain the Australian Competition Tribunal as the review body for the regime and to maintain the limited nature of the merits review process subject to a further review in 2016 of the role of the Australian Competition Tribunal under the new regime.

However, Energy Ministers agreed legislative amendments were required to address a number of the issues raised by the panel; in particular to ensure that the limited merits review only results in changes to decisions under review where the Australian Competition Tribunal concludes that there is a materially preferable decision in the long term interests of consumers.

Energy Ministers also identified a need to amend Commonwealth legislation to allow the Australian Competition Tribunal to act in a more informal and investigative manner when undertaking reviews.

A number of amendments to both the National Electricity Law and the National Gas Law were identified to give effect to this important reform, including ensuring that the limited merits review regime delivers materially preferable decisions in the long term interest of consumers, and specifying the matters that are to be taken into account in decision making by both the Australian Energy Regulator and the Australian Competition Tribunal.

The national electricity objective and national gas objective explicitly target economically efficient outcomes that are in the long term interests of consumers, but the nature of decisions in the energy sector are such that there may be several possible economically efficient decisions, with different implications for the long term interests of consumers.

Consequently, the Bill requires that the Australian Energy Regulator, in making a reviewable regulatory decision, if there are two or more possible decisions that will or are likely to contribute to the achievement of the national electricity objective or the national gas objective, make the preferable reviewable regulatory decision; that is the decision that it considers will, or is likely to, contribute to the achievement of the national electricity objective or national gas objective to the greatest degree.

The Australian Energy Regulator will also be required to give reasons in its decision as to the basis on which it is satisfied that the decision is the preferable reviewable regulatory decision.

This will provide a greater degree of transparency about the Australian Energy Regulator's decision-making process, with the Australian Energy Regulator's explanation also assisting the Australian Competition Tribunal and other parties if the decision is subject to review.

As noted previously, revenue determinations are complex, requiring the Australian Energy Regulator to make a range of decisions. Some of these decisions directly relate to each other, while others entail balancing between different outcomes, and others are wholly independent of other constituent decisions.

Consequently, this Bill will require the Australian Energy Regulator to specify in its decision the manner in which the constituent components of that decision relate to each other and how it took these interrelationships into account in making the decision.

This is intended to provide the Australian Competition Tribunal, and interested stakeholders, guidance on how the Australian Energy Regulator had regard to a range of elements, and any interrelationships between them, in coming to the final, overall decision.

This Bill will also impose a clear obligation on the Australian Energy Regulator to develop a record of its regulatory process, which will be the key reference point for the Australian Competition Tribunal in conducting a review of a reviewable regulatory decision.

The Bill will extend the scope of parties who can apply for review of a decision to include parties that made a submission or comment to the Australian Energy Regulator during the regulatory process subject to the review. This would extend to users, consumer interest groups or a Minister of a participating jurisdiction, as long as they participated in the regulatory decision-making process.

This Bill will make no change to the four existing grounds for review but imposes an additional requirement on applicants, with the effect of raising the threshold to obtain leave to review. Applicants will be required to establish two matters:

(a) that there is a serious issue to be heard and determined as to whether there was an error of fact, incorrect exercise of discretion or unreasonableness in the original decision, as under the current framework; and

(b) a prima facie case that addressing the matter alleged in the ground for review will or is likely to result in a decision that is materially preferable to the original decision in the long term interests of consumers as set out in the national electricity objective or the national gas objective.

The most significant amendments in this Bill relate to the role of the Australian Competition Tribunal in conducting a review of a reviewable regulatory decision. The Bill will ensure the Australian Competition Tribunal can only set aside, vary or remit a decision if it is satisfied that to do so will, or is likely to, result in a materially preferable decision, otherwise the decision under review will be affirmed.

Importantly, the Bill will clarify that a materially preferable decision is a decision that is materially preferable to the reviewable regulatory decision in making a contribution to the achievement of the national electricity objective or the national gas objective.

The long-term interests of consumers must be the Australian Competition Tribunal's paramount consideration in determining that a materially preferable decision exists.

In considering what constitutes a materially preferable decision, the Bill also requires the Australian Competition Tribunal to consider how the constituent components of the reviewable regulatory decision interrelate with the matters raised as a ground for review and each other, to consider the revenue and pricing principles in the

same manner as the Australian Energy Regulator does in its decision, and to consider the decision as a whole in terms of the achievement of the objective.

The Bill will also clarify that neither the establishment of a ground for review, nor the consequence for, or impact on, the average annual regulated revenue of the regulated network service provider, nor that the amount that is specified or derived from the reviewable regulatory decision exceeds the monetary threshold for the grant of leave to review the decision, is in itself determinative of whether a materially preferable decision exists.

Instead, the Bill will require the Australian Competition Tribunal to undertake an holistic assessment of whether the setting aside or varying of the reviewable regulatory decision, or remission of the matter back to the original decision maker, will or is likely to deliver a materially preferable outcome in the long term interests of consumers, as set out in the national electricity objective and the national gas objective.

The Bill will clarify that the Australian Competition Tribunal is required to remit the matter to the Australian Energy Regulator in circumstances where the Tribunal considers there is likely to be a materially preferable decision, but where establishing this would require a complex assessment in which the entire, or a significant proportion of, the original decision-making process needs to be repeated.

The Bill will ensure that the Australian Competition Tribunal will primarily be limited to considering the material that was before the Australian Energy Regulator when making the original decision, including its final determination.

However, the Australian Competition Tribunal will be allowed to consider new information or material if it would assist it in making its determination and such information was not unreasonably withheld from the Australian Energy Regulator or was publicly available or known to be available to the Australian Energy Regulator when it was making the reviewable regulatory decision.

In both cases, the information or material must be information or material that the Australian Competition Tribunal considers the Australian Energy Regulator would reasonably have been expected to have considered when it was making the original decision.

The Bill will make it clear this opportunity for new information or material to be introduced is only available if the Australian Competition Tribunal is of the view that a ground for review has been established.

The Bill will also clarify the Australian Competition Tribunal's continuing capacity to seek assistance, information, materials and evidence from experts on its own motion where it considers a ground for review has been established and such information would assist it to determine whether a materially preferable decision exists. Experts assisting the Australian Competition Tribunal will be limited to considering the material that was before the Australian Energy Regulator when making the original decision, including its final determination.

The Bill will clarify what matters the Australian Energy Regulator, the applicant and other parties, may or may not raise in a review and will include a prohibition on network service providers raising an issue that was resolved or not maintained in the regulatory process when establishing a ground of review.

The Bill addresses current barriers to user and consumer participation in the limited merits review process, while maintaining incentives to discourage trivial or vexatious claims.

First, the Bill will introduce a general requirement on the Australian Competition Tribunal to engage with consumers in its review process.

Second, for the purposes of symmetry, the Bill will make it explicit that the Australian Energy Regulator must consult with consumers as part of its decision making process. This is in addition to the existing legislated requirement to consult the relevant regulated network service provider and other relevant parties affected by the decision.

Third, the Bill will reduce the risk to consumer groups of participation in the review process, by removing the provision that small users and consumers may have costs awarded against them on the basis that they conducted their case without due regard to submissions or arguments made to the Australian Competition Tribunal by another party and by limiting the costs orders that can be made against them to administrative costs.

Finally, the Bill precludes a network business from passing costs of a review through to consumers, either prospectively or following a review.

In establishing the national electricity objective and the national gas objective, it was recognised that the long term interests of consumers are not delivered by any one of its factors in isolation, but rather require a balancing of the range of factors.

The Australian Energy Regulator therefore determines what is in the long term interests of consumers by delivering an effective balance between these factors.

The Australian Competition Tribunal likewise will consider the contribution of the regulatory decision to achieving the objective by considering and balancing the combination of factors in the objective, and arriving at the decision that best serves the long-term interests of consumers.

This Bill will make it clear that achieving the preferable decision in the long term interests of consumers as set out in the national electricity objective and the national gas objective is the aim of the Australian Energy Regulator.

Due to its role of assessing the merits of the original decision, the Bill will also make it clear that achieving the materially preferable decision in the long term interests of consumers as set out in the national electricity

objective and the national gas objective for the Australian Energy Regulator's decision is the aim of the Australian Competition Tribunal.

The changes to the National Electricity Law and National Gas Law that will be introduced with the passing of this Bill will be key in ensuring consumers do not pay more than necessary for the quality, safety, reliability and security of supply of electricity and natural gas under the national energy laws.

This will be achieved through more closely aligning the reviewable regulatory decision making processes, with particular regard to delivering the national electricity objective and national gas objective. In this way, the amendments affected by this Bill will make the reviewable regulatory decision making processes and any subsequent reviews more robust and transparent and importantly more focussed on the outcomes that are in the long term interests of consumers.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

The provisions in Part 2 will amend the National Electricity Law and the provisions in Part 3 will amend the National Gas Law.

Part 2—Amendment of *National Electricity Law*

4—Amendment of section 2—Definitions

A new definition, being that of *constituent components* of a reviewable regulatory decision, is to be included in the National Electricity Law. The constituent components of a reviewable regulatory decision are those matters that constitute the elements or components of the decision and on which the reviewable regulatory decision is based and include the matters that go to the making of the reviewable regulatory decision and decisions made by the AER (being the relevant decision-maker) for the purposes of the reviewable regulatory decision.

5—Amendment of section 16—Manner in which AER performs AER economic regulatory functions or powers

New paragraph (b) of section 16(1) requires that network service users, or prospective network service users, and user or consumer associations or user or consumer interest groups, that the AER considers have an interest in the determination, will be consulted in relation to the making of a distribution determination or a transmission determination.

New paragraph (c) of section 16(1) requires that the AER, in relation to making a reviewable regulatory decision, must specify the manner in which the constituent components of the decision relate to each other and the manner in which that interrelationship has been taken into account in the making of the reviewable regulatory decision.

New paragraph (d) requires the AER, in a case where 2 or more possible reviewable regulatory decisions may contribute to the national electricity objective, to make the decision most likely to contribute to that objective to the greatest degree, and to specify the basis on which the AER makes the relevant decision.

6—Insertion of section 28ZJ

The AER is to be required, in relation to a reviewable regulatory decision, to keep a written record of certain matters and documents.

7—Amendment of section 71A—Definitions

This clause relates to definitions that are used for the purposes of Division 3A of Part 6 of the National Electricity Law. The definition of *affected or interested person or body* (which is especially relevant to the operation of section 71B of the Law) is to be amended to include a *reviewable regulatory decision process participant*, and a *reviewable regulatory decision process participant* is to be defined as a person or body who made a submission or comment in relation to the making of a reviewable regulatory decision and so as to include also a Minister of a participating jurisdiction.

8—Amendment of section 71C—Grounds for review

This amendment will require an applicant to the Tribunal for a review of a reviewable regulatory decision to specify the manner in which a determination of the Tribunal to vary the reviewable regulatory decision, or to set aside the decision and to remit the matter back to the AER for a fresh decision, on the basis of 1 or more grounds raised in the application, either separately or collectively, would, or would be likely to, result in a materially preferable NEO decision (as specified in new section 71P(2a)(c)).

9—Amendment of section 71E—Tribunal must not grant leave unless serious issue to be heard and determined etc

Section 71E of the Law relates to what must be established by an applicant before the Tribunal may grant leave to apply for a review of a reviewable regulatory decision. This amendment will require an applicant to establish a *prima facie* case as to a matter required to be specified under the amendment made to section 71C of the Law (in addition to the existing requirement that there is a serious issue to be heard and determined as to whether a ground for review set out in section 71C(1) exists).

10—Amendment of section 71K—Leave for reviewable regulatory decision process participants

These are consequential amendments.

11—Amendment of section 71M—Interveners may raise new grounds for review

These amendments relate to any new ground that an intervener may wish to raise with respect to a reviewable regulatory decision. If an intervener wishes to raise a new ground, the intervener will also be required to specify the manner in which a determination of the Tribunal to vary the reviewable regulatory decision, or to set aside the decision and to remit the matter back to the AER for a fresh decision, on the basis of 1 or more grounds raised in the notice of intervention or in the application for review, would, or would be likely to, result in a materially preferable NEO decision.

12—Substitution of section 71O

The new section to be enacted under this clause sets out the matters that the AER, and any other person or body participating in the proceedings before the Tribunal (including as to whether a ground for review exists), may raise at the various stages of the proceedings.

13—Amendment of section 71P—Tribunal must make determination

Section 71P of the Law sets out the Tribunal's options if the Tribunal grants leave for a review to proceed under this Subdivision. Under new subsection (2a) of section 71P, the Tribunal will only be able to vary the reviewable regulatory decision, or set aside the reviewable regulatory decision and remit the matter back to the AER to make the decision again, if the Tribunal is satisfied that to do so will, or is likely to, result in a decision that is materially preferable to the original decision in making a contribution to the achievement of the national electricity objective and, in the case of a determination to vary the decision, the Tribunal is satisfied that to do so will not require the Tribunal to undertake an assessment of such complexity that the preferable course of action would be to set aside the decision and remit the matter to the AER to make the decision again.

14—Amendment of section 71R—Matters to be considered by Tribunal in making determination

These provisions are relevant to the matters that the Tribunal may consider in reviewing a reviewable regulatory decision, and any additional consultation that the Tribunal may undertake. If the Tribunal is satisfied that a ground for review has been made out and that it would assist to obtain additional information or material in order to determine whether a materially preferable NEO decision exists, the Tribunal may, on its own initiative, take steps to obtain that information or material subject to the qualification that the action taken by a person acting in response to such steps must be limited to considering decision related matter under section 28ZJ.

15—Amendment of section 71X—Costs in a review

16—Amendment of section 71Y—Amount of costs

17—Insertion of section 71YA

These amendments relate to the costs associated with a review under this Division of the Law. A new provision will limit the costs awarded against a small/medium user or consumer intervener in favour of another party to the payment of reasonable administrative costs (as determined by the Tribunal) of that other party. Another provision will prevent the passing on of costs that a network service provider may incur under this Division through certain mechanisms.

18—Amendment of section 71Z—Review of Division

The MCE will be required to review the Tribunal's role under this Division of the Law by 1 December 2016.

Part 3—Amendment of *National Gas Law*

19—Amendment of section 2—Definitions

These amendments relate to the definitions that apply for the purposes of the National Gas Law. The amendments are consistent with the amendments to be made to the National Electricity Law, except that the scheme to which this Part of the Bill applies is essentially to relate to any *designated reviewable regulatory decision*, being an applicable access arrangement decision (other than a full access arrangement decision that does not approve a full access arrangement).

20—Amendment of section 28—Manner in which AER must perform or exercise AER economic regulatory functions or powers

Subsection (1) of section 28 is to be revised. Currently, subsection (1) requires that the AER must, in performing or exercising an AER economic regulatory function or power, act in a manner that will or is likely to contribute to the achievement of the national gas objective. The revised subsection (1) will also require the AER, in making a designated reviewable regulatory decision, to consult with the relevant covered pipeline service provider, users or prospective users of the pipeline services that the AER considers have an interest in the matter, and user or consumer associations or users or consumer groups that the AER considers have an interest in the matter. Other

amendments are consistent with section 16(1)(c) and (d), to be inserted into the National Electricity Law (see clause 5).

21—Insertion of section 68C

The AER is to be required, in relation to a designated reviewable regulatory decision, to keep a written record of certain matters and documents (and see clause 6).

22—Amendment of section 244—Definitions

These amendments correspond to amendments to be made to the National Electricity Law (see clause 7).

23—Amendment of section 246—Grounds for review

These amendments correspond to amendments to be made to the National Electricity Law (see clause 8).

24—Amendment of section 248—Tribunal must not grant leave unless serious issue to be heard and determined etc

This amendment corresponds to an amendment to be made to the National Electricity Law (see clause 9).

25—Amendment of section 249—Leave must be refused if application is about an error relating to revenue amounts below specified threshold

26—Amendment of section 254—Leave for reviewable regulatory decision process participants

These are consequential amendments.

27—Amendment of section 256—Interveners may raise new grounds for review

These amendments correspond to amendments to be made to the National Electricity Law (see clause 11).

28—Amendment of section 258—Matters that parties to a review may and may not raise in a review

This amendment will disapply section 258 of the National Gas Law with respect to a designated reviewable regulatory decision, as new section 258A is to apply instead.

29—Insertion of section 258A

The new section corresponds to a section to be inserted into the National Electricity Law (see clause 12).

30—Amendment of section 259—Tribunal must make determination

These amendments correspond to amendments to be made to the National Electricity Law (see clause 13).

31—Amendment of section 261—Matters to be considered by Tribunal in making determination

These amendments correspond to amendments to be made to the National Electricity Law (see clause 14).

32—Amendment of section 268—Costs in a review

33—Amendment of section 269—Amount of costs

34—Insertion of section 269A

These amendments relate to the costs associated with a review of a designated reviewable regulatory decision and correspond to amendments to be made to the National Electricity Law (see clauses 15, 16 and 17).

35—Amendment of section 270—Review of Part

The MCE will be required to review the Tribunal's role under this Part of the National Gas Law by 1 December 2016.

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

EVIDENCE (IDENTIFICATION EVIDENCE) AMENDMENT BILL

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

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

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

CRIMINAL LAW (SENTENCING) (SENTENCES OF INDETERMINATE DURATION) AMENDMENT BILL

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

HEALTH PRACTITIONER REGULATION NATIONAL LAW (SOUTH AUSTRALIA) (PROTECTION OF TITLE—PARAMEDICS) AMENDMENT BILL

Second reading.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (18:22): 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.

Paramedics are those health professionals that provide emergency medical assessment, treatment or care in a pre-hospital or out-of-hospital environment.

Paramedic practice has changed in its focus from a model of 'treat and transport' to a more contemporary healthcare model of 'assess, treat and appropriately refer'. This change in practice places a greater responsibility on the health care provider and poses an increased risk of harm to the public.

The relationship between people treated by a paramedic and the health care provider is one taken on trust. A patient may be unconscious or not competent to make an informed decision when being treated, so consent to treatment is not always possible. The patient may not understand the clinical interventions that the paramedic needs to undertake to treat them, and in many cases, save their life. These factors underscore the role of trust that the patient places in the paramedic—trust in the paramedic's competence to practice and trust in the paramedic's decision-making processes about the clinical interventions and their referral for care.

Paramedic practice is not currently regulated in Australia. This is despite a call for the profession to be included as part of the National Registration and Accreditation Scheme for health professions from reports in New South Wales, Victoria and Western Australia. In February 2010 the Standing Council on Health sought advice on options for the regulation of paramedic practice, including the inclusion of the profession in the National Scheme. The Australian Health Ministers' Advisory Council (AHMAC) is still preparing advice on options for the consideration of Health Ministers. Should AHMAC recommend to the Standing Council on Health that paramedics should be incorporated into the National Scheme, it is likely to be another two years from the time that the decision is made before regulation would begin. This is based on the experience of those health professions that were incorporated into the National Scheme in 2012 and represents the time to establish accreditation authorities and develop registration standards for the profession.

In the absence of regulation any person may call themself a paramedic and undertake the duties and responsibilities generally associated with paramedic practice regardless of whether they hold the necessary education and training to provide the level of care expected.

This Bill takes a step towards the regulation of paramedic practice by protecting the title of 'paramedic'. Under this Bill it will be an offence for any person to take or use the title of 'paramedic' unless they hold the appropriate qualifications to perform the role of the paramedic.

The Council of Ambulance Authorities has established an accreditation scheme for education courses in Australia to ensure that graduates meet the requisite education and training standards for employment as a paramedic in Australia and New Zealand. These qualifications will form the basis of the qualifications that will entitle a person to take the title of 'paramedic'. Most paramedics employed in Australia hold a tertiary qualification and have completed an internship program.

Paramedics Australasia, the national professional association of paramedics, has estimated that there are currently approximately 12,800 paramedics in Australia. The paramedic profession has almost doubled in size since 2006. Most paramedics are employed in government related ambulance services and the Australian Defence Forces. In general these employment sectors have strong employment and governance practices, which ensure that only those persons suitable to be paramedics are employed as such.

However, the employment picture for paramedics is changing, with paramedics increasingly being employed in the private sector in diverse areas such as private ambulance services, private industry (including mining) and the events sector. Paramedics Australasia estimates that the private sector employs 36 per cent of the total paramedic workforce.

In addition, there has been a large growth in the labour market for the casual employment of paramedics in a large range of employers including private first aid providers and private industrial and resource services.

Within this expanding private employment sector there is no assurance that these employers apply the same standards in the development of clinical protocols and guidelines to manage the practices of their paramedic employees. This highlights the potential risk that may occur to the public from persons that do not hold the appropriate qualifications and training.

Paramedics are often involved in care that is complex and highly invasive, such as the administration of intravenous fluids and drugs, and the management of severe trauma such as burns and spinal injuries. They may also be required to administer scheduled drugs. The situations faced by paramedics are often complex and challenging and require good judgement to minimise the substantial risk of causing harm to the public.

A survey undertaken by Paramedics Australasia in 2011 found that 56 per cent of respondents (1,721 paramedics) personally knew of an instance of actual harm or injury to a patient resulting from the practice of a paramedic. 17 per cent of these respondents (527 paramedics) indicated that this care had resulted in significant harm or death to the patient.

At this point it may assist Members to note the distinction between the role of the paramedic from an ambulance officer and volunteers. Ambulance officers and volunteers have completed a comprehensive program focused on the provision of pre-hospital, or out-of-hospital, emergency care. The fundamental difference between these levels of healthcare providers is the expansive and internationally accepted scope of practice of a paramedic.

Paramedics are required to respond to medical and trauma emergencies, assess and treat the patient and prepare them for transport to a hospital for ongoing care, if and as required. Paramedics are often required to make complex and critical clinical judgements without direct supervision, including, but not limited to, decisions to discharge at the scene or to refer the patient to alternative pathways of care.

The protection of the title 'paramedic' is commensurate with the degree of risk associated with paramedic practice due to the clinical interventions and the nature of the occupation in comparison to the practices of the ambulance officer or volunteer.

This Bill will ensure that the public in South Australia will be protected through the legislative protection of the title 'paramedic' and the regulation of minimum qualification requirements for employment as a paramedic. This will complement the current powers of the Health and Community Services Complaints Commissioner to investigate complaints against paramedics, and take action against them should their practice not be in accordance with generally accepted standards for the profession.

This Bill will provide protection for the public ahead of the work currently being undertaken at the national level for the regulation of the paramedic workforce. The decision of this Government to proceed with the protection of the title 'paramedic' will assist with the transition of South Australian paramedics into any future national regulatory scheme. It will not introduce a regulatory process that will be inconsistent with developments at the national level.

I note that the Tasmanian Government has also introduced a Bill into their Parliament to restrict the term 'paramedic' to the Tasmanian Ambulance Service. While the Tasmanian Bill does not protect the public in that State to the same level as that proposed in this Bill, it does highlight to Members that other jurisdictions are beginning to make their own decisions about the regulation of paramedic services now rather than waiting on any decision at the national level.

The inclusion of the paramedic profession in the National Registration and Accreditation Scheme has overwhelmingly been supported by industry groups at the national level. These industry groups identified the lack of protection of the 'paramedic' title and the lack of minimum education standards for paramedics as two of the biggest risks related to paramedic practice. This Bill seeks to address these two potential risks in this State ahead of any agreement that may occur at the national level for the regulation of the paramedic workforce.

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 *Health Practitioner Regulation National Law (South Australia) Act 2010*

4—Amendment of Schedule 2—*Health Practitioner Regulation National Law*

This clause amends Schedule 2 by inserting a new section.

120A—Use of title 'paramedic'

The inserted section provides that the title 'paramedic', or any variation of 'paramedic' will be protected in South Australia. The section creates the offence of taking or using the title 'paramedic', where the person does not hold the qualifications prescribed by regulations made by the Governor for the purposes of this section. Similarly, a person who uses a title, name, word or description that, having regard to the circumstances in which it is taken or used, could be reasonably understood to indicate the person is a paramedic, where the person does not have the prescribed qualifications, will constitute an offence. The maximum penalty for either offence is a fine of $30,000. A definition of paramedic is inserted for the purposes of the section. The provision allows the Minister, by proclamation, to confer an exemption in relation to specified persons, classes of persons, specified circumstances or classes of circumstances. A person who contravenes or fails to comply with a condition of an exemption is guilty of an offence, the maximum penalty being a $30,000 fine.

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

HEALTH CARE (ADMINISTRATION) AMENDMENT BILL

Second reading.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (18:23): 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 *Health Care Act 2008* came into effect on 1 July 2008. The Act changed the way hospitals and health services were administered in this State to ensure that the health care system is responsive to health care demands—now and into the future.

The Act has brought together hospitals and health services to deliver services that meet the needs of their local communities, whilst at the same time providing for greater coordination and accountability of services, with the Minister and Chief Executive ultimately responsible for the delivery of services in South Australia. The Act has provided, and continues to provide, a solid governance basis for the system as it strives to reform health services and implement and deliver on South Australia's Health Care Plan.

The *Health Care (Administration) Amendment Bill 2013* before the House seeks to make a number of amendments to the Act, aimed at ensuring that the Act continues to function effectively and meet the administration and governance needs of the South Australian public health system, and to clarify the intent of some of the Act's provisions.

The Bill covers seven areas of amendment, which I will now outline in detail for the benefit of members.

Fees for services provided by the SA Ambulance Service that do not involve ambulance transport

Section 59 of the Act allows the Minister to set fees, by notice in the Gazette, to be charged for ambulance services. An ambulance service is defined in the Act as 'the service of transporting by the use of an ambulance a person to a hospital or other place to receive medical treatment, or from a hospital to other place at which the person has received treatment.'

The Act, however, does not currently provide a basis for the Minister to set fees for services provided by South Australian Ambulance Service paramedics that do not involve transportation in an ambulance. These type of services are those where a member of the South Australian Ambulance Service responds to a request for emergency medical assistance and attends a person's home or some other place to provide emergency assistance, and the person is then assessed and/or treated at that place and is not transported by an ambulance. These services are commonly referred to as 'treat no transport' services.

Fees are currently set and charged for these services, under the *Fees Regulation (Incidental SAAS Services) Regulations 2009* under the *Fees Regulations Act 1927*. This is an anomaly for fees charged by SA Health for the provision of health services, as all other fees for services are provided for under the *Health Care Act 2008*. The Bill makes provisions to allow fees to be set for incidental services such as 'treat no transport' services to be set in the same way as all other fees for health services under the *Health Care Act 2008*.

Employment of clinicians in the Department for Health and Ageing (central office)

This amendment is technical in nature and seeks to provide an appropriate mechanism for the employment of doctors, nurses and midwives to work in the central office of the Department for Health and Ageing. There are a number of positions within central office that require the professional skills, qualifications and clinical knowledge that only medical practitioners, nurses and midwives possess. These are existing funded positions within the Department to provide independent professional advice to the Chief Executive, the Chief Public Health Officer and the Minister.

The Department employs the Chief Medical Officer, public health medical practitioners, the Chief Nurse and Midwifery Officer and other nursing staff to undertake key clinical advisory functions related to their professions. For example, as part of its public health role, the Department receives notifications of prescribed diseases and medical conditions. These notifications require clinical responses. Doctors and nurses are employed in the Department to provide a public health response to diseases such as meningococcal disease cases where advice needs to be given as to which of the people in contact with the cases need to receive antibiotics. The Department's clinicians also provide advice on immunisation to doctors, nurses and the community, receiving over 16,000 calls per year. Clinical expertise is essential within the Department both for policy advice and for linkage with professional clinical networks.

In South Australia, a medical practitioner, nurse or midwife working in a public hospital is employed pursuant to the *Health Care Act 2008*. The relevant industrial awards, that is, the Department of Health Salaried Medical Officers Enterprise Agreement 2008 or the Nursing/Midwifery (South Australia Public Sector) Enterprise Agreement 2010, not only outline the conditions of employment for these clinicians but also recognise specific career structures and continuing professional development requirements for these professions.

It was previously thought that clinicians could also be employed to work in the Department for Health and Ageing's central office under section 34 of the Act, if they performed functions in connection with the operations or activities of an incorporated hospital. However, the Act as currently drafted does not support this, and clinicians working in the Department would be required to be employed under the *Public Sector Act 2009*, pursuant to the South Australian Public Sector Wages Parity Enterprise Agreement: Salaried 2012, as the Department is defined within the Act as an administrative unit of the public sector.

It has become apparent to the Department that this is not an appropriate employment mechanism because the South Australian Public Sector Wages Parity Enterprise Agreement: Salaried 2012 does not recognise the qualifications, entitlements and continuing professional development requirements for these professions. The Government believes that clinicians who choose to work in the Department should be able to retain any entitlements

in line with their professional award. Continuing these professional entitlements will also assist the Department to continue to attract and retain suitably qualified medical practitioners, nurses and midwives and ensure flexibility in the workforce across the Department and the public health system.

The South Australian Branch of the Australian Medical Association, South Australian Salaried Medical Officers Association, the South Australian Branch of the Australian Nursing and Midwifery Federation and those clinicians currently working in the Department have been notified about the Government's intention to correct the anomaly that exists in the employment of those clinicians working in the Department to ensure equity with those working in incorporated hospitals. The employment of clinicians currently engaged to work in the Department remains secure, and the Bill includes specific transitional provisions to ensure this and to provide certainty to these employees that their employment, conditions and entitlements are not in any way altered by the previous oversight and by the introduction of the new employment mechanism as set out in the Bill.

Proclamations to dissolve three now non-operational incorporated associations and transfer their assets to the appropriate incorporated Health Advisory Council (HAC)

The Bill includes specific transitional provisions to resolve some ongoing issues related to three non-operational incorporated associations namely, Lumeah Homes Inc (Lumeah), Miroma Place Hostel Inc (Miroma), and Peterborough Aged and Disabled Accommodation Inc (Peterborough) that attempted transfer of their assets and their undertakings to their local country hospital sites in the 1990s and early 2000s.

At the time of the attempted transfers, the associations, and hospitals involved, which were then incorporated under the former *South Australian Health Commission Act 1976*, determined that the assets, liabilities and undertakings of the associations should be transferred to the hospitals. However, these transfers were never legally effected and as such the assets legally remain with the non-operational incorporated associations, although they have in practice been managed by the country hospital sites since the time of the transfers.

Since then, the *Health Care Act 2008* came into operation and Health Advisory Councils (HACs) have been established for specific geographical country communities. The functions of these HACs include holding assets on behalf of the country hospital sites to which they relate. The country hospital sites are all part of the Country Health SA Local Health Network Inc. If the assets of the non-operational incorporated associations had been legally transferred to the relevant country hospital sites at the time, they would now rightly be held by the relevant HAC. The transitional provisions included in the Bill will allow for these outstanding issues to be resolved and for the assets to be formally transferred to the appropriate local HACs, as is envisioned by the Act. The HACs that will formally receive these assets are the Lower North HAC, Lower Eyre HAC and the Mid North HAC. It will also enable the cancellation of the incorporation of the named associations whose functions were taken over under the *South Australian Health Commission Act 1976*.

Other minor amendments

The Bill includes a small number of other minor amendments that are necessary to improve the functioning of the Act, and to clarify the intent of certain provisions. These amendments include:

- a minor amendment to re-arrange the wording of section 29(1)(b) of the Act, to clarify that a body under the Act does not need to be providing services and facilities specifically to an incorporated hospital for the undertaking of that body (or part thereof) to be transferred to the incorporated hospital. That is, the body that will be transferred may not have been providing anything to an incorporated hospital, but it can still have its assets, liabilities and undertakings transferred to an incorporated hospital under this section.
- a new provision to be inserted into Part 5 of the Act to allow the Governor, on application from the Minister, to make proclamations to transfer functions, assets, rights and liabilities from one incorporated hospital to another, without the incorporated hospital to which these first belonged being dissolved. At present the Act only allows for these transfers to be made in the event that an incorporated hospital is dissolved. The new provision is sought to provide for flexibility in the establishment and management of incorporated hospitals over time.
- removing section 49(5) of the Act which allows the Minister to determine a constitution for the South Australian Ambulance Service (SAAS). This section is not required given that the functions and powers of SAAS are clearly set out in the Act. A constitution has not been determined for SAAS since the Act came into operation, and is not required for the effective functioning of SAAS.
- two minor amendments will be made to section 93(3) of the Act, to align the terminology used with other legislation. The first amendment is to limit the disclosures of information required to those that are 'required or authorised under law'. This will align the wording with that included in the draft Information Privacy Bill. The second amendment is to add the term 'substitute decision-maker' to the list of persons who may request, or provide consent, for information about a person to be released so that it aligns with the provisions of the *Advance Care Directives Act 2013*, once that Act comes into operation.

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 *Health Care Act 2008*

4—Amendment of section 29—Incorporation

This clause amends section 29 of the principal Act by substituting subsection (1)(b) to allow all or part of the undertaking of a specified person or body to be transferred to an incorporated hospital.

5—Insertion of Part 5 Division 1A

This clause inserts new Division 1A into Part 5 of the principal Act. That new Division consists of section 32A, which enables the Governor to transfer functions, assets, rights and liabilities of one incorporated hospital to another and to make other related provisions.

6—Amendment of section 49—Continuation of SAAS

This clause deletes subsection (5) from section 49 of the principal Act.

7—Amendment of section 59—Fees

This clause substitutes section 59(1) of the principal Act, allowing the Minister to set fees for the provision of incidental services provided by SAAS and defines what such incidental services are.

8—Insertion of section 89

This clause inserts a new section 89 into the principal Act. The new section enables the employing authority to appoint certain skilled or experienced people to assist the CE or the Department in the performance of their respective functions. The new section also makes provision regarding the nature of such employment arrangements.

9—Amendment of section 92—Conflict of interest

This clause makes an amendment to section 92 of the principal Act that is consequent upon the insertion of new section 89.

10—Amendment of section 93—Confidentiality

This clause amends section 93 of the principal Act to clarify when confidential information may be disclosed, and who can consent to its disclosure.

Schedule 1—Transitional provisions

1—Employment

This clause makes transitional provisions that allow the CE to determine that certain employees of the Department will be taken to be employed under new section 89 as inserted by this measure.

2—Cancellation of incorporation etc of certain associations

This clause makes transitional provisions in respect of 3 incorporated associations. The functions of the associations were previously taken over under the *South Australian Health Commission Act 1976*, but the incorporation of the associations was not cancelled at the time and certain assets not transferred. The clause allows the Governor to correct the anomaly in each case.

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

STATUTES AMENDMENT (ASSESSMENT OF RELEVANT HISTORY) BILL

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

SOUTH AUSTRALIAN CIVIL AND ADMINISTRATIVE TRIBUNAL BILL

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

STATUTES AMENDMENT (ARREST PROCEDURES AND BAIL) BILL

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

At 18:27 the council adjourned until Tuesday 12 November 2013 at 14:15.