LEGISLATIVE COUNCIL

Thursday, 22 September 2016

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

The PRESIDENT: We acknowledge Aboriginal and Torres Strait Islander peoples as the traditional owners of this country throughout Australia, and the connection to the land and the community. We pay our respects to them and their cultures, and to the elders both past and present.

Ministerial Statement

FRUIT FLY

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:18): I seek leave to table a copy of a ministerial statement made by the Minister for Agriculture, Food and Fisheries in another place on the subject of fruit fly.

Leave granted.

Question Time

SA WATER INFRASTRUCTURE

The Hon. J.M.A. LENSINK (14:18): I seek leave to—

The Hon. K.J. Maher interjecting:

The Hon. J.M.A. LENSINK: —make a brief—

The PRESIDENT: Order!

Members interjecting:

The Hon. J.M.A. LENSINK: Mr President—

Members interjecting:

The PRESIDENT: Just one sec. The honourable minister and the Leader of the Government, I will not tolerate such rudeness when a member is on their feet.

Members interjecting:

The PRESIDENT: Order! I think it is absolutely appalling that members of the government are behaving in such a way. The Hon. Ms Lensink has the floor and we will hear her out without interruption. The Hon. Ms Lensink.

The Hon. J.M.A. LENSINK: Thank you for your protection, Mr President. I seek leave to make a brief explanation before directing a question to the Minister for Water and the River Murray on the subject of SA Water.

Leave granted.

Members interjecting:

The Hon. J.M.A. LENSINK: Mr President.

The PRESIDENT: Yes, I have already said once, and this is the second time, allow the Hon. Ms Lensink to ask her question without interruption. The Hon. Ms Lensink.

The Hon. J.M.A. LENSINK: Thank you, Mr President, again. My question is to the Minister for Water and the River Murray on the subject of SA Water. He would be well familiar with this case of Corinne and Patrick Mutz, who have had a very extensive water leak bill on their property in Upper Sturt which was outlined in *The Sunday Mail* a couple of weeks' ago and has also been the subject of talkback radio. I will refer to a response the minister provided to Mr and Mrs Mutz in July:

I understand on 30 December 2015, a notice of high water use was sent to your mailing address at the time. The notice suggested to check the meter read and the property for any leaks, and to repair any leaks as soon as possible. A copy of the notice is enclosed with this letter.

I am advised that a leak was first reported to SA Water on 6 January 2016, on a footpath at—

I will leave that address blank—

SA Water attended within 90 minutes and noted a service leak crew was required. A neighbour who had reported the leak showed the attendant where the leak was on the private pipework.

Several questions arise from this matter. Mr and Mrs Mutz say that they did not receive that notice of high water usage which has contributed to a very excessive high water bill from the leak and that they have only just been sent that notice fairly recently. My questions, firstly, are:

1. Can the minister outline what exactly the SA Water process is and whether at any point SA Water is required to send notification by registered mail or attend the property in person to ensure that property owners are aware of leaks?

2. Having attended the property on 6 January 2016, why did SA Water officers not attend the property to discuss the matter with the residents?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:22): I thank the honourable member for her most important questions on the subject of leaks, a highly sensitive subject for the Liberal Party at the moment, I understand. It is incredibly unusual for the Leader of the Opposition to give up his right to ask the first question in question time of the government.

Members interjecting:

The PRESIDENT: Order! The minister has the floor and the minister will answer the question without interruption.

The Hon. I.K. HUNTER: Of course, I was never going to say anything about the Leader of the Opposition being absent from the chamber. That is unparliamentary, and I would not do that, but after his appalling performance in this place yesterday, when he demanded that the minister rule in or out something and then when it was put to him that, in fact, he has been out there actively undermining the leader of the Liberal Party in the other place, he would not rule that in or out. He sat down on his hands; no comment. When it was put to him that he has actually been out—

The Hon. J.S.L. Dawkins: What's that got to do with the question?

The Hon. I.K. HUNTER: I will come to the leaks in a minute, the Hon. Mr Dawkins—I will come to the leaks in a minute. When it was put to the Leader of the Opposition that, in fact, he has been out shopping around to find replacements for sitting Liberal MPs and offering them the front bench position of some existing shadow ministers on the Liberal side, he refused to answer. He refused to rule that in or rule that out. One can only surmise that, in fact, he has now been benched for that behaviour and given his right of first question over to the Hon. Michelle Lensink, who is a far superior performer in this place, I might add, and of course she asked a very important question, unlike the Hon. Mr Ridgway.

The Hon. D.W. Ridgway interjecting:

The Hon. I.K. HUNTER: I wouldn't talk about that either, the Hon. Mr Ridgway. That's a point of contention as well. We have had six weeks off, six weeks for the Liberals to go out and do some real hard research with some searching questions for the government. What was their first question on Tuesday? The Hon. Mr Ridgway got up and told me that government expenditure on flood watch in Bordertown was a waste of money—that was it. That was his first question after a six-week break. Where did he get that from? From a press release I put out a week earlier. That is the level of research that goes on in the Liberal Party opposition; they are absolute losers. No wonder they have not be able to win an election in this state for a number years.

The Hon. D.W. Ridgway: Get on with the answer.

The Hon. I.K. HUNTER: I will, because the Hon. Michelle Lensink, as always, has demonstrated a degree of professionalism in this place and her questions are always to the point, unlike what we have seen from the Liberal Leader of the Opposition. Now, SA Water does receive—

The Hon. S.G. Wade: Oh, he mentioned the topic.

The Hon. I.K. HUNTER: Well, I can go on at length on other issues if people want me to, but I think it is appropriate that I give the honourable member a very studied and detailed answer to her question.

SA Water receives a large number of inquiries from customers about their water bills, as you would expect. Where a scheduled meter reading indicates an abnormal change in the level of water use at a property, SA Water issues a notice of high water use to alert the property owner of the high usage.

Provided that certain conditions are met, SA Water provides customers experiencing high water use with assistance for a leakage allowance or an unexplained high water use allowance. I am advised there is absolutely no legislative requirement for SA Water to do that, but they think it is good corporate practice to do so, to provide those allowances to customers due to leakage and inexplicable water use.

However, SA Water understands the financial implications that an unexpected high bill can cause and has created these allowances to help customers in these situations. A policy supporting high water use allowances has been in place since 1969. The policy provides eligible customers with an allowance of up to 50 per cent of deemed water wastage.

In recent years, this was capped at 300 kilolitres, and as of 1 July 2016 all allowances are subject to a maximum payment of equivalent to 600 kilolitres, which is approximately $2,000, based on 2016-17 water use prices. Under the water retail code for major retailers, SA Water has an obligation to inform a customer of an abnormal change in the level of consumption at their property.

SA Water provides property owners with a notice of high water use via Australia Post, I am advised, informing of higher than normal usage, and encourages owners to check for leaks. SA Water can only become aware of the higher usage at the time of the meter reading. Meter reading results are generally uploaded to SA Water's billing system nightly. At this time, the billing system (CSIS) compares water use for the current period with prior water use, and a notice of high water use is automatically triggered where consumption for the period is:

(a) higher than 200 kilolitres;

(b) at least 70 per cent higher than the average water use for the similar periods of the previous years; and

(c) at least 50 kilolitres greater than the highest water use recorded for similar periods of the previous three years.

Notices issued are flagged against the property account in the CSIS, and a weekly file is sent to SA Water's account printing contractor, Fuji Xerox, which prints and lodges the notices with Australia Post as priority mail, I am advised. I am also advised that Fuji Xerox has strict controls to ensure that all notices printed are lodged for posting.

Approximately 500 notices of high water use are sent out each week, and to improve customer service SA Water is exploring opportunities to issue notices on a daily basis and using SMS technology to provide phone alerts for customers. SA Water has been capturing customer phone numbers in preparation of the implementation of the online customer portal in the first half of 2017, and SA Water's approach to informing customers of high water usage is in line with best practice in the country. I understand, for example, that in the Eastern States practices can vary, and customers may be informed either prior to or at the time of the issuing of bills.

Other things that honourable members may care to be aware of are: only one unexplained high water use allowance can be applied during a customer's ownership of the property. The allowance may be applied where water usage at a property is greater than 150 kilolitres—I have

gone through this earlier, and will not repeat it. This policy of SA Water has been in place for some time.

The Hon. S.G. Wade interjecting:

The Hon. I.K. HUNTER: Well done, the Hon. Mr Wade—the Hon. Mr Wade listens. The applicant must provide evidence in the form of a plumber's invoice or written confirmation of materials used to repair the leak in order to confirm that the leak has been repaired, and the policy is reviewed regularly to consider customer feedback in alignment with water industry practices.

I am advised that a review of the policy was undertaken in January 2016, with a revised policy implemented on 1 July 2016. Changes from that 1 July 2016 period include: allowing one claim every five years (previously it was every 10 years), including leaks in irrigation systems and evaporative air conditioning systems as part of the eligibility criteria where it was not previously; and increasing the maximum payment from 300 kilolitres to 600 kilolitres, which is approximately $2,000 at 2016-17 prices, as I alluded to earlier.

The leakage allowance, importantly, is not intended to provide full compensation for the water deemed to be wasted. Once an application is approved, the allowance is either applied towards the current bill or to charges which are yet to be billed in the form of a credit towards the account. Quite often the applicant, I am advised, is first alerted to the leak by notice of high water use; or where the increased water use has not reached the trigger point for a notice to be issued, the first alert may be the bill.

By the time repairs to the leak occurred, the next reading period may also be affected by the high water use due to a leak. The allowance, therefore, can be applied across multiple periods and may impact water usage which has yet to be billed due to a leak occurring on the next reading period. Restricting the leakage allowance to one every five-year period encourages customers to maintain their private pipework, which is their responsibility, in good condition and prevent unnecessary wastage of water.

SA WATER INFRASTRUCTURE

The Hon. J.M.A. LENSINK (14:30): A supplementary question: will the government consider amending the policy so that the notice must be sent by registered mail?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:30): As I said, the agency (SA Water) is exploring opportunities to better deal with customers to issue notices on a daily basis. They are actually exploring using SMS technology to provide phone alerts; that may in fact be more efficient than utilising registered post but there will be instances, I am sure, where people do not have or do not give us their mobile phone contact, in which case it may be appropriate for registered mail to be utilised. That is a matter for SA Water to explore as they consider all those options and report back to me.

INDULKANA COMMUNITY POLICING

The Hon. S.G. WADE (14:31): I seek leave to make a brief explanation before asking questions of the Minister for Police in relation to the policing of the Indulkana community.

Leave granted.

The Hon. S.G. WADE: As the house would be aware, Indulkana is one of the larger communities on the APY lands. As the community closest to the Stuart Highway, it is a gateway to the lands and an entry point for a significant amount of alcohol and other prohibited substances coming onto the lands. There are no sworn police officers in Indulkana. Other police officers on the lands are at least 50 kilometres away.

In recent days, constituents have raised concerns with my office in relation to the timeliness of police responses to callouts at night at Indulkana when alcohol-fuelled disturbances often occur. I am advised that the police response often occurs the following day, by which time it is more difficult to obtain statements from witnesses and apprehend offenders. My questions to the minister are:

1. In the last four weeks, how many calls for assistance did SAPOL receive made by a person at Indulkana, and how many of those calls were received at night?

2. Of the calls received at night, what proportion led to a police attendance at Indulkana, and what was the average response time?

3. Will the minister release a copy of the answers SA Police provided to the Child Protection Systems Royal Commission, commonly known as the Nyland royal commission, in May last year in which it claimed an increased police presence on the lands had led to 'timely police responses'?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:32): I thank the honourable member for his important question about an important subject. I am very pleased to be able to inform the honourable member and the chamber that the Leader of the Government and I had the opportunity to visit the APY lands only two or three weeks ago and spent a fair bit of our time during the course of our visit engaging with representatives of South Australia Police working on the APY lands.

Let me start by commending them for their extraordinary efforts. Policing is a challenging job at the best of times but to do it in such a remote community with such well-known challenges is an extraordinary effort, and I want to commend the men and women of SAPOL who do an outstanding job under incredibly difficult and challenging circumstances. Allow me to fill the chamber in on the presence of SAPOL within the APY lands which has been increased substantially over the life of this government. Currently, there are 20 sworn officers permanently stationed on the APY lands. They are permanently stationed at Amata, Ernabella, Mimili, Murputja and Umuwa.

On our recent trip, the Leader of the Government and I started at Pipalytjara where unfortunately there is not currently a permanently based police station, but I am happy to inform this place that I have raised some concerns that exist within the community of Pipalytjara with the police commissioner to see if there are ways to improve the response times in places like that. The police commissioner has undertaken to have a look at the issue to see if there are ways to improve it because it is an issue that he is conscious of.

The police stations where we do have a permanent presence, of course, results in a more frequent and regular police response. Now, the truth is, and this would be something that would be well known to anyone who has had the opportunity to spend some time in the APY lands, police can not be everywhere, all of the time. They cannot be absolutely everywhere all of the time in such a remote part of the state, but they do an outstanding job of trying to cover the vast distances they have responsibility for with the resources that are available to them.

In respect to Indulkana, which is the specific township that the Hon. Mr Wade has referred to, that community is serviced by those police officers that are stationed within Marla, and there are five sworn police officers who are currently stationed in Marla. So, it is not as though Indulkana is not actually taken to into account in regard to police operations. There are arrangements in place, for those police officers that are based in Marla, to service the population of Indulkana. In regard to the more specific questions that the honourable member has asked, in terms of the precise number of call-outs that SAPOL has received over how long a period, I think you asked—

The Hon. S.G. Wade: The last month.

The Hon. P. MALINAUSKAS: The last month—naturally, that is not a statistic that I have at hand or I can recall directly, but I am more than happy to seek information from SAPOL and get an indication of the number of incidents or call-outs that they have received and, if it is appropriate for me to share it with the honourable member in this place, I am more than happy to do so.

The PRESIDENT: Supplementary, the Hon. Mr Wade.

INDULKANA COMMUNITY POLICING

The Hon. S.G. WADE (14:36): Thank you, Mr President. If I can have the indulgence perhaps to roll two supplementaries into one. First, would the minister be comfortable in giving an undertaking to provide a copy to the parliament of the submission of the police to the Nyland royal

commission? Secondly, in relation to the 20 sworn officers, are they field positions? My point being, how many officers do we have on the lands, and how many positions are yet to be filled?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:36): The nature of servicing remote communities, and this is not just true for the APY lands, is that there is a turnover of staff: it is a challenging environment. I am not aware of any specific vacancies that exist at the moment, and that is in the context of the fact that I was only there in the last few weeks.

In regard to community constables, however, there is provision for 10 community constables in the APY lands, and I am more than happy to disclose the fact that SAPOL do have a challenge when it comes to fulfilling the positions of community constables. At the moment, the full contingent of 10 has not been allocated for. Out of the other positions, I am not aware of any specific vacancies, but I think, as people would reasonably understand, through a transition of staff and a turnover of staff and attrition and the like, there are vacancies, but, by and large, I think they have been filled. Again, if there is a glaring vacancy that has not been filled, I am happy to seek that information and bring it back.

Regarding the submission to the Nyland royal commission, this government's predisposition is always towards releasing information where it is appropriate to do so. Sometimes, in the context of SAPOL, however, that can be difficult due to operational requirements, but, again, I am happy to seek advice about that and, unless there is any reason for that information to not be released, I am happy to facilitate it, provided there is not any operational reason for a degree of confidentiality around SAPOL's submission.

SA WATER CUSTOMER SATISFACTION RESEARCH

The Hon. R.I. LUCAS (14:38): I seek leave to make a brief explanation prior to directing questions to the Minister for Water on the subject of customer satisfaction research.

Leave granted.

The Hon. R.I. LUCAS: Between at least 2013 and up until March 2016, SA Water, through the company New Focus, has conducted comprehensive customer satisfaction research in relation to a range of activities that SA Water conducts. Approximately 800 or so customers are researched each quarter for those particular research reports. The most recent report that has been published on the SA Water website, and released under FOI, is for the period January to March 2016. That report was dated April 2016.

Interestingly, given the recent controversies about the performance of SA Water this year, no report for the period April through to June has been published on the SA Water website. My questions to the minister are:

1. Can the minister assure the house that this customer satisfaction research, which has been conducted for a number of years now, has not been discontinued or stopped?

2. In particular, did SA Water conduct customer satisfaction rating research for the period April through June 2016?

3. If it has been conducted, can the minister indicate why it has not been published on the SA Water website, consistent with the publication of all recent reports for the last two years or so?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:40): I thank the honourable member for his most important question. SA Water is committed to the ongoing performance measurement of customer service satisfaction. I understand that SA Water uses third-party contractors to assist in tracking customer satisfaction and perceptions throughout the year.

I am advised that customers who have come into recent contact with SA Water across various business units are invited to participate in a voluntary phone survey to give feedback about their experience. Approximately 700 customers are surveyed each quarter. From the survey a 'customer satisfaction with experience score' is yielded for SA Water and reported as a corporate

key performance indicator. In 2015-16, SA Water achieved high satisfaction in scores for its contact centre with 89 per cent satisfaction, for its field crews who attend to faults with 91 per cent satisfaction, and for its field crews who attend new connections with 88 per cent satisfaction.

SA Water is actively working to improve customer satisfaction in areas such as written correspondence and keeping customers informed of the progress of their query or issue with SA Water. An example of this work is the implementation of new digital services, including a notification system for customers who report a fault. I understand SA Water has started to track customer perceptions within the broader community to measure and manage its brand reputation. These surveys will collect a range of customer insights that are used from previous services offered by SA Water.

To assist with strategic planning, I understand that SA Water aims to build a better understanding of each group of customers, which may include the needs of young people and the ageing community, low water consumers and customers who are experiencing financial difficulties. It is a fact that SA Water is committed to having a better relationship with customers, and measuring customer performances is a useful tool for them.

In terms of customer relations and customer satisfaction, I have to say that it is very brave of the Hon. Robert Lucas to stand up in this place and talk about that in relation to SA Water, because if you read *The Advertiser* from Monday—and I just happen to have a copy here—it says, 'We blame ETSA sale' for rising prices in terms of electricity. Who sold ETSA? It was the Hon. Robert Lucas; the Hon. Robert Lucas over there sold off this state's ETSA, and all South Australians blame him for privatisation. I have to say that it is a brave Hon. Mr Lucas who talks about customer satisfaction in relation to SA Water with that sort of track record, when everybody knows that the Liberals want to privatise SA Water as well.

SA WATER

The Hon. R.I. LUCAS (14:42): A supplementary arising out of the minister's answer. I am surprised that the minister did not refer to the front page of Tuesday's *Advertiser*. Will the minister undertake to provide a response to the specific questions I asked as to whether or not the customer satisfaction rating research for the period April through June was actually conducted and, if so, why it has not been published on the SA Water website?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:43): I did answer that in my statement in response to the Hon. Mr Lucas' very brave question about privatisation—

An honourable member: Foolish.

The Hon. I.K. HUNTER: Foolish, maybe; courageous. I have answered that, Mr President. I said that SA Water uses third-party contractors to assist in tracking customer satisfaction throughout the year. Then I talked about each quarter survey. My understanding is that that procedure has not changed. I will ask SA Water why there is some tardiness in updating the website, but—

The Hon. R.I. Lucas interjecting:

The Hon. I.K. HUNTER: It is not the only question that needs an answer, because SA Water, without a Labor government to protect it, would go down the privatisation path if this bloke gets in charge again. However, I understand the Hon. David Ridgway has plans about that, and we will hear about that later.

INNOVATION IN SOUTH AUSTRALIA

The Hon. G.E. GAGO (14:43): My question is to the Minister for Manufacturing and Innovation. Can the minister outline how the government is supporting innovation in South Australia, and is he aware of any other proposals?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:44): I thank the honourable member for her question, and pay tribute to her time as minister for science and information

economy. She is exceptionally well regarded in this area in South Australia, and has done a terrific job.

Adelaide is rapidly becoming the default place for smart new businesses to get their start, following the South Australian government's biggest ever investment in innovation. The state government invested almost $80 million of new funding in the recent state budget. It includes a $10 million Early Commercialisation Fund, a state-based $50 million venture capital fund, superfast internet for our innovation precincts through our Gig City investment, and better collaboration between our universities and industries, which I spoke about yesterday through the University of South Australia's Future Industries Institute.

Members may also recall that in May this year I announced in this place the government's commitment to bring one of the world's top innovation and start-up accelerators to Adelaide, committing South Australia as a founding partner to the Bridge to MassChallenge program for our state. MassChallenge has recently appointed Daniel Smith as its South Australian-based project manager and he will be responsible for most of the logistical and planning requirements of the program. Dan has hit the ground running, working on the program, and we are very much looking forward to seeing what will happen.

A total of 62 applications were received, I am informed, for the South Australian boot camp and I understand there has been significant interest expressed by applications from around the country and, indeed, from around the world, from places like Singapore and New York State, to participate in the Adelaide boot camp. Fifteen of the highest impact and highest potential start-ups will receive intensive mentorship at a three-day boot camp in Adelaide in early November.

The successful participants will then meet with and learn from high-quality national and international mentors, and the winners of the national competition will then participate in a five-day boot camp in Boston in early February 2017, where the top teams will compete for a spot in the MassChallenge accelerator program in Boston, Israel, the UK, Switzerland, or Mexico, with the possibility of over $3 million in no-equity cash awards. I congratulate the ambitious start-ups in Adelaide that are applying for the MassChallenge program and I wish all the applicants well and look forward to seeing how their ideas grow.

The second part of the question was: am I aware of any other policies with regard to this area. Frankly, no, I am not aware of them because the opposition still puts forward no policies whatsoever. The reason is that the opposition has fallen back to its usual state of equilibrium—absolute division, absolute disarray, backstabbing and treachery. It is an extension of the old Chapman versus Evans, Olsen versus Brown, but now we are seeing the Hon. David Ridgway versus the world. This appears to be an attempted takeover by the extreme right of the South Australian Liberal Party, the Donald Trump tea party mob of the SA Liberals.

We see the Hon. Michelle Lensink getting very comfortable in the chair she will soon be assuming, the chair she will soon assume when the Leader of the Opposition is forced to step down. I am told the conservatives in this state call themselves—

Members interjecting:

The PRESIDENT: Order, the honourable minister. No hugging and kissing in the chamber during question time, please.

The Hon. K.J. MAHER: I am informed that this far right group call themselves the grandmasters—the grandmasters of the South Australian Liberal Party, led in the state parliament by the Hon. David Ridgway and led in the federal parliament by the member for Barker, Tony Pasin. Imagine that, Mr President, being part of a mob led by the Hon. David Ridgway and Tony Pasin—the grandmasters, led by grandmaster flash the Hon. David Ridgway. Now we see more details leaking out about how the Liberal Party, and presumably the Hon. David Ridgway, plan to assume the control of this branch.

Information has now come out that Singapore-based real estate tycoon Mr Grant Kelley looks to have been offered the very safe Liberal seat of Morphett, causing an understandable rearguard action from the sitting local member. It also appears that Mr Kelley has been offered the Treasury portfolio if he takes up that offer. He has been offered the Treasury portfolio. The Hon. David Ridgway

can no longer hide and must now take some responsibility. He refused to rule out his involvement in such a plan yesterday. He has no option but to clear the air today.

The Hon. David Ridgway can put an end to all this by simply getting up after this, asking a supplementary and ruling out his involvement at all. Even better, he can make a personal explanation and detail all of his involvement in this. My questions to the Hon. David Ridgway are:

1. Did he have any conversations with Mr Kelley about standing for parliament?

2. Did he discuss with Mr Kelley running for the seat of Morphett?

3. Did the Hon David Ridgway have any discussions with Mr Kelley about taking on the Treasury portfolio?

4. Did the Leader of the Opposition, the member for Dunstan, sanction these discussions with Mr Kelley?

Mr President, failure to answer these questions will be very, very telling. The Hon. David Ridgway knows the seriousness of misleading this chamber deliberately, so he may choose once more the cowardly way out and just stay silent, indicating very clearly his complicity. If there is any truth at all to the allegations of what the Hon. David Ridgway has been up to, the Leader of the Opposition—

The Hon. J.M.A. LENSINK: Point of order: could the President, or perhaps the Leader of the Government, actually, refer to the standing orders and let us know under which standing order he gets to ask the questions of this side of the chamber? It is kind of bizarre.

Members interjecting:

The PRESIDENT: Order! Sit down. There has been a point of order. Standing order 107 states:

At the time of giving Notices, Questions may be put to a Minister of the Crown relating to public affairs; and to other Members, relating to any Bill, Motion, or other public matter…

The Hon. R.I. Lucas: You have to seek leave, though.

Members interjecting:

The PRESIDENT: It says nothing in standing 107 about—

Members interjecting:

The PRESIDENT: Order! Minister.

The Hon. K.J. MAHER: Mr President, if the Hon. David Ridgway again refuses to rule out his involvement, then the Leader of the Opposition, the member for Dunstan, will have no choice. Either the Hon. David Ridgway is on a frolic of his own, undermining the leadership, and he has to be sacked, or the Leader of the Opposition was complicit in this and is complicit in trying to do over the Hon. Rob Lucas and he must sack Rob Lucas. Either way, one of those two has to be sacked by the end of the day.

The PRESIDENT: Order!

ARRIUM

The Hon. T.A. FRANKS (14:52): Firmly cognisant of standing order 107—

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Franks.

The Hon. K.J. Maher interjecting:

The PRESIDENT: The honourable minister.

The Hon. T.A. FRANKS: You may want to hear this.

The PRESIDENT: Order! I have asked you on a number of occasions now. The Hon. Ms Franks.

The Hon. T.A. FRANKS: Firmly cognisant of standing order 107, I seek leave to make a brief explanation before addressing a question on the topic of Arrium funding to the Leader of the Opposition in this place.

Leave granted.

The Hon. T.A. FRANKS: As members of this council are patently aware, indeed painfully aware, Arrium has been placed in administration and the administrators, KordaMentha, have been busy stabilising the business and preparing it for sale. As we are aware, the workers, this week, will take another vote to see if they will agree to a 10 per cent pay cut, to save the company around $17 million a year to help assist the preparation of the sale for potential buyers.

As we are aware, in the budget papers there has been $50 million allocated under this budget through the state government and almost $10 million in a support package for small businesses in Whyalla. Yesterday, the Leader of the Opposition in the federal parliament wrote to our Prime Minister asking him to use the money from the pointless plebiscite, at least $170 million that will be wasted on a pointless vote, and put $50 million to save and prepare Arrium for sale and save the town of Whyalla.

My question to the Leader of the Opposition in this place is: will the opposition, similarly, write to the Prime Minister and ask him to put $50 million towards Arrium and drop the pointless plebiscite to do so, and you will have $120 million plus to spare?

Members interjecting:

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:54): Chuck him out.

The PRESIDENT: Order! The Leader of the Opposition has the floor. Give him due regard and allow him to answer the question.

The Hon. K.J. Maher interjecting:

The Hon. D.W. RIDGWAY: Thank you, Mr President. I will respond to the Greens member's question. As we all know, the plebiscite is a federal issue. I know the Prime Minister will be interested in the Hon. Tammy Franks' views and I am more than happy to send a copy of the *Hansard* and her wishes to the Prime Minister for him to review it.

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Franks has a supplementary.

ARRIUM

The Hon. T.A. FRANKS (14:54): A supplementary: if the Leader of the Opposition in this place isn't willing to put a letter together simply to secure the future of the third largest town in this state, I am happy to pencil together a letter for him to sign and send. Will he show leadership and do that to support the town of Whyalla?

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:55): As the honourable member knows, this party—

Members interjecting:

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY: The Liberal Party has always supported the town of Whyalla through a number of projects, over a very long period of time. On the issue of same-sex marriage and the plebiscite, that is a federal issue. If the honourable member would like, I will write a letter to the Prime Minister to convey her wishes and let him respond accordingly.

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Lee.

SOUTH-EAST ROADS

The Hon. J.S. LEE (14:55): I seek leave to make a brief explanation before asking the Minister for Road Safety a question about road conditions in the South-East.

Leave granted.

The Hon. J.S. LEE: A number of constituents have expressed concerns about the current condition of the Southern Ports Highway, in particular the road connecting Millicent and Beachport. The road has been described as extremely rough, with various potholes and some sections not having any white lines marking the road's edge.

One constituent in particular, Mr Craig Skeer, a concrete truck driver who drives regularly along the highway, confirmed in *The South Eastern Times* that the road is extremely rough and is very unsafe to drive, particularly at night-time. Mr Skeer's main concern was during the holiday period, when the road traffic population doubles, which can be very dangerous to other commuters and tourists. The media has also reported that there seems to be millions of dollars available for super ways, freeways, overpasses and O-Bahn extensions in Adelaide, but not a lot of money for country roads. My questions to the minister are:

1. With the current condition of the Southern Ports Highway requiring urgent repair and upgrade, can the minister outline what the government's future plans are for the South-East?

2. What funds will the minister allocate to fix the problem to ensure the safety of commuters along the Southern Ports Highway?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:57): I thank the honourable member for her questions. It is an unfortunate reality that a majority of road deaths that occur in South Australia do indeed occur in our regions. Sixty per cent of fatal crashes that occurred in 2015 occurred on rural roads. This is a figure that is down, in percentage terms, compared to the year before. Nevertheless, it is an unfortunate reality that a majority of the road deaths that occur on South Australian roads happen within our regions. This is why, as a government, when it comes to road safety policies and measures, we pay particular attention to the investments that we make on regional roads throughout the state.

In 2015-16, the state government, I am advised, has allocated $138 million to regional roads spending in South Australia. That is a figure that is up from $122 million in the previous year. We are doing everything we can to allocate funds to spend on regional roads, because it is appropriate. There are a range of things that contribute to accidents that occur on regional roads. There are, of course, the fatal five, which I understand are the major contributors to road deaths in South Australia. Of course, conditions of the road do make a difference, which is exactly why we have allocated the additional funds that are referred to—the $138 million—during the course of the last budget, to ensure that we are improving our roads where we can.

With regard to the specific road that the honourable member refers to, obviously in my role as road safety minister I receive enormous amounts of correspondence from constituents across our state, located in both metropolitan and regional areas. They convey to me concerns they have regarding specific roads. In each and every instance, I seek to get a response from the department as to the status of that road, whether or not there is any allocated funding that is likely to be spent in the near future and, of course, where it is appropriate to do so, we undertake reviews of such roads to make sure that a current analysis is done, if it is appropriate to do so, which can inform decision-making going forward.

If the Hon. Ms Lee has a specific road that has come to her attention that is of particular concern that she feels as though has been overlooked, I am more than happy to seek some feedback from her regarding the roads that she refers to. Indeed, if the Hon. Ms Lee writes to me that will initiate a formal process that I am more than happy to make sure gets a response as quickly as possible regarding the particular road that she refers to.

That said, the Department of Planning, Transport and Infrastructure does have a forward plan when it comes to expenditure of funds on regional roads to try to make sure they are achieving

a road safety objective, so most of those funds are planned for some time in advance. But, nevertheless, like I said, if the Hon. Ms Lee wants to convey to me the specific road, I am more than happy to make some inquiries and get a response back to her as soon as I reasonably can.

SEAL BAY CONSERVATION PARK

The Hon. J.M. GAZZOLA (15:01): My question is to the Minister for Sustainability, Environment and Conservation. Will the minister inform the chamber about his recent visit to the Seal Bay Conservation Park and the efforts that are being taken there to monitor Australian sea lion populations?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:01): I thank the honourable member for his most important question. Last week, I had the very great pleasure of visiting, once again, KI and spending some time at Seal Bay Conservation Park. I think the first time I was in Seal Bay was in 1974, it might have been just a little bit later, and I can say that the way in which the park is now operated has changed considerably since then.

Kangaroo Island is the jewel in the crown of what South Australia has to offer for domestic, state and overseas visitors. It is iconic for our state and the state government is committed to positioning KI as the state's premier nature-based tourism destination. With a landscape of great natural beauty, the island's national parks play a very important role in KI's tourism status, contributing 20 per cent of South Australia's nature-based tourism dollars, I am advised, to the state's economy.

The Department of Environment Water and Natural Resources is playing a very important role in helping to create South Australia as a nature-based tourism destination. With the government's nature-based tourism strategy, Nature like Nowhere Else, we are committed to recognising the state's natural assets as something that can create opportunities for growth and also employment.

We aim to create 1,000 new jobs through nature-based tourism by 2020, and inject $350 million into the state's economy annually. South Australia's tourism industry statistics are now at record levels. Our visitor economy has hit a record high of $5.95 billion this year, bringing us closer to achieving our target of $8 billion by 2020. Our state has also attracted record numbers of interstate and intrastate visitors, with domestic expenditure reaching $4.8 billion, I am advised, and international expenditure in South Australia is also at an all-time high of $954 million per annum.

The state government is committed to creating opportunities for our environment industry and our tourism industry, trying to have those opportunities realised in synergistic ways between the two different but mutually supportive industries, and nowhere else do we see leadership in balancing conservation with tourism more than at Seal Bay. With over 108,000 visitors last financial year and growing year-on-year, Seal Bay Conservation Park is an incredibly popular tourist attraction.

After being hunted to near extinction in the 19th century, Seal Bay is one of the only places in the world where we can see the Australian sea lion up close. Seal Bay supports the only beach-accessible colony of Australian sea lions. With over 1,000 sea lions, the colony reflects about 5 per cent of the world's total, I am advised. Importantly, South Australia is home to approximately 85 per cent of the world's population of Australian sea lions.

I was lucky enough to see plenty of sea lions, including their pups, at the Seal Bay Conservation Park. I was joined on a beach walk by representatives from the Kangaroo Island tourism sector and key stakeholders from the local community. We were taken on the beach tour and heard about the latest research and conservation efforts that underpinned the conservation park. Seal Bay Conservation Park provides a crucial contribution to the protection of Australian sea lions whilst they are on land. These measures are further supported by the government's introduction of the Seal Bay sanctuary zone in the Southern Kangaroo Island Marine Park in 2012. Now, inshore feeding areas for mothers and pups are fully protected.

What is particularly unique about Seal Bay is how conservation and research go hand-in-hand. Seal Bay is the national centre for research and monitoring of the declining Australian sea lion and is a critical contributor to the survival of this species.

Research into the Australian sea lion is a vital component of the species' survival, and I was joined by researchers from the South Australian Research and Development Institute and the University of New South Wales, and also a professor from Kentucky, and learnt about the factors that have an impact on sea lions and strategies being undertaken at the Seal Bay Conservation Park to increase their protection. I witnessed a necropsy that was being done on site to explore how hookworm poses a threat to the survival of the Australian sea lion, as well as watching researchers collect microchip data from very live and very wary maternal seals, a program that has been running since 2002.

While Seal Bay is a great example of nature-based tourism, it is also critically important for conservation and research. Seal Bay is a great example of connecting people with nature and science. Areas like Seal Bay play an important role in supporting regional tourism and, in turn, contribute to the local economy as well as the delivery of targets under our nature-based tourism strategy. I look forward to learning more about the research and conservation efforts being undertaken at the Seal Bay Conservation Park into the future.

I am particularly looking forward to seeing how the popularity of places like Seal Bay Conservation Park on KI grows after the upcoming launch of the new Kangaroo Island Wilderness Trail. The trail will provide an internationally competitive multiday walking experience along the south-west coast of Kangaroo Island. The state government has committed over $5 million for the creation of the trail, which is expected to deliver significant economic benefits to Kangaroo Island and of course to the state.

A report by KPMG estimates that post construction and with the anticipated private investment interest, total visitor expenditure relating to the trail could bring in $4.4 million by 2020 to the island. I am advised that the operation of the trail could support up to 27 ongoing jobs on KI and up to 50 across the state. I would like to take this opportunity to commend the work of the staff and researchers at the Seal Bay Conservation Park, and the Kangaroo Island community more broadly, for embracing and leading the way in nature-based tourism.

I just have to say, in relation to the Hon. Tammy Franks' question to the Leader of the Opposition, that she gave him a perfect opportunity in this place to stand up for South Australia, to stand up for Whyalla and to ask the federal government, on behalf of his constituents, to support the Arrium sale by allocating a grant to save the jobs in Whyalla. What would he do? He undertook to take the Hon. Tammy Franks' concern to the Liberal Party at the federal level, but not his own. He did not undertake to ask the federal government to help the workers in Whyalla.

It is up to the Labor Party in this state parliament and the Greens Party in this state parliament to do the work that the Hon. Mr Ridgway won't do. He is too busy trying to oust sitting members in safe Liberal seats. He is too busy trying to allocate Treasury portfolios to newcomers who have not even been preselected yet. I do not even know—

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: This is another example of Liberal Party arrogance. They believe they own these seats.

The PRESIDENT: Point of order. The Hon. Mr Dawkins.

The Hon. J.S.L. DAWKINS: Mr President, the Leader of the Government has defied your rulings throughout today's proceedings, and I ask that you make sure that he does not do it any further.

The PRESIDENT: The honourable leader has been directed to desist and allow the minister to complete his answer. Minister.

The Hon. I.K. HUNTER: This is just another example of Liberal Party arrogance. They believe they own these safe Liberal seats and it is in their gift to give them away. I tell them that there is a lesson coming for them, because these seats are owned by the electors of South Australia and they will have a lesson for them come the next election. They will teach you that the gift of these seats is not the Liberal Party's, it is not the Hon. Mr Ridgway's right-wing faction's, the Uglies or

whatever they are called—the grand Pooh-Bahs—at their lodge meetings. They can't have secret lodge meetings to allocate these seats—

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: —wearing buffalo horn hats, and giving them out to their mates. These seats will be allocated by the people of South Australia.

The PRESIDENT: The Hon. Mr Darley.

The Hon. D.W. Ridgway: What have you been drinking?

The PRESIDENT: Order! The Hon. Mr Darley has the floor.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Darley has the floor.

PUBLIC SERVICE PERFORMANCE

The Hon. J.A. DARLEY (15:09): I seek leave to make a brief explanation before asking the Minister for Employment a question about the Public Service.

Leave granted.

The Hon. J.A. DARLEY: As I mentioned yesterday, the Premier recently announced at least three times in the media that he wanted to improve the performance of the public sector. At the Budget and Finance Committee meeting last week the Chief Executive of the Department of Premier and Cabinet outlined some of the things being done to improve performance in their department. Can the minister advise what is being done to improve the performance of the Public Service in his agencies and departments, including improvement in the performance of senior management?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:10): I thank the honourable member for his question. The public sector is always looking to improve the way they do things and the services they provide. There are a number of departments for which I am responsible—Aboriginal affairs and the manufacturing industry and innovation side of the Department of State Development—and I know they constantly improve the work they do, how they engage with stakeholders in Aboriginal affairs and with Aboriginal communities and service providers, and in the other economic portfolios, particularly in relation to engagement with industry.

I am happy to bring back a detailed answer about programs that departments have in place under my responsibility as minister, about specific improvements they make, but I am regularly impressed with the way they continue to engage and continue to improve what they do.

The PRESIDENT: The Hon. Mr Ridgway.

VENTURE CAPITAL FUND

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:11): Oh, beauty. Thank you, Mr President.

The Hon. K.J. Maher: Rule it out, Ridgy, you're on your feet.

The Hon. D.W. RIDGWAY: Mr President, can I ask you—if he interjects again, can you actually name him and throw him out?

The PRESIDENT: Well, the last time I did that I didn't get support, so I am very careful about that.

Members interjecting:

The PRESIDENT: Order! I've got no doubt I would be a little bit more successful this time. But, I will say to the Leader of the Government: it is totally disrespectful, while any person in this

chamber is on their feet asking or answering a question, to be talking or interjecting. So, the honourable Leader of the Opposition, proceed.

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Innovation a question about the venture capital fund.

Leave granted.

The Hon. D.W. RIDGWAY: The government announced the establishment of a $50 million venture capital fund in this year's budget, and it was to be up and running by the end of the year. During budget estimates the minister confirmed that no fund manager had been appointed, and therefore had not determined how the fund would operate. So, my questions to the minister are:

1. Has a fund manager been appointed? If so, who has been appointed, what is their salary and in which arm of DSD do they sit?

2. Has it been determined how the fund will operate and when will those details be made public?

3. How many expressions of interest in accessing capital through this fund have been received by the government?

Members interjecting:

The PRESIDENT: Order! Will all members desist; the Leader of the Government will answer the question.

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:12): I thank the honourable member for his question and I am glad to see that he has now found his voice, after being gagged, after being stripped of the first question of the day, as you would expect the Leader of the Opposition to have. As you would expect, he was gagged, he was not allowed to talk about it. It might be the first sensible decision the member for Dunstan, the Leader of the Opposition, has made in banning the Hon. David Ridgway from asking the first question.

Members interjecting:

The PRESIDENT: Minister, get to the question.

The Hon. K.J. MAHER: I'm glad he's asked a question about our policies, of which we have very many, standing in stark contrast to what they have.

In terms of the biggest single investment this state has ever seen in innovation, which the honourable member asks about, we did announce close to $80 million of new funding in the innovation space; $10 million for an early commercialisation fund; and $50 million for a state venture capital fund. I am pleased that the early stage commercialisation fund is anticipated to be up and running by the end of this year.

I expect that, towards the end of this year or very early next year, there will be a fund manager for the venture capital fund, and some time in the second quarter of next year is the aim to have that up and running. It is expected that the deal flow we will see through that first stage, the $10 million fund, will see a similar amount find its way into the venture capital fund.

We will make no apologies for going to get the best people we can to manage the venture capital fund—make no apologies for doing that—and to make sure we take the best advice, the most sound advice, about how it might operate most effectively. I have had very many discussions with a wide range of people in the equities industry and the venture capital area about the best way to do this, and we will make no apologies about making sure that we get the biggest bang for our buck for our fund. I invite the honourable member to ask a supplementary and maybe have the guts to answer the questions about his involvement in destabilising his leader.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! I call the Hon. Mr Hood.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Hood has the floor. Will all members desist? The Hon. Mr Hood has the floor.

CANNABIS ARRESTS

The Hon. D.G.E. HOOD (15:15): I seek leave to make a brief explanation before asking the Minister for Police questions about the seizures and arrests relating to cannabis use and distribution in South Australia.

Leave granted.

The Hon. D.G.E. HOOD: Figures released by the Australian Criminal Intelligence Commission revealed that cannabis continues to account for the greatest proportion of illicit drug use in Australia. During 2014-15, there was a record 59,271 cannabis seizures across the nation. Indeed, cannabis arrests have also increased by 9.7 per cent in the 2014-15 period, with 75,105 arrests in that year alone. In South Australia, the number of cannabis seizures increased by 31 per cent on the weight of seizures—that is, the amount actually seized—and also grew by 72.8 per cent from 750 kilograms to 1.3 tonnes.

Statistics show that in South Australia, 85 per cent of drug arrests are related to cannabis which is the highest proportion reported by any state or territory in 2014-15. Cannabis expiation notices accounted for almost 81 per cent of cannabis arrests in South Australia. The substantial proportion of cannabis expiation notices suggests that recreational use of cannabis is prevalent and, according to these statistics, on the rise.

I think most alarmingly perhaps is that cannabis detection rates are also on the rise in those actually driving or operating a motor vehicle at the time that they are detected. The questions are:

1. What is the government strategy in order to curb the consumption, possession and trafficking of cannabis, as according to these figures it is substantially on the rise in South Australia?

2. What additional measures is the government considering adopting in order to reduce the unacceptably high level of those choosing to drive whilst under the influence of cannabis or other illicit substances on our roads?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:17): I thank the honourable member for his question and his maintained interest in the important subject of illicit drug use. We know that illicit drug use in our community has substantial and detrimental effects on our community generally, particularly in so many young South Australians, which is particularly tragic. The honourable member is right to point to the fact that there have been some statistics released recently that point to some concerns regarding the volume of drug consumption that is happening within our community.

Recently, the ABS released statistics which revealed some disappointing results in regard to drug consumption. The latest ABS statistics also highlighted that, while nationally the number of offenders regarding illicit drug use or drug trafficking or drug-related offences went up by 2 per cent, South Australia experienced a 4 per cent drop. There are a number of operations that SAPOL have had recently or that are still underway to try to tackle the issue of illicit drug trafficking and drug production and the like which I am happy to refer to.

There are a number about methamphetamines and drugs like ice which SAPOL have been undertaking but since the nature of your question was focused on cannabis I am happy to provide some answers specifically in that context. I think one of the most significant operations that SAPOL has in this respect is Operation Mantle. Operation Mantle's objective is to tackle street level drug use and trafficking. It has resulted in recent figures, I am advised, of 438 arrests; 413 reports; the seizure of 4,053 cannabis plants; 293 kilograms of dried cannabis, amongst other drugs; and over $719,000 in cash—a very successful operation which I am advised remains ongoing. It is an operation that is

very much targeting street level drug use and trafficking, which of course cannabis makes up a significant component of.

Operation Deluge was a recent operation conducted across the South Australian, Northern Territory and Western Australian borders, and it disrupted a major cannabis distribution ring. Also, Operation Aedile was an operation that dismantled a suspected cannabis-growing syndicate. These are good efforts on behalf of our police, but it remains an ongoing challenge. SAPOL, of course, works closely with Australian Customs and the Australian Border Force as well as the Australian Federal Police to stop the importation of drugs that are precursors.

Regarding drug driving, as has been discussed previously in this place—and, again, I thank the honourable member for his interest in this particular issue—this is something of particular concern to both myself and the government. Last year something in the order of 24 per cent of people who died on South Australian roads revealed, during the course of their autopsy, drug use or the presence of drugs in their system. That is an astonishing statistic, and one that really jumped out off the page at me: almost one-quarter of road deaths that occurred in South Australia can be attributed to drugs being in the system of the person driving.

That is an alarming statistic to say the least but, on top of that, we have seen recent operations conducted by SAPOL (and I commend them for conducting those operations) detecting substantial numbers of people who have delivered a positive result in respect to drug driving. We know that as a community we have had an enormous degree of success in changing community attitudes and behaviour towards drink driving; we now really need to replicate that effort and replicate that success in respect of drug driving.

That needs a multifaceted approach but, of course, the law itself underpins that approach. We want to make sure that we are giving SAPOL the resources it needs to be able to catch people drug driving. We also need to be able to send a strong message to the community in respect of drug driving, with strong punishment. The law, as it stands, does achieve that, but there is potential room for improvement, and that is why I have already publicly foreshadowed that our government is currently undertaking an analysis to see if there is a way we can improve the law, whether that be through changing the punishment regime that exists, particularly for people who are repeat offenders (and there is large number of repeat offenders with regard to drug driving), but also looking at what we do in terms of conditions before someone can get their licence back.

That piece of work is ongoing, and I am happy to disclose that I have been in active discussions with both SAPOL and DPTI, along with DASA and other people within government who are able to provide feedback, to inform a review of that approach. Once that process is complete I will be happy to share that information with the government.

It remains an ongoing piece of work. I would probably have liked it to have been completed earlier, if I am honest about it, but it is something I continue to ask questions about. Only this morning I spoke with the Department of Planning, Transport and Infrastructure about where that effort is at, and I very much look forward to being able to share the information publicly as it comes to hand.

Ministerial Statement

HOMESTART FINANCE

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:23): I table a copy of a ministerial statement relating to the appointment of an adviser on potential HomeStart commercialisation made earlier today in another place by my colleague the Treasurer.

Bills

HISTORIC SHIPWRECKS (MISCELLANEOUS) AMENDMENT BILL

Introduction and First Reading

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:23): Obtained leave and introduced a bill for an act to amend the Historic Shipwrecks Act 1981. Read a first time.

Second Reading

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:24): I move:

That this bill be now read a second time.

The state government is introducing this Historic Shipwrecks (Miscellaneous) Amendment Bill 2016 to better protect South Australia's shipwrecks and relics of historic significance. These assets also hold educational, recreational and, of course, tourism value. Under the Historic Shipwrecks Act 1981, shipwrecks and their relics are protected to prohibit the removal of or damage to these sites. Any wreck in South Australian waters older than 75 years is automatically protected under this act. Approximately 270 historic shipwrecks have previously been declared under the act in South Australia.

The development of scuba diving in the 1950s led to the discovery and exploitation of some of Australia's most significant shipwrecks. Wreck material was pillaged as treasure, souvenirs or, indeed, at worst, used for scrap metal. Many vessels were illegally blown apart with explosives, with total disregard for the archaeological integrity of the site or its future enjoyment by others. In 1976, the federal government acknowledged the need to protect significant shipwreck sites and relics with the introduction of the Historic Shipwrecks Act 1976 for commonwealth waters, extending from the low-water mark to the edge of the continental shelf. Complementary South Australian legislation commenced a few years later with the Historic Shipwrecks Act 1981 for South Australian waters.

In recent years, the government has received a significant number of reports of illegal activity in South Australian waters, particularly in the marine park sanctuary zones. The Offshore Ardrossan Marine Park Sanctuary Zone has been an area of focus, following the introduction of fishing restrictions which took effect in October 2014. As well as a sanctuary zone, the area immediately around the old wreck of the historic shipwreck *Zanoni* is a protected zone under the act. This zone protects the 135-year-old wreck. The *Zanoni* is the most complete 19th century merchant vessel shipwreck in South Australia and possibly in the whole nation. Such wrecks are very fragile; dropping anchor or line fishing nearby can cause significant damage to the site.

From recent prosecutions it became apparent that existing compliance provisions and penalties under the act were outdated. It was recognised that the penalties had not been reviewed since the act first came into operation in 1981. The government acknowledges the importance of South Australia's shipwrecks and relics and anticipates that increasing penalty amounts will assist with deterring illegal activity and help to safeguard historic shipwrecks for future generations.

As part of the bill, it is proposed that all existing penalty amounts under the act be increased so they are commensurate with contemporary penalties. The bill also includes the head power to allow for expiation fees, not exceeding $750, to be included for minor offences against the Historic Shipwrecks Regulations 2014 (the Regulations). Expiation fees are currently not provided for in the act or the regulations. Accordingly, the regulations will require amendment following the bill being assented to, should it be the pleasure of the house to support it. The ability to issue expiation notices for minor offences will be a useful provision in compliance efforts. A number of other minor amendments are also contemplated.

The bill proposes amendments to the act to make it clear that the minister can only declare a shipwreck or shipwreck relic to be historic if it is not already historic by virtue of its age. Section 4A of the act operates to make a shipwreck or shipwreck relic historic for the purposes of the act if: (1) it has been situated in the territorial waters of the state for 75 years or more; or (2) in the case of a

shipwreck or relic that has been removed from waters, if the 75th anniversary of the date on which it first came to rest on the seabed has passed.

Consequential amendments are proposed to the provisions relating to the declaration of protected zones to ensure that a protected zone remains in place when a declaration of a shipwreck or relic is historic ceases to be enforced because the shipwreck or relic has become historic due to its age. It is proposed that more powers are given to historic shipwrecks inspectors to bring these powers in line with standard provisions included in other contemporary pieces of legislation. Additional powers proposed include the ability for an inspector to give directions with respect to stopping, securing or movement of a vessel; to require a person to state their full name and usual place of residence and to produce evidence of their identity; and to take photographs, films, video or audio recordings.

An amendment to the minister's ability to delegate duties, functions or powers conferred to the minister under other acts is further proposed. The minister is currently unable to delegate the power to provide direction in response to development referrals related to development impacting on historic shipwrecks as currently conferred by the Development Act 1993 and the associated Development Regulations 2008. It was never intended for the minister administering the Historic Shipwrecks Act 1981 to respond to every development referral request personally. It is appropriate for this power to be delegated to a suitable officer.

The government has consulted widely on the proposed amendments with the community and key stakeholders, including boating, fishing and scuba diving groups, the Local Government Association, the South Australian Maritime Museum, the Australasian Institute of Maritime Archaeology, the Department of Archaeology at Flinders University, Australia's International Council on Monuments and Sites, and other relevant state and commonwealth government agencies.

The proposed reforms, I am advised, received positive support from the community and stakeholders during the five-week consultation period that ran from 20 May until 24 June this year. We must all take this opportunity to contemporise the Historic Shipwrecks Legislation in order to protect our state's valuable shipwrecks and relics for future generations. 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 *Historic Shipwrecks Act 1981*

4—Amendment of section 3—Interpretation

This clause redefines the terms *historic relic* and *historic shipwreck* by reference to section 4A, and it inserts a definition of *vessel* for the purposes of the Act.

5—Substitution of section 4A

4A—Certain shipwrecks and shipwreck relics are historic

Under this section there are two ways that a shipwreck or shipwreck relic can become 'historic' for the purposes of the Act: (1) automatically by force of the section if the shipwreck or relic has been in territorial waters of the State for 75 years, or in the case of a shipwreck or relic that has been removed from such waters, if 75 years have passed since the shipwreck or relic came to rest on the seabed of territorial waters, and (2) by notice in the Gazette if the shipwreck or relic is declared historic by the Minister under section 5 or 6. The second method allows shipwrecks and relics to become historic earlier in time if the Minister is of the opinion that they are of historic significance.

6—Amendment of section 5—Declaration that shipwrecks and relics are historic

This clause amends section 5 to clarify that the declaration of shipwrecks and shipwreck relics as historic does not apply to those which are historic by force of the operation of section 4A.

7—Amendment of section 6—Provisional declaration that shipwrecks and relics are historic

This clause amends section 6 to clarify that the provisional declaration of shipwrecks and shipwreck relics as historic does not apply to those which are historic by force of the operation of section 4A.

8—Amendment of section 7—Declaration of protected zones

This clause amends section 7 so that a declaration of a protected zone remains in force, despite a declaration under section 5 or 6 being revoked or no longer having force, if the notice relates to an area in which there is a shipwreck or shipwreck relic which is historic by force of the operation of section 4A.

9—Amendment of section 9—Notice of location of historic shipwrecks and relics

This clause amends section 9 to increase the maximum penalties for offences against the section from $1,250 to $10,000. Also, references to gender are altered to be gender-neutral.

10—Amendment of section 10—Power of Minister to ascertain location of historic shipwrecks and relics

This clause amends section 10 to increase the maximum penalty for an offence against the section from $1,250 to $10,000.

11—Amendment of section 11—Power of Minister to give directions in relation to custody of historic shipwrecks and relics

This clause amends section 11 to increase the maximum penalty for an offence against the section from $2,500 to $10,000.

12—Amendment of section 12—Register of Historic Shipwrecks

This clause amends section 12 to require the Minister to include certain information in the Register of Historic Shipwrecks.

13—Amendment of section 13—Prohibition of certain action in relation to historic shipwrecks and relics

This clause amends section 13 to alter the maximum penalties for an offence against the section from $5,000 or imprisonment for 5 years to $20,000 or imprisonment for 4 years.

14—Repeal of section 14

This clause repeals section 14 which contains regulation-making powers relating to protected areas. These powers are to be included in the substituted section 29.

15—Amendment of section 15—Permits for exploration or recovery of shipwrecks and relics

This clause amends section 15 to increase the maximum penalties for an offence against the section from $2,500 to $10,000. Also, references to gender are altered to be gender-neutral.

16—Amendment of section 16—Defences

This clause amends section 16 to alter a cross-reference. This amendment is consequential on the repeal of section 14.

17—Amendment of section 17—Discovery of shipwrecks and relics to be notified

This clause amends section 17 to increase the maximum penalties for offences against the section from $1,250 to $10,000. Also, references to gender are altered to be gender-neutral.

18—Amendment of section 21—Appointment of inspectors

This clause amends section 21 to increase the maximum penalty for an offence against the section from $125 to $500. Also, references to gender are altered to be gender-neutral.

19—Substitution of section 22

22—Powers of inspectors

Section 22 sets out the powers of inspectors for the administration and enforcement of the Act.

20—Amendment of section 23—Arrest without warrant

This clause amends section 23 to alter a cross-reference. This amendment is consequential on the repeal of section 14. Also, references to gender are altered to be gender-neutral.

21—Amendment of section 24—Seizure and forfeiture

This clause amends section 24 to allow an inspector to seize and retain any vehicle, vessel, equipment or other thing that the inspector has reason to suspect has been used in, is otherwise involved in, or affords evidence of, the commission of an offence against the Act.

22—Amendment of section 27—Delegation

This clause amends section 27 to allow the Minister to delegate any duties, functions or powers that are, under another Act or statutory instrument, assigned to the Minister for the time being administering the Historic Shipwrecks Act.

23—Substitution of section 29

29—Regulations

Section 29 sets out the powers of the Governor to make regulations for the purposes of the Act.

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

RETIREMENT VILLAGES BILL

Second Reading

Adjourned debate on second reading.

(Continued from 20 September 2016.)

The Hon. J.A. DARLEY (15:30): This bill has come about as a result of the review of the Retirement Villages Act, which had not been reviewed since its introduction in 1987. It introduces a mandatory requirement to provide residents with a residence contract, disclosure statement and premises condition report. I am supportive of this as it increases transparency and will make it easier for residents to compare different villages.

With regard to the premises condition report, I understand this will outline the condition of fixtures, fittings, furnishings, etc., as well as who is responsible for repairing or replacing an item, and how this will be funded. I have been contacted by constituents who have had disputes with operators over who is responsible for the cost of replacing or repairing capital items and whether this is to be covered by the maintenance fund that most operators require residents to contribute to, or whether it is the responsibility of the resident to cover the costs themselves.

I wholeheartedly support the clarification of who was responsible for what. However, I believe this should be provided to residents prior to the cooling-off period expiring. This will give residents the opportunity to withdraw from the agreement if they do not agree with the terms. As such, I will be moving amendments to ensure that this information is provided as part of the residence contract.

With regard to the time in which prospective residents have to consider documents before signing a contract, the bill currently provides for a minimum of 10 business days. Prospective residents will then enter into a 10-day cooling-off period where they are able to withdraw from the contract without penalty. Industry feedback on this provision was that this effectively meant that operators would need to put units on hold for a month before they have certainty of a tenant.

Industry requested that this be changed to 15 days, as is the current practice. I had drafted and filed amendments to address this, which would have seen operators required to provide documents a minimum of five days prior to a contract being signed at the beginning of the 10-day cooling-off period. However, feedback has overwhelmingly been unsupportive of this. Industry has requested that the paperwork be provided a minimum of 10 days prior to a five-day cooling-off period. However, I hold grave concerns of reducing the statutory cooling-off period from 10 to five days.

Such a reduction would be bad for consumers and I am unwilling to make this change. As such, I flag that I will be withdrawing this amendment. The manner in which exit entitlements are paid has also been outlined in the bill. This is a contentious issue, as industry stakeholders have contacted me with concerns that 18 months will be unworkable for some villages and cause significant financial stress.

Instead, they have requested this be changed to 24 months. I have personally had experience with retirement villages in that I chaired a board of a not-for-profit retirement village. The practice in this village was to pay exit entitlements within 60 days. In reality, exit entitlements were often paid within 30 days of the resident exiting. I understand the average time for a payout is 315 days and that it is only less than 5 per cent of villages that are unable to sell the vacant property within 18 months.

Arrangements for when a resident moves to a nursing home are also outlined in the bill. The provisions allow for greater financial support for residents who want or need to move to a nursing

home, but would otherwise have to wait for their old unit to be sold before they could access finances. This is a positive move. I understand some good operators already operate like this and it is good to see that it will now be the standard for the industry.

Late yesterday, SARVRA (South Australian Retirement Village Residents Association) issued a media release in relation to retirement village residents moving into care facilities. I understand the crux of this release was to highlight the fact that the provisions of the bill differed from the provisions which were in the original consultation bill. I have discussed this with SARVRA's president and have today filed amendments to address the concerns they outlined in their media release. I will give further details on this during the committee.

Procedures for the annual meetings between the operator and the residents, as well as for residents' committees, are also outlined in the bill, with a requirement for the operator to consult with residents on certain matters. The bill also contains the circumstances where residents' rights can be terminated, how disputes can be resolved and procedures for having administrators, receivers and managers appointed.

I was alarmed to see that residents' rights could be terminated due to mental or physical incapacity. However, I understand this provision was to address circumstances where it is no longer appropriate for a resident to remain at a village as they are really in need of a facility which can provide care or assisted living and there is no family or power of attorney to make this decision. I understand that in these circumstances SACAT must agree to the decision to terminate residents' rights and would be grateful if the minister would confirm my understanding of this.

This bill is an improvement on the current act, as it provides more protections and clarity for residents. I believe this is important, as some entering retirement villages may be vulnerable and it is important to protect the vulnerable. Most retirement villages operate well, with the interests of their residents being of paramount concern. However, as in all industries, there are bad operators who do the wrong thing.

Providing standards for the industry will improve matters, but there are still concerns from both residents and operators about the current bill. I appreciate this was consulted on widely; however, I believe there is still scope for the bill to be reviewed after three years to see if further improvements can be made.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:37): I understand that all honourable members who wished to make a contribution on this second reading have done so, so I rise to close the debate. This bill is a result of over three years' significant consultation, which commenced with a parliamentary select committee. This was followed by extensive consultation and development of the bill and subsequent feedback.

I would like to thank honourable members for their contributions in the debate and I would like to address some of the emerging themes, particularly relating to clause 26, the statutory repayment period. Members raised concerns about various aspects of the statutory repayment provision, including protections and the length of period, both for residents and how to ensure that unit sales are not rushed, and what protections there were for small operators. These things were all considered in the development of the bill.

As you may be aware, the original bill that was consulted on proposed a 12-month repayment period. Residents were generally supportive of this, whilst operators suggested that two or more years would be more acceptable. There was a recognition that a 12-month repayment period could carry a high risk of fire sale practices being undertaken, which would be detrimental to both the existing resident and may also impact the value of the other units in the village system. A shorter statutory repayment period may also unintentionally have driven a change in the marketplace to larger operators or to contractual arrangements, with poorer long-term returns for residents and their families.

All stakeholders had varying views at different ends of the spectrum, as you might expect. I would like to extend my thanks to those operators, large and small, country and metro, that provided some insight into their operations, which helped us in drafting the bill. Noting all of this, I think the bill takes a sensible middle ground approach of 18 months, which seeks to successfully balance

increased consumer protection with the interests of not-for-profit and for-profit operators across a diversity of community-based organisations.

It has been challenging to determine the impact of these regulatory changes to such a diverse industry where there is little publicly available information about sales within villages. The government invited operators of villages in the state to share information about their current practices relating to repayment periods, including how often and in what circumstances repayment took longer than 12 months. Information was also sought about the residential sales market, as this also plays an important part in the entry into a village. The information provided was used to better understand possible impacts.

It is pleasing to see that there is significant confidence in the retirement village industry in South Australia. I have noted with interest the number of announcements of multimillion dollar village developments currently in the pipeline, as has been relayed to me, and the prospect of new legislation has not slowed or deterred operators. The industry is forging ahead with developments, including: the Carmelite premium apartments in Myrtle Bank by Southern Cross Care; the Uniting Communities development on the Maughan Church site; the ECH will be building in Modbury, I am advised; a boutique village in Underdale by Karidis Corporation is underway; the Brougham in North Adelaide, overlooking the city, is in the pipeline; and Life Care has announced a development on the grounds of the Pedare Christian College in Golden Grove.

Our government has worked in partnership throughout the development of this bill with stakeholders in the retirement living sector, including for-profit and not-for-profit operators, industry specialists, residents and community members. I thank them all for their commitment to this very important work. In closing, I understand that the Hon. Mr Darley has flagged that he is considering lodging late amendments, in which case it is probably appropriate that we do not move to the committee stage today, allowing the opposition, crossbenchers and the government to consider those amendments and come back to it for further consideration during committee.

I would like to thank honourable members again for their contributions. I look forward, once the amendments have been considered, to the speedy passage of this legislation.

Bill read a second time.

JUDICIAL ADMINISTRATION (AUXILIARY APPOINTMENTS AND POWERS) (QUALIFICATION FOR APPOINTMENT) AMENDMENT BILL

Committee Stage

In committee.

Clause 1.

The Hon. A.L. McLACHLAN: The Liberal position remains unchanged: we will not be supporting the passage of the bill. Since the second reading, the shadow attorney, the member for Bragg in the other place, had an opportunity to ask questions of the Chief Justice in respect of the bill during the estimates process, which renders it unnecessary for me to further interrogate the clauses of the bill during the committee stage.

There was nothing coming out of the conversation on this bill during estimates to warrant a reconsideration of the Liberal Party's position. There remains no coherent public policy imperative to support this legislation. The Liberal Party does not think it satisfactory for the government to simply state that it is introducing enabling legislation and then go on to say, 'We will work through the details later.'

We are not convinced by the assertions of the Chief Justice that there are adequate controls in place, for example, for bringing in a judge from a jurisdiction that has the death penalty. Whilst I personally take comfort from the Chief Justice's statement that he is implacably opposed to bringing in a judge from another jurisdiction to hear criminal cases, the Chief Justice is not immortal and a new chief justice may take a different view.

We acknowledge that there must be regulations laid on the table to prescribe the office held by the judge, as well as the foreign court, if one is to be brought into this jurisdiction but, as anyone

knows with a rudimentary knowledge of the workings of this place, each time the regulation is disallowed, it can be tabled by the government the next day and so on and so forth. The practical reality is that the government position is likely to prevail in the absence of sustained community outrage.

There is no rationale or considered plan regarding judicial exchanges. Next we will hear on this will be that there are regulations laid on the table. I would like to think, and I suspect that I will be disappointed, that we will be briefed ahead or in advance of such judicial plans to bring certain judges from overseas, rather than be briefed by radio transmission. The Liberal Party will not support the bill at the third reading; however, I acknowledge that we do not have the support of the majority of crossbenchers so I will not be calling a division.

Clause passed.

Remaining clauses (2 to 4) and title passed.

Bill reported without amendment.

Third Reading

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:47): I move:

That this bill be now read third time.

Bill read a third time and passed.

RESIDENTIAL TENANCIES (MISCELLANEOUS) AMENDMENT BILL

Committee Stage

In committee.

Clauses 1 to 4 passed.

New clause 4A.

The Hon. T.A. FRANKS: I move:

Amendment No 1 [Parnell–1]—

Page 3, after line 10—Insert:

4A—Repeal of section 83

Section 83—delete the section

This is the deletion of a section that then creates a provision for no-cause eviction amendments to be made to this bill. The arguments around no-cause evictions are well known, and the Hon. Mark Parnell, my Greens colleague, has previously put them to this place. We will put them again today in this debate, and I imagine we will keep putting them as we continue to raise awareness in this place of the very strong community support for these provisions.

I draw the attention of the council to the previous words of my honourable colleague, who notes that this is a provision that is to cover those circumstances where a landlord wishes to end a tenancy agreement for no reason. Certainly, he has drawn attention to that time and time again. Often the fact that the landlord can currently do this means that areas of discrimination which we should not be supporting in our society are able to be used to kick tenants out. There needs to be some protections for tenants. There should be cause if they are to be evicted. It is reasonably simple.

While I do not do as much justice as the Hon. Mark Parnell, who has long worked in this area, to this particular speech, I note that while I acknowledge that the Landlords' Association does oppose this, groups such as Shelter SA and others who advocate for the rights of tenants have long called for it. As I say, I move this today to test whether there will be the support in this chamber, but say that we will be bringing this again to this place because tenants of a place that is their home should have a reason if they are to be evicted from that home. With that, I commend the amendment.

The Hon. P. MALINAUSKAS: The government opposes the amendment moved by the Hon. Mark Parnell and spoken to by the Hon. Tammy Franks because it seeks to limit the flexibility

of periodic tenancies and significantly imbalances the rights and obligations of tenants and landlords. The Residential Tenancies Act recognises and provides for both a fixed-term tenancy and a periodic tenancy. A fixed-term tenancy has a specific start date and end date agreed upon at the beginning of the tenancy. A periodic tenancy is an agreement for an indefinite period which will continue until the tenancy is lawfully terminated.

Either a landlord or a tenant may serve notice to terminate a periodic tenancy for no reason. A tenant is required to give 21 days' written notice of such termination, while a landlord is required to give 90 days' notice. These notices of termination may be served on the other party simply because the first party wishes to terminate the agreement. It is not necessary for the other party to be in breach of the agreement. A landlord is also able to terminate a periodic tenancy by serving 60 days' notice in some limited circumstances, including where the landlord will be demolishing the premises, undertaking renovations, moving into the premises or selling the premises.

The current no-grounds termination of periodic tenancies and notice periods for tenants and landlords is well established within the South Australian tenancy sector and has been in operation for over two decades, in fact since the commencement of the act. I understand that all jurisdictions provide for no-grounds termination of periodic tenancies and that the notice period required for landlords in South Australia is consistent with the notice period for landlords interstate. In particular, the required period for New South Wales is 90 days, for Queensland 60 days and for Victoria 120 days.

The existing requirements for no-grounds termination of periodic tenancies provide a fair balance between the rights and obligations of tenants and landlords. The proposed amendment would seek to significantly disadvantage landlords, to the point where a landlord will be bound by a periodic tenancy indefinitely unless the tenant breaches the agreement or any of the very specific circumstances outlined above occur. On the other hand, a tenant could still terminate the agreement at any stage by providing 21 days' notice.

The Hon. A.L. McLACHLAN: I rise to indicate the Liberal Party's position. The Liberal Party will not be supporting the amendment as moved by the Hon. Tammy Franks. Our reasoning is consistent with many of the reasons outlined by the minister. We also believe that there is insufficient evidence to show an abuse of this clause by landlords.

New clause negatived.

Clause 5 passed.

Clause 6.

The Hon. P. MALINAUSKAS: I move:

Amendment No 1 [Police–1]—

Page 3, after line 25— Insert:

(2) Section 97B(7)—after 'section,' insert:

or if any other abandoned property is sold by the landlord,

This amendment requires all abandoned properties sold by a landlord to be sold in accordance with section 97B(7) of the Residential Tenancies Act 1995. At present, if valuable abandoned property is sold, a landlord may only retain out of the proceeds of sale reasonable costs incurred and any other amounts owed under the tenancy agreement. The balance, if any, must be paid to the owner of the property or, in the absence of the commissioner, for the credit of the fund. Valuable abandoned property is defined as a property the value of which exceeds a fair estimate of the cost of the approval, storage and sale.

Amendment carried; clause as amended passed.

Remaining clause (7) and title passed.

Bill reported with amendment.

Third Reading

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:57): I move:

That this bill be now read a third time.

Bill read a third time and passed.

SUMMARY PROCEDURE (ABOLITION OF COMPLAINTS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 26 July 2016.)

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:58): I thank all honourable members who contributed to the second reading of this bill. I would like to make one clarification. In a letter dated 30 June 2016, from the Deputy Premier to the Deputy Leader of the Opposition, it was indicated that, out of a total of 4,816 sworn police officers in SAPOL, there are currently approximately 4,235 officers who already are able to take affidavits as proclaimed police officers. About 1,922 of the 4,235 existing proclaimed police officers will need to refresh their training.

The Commissioner of Police has recently clarified that the correct number of sworn police officers is 4,705, including active and inactive police, cadets and community constables. The following advice was provided to the Deputy Premier by the Commissioner of Police in response to questions raised by the Hon. Andrew McLachlan on 26 July this year during the second reading debate on this bill.

The honourable member requested that I provide answers to his questions in my reply to the second reading debate. The honourable member sought clarification of the time frames that are anticipated for police officers to be trained to become proclaimed police officers, and for refresher training of the 1,922 existing proclaimed police officers to be completed.

The Commissioner of Police advises that all sworn staff will be trained as proclaimed police officers in the near future. An instruction was circulated on 10 August this year requesting that all SAPOL staff either complete the online proclaimed police officer training or the equivalent refresher course. While an exact time frame for this to occur is not known, SAPOL report a noticeable increase in the number of police officers completing the training, as has already been observed, and they are confident that full compliance with this instruction will occur.

SAPOL is also investigating the use of an automated system to remind officers to complete proclaimed police officer refresher training every 36 months. Proclaimed police officer training has also been incorporated into the Police Academy's recruits curriculum. SAPOL recruits are completing proclaimed police officer training during the first phase of their academy training in an effort to ensure that they can become proclaimed police officers on graduation.

The honourable member also sought advice on how the efficiencies to be produced by these changes will be measured, whether benefits of these efficiencies will materialise and whether this equates to less staff being required. The Commissioner of Police has advised that while actual resource savings have not been calculated, the changes to be made by this bill will primarily produce resource and time efficiencies in the preparation of documentation and reduce the opportunity for errors by inadvertent use of wrong format.

This means that police officers will spend less time on paperwork and can dedicate their time to other tasks. The changes will potentially reduce the number of court adjournments that occur while documentation is reformatted to meet court requirements for the different jurisdictions. Savings from reduced adjournments are difficult to quantify and will depend upon a number of matters, including the complexity of charges, the inclusion of new charges, and the number and location of witnesses. These changes will expedite the justice process for victims, defendants and those involved in the justice system and should result in increased availability of police and the courts.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

Third Reading

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (16:03): I move:

That this bill be now read a third time.

Bill read a third time and passed.

LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 20 September 2016.)

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (16:04): The Legal Practitioners (Miscellaneous) Amendment Bill 2016 seeks to amend the Legal Practitioners Act 1981 to address concerns raised by the Law Society about the ability of incorporated legal practices to practise in partnership, and concerns raised by the Legal Profession Conduct Commissioner about the operation of division 6 of the act. The Hon. Andrew McLachlan has asked for further information about the proposed amendment to section 89C of the act, which gives the commissioner the power to cause information about disciplinary action to be removed from the Register of Disciplinary Action in the circumstances prescribed by regulation.

The content of the regulations has not been determined at this stage, and will require consultation with the Legal Profession Conduct Commissioner. However, it is likely that the regulations will need to allow the commissioner to remove the name of a legal practitioner who has been included on the register under the proposed amendment to section 89B who is then found not guilty of misconduct. Currently, section 89C allows the commissioner to correct an error or omission in the register but does not allow the commissioner to remove disciplinary action from the register unless the action is quashed on appeal or review. I commend the bill to members.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. A.L. McLACHLAN: I just want to seek some clarification regarding the answer at the end of the second reading; it does not reflect on proposing any amendments to the bill. The amendment in relation to taking information off is 'in accordance with regulations'. What I am looking for is: what are the circumstances that the government is envisaging regulating? The government may say it has not envisaged those things in regulation yet, and I would probably accept that answer, but is it taking off the details of the particular matter? Is that what is envisaged? For example, a complaint is made but it is not quashed, but it is a minor matter that has been there for some time and therefore they are going to take it off. I am really looking at the sorts of circumstances being envisaged, whilst not necessarily binding the government to a particular set of regulations.

The Hon. P. MALINAUSKAS: The government has not made any sort of determination as yet. It would need to consult before developing any regulations, but I have been advised that should specific recommendations take place, there would be an intention to remove the name of the relevant person.

The Hon. A.L. McLACHLAN: Thank you; I do not have any further questions. The Liberal Party will support the passage of the bill.

Clause passed.

Remaining clauses (2 to 21) and title passed.

Bill reported without amendment.

Third Reading

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (16:10): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (ELECTRICITY AND GAS) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 23 June 2016.)

The Hon. R.I. LUCAS (16:10): I rise on behalf of Liberal members to support the second reading of the Statutes Amendment (Electricity and Gas) Bill. In doing so, I pay tribute to my colleague the member for Stuart who has had carriage of the legislation for the Liberal Party and very capably handled its passage through the House of Assembly. This bill is an omnibus bill developed after reviews of the electricity and gas acts, which we are told first started back in 2012-13, and the legislation before us today was first introduced into the House of Assembly back in May of this year. It addresses a number of issues relating to the electricity and gas industries, including safety, technical standards, administrative legal matters and a range of other miscellaneous issues as well.

The member for Stuart's summary of the bill highlights the following key measures: there are many, but the key measures of the bill are that it enables electricity entities to prune or remove hazardous trees outside of the currently prohibited buffer zones around powerlines, which allows trimming or removal of trees that may fall onto powerlines but are outside of the buffer zone. Mr President, as you would be aware and most members would be aware, the issue of the pruning or removal of trees around powerlines has been a controversial issue forever and a day, and I am sure it will continue to be an issue as people express concern about the manner and nature of the pruning of trees, particularly in built-up areas, and in other regions of South Australia there are issues of access, etc., which concern local communities as well.

The second key issue is that the bill will enable authorised officers to enter land for the purposes of inspection, without written consent, in prescribed bushfire zones. Currently, officers are only allowed to enter land with written consent and this provision still exists for areas outside bushfire zone areas. The bill grants authorised officers additional investigatory powers. The bill increases maximum penalties and expiation notices and introduces new offences. The bill enables prosecutions for noncompliant work to be brought within three years instead of two years, as noncompliant work, the government argues, is often not identified within the two-year period.

The bill modifies privilege for self-incrimination, making information the person gives relating to the safety of electrical installations and equipment inadmissible as evidence. The bill transfers the administration process for approving safety, reliability, maintenance and technical management plans from ESCOSA to the technical regulator. The bill establishes a regime for assurances and enforcement orders to avoid legal proceedings ending up in court.

The bill extends the technical regulator's authority to direct an electrician or gasfitter to rectify defective electrical or gas installation work or equipment if the work was carried out within the last two years. The position the Liberal Party has adopted, on the advice of the member for Stuart, our shadow minister in the area, is that generally most of the issues canvassed in the bill are noncontroversial and have sought to resolve issues that have arisen over time in these industries.

The government has advised, and we have had no evidence to the contrary, that they have consulted with SA Power Networks, ElectraNet, Envestra, AGL, Consumer and Business Services, ESCOSA, the LGA and the ASU. The government's advice is that none of those stakeholders raised any major concerns with the legislation before us. As I said, the advice from the shadow minister is

that subsequent to the introduction we also have not received any significant concerns being expressed by any of those stakeholders to the major tenants of the legislation.

The Liberal Party's position is that, by and large, 95 per cent of the bill is to be supported, but there are two particular areas on which the shadow minister has recommended that amendments be moved, and I have filed amendments on behalf of the party for debate. They basically cover two areas. The first is in relation to clause 11, which is about the ability of officers or authorised people to enter private property for the purpose of inspection within bushfire zones. The bill seeks to change the requirements from having to give written notice to not having to give written notice.

The amendments that the shadow minister has drafted for the Liberal Party, and which we will debate, would put this requirement back in, but with a little more flexibility. That flexibility involves that at least two months prior to the inspection the electricity entity must publish a prescribed notice in a newspaper circulating throughout the state, or in a newspaper circulating within the area of the council and on free-to-air public radio broadcast services, operated by two local radio stations.

The second broad area is in relation to the issue of the new powers and obligations of authorised officers, in particular the power of authorised officers to access vehicles as well as places, and the amendments that the shadow minister has asked us to move, and which we will do, relate to those specific provisions in the powers and obligations of authorised officers.

It is certainly our intention to proceed to a vote on the second reading today but not to proceed into the committee stage. The shadow minister advises that, if he has not done so already, he will consult with crossbenchers in relation to the purpose and nature of the Liberal Party's amendments prior to us proceeding to a committee stage debate sometime next week. With that, I indicate our support for the second reading.

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (16:18): I thank members for their contributions on this bill and I look forward to the committee stage.

Debate adjourned on motion of Hon. J.M. Gazzola.

PUBLIC SECTOR (DATA SHARING) BILL

Second Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (16:19): I move:

That this bill be now read a second time.

Currently, we have government agencies that are collecting and generating significant amounts of valuable data, but it is largely being used only to inform their own operations. Some of the most difficult social and economic challenges facing this state require a more holistic understanding of the environment. If we are going to be truly innovative with the way government services care for the citizens of this state, then agencies must be able to readily share the data that they hold with each other.

It is well established that data analytics can be used to provide insights and a stronger evidence base for developing policy in services. For example, addressing some of the significant health challenges cannot be resolved by simply approaching them with a health lens. The way we use our public spaces, transport, education and welfare, all play a part and the data that is collected in all these agencies can bring new insights for designing health policy and services. This legislation provides the authority that is needed for agencies to share their data and includes a framework for ensuring that this only occurs in safe circumstances and only for purposes supporting government policy making, program management, service planning and delivery.

The main authority and safeguards of the bill are modelled to some extent on the Data Sharing (Government Sector) Act 2015 that the New South Wales parliament passed late last year. Already, New South Wales is progressing policy in service delivery changes inspired by some of the insightful analysis enabled by this legislation. The artificial boundaries of government

departments create barriers to agencies that are seeking to innovate and provide the type of collaborative, joined-up service delivery that people expect.

While we are establishing a distinct child protection department to focus on the important task of protecting our state's vulnerable children, the department cannot be expected to operate in isolation. This bill is critical for supporting this new department and others to work collaboratively for better outcomes. This legislation will effectively override the legislative policy barriers that operate to prevent data-sharing within government, yet will ensure data sharing is always safe and appropriate.

The two key objectives for this legislation are to promote the management and use of public data sharing as a public resource to support good government policy making, program management and service planning delivery, and to remove the barriers that impede the sharing of data between agencies. The data that government holds is a considerable asset, and we want our citizens and the public sector to be confident that it is being used to provide public value.

To provide the most public value that can possibly come from it, the major features of the bill include: the ability to establish an office of data analytics (the ODA); a framework of trusted access principles to encourage voluntary data sharing between public sector agencies; and the ability for the minister to enter into data sharing agreements with agencies of the commonwealth in other states and territories, local councils and non-government agencies prescribed by regulation.

The bill enables the minister to designate a public sector agency, or part of a public sector agency, as the ODA. Its functions would be to undertake data analytics work on data made available from across government and to make the results of the data analytics work available to government agencies to provide to the private sector and the general public. Data analytics work is defined in the bill to mean:

> …the examination and analysis of data for the purpose of drawing conclusions about that data (including, for example, conclusions about the efficacy of Government policies, program management or service planning and delivery by public sector agencies);

The ODA's data analytics work would not necessarily be confined to big data and de-identified results, but could be extended to personalised results at the service delivery level. To support its functions, the ODA will be given the power, with the minister's approval, to direct a government agency to provide data to the ODA. However, the minister must have regard to the trusted access principles before giving his or her approval.

The portion of the bill allowing for the establishment of the ODA responds to research-focused recommendations of the Child Protection Systems Royal Commission. There are two mechanisms for authorising the sharing of data between public sector agencies, including with the ODA, under this legislation. The first enables voluntary data sharing between public sector agencies. In this instance, an agency may simply approach another agency with their data request or an agency may proactively identify the value in sharing data that it controls with another agency.

The second mechanism is that the Minister for the Public Sector may direct the public sector agency to provide data that it controls to another public sector agency. This may be on the minister's own initiative or, perhaps, where an agency is unsuccessful in pursuing a voluntary arrangement directly with another agency and seeks the minister's backing.

Under both mechanisms, the legislation provides authority for data to be shared for the purposes of enabling agencies to develop, improve and undertake policy-making, program management, service planning and delivery, and for enabling data analytics work to be carried out on the data to identify issues and solutions regarding these same objectives. In considering whether the data should be shared, the agency seeking to receive the data must provide satisfactory assurance against a set of trusted access principles.

These principles provide a framework for considering that the quality of the data, the people using it, the storage environment, the purpose for which the data is to be used and any outputs are all considered safe and appropriate before the data is shared and that there are adequate controls in place to support this assessment. The trusted access principles that are embedded in the bill reflect international best practice and are employed by the Australian Bureau of Statistics for assessing the safe and appropriate sharing of data.

An important principle of the trusted access principles, in a world in which data security is a common concern, is a requirement for the data provider to have regard to the environment in which the data will be stored, accessed and used by the proposed data recipient, including whether the data recipient has appropriate security and technical safeguards in place to ensure data remains secure and not subject to unauthorised access and use, such as secure login, user authentication, encryption and supervision or surveillance.

The legislation predominantly applies to public sector agencies, as defined in the Public Sector Act 2009. It does allow for additional entities to be added or removed from this definition by way of regulation, and the intention is to consult further about which agencies may be appropriate to exclude. Regarding the definition of public sector data, this also allows for the regulations to prescribe exempt data, either being all data held by a prescribed agency or data of a prescribed kind.

In New South Wales, information that is exempt from disclosure under the equivalent of the Freedom of Information Act 1991 in South Australia is also exempt from the data sharing authority. In drafting the regulations for this legislation, we will consider what might be appropriate to exempt and take outside the scope of what may be authorised for sharing under this act.

The bill includes a number of safeguards to provide protections around the appropriate sharing of data. These include, limitations on the further use or disclosure of data for purposes other than those authorised under this legislation. The limited instances include, for example, whether disclosure is reasonably required to lessen or prevent a serious threat to life, health or safety of a person.

The safeguards also include a requirement that any confidential or commercially sensitive information is dealt with in a way that complies with any contractual or equitable obligations of the data provider concerning how it is to be dealt with. Regarding the custody control of data, the safeguards require any legal requirements concerning the data, such as requirements under the Freedom of Information Act 1991, or the State Records Act 1997, to continue to be applied to any data security policies that are applicable to that data recipient.

In addition to the explicit safeguards in the bill, the principles of ethical behaviour and professional integrity found in the Public Sector Act 2009 and the Professional Conduct Standards in the Code of Ethics for the South Australian public sector will apply and require public sector employees to maintain the integrity and security of official information and only access, use and disclose information where authorised. Any employee who contravenes or fails to comply with these professional conduct standards may be liable to disciplinary action.

The trusted access principles and the information privacy principles established under a Cabinet Instruction provide adequate safeguards against privacy concerns. The data sharing safeguards in the bill will also protect confidential information by requiring the data recipient to deal with the data in a way that complies with any contractual or equitable obligation of the data provider concerning how the data is to be dealt with.

The bill also establishes a regime for sharing of government data by voluntary agreement with agencies of the commonwealth and other states and territories, with local councils and with NGOs prescribed by regulation. The sharing agreements may be subject to conditions, including the application of one or more of the trusted access principles. While the terms of the agreements will differ depending on the type of data and the level of personal information involved, core conditions on each agreement can be expected to include appropriate provisions safeguarding the privacy and confidentiality of the data and ensuring that the data remains secure and not subject to unauthorised access and use.

If the data is provided in accordance with a sharing agreement, the agreements would have effect notwithstanding a law of this state that would otherwise operate to prohibit the provision of the relevant data. This portion of the bill responds to the Child Protection Systems Royal Commission recommendation on improved data and information sharing between government and non-government agencies.

With one exception relating to NGOs, the intent of this bill is that the Freedom of Information Act 1991 does not apply to a document that has been privileged by a data provider to a data recipient,

or to a document provided under a data sharing agreement between the minister and another body. This is intended to ensure that the body that is in the best position to consider the FOI request does so. That would be the body that has provided the data as the originator of the document rather than the body that receives the data.

This legislation is about overcoming the artificial walls that exist around government departments. It is about creating the authorising environment for agencies to make the best use of their data and a collaborative approach to improve the evidence base supporting policy development and the services we deliver. I commend this bill to members. I seek leave to have the explanation of clauses inserted without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause provides the short title.

2—Commencement

This clause provides for commencement to be fixed by proclamation.

3—Interpretation

This clause provides definitions for the purposes of the measure. *Public sector agency* has the same meaning as in the *Public Sector Act 2009*, however this may be modified by the regulations to include or exclude specified persons or bodies. *Public sector data* means any data that a public sector agency controls and there is provision for *exempt public sector data* being public sector data, or public sector data of a kind, prescribed by the regulations and public sector data held by a prescribed public sector agency.

Part 2—Objects and interaction with other Acts

4—Objects

This clause sets out the object of the measure, being to promote the management and use of public sector data as a public resource that supports good Government policy making, program management and service planning and delivery, to remove barriers that impede the sharing of public sector data between public sector agencies, to facilitate the expeditious sharing of public sector data between public sector agencies and to provide for the Minister to enter into data sharing agreements with certain other entities. The objects further specify protections provided in relation to public sector data sharing under the measure.

5—Interaction with other Acts

This clause provides that the provision of public sector data by a public sector agency to another public sector agency as authorised under the measure for a specified purpose is lawful for the purposes of any other Act or law that would otherwise operate to prohibit that provision. The clause states that the measure does not permit or require a data recipient to use or disclose public sector data received under the measure for another purpose outside the authorisation or to deal with any public sector data otherwise than in compliance with the *State Records Act 1997* where that Act applies to the public sector data.

This clause provides that a person does not have a right to access a document under the *Freedom of Information Act 1991* from a data recipient and a data recipient must not give access to a document under that Act if the document was provided under the measure. A data recipient must refer an application under the *Freedom of Information Act 1991* for such a document to the data provider who will deal with the application in accordance with that Act.

This clause also provides that the measure is not intended to prevent or discourage the sharing of public sector data by public sector agencies if it is proper and reasonable to do so or if it is permitted or required by or under any other Act or law.

Part 3—Office for Data Analytics

6—Office for Data Analytics

This clause provides that the Minister may, by notice in the Gazette, designate a public sector agency, or part of a public sector agency, as the Office for Data Analytics (*ODA*). The proposed functions of ODA are to undertake data analytics work on public sector data received from across the whole of Government, to make the results of that data analytics work available to public sector agencies, to the private sector and to the general public as ODA sees fit and to perform any other functions conferred on ODA by the Minister. It is proposed that ODA will be able, with the approval of the Minister, to direct a public sector agency to provide public sector data to ODA for the purposes of

carrying out its functions. ODA is to undertake its functions in a manner that prioritises the provision of relevant and up to date information to public sector agencies about their service delivery, operations and performance.

Part 4—Facilitating public sector data sharing

7—Trusted access principles

This clause sets out the trusted access principles to be applied in respect of the sharing and use of public sector data under the measure. The trusted access principles are divided into groups as follows:

(a) safe projects;

(b) safe people;

(c) safe data;

(d) safe settings;

(e) safe outputs;

(f) other trusted access principles as may be prescribed by the regulations.

8—Public sector data sharing authorisation

This clause provides that a public sector agency is authorised to provide public sector data, other than exempt public sector data, that it controls to other public sector agencies for any of the following purposes:

(a) to enable data analytics work to be carried out on the data to identify issues and solutions regarding Government policy making, program management and service planning and delivery by public sector agencies;

(b) to enable public sector agencies to facilitate, develop, improve and undertake Government policy making, program management and service planning and delivery by the agencies;

(c) such other purposes as may be prescribed by the regulations.

The clause requires that a public sector agency must, before providing public sector data to another public sector agency under this section, apply the trusted access principles and be satisfied that the sharing and use of the data is appropriate in all the circumstances. The clause also requires that a data provider and a data recipient must comply with all relevant data sharing safeguards.

9—Data sharing on direction by Minister

This clause provides that the Minister may direct a public sector agency to provide public sector data that it controls, including exempt public sector data, to another public sector agency for any of the purposes referred to in clause 7(1). The Minister must, before making a direction under this clause, have regard to the trusted access principles and be satisfied that the sharing and use of public sector data is appropriate in all the circumstances.

Part 5—Data sharing safeguards

10—Confidentiality and commercial-in-confidence

This clause requires a data recipient to ensure that confidential or commercially sensitive information provided to it under the measure is dealt with in a way that complies with any contractual or equitable obligations of the data provider concerning how it is to be dealt with.

11—Data custody and control safeguards

This clause provides that a data provider and data recipient must ensure that public sector data is maintained and managed in compliance with any legal requirements concerning its custody and control (including, for example, requirements under the *State Records Act 1997*) that are applicable to them.

12—Other data sharing safeguards

This clause provides for additional data sharing safeguards to be prescribed by the regulations.

Part 6—Minister may enter data sharing agreements

13—Minister may enter data sharing agreements

This clause provides that the Minister may enter into an agreement relating to the sharing of data with a relevant entity, being an agency or instrumentality of the Commonwealth, another State or a Territory of the Commonwealth, a council (within the meaning of the *Local Government Act 1999*) or a person or body, or a person or body of a class, prescribed by the regulations.

This clause provides that the provision of public sector data by a public sector agency to a relevant entity under an agreement under this section is lawful for the purposes of any other Act or law that would otherwise operate

to prohibit that provision (whether or not the prohibition is subject to specified qualifications or exceptions) if the public sector data is provided in accordance with the agreement.

Part 7—Miscellaneous

14—Restriction on further use and disclosure of public sector data

This clause provides that a data recipient must not use or disclose public sector data received pursuant to an authorisation under section 7 or section 8 other than for a purpose for which it was provided unless—

(a) the Minister approves the use or disclosure after consultation with the data provider; or

(b) the use or disclosure is required or authorised by or under law or an order of a court or tribunal; or

(c) the use or disclosure is reasonably required to lessen or prevent a serious threat to the life, health or safety of a person, or a serious threat to public health or safety; or

(d) the use or disclosure is in accordance with the regulations.

15—Delegation by Minister

This clause provides that the Minister may delegate any of the Minister's functions or powers under the measure.

16—Personal liability

This clause provides that a person acting honestly and in the exercise or purported exercise of functions in administration of this Act incurs no civil or criminal liability in consequence of doing so. A civil action that would otherwise lie against a person lies instead against the Crown (except in the case of a member of a body corporate or the governing body of a body corporate or a person employed or appointed by, or a delegate of, a body corporate, in which case liability lies instead against the body corporate).

17—Regulations

This clause provides for regulations to be made by the Governor for the purposes of the measure.

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

CONTROLLED SUBSTANCES (MISCELLANEOUS) AMENDMENT BILL

Second Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (16:33): I move:

That this bill be now read a second time.

This bill will make three technical amendments to the Controlled Substances Act 1984 (the CS Act) to provide users with clarity. It also takes into account agreement at the national level to reduce the regulatory burden on businesses by achieving nationally consistent poisons regulation. Clause 4 of this bill will simplify the legislation, making it easier for users to find requirements by prescribing all information that retailers must record when selling schedule 7 poisons under the Controlled Substances (Poisons) Regulations 2011 (the poisons regulations).

Schedule 7 poisons are dangerous poisons used for agricultural or industrial purposes, such as arsenic, cyanide and strychnine. These poisons have a high potential for harm at low exposures and require special precautions during handling. There are currently requirements in the CS Act, as well as in the poisons regulations, for the retailer to keep records of information, including the name, address and occupation of the purchaser, the date and purpose for purchasing the poison and the name, form, strength and quantity of the purchased poison.

The Council of Australian Governments (COAG) identified inconsistent poison regulations, and this is an area for reform in the National Partnership Agreement to Deliver a Seamless National Economy. Record keeping requirements for schedule 7 poison transactions is one of the regulatory areas that is inconsistent between jurisdictions and poses compliance costs for businesses operating across borders.

A set of uniform controls over poisons that includes the information to be recorded about schedule 7 poison sales was developed by Australian poison regulators. The controls were agreed nationally by the Council of Australian Governments Health Council on behalf of COAG to achieve

consistent regulation of poisons and to reduce the regulatory burden on businesses. All jurisdictions have agreed to amend their relevant legislation to reflect these uniform controls, and completion of the reform process is expected by the end of 2017.

Referring to the national uniform control will reduce the amount of information retailers need to record by removing the uniquely South Australian requirements to record the purpose of purchase of the schedule 7 poison. This change will not reduce the overall regulatory oversight of the supply chain for schedule 7 poisons because another requirement under the CS Act requires retailers to satisfactorily determine the purpose of purchase before proceeding with the sale, and a requirement under the national uniform control requires retailers to record proof of the purchaser's authority to purchase the poison that indicates the purchaser's occupation and the context of use.

The bill will assist South Australian businesses by harmonising and reducing the amount of information to record, particularly those businesses that operate across state and territory borders, by removing the need for them to understand and comply with multiple sets of inconsistent regulations. The major retailers of schedule 7 poisons in South Australia support this amendment to achieve national consistency. Clause 5 of the bill clarifies the regulation of schedule 4 prescription drugs, such as antibiotics, for users of the CS Act.

The CS Act empowers the minister to grant a licence to organisations such as the South Australian Museum, the RSPCA and the Animal Welfare League to possess schedule 4 prescription drugs to administer to animals and to apply conditions to these licences to control this activity. Licensing enables these organisations to operate effectively without posing a risk to public safety.

Prior to 2011, the CS Act made reference to a person being permitted to administer a schedule 4 prescription drug to an animal if the Minister for Mental Health and Substance Abuse had licensed that person to do so. Changes to the CS Act in 2011 inadvertently omitted this reference. This clause will return to the previous provisions by reinstating the reference to a person being permitted to administer schedule 4 prescription drugs to animals when the minister has licensed them to do so.

Clause 6 of this bill will clarify that the Minister for Mental Health and Substance Abuse has the power to issue a prohibition order against a person who has sold a prescription drug in an irresponsible manner to prevent that person from doing that again in the future. Section 57 of the act is intended to apply particularly to pharmacists, to prevent potentially dangerous sales of prescription drugs. It has been advised that when a pharmacist dispenses a prescription, they are selling the medicine to the consumer not supplying it, and that the terms 'supply' and 'sell' are not used interchangeably in the CS Act.

This clause will make reference to selling as well as supplying drugs, to remove any ambiguity around the nature of these activities that the minister may consider in forming the opinion that a prohibition order should be issued. I commend the bill to members. I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

Clauses 1 to 3 are formal.

Part 2—Amendment of *Controlled Substances Act 1984*

4—Amendment of section 16—Sale of certain poisons

This clause amends section 16 of the Act so that all the information that must be recorded by a person who sells poisons to which section 16 applies will be prescribed by the regulations.

5—Amendment of section 18—Regulation of prescription drugs

This clause amends section 18 of the Act so that a person may administer a prescription drug (other than a drug of dependence) to another person, or to an animal, if the person is licensed to do so by the Minister.

6—Amendment of section 57—Power of Minister to prohibit certain activities

This clause amends section 57 of the Act so that the Minister is empowered to prohibit a person from manufacturing, producing, packaging, selling, supplying, prescribing, administering, using or having possession of a substance or device if the person has, in the opinion of the Minister, sold a prescription drug in an irresponsible manner.

Debate adjourned on motion of Hon. J.M. Gazzola.

CRIMINAL LAW CONSOLIDATION (MENTAL IMPAIRMENT) AMENDMENT BILL

Second Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (16:40): I move:

That this bill now be read a second time.

The Criminal Law Consolidation (Mental Impairment) Bill 2016 (the bill) implements a number of the recommendations contained in the Sentencing Advisory Council's (the council) report on the operation of part 8A of the Criminal Law Consolidation Act 1935 (the act).

The council is an advisory body comprised of representatives of the Director of Public Prosecutions, the Parole Board, the Legal Services Commission, the South Australian Bar Association, the Commissioner for Victims' Rights, the Law Society of South Australia, the Attorney-General's Department and South Australia Police. Its membership also includes community representatives and experts.

In March 2012, the following terms of reference were referred to the council for its consideration:

To consider the operation of Part 8A of the Criminal Law Consolidation Act 1935 with particular reference to:

- the test of mental incompetence in section 269C;
- the fixing of limiting terms; and
- the supervision of defendants released on licence pursuant to section 269O.

The council completed a recommendation report in November 2014, containing 27 recommendations to the government, which included some proposals for this legislative reform. This bill implements a number of these reforms.

The bill amends section 269C of the act to provide a clear legislative definition of mental incompetence. In addition, an additional gloss was added to the definition of wrongfulness in R v Porter (1936) 55 CLR 182. Justice Dixon's reference to whether a defendant could 'reason with a moderate degree of sense and composure' has been taken up in other decisions and it has become known as 'the Porter gloss'. The intention of the amendment in this subsection is to address one aspect of the Porter gloss frequently used in both jury directions and considerations by the court.

The bill also amends section 269C(1)(c) to require that the defendant be totally unable to control his conduct, as recommended by the council. The intention is to make clear that the partial inability to control one's conduct is not sufficient. The bill amends the act by incorporating provisions which ensure that the paramount consideration of the court must be the safety of the community when determining whether to release a defendant or when considering a substantial change to a defendant's licence conditions.

In addition, the bill also explicitly provides that the paramount consideration of the safety of the community outweighs the principle that restrictions on the defendant's freedom and personal autonomy should be kept to a minimum. This reform is firmly focused on protecting the safety and wellbeing of the community. The bill inserts a new provision into the act which provides for a licence to be administratively detained for up to 14 days where future breaches of the licence conditions are likely or treatment is required to prevent future breaches.

These provisions expressly provide the prescribed authority with the power to direct the detention of a defendant for up to 14 days, without the person having an opportunity to be heard in court, and for the prescribed authority to decide where the person will be detained. The prescribed authority is defined in section 269A as the person, for the time being, performing the duties or holding the acting position of Clinical Director, Forensic Mental Health Service of South Australia or, if no such person exists, a person declared by the regulations.

The amending provisions also explicitly provide police officers with powers to apprehend relevant licensees without the need for court warrants. The bill inserts new provisions into the act in division 4, subdivision 3 of part 8A, providing for the continued supervision of a defendant. The bill provides that the Crown may apply to the Supreme Court within 12 months of the expiry of a defendant's limiting term to have a continued supervision order made. If the order is made, a defendant will either then be committed to detention or released pursuant to licensed conditions until such a time as the order is revoked by the court.

There are currently no legislative provisions in which permit licence conditions can be extended or for there to be supervision of a defendant once the defendant's limiting term expires. They are simply released unconditionally. The intention of these provisions is to address concerns which have been raised that there are defendants who, at the end of their limiting term, remain a risk to the community and should be continued to be supervised.

The bill inserts provisions into the act which are designed to provide more flexibility for the courts of summary jurisdiction as per a recommendation of the council. The provision inserted into division 3A and part 8A provide additional dispositions for people found not guilty due to mental incompetence. These provisions only apply to courts of summary jurisdiction and apply where it has been found that the defendant is mentally incompetent to commit the offence or mentally unfit to stand trial but the court considers it appropriate to utilise these more flexible dispositions.

In these circumstances the court may dismiss the charge and discharge the defendant unconditionally, adjourn the proceedings, remand the defendant on bail or make any other order the court considers appropriate. The provisions also provide for a court of summary jurisdiction to make a division 3A order releasing a defendant on licence for a period which must not exceed five years specified on the licence.

This order is designed to be imposed for less serious offences and provides a less onerous avenue for disposition. The use of the mental impairment defence has become much more common in summary proceedings and the intention of this reform is to provide flexibility to magistrates to deal with defendants through flexible remedies. The bill amends section 269T(2) of the act by reducing the number of expert reports the court needs to rely on when considering releasing a defendant under division 4 or where significantly reducing the degree of supervision to which a defendant is subject.

A provision has also been inserted to provide judicial officers with a discretion to order further reports when necessary. Factors relevant are that discretion being exercised should include whether there is a dispute over the defendant's diagnosis, the nature of the defendant's impairment and whether it is likely to have changed and whether the information already available to the court from previous reports is sufficient to address the matter as an issue.

The intention of this amendment is to reduce unnecessary expense and unjustifiable delays. The bill inserts new provisions which provide for the cooperative interstate transfer of people under supervision in division 4A or part 8A. The insertion of these new provisions will enable South Australian courts to set conditions of supervision where a person who has been under supervision in another participating Australian jurisdiction moves to South Australia.

The provisions provide that the South Australian minister must be satisfied of a number of conditions and that the Chief Psychiatrist has certified in writing that the transfer is for the benefit of the person and that there are appropriate facilities available in South Australia for their custody, treatment or care. The provisions also provide that defendants who are currently subject to a supervision in South Australia can apply to move interstate to another participating jurisdiction.

Similarly, the South Australian minister must satisfy themselves of certain conditions, and again the transfer can only be approved if the Chief Psychiatrist has certified in writing that the transfer is for the benefit of the person subject to the supervision order. The intention of the insertion of division 4A is to provide a clear mechanism which provides for the cooperative interstate transfer of people under supervision.

Finally, the bill inserts a new provision into section 269C of the act to stop offenders whose mental impairment was caused by self-induced intoxication from utilising the defence of mental incompetence in part 8A. Statistics collected from a case file review undertaken by the Attorney-General's Department indicated that almost a quarter of offenders who successfully used the mental incompetence defence were suffering from an impairment caused by drug induced psychosis or from substance abuse and dependence.

The new provision provides that if a person is found mentally incompetent to commit an offence and the trial judge is satisfied, on the balance of probabilities, that the mental impairment at the time of the conduct alleged to give rise to the offence was caused (either wholly or in part) by self-induced intoxication (whether the intoxication occurred at the time of the relevant conduct or at any other time before the relevant conduct), the person may not be dealt with under part 8A but may, if appropriate, be dealt with under the intoxication provisions in part 8.

Further, the bill inserts a definition of intoxication into section 267A. Intoxication is defined as a temporary disorder, abnormality or impairment of the mind that results from the consumption or administration of a drug. This same definition is also included in section 269A. The definition of mental impairment that is contained in section 269A has also been amended to delete the reference to 'but does not include intoxication'.

These amendments have been designed to address the issue that there are currently no provisions in the act which specifically address the issue of comorbid mental impairment and substance abuse. The aim of these provisions is to prevent individuals from relying on the defence of mental incompetence if the mental impairment at the time of the conduct alleged to give rise to the offence was caused (either wholly or in part) by self-induced intoxication.

Defendants who seek to rely on the defence are now required to prove, on the balance of probabilities, that their ignorance of the nature and quality of their conduct, inability to appreciate that it was wrong, or inability to control their conduct was not a consequence of the combined effect of their mental illness and a state of self-induced intoxication. If they are unable to prove this they will be prevented from relying on part 8A of the act and instead their case will need to be addressed in accordance with the intoxication provisions in part 8. This policy intent is reflected clearly in the bill. I commend the bill to members and seek leave to insert the explanation of clauses into *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

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

4—Amendment of section 267A—Definitions

This clause proposes to insert a definition of *intoxication* to match the definition to be inserted in section 269A of the *Criminal Law Consolidation Act 1935* (the *principal Act*).

5—Amendment of section 269A—Interpretation

This clause proposes to insert a number of definitions for the purposes of Part 8A of the principal Act, including definitions that help to define intoxication.

6—Amendment of section 269C—Mental competence

Section 269C sets out the meaning of mental incompetence in relation to the offending conduct. Current paragraph (b) provides that 1 of the tests of mental incompetence to commit an offence is that the person does not know that the person's conduct is wrong. The proposed amendment to section 269C(b) clarifies that test by adding the explanation that this means the person could not reason about whether the conduct, as perceived by reasonable people, is wrong. This amendment would exclude a court, when considering the question, from considering whether the defendant could reason with a moderate degree of sense and composure (as set out in *R v Porter* (1936) 55 CLR 182). It is also proposed to amend paragraph (c) and insert an additional subsection that excludes mental incompetence caused wholly or in part by self-induced intoxication, whether the intoxication occurred at the time of the relevant conduct or at any time before the relevant conduct. It may be appropriate in circumstances where intoxication is a factor to deal with the matter under Part 8 of the principal Act but the matter may not be dealt with under Part 8A.

7—Amendment of section 269F—What happens if trial judge decides to proceed first with trial of defendant's mental competence to commit offence

8—Amendment of section 269G—What happens if trial judge decides to proceed first with trial of objective elements of offence

9—Amendment of section 269M—What happens if trial judge decides to proceed first with trial of defendant's mental fitness to stand trial

10—Amendment of section 269N—What happens if trial judge decides to proceed first with trial of objective elements of offence

These amendments are consequential on the proposed insertion of Division 3A under clause 11.

11—Insertion of Part 8A Division 3A

It is proposed to insert new Division 3A after section 269N. The Division makes provision for the court, when dealing with persons with mental impairment who have been charged with a summary or minor indictable offence, to dispose of the matters in a way other than under Division 4.

Division 3A—Disposition of persons with mental impairment charged with summary and minor indictable offences

Subdivision 1—Principle on which court is to act

269NA—Principle on which court is to act

The paramount consideration of the court in determining whether to release a defendant under this new Division, or the conditions of a licence, must be to protect the safety of the community (whether as individuals or in general). This paramount consideration outweighs the principle that restrictions on the defendant's freedom and personal autonomy should be kept to a minimum.

Subdivision 2—Making, variation and revocation of Division 3A orders

269NB—Division 3A orders

New section 269NB provides that the section applies in respect of a defendant who has been charged with a summary offence or a minor indictable offence in relation to which the court has found—

- on an investigation under Division 2—that the objective elements of the offence are established but the defendant is not guilty of the offence because the defendant was mentally incompetent to commit the offence; or
- on an investigation under Division 3—that the objective elements of the offence are established but the defendant is mentally unfit to stand trial for the offence.

The court may—

(a) dismiss the charge and release the defendant unconditionally; or

(b) declare the defendant to be liable to supervision under Division 4 Subdivision 2; or

(c) make an order (a *Division 3A order*) releasing the defendant on licence for the period (which must not exceed 5 years) specified by the court in the licence; or

(d) adjourn the proceedings; or

(e) remand the defendant on bail; or

(f) make any other order that the court thinks fit.

If the Division 3A order is made releasing the defendant on licence, the licence is subject to conditions prohibiting the possession of firearms and ammunition and any other conditions decided by the court and specified in the licence. New section 269NB provides examples of the sorts of conditions that may

be imposed on the licence and procedures for assisting in the determination of proceedings under this Division.

269NC—Court may direct defendant to surrender firearm etc

New section 269NC gives a court power to direct a defendant to surrender any firearm, ammunition or part of a firearm owned or possessed by the defendant.

269ND—Variation or revocation of condition of Division 3A order

New section 269ND makes provision for the court to vary or revoke a condition of a Division 3A order on application by the Crown, the defendant, the Parole Board, the Public Advocate, or any other person with a proper interest in the matter.

Subdivision 3—Administrative detention for defendant released on licence under this Division

269NE—Administrative detention for defendant released on licence under this Division

This new section provides for administrative detention (for no more than 14 days) if a defendant who has been released on licence under a Division 3A order has breached, or is likely to breach, a condition of the order.

269NF—Powers of police officers relating to persons in respect of whom an administrative detention order has been issued

This new section sets out the powers that a police officer may exercise in relation to a person in respect of whom an administrative detention order has been issued under new section 269NE.

Subdivision 4—Custody, supervision and care

269NG—Custody, supervision and care

This section provides that a defendant who is committed to detention under Division 3A is in the custody of the Minister (being the Minister who is responsible for the administration of the *Mental Health Act 1993*) and sets out the division of responsibilities between the Minister and the Parole Board.

Subdivision 5—Effect of supervening imprisonment on Division 3A order

269NH—Effect of supervening imprisonment on Division 3A order

This section provides that a Division 3A order will be suspended for any period during which a person who has been released on licence under the order is in prison for an offence committed while subject to the licence.

12—Amendment of heading to Part 8A Division 4

This amendment is consequential on the insertion of new Division 3A.

13—Insertion of Part 8A Division 4 Subdivision 1

It is proposed to subdivide Division 4.

Subdivision 1—Principle on which court is to act

269NI—Principle on which court is to act

This section contains the principle on which the court is to act when determining whether to release a defendant under Division 4 or the conditions of a licence and is in identical terms to the principle set out in new section 269NA.

14—Insertion of heading to Part 8A Division 4 Subdivision 2

It is proposed to insert a Subdivision heading before current section 269O. Subdivision 2 will be headed 'Making, variation and revocation of supervision orders'.

15—Amendment of section 269O—Supervision orders

A number of the amendments proposed to section 269O are consequential on the insertion of new provisions in Part 8A of the principal Act; other amendments clarify the conditions that may be imposed on a supervision order under which a defendant is released on licence; and another updates an obsolete reference.

16—Amendment of section 269OA—Court may direct defendant to surrender firearm etc

These proposed amendments are consequential or update the language of the section.

17—Amendment of section 269P—Variation or revocation of supervision order

These proposed amendments clarify what the court can do on an application for variation or revocation of a supervision order.

18—Amendment of section 269Q—Report on mental condition of defendant

19—Amendment of section 269R—Reports and statements to be provided to court

These amendments are consequential on the proposed insertion of Division 3A and Subdivision 3 in Division 4.

20—Repeal of section 269S

It is proposed to repeal this section as the principle on which a court is to act in respect of supervision orders and continuing supervision orders under Division 4 is now to be articulated in new section 269NI.

21—Amendment of section 269T—Matters to which court is to have regard

Currently, this section requires that a court must consider at least 3 expert reports when determining whether to release a defendant under a supervision order or significantly reduce the level of supervision over the defendant. The proposed amendments will allow for 1 expert report unless the court requires further additional expert reports. Another proposed amendment inserts a public safety consideration into the matters to be taken into account under this section.

22—Amendment of section 269U—Revision of supervision orders

The proposed amendment to section 269U(2) matches the proposed structure of section 269P.

23—Insertion of Part 8A Division 4 Subdivision 3

New Subdivision 3 is proposed to be inserted after section 269U.

Subdivision 3—Continuing supervision orders

269UA—Application for continuing supervision

New section 269UA provides that if a defendant is declared to be liable to supervision under Subdivision 2, whether before or after the commencement of this section, the Crown may, while the defendant remains liable to supervision, apply to the Supreme Court to have the defendant declared to be liable to supervision under a continuing supervision order.

An application cannot be made more than 12 months before the end of the limiting term fixed in respect of the relevant supervision order (and the limiting term will be taken to continue until the application is determined by the Court). The section sets out the procedures for such an application, who may be heard and the matters that may be taken into consideration when determining such an application.

If the Court is satisfied, on the balance of probabilities, that the defendant to whom the application relates could, if unsupervised, pose a serious risk to the safety of the community or a member of the community, the Court must declare that, on the expiry of the supervision order under Subdivision 2, the defendant is liable to continuing supervision under this Subdivision.

269UB—Continuing supervision orders

New section 269UB provides that if, under section 269UA, the Supreme Court declares a defendant to be liable to continuing supervision, the Court may make an order (a *continuing supervision order*)—

- committing the defendant to detention under this Subdivision; or
- releasing the defendant on licence.

If the order is made releasing the defendant on licence, the licence is subject to conditions prohibiting the possession of firearms and ammunition and any other conditions decided by the Supreme Court and specified in the licence. The section provides examples of the sorts of conditions that may be imposed on the licence. A continuing supervision order remains in force against the defendant until the order is revoked by the Supreme Court.

269UC—Variation or revocation of continuing supervision order

New section 269UC makes provision for the court to vary or revoke a condition of a continuing supervision order on application by the Crown, the defendant, the Parole Board, the Public Advocate, or any other person with a proper interest in the matter.

269UD—Appeal

New section 269UD makes provision for an appeal to the Full Court against a decision by the Supreme Court—

- to make a declaration and order under this Subdivision; or

- not to make a declaration and order under this Subdivision.

On such an appeal, the Full Court may confirm or annul the decision subject to the appeal; remit the decision to the Supreme Court for further consideration or reconsideration; make consequential or ancillary orders.

Subdivision 4—Administrative detention for defendant released on licence under this Division

269UE—Administrative detention for defendant released on licence under this Division

This new section provides for administrative detention (for no more than 14 days) if a defendant, who has been released on licence under a supervision order or a continuing supervision order under Division 4, has breached, or is likely to breach, a condition of the order.

269UF—Powers of police officers relating to persons in respect of whom an administrative detention order has been issued

This new section sets out the powers that a police officer may exercise in relation to a person in respect of whom an administrative detention order has been issued under new section 269UE.

24—Insertion of heading to Part 8A Division 4 Subdivision 5

The new Subdivision 5 heading is to be 'Custody, supervision and care'.

25—Amendment of section 269V—Custody, supervision and care

This amendment is consequential.

26—Insertion of heading to Part 8A Division 4 Subdivision 6

The new Subdivision 6 heading is to be 'Effect of supervening imprisonment on an order under Division 4'.

27—Insertion of Part 8A Division 4A

It is proposed to insert a new Division in Part 8A after Division 4 of the principal Act dealing with interstate transfer of persons subject to a supervision order.

Division 4A—Interstate transfer of persons subject to supervision order

269VB—Interpretation

This new section provides for the definitions of words and phrases for the purposes of this new Division. A *supervision order*, in new Division 4A, is defined to include a Division 3A order; and both a supervision order and a continuing supervision order under Division 4.

269VC—Informed consent

This new section defines what is to be taken to be informed consent for the purposes of new Division 4A.

269VD—Transfer of persons from South Australia to another participating jurisdiction

This new section sets out what needs to occur administratively to allow and facilitate the transfer of a person who is subject to a supervision order (as defined in new section 269VB) to be transferred to a participating jurisdiction.

269VE—Transfer of persons from participating jurisdiction to South Australia

This new section sets out what needs to occur administratively to allow and facilitate the transfer of a person who is subject to the equivalent of a supervision order under a corresponding law to be transferred from a participating jurisdiction to South Australia.

28—Amendment of section 269Y—Appeals

This proposed amendment is consequential.

29—Amendment of section 269ZB—Arrest of person who escapes from detention etc

This proposed amendment brings the language of the provision up-to-date.

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

STATUTES AMENDMENT (SOUTH AUSTRALIAN EMPLOYMENT TRIBUNAL) BILL

Second Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (16:52): I move:

That this bill be now read a second time.

As this is a very lengthy second reading speech, I seek leave to insert the second reading explanation and explanation of clauses in *Hansard* without my reading them.

Leave granted.

Today I am introducing the Statutes Amendment (South Australian Employment Tribunal) Bill 2016 (the Bill) for the purpose of conferring a range of further jurisdictions on the South Australian Employment Tribunal (SAET).

SAET was established by the *South Australian Employment Tribunal Act 2014* (the SAET Act). SAET commenced operations on 1 July 2015 with jurisdiction over workers compensation disputes under the *Return to Work Act 2014*. The Workers Compensation Tribunal (WCT) remained in existence until 5 March 2016 to complete matters under the former *Workers Rehabilitation and Compensation Act 1986* (WRC Act). Since the dissolution of the WCT on 5 March 2016, SAET has also been exercising jurisdiction to finalise the remaining outstanding workers compensation disputes under the WRC Act.

SAET was established on the premise that the collective industrial relations skills and experience of SAET's members and administration would in the future be utilised for resolving other employment-related disputes. The aim is that SAET will, as much as possible, be a one-stop-shop for resolving disputes between employers and employees. With SAET now established, the Bill proposes to amend the SAET Act and a number of other Acts to confer additional employment-related jurisdiction on SAET.

In summary, this Bill proposes:

- to amend the SAET Act to give it the powers and functions necessary to exercise the expanded range of proposed jurisdictions;
- to confer on SAET jurisdiction over dust disease matters under the *Dust Diseases Act 2005*;
- to confer on SAET the whole of the existing jurisdictions of the Industrial Relations Court of South Australia and of the Industrial Relations Commission of South Australia and to make consequential changes to the *Construction Industry Long Service Leave Act 1987, Fair Work Act 1994*, *Fire and Emergency Services Act 2005*, *Industrial Referral Agreements Act 1986*, *Long Service Leave Act 1987*, *Public Sector Act 2009*, *Training and Skills Development Act 2008* and the *Work Health and Safety Act 2012*;
- to confer on SAET the jurisdictions of the Teachers Appeal Board and teachers' classification review panels and to make consequential changes to the *Education Act 1972* and *Technical and Further Education Act 1975*;
- to confer on SAET the jurisdiction of the Equal Opportunity Tribunal and to make consequential changes to the *Equal Opportunity Act 1984*;
- to confer on SAET partial jurisdiction of the Police Review Tribunal and to make consequential changes to the *Police Act 1998*;
- to confer on SAET the jurisdiction of the Public Sector Grievance Review Commission and to make consequential changes to the *Public Sector Act 2009*;
- to confer on SAET criminal jurisdiction in respect of summary and minor indictable offences and to make consequential changes to the *Summary Procedure Act 1921*; and
- to confer on SAET common law civil jurisdiction in respect of contractual disputes between employer and employee and common law claims for damages under Part 5 of the *Return to Work Act 2014*.

The general approach taken in drafting the Bill has been that where provisions in an Act conferring jurisdiction on SAET replicate measures in the SAET Act, the conferring Act's provisions are to be deleted. The consequent effect of this is that, as with the *Return to Work Act 2014*, the SAET Act and the relevant conferring Acts, as amended by this Bill, will operate concurrently in the respective jurisdiction. Consultation has occurred with the affected courts, tribunals and other bodies, which has assisted in the drafting process and has enabled ongoing communication during this period of transition to SAET about the changes that lie ahead.

The Bill preserves in each of the conferring Acts specific functions, processes and powers that are unique or necessary to the respective jurisdiction. If special arrangements or powers are preserved by the amendments to the conferring Acts, and these differ from the provisions of the SAET Act, existing provisions in the conferring Act will prevail.

Transitional provisions will be inserted into each conferring Act that is subject to amendment by this Bill. The transitional provisions address the status of directions, orders, applications, reviews or appeals before and after the amended provisions take effect.

Turning now to the main features of the Bill.

Amendment of *South Australian Employment Tribunal Act 2014*

The Bill proposes to establish a part of the SAET that is the Tribunal in Court Session, and which is to be referred to as the South Australian Employment Court ('the Court'). This is proposed for constitutional reasons to enable SAET to exercise both non-judicial and judicial powers, with the latter being exercised in the Court part of SAET. This structure is modelled on the New South Wales Industrial Relations Commission (which operates with a 'Commission in Court Session'). Matters to be heard in the Court will be assigned to it either by the SAET Act, by a conferring Act or by SAET's rules. For example, the jurisdiction in respect of criminal offences would be assigned to the Court by proposed amendments to the SAET Act in this Bill.

The current President of SAET is the Senior Judge of the Industrial Relations Court. Under the *Fair Work Act 1994*, the person appointed to be the Senior Judge of the Industrial Relations Court could be either a judge of the District Court or a person who is eligible to be appointed a judge of the District Court. The Bill proposes that the President of the SAET will be a judge of the District Court. SAET's Deputy Presidents will be either District Court judges or magistrates. Transitional provisions are included in the Bill with respect to the President and Deputy Presidents of SAET.

Under the Bill, SAET's Conciliation Officers will, in the future, be referred to as 'Commissioners'. Transitional provisions in the Bill will have the effect of applying that change to SAET's existing group of Conciliation Officers.

The Bill also proposes a new category of non-Presidential SAET member called a Supplementary Panel Member. Supplementary Panel Members will be used on a sessional basis in the same way as the panels of nominees that are an existing feature of some Acts that will confer jurisdiction on SAET. This includes the employer association-nominated panel members and employee association-nominated panel members that currently assist boards, tribunals and other bodies to hear matters under the *Education Act 1972, Fire and Emergency Services Act 2005*, *Public Sector Act 2009* and under the *Work Health and Safety Act 2012*. SAET members will, when required, utilise the industry expertise of Supplementary Panel Members when hearing some matters.

The Bill proposes that SAET be conferred a broad common law jurisdiction to hear and determine disputes arising under contracts of employment. SAET will also be able to decide monetary claims between employers and employees under an award, enterprise agreement or contract of employment or under the *Fair Work Act 1994* or the *Fair Work Act 2009* (Cth), which is a jurisdiction currently exercised by the Industrial Relations Court. SAET would also hear common law damages claims for workplace injuries under Part 5 of the *Return to Work Act 2014*.

The Bill would make a number of procedural changes to the SAET Act, including as to reviews and appeals, to reflect the new jurisdictions that SAET will exercise, including that it will have a part that is the Court and that it will exercise criminal jurisdiction.

The Bill makes it clear that, generally, SAET is a no-costs jurisdiction unless provisions in the SAET Act or an Act conferring jurisdiction on SAET permit the award of costs. The Bill does not intend to alter the status quo as regards costs and, if costs are able to be awarded prior to the particular jurisdiction being conferred on SAET, SAET will also be able to award costs when it exercises that jurisdiction.

Criminal Jurisdiction

Regulations made under the *Summary Procedure Act 1921* currently declare some summary offences to be 'industrial offences'. Industrial offences can only be heard by industrial magistrates, who are magistrates assigned by the Governor under section 19A of the *Fair Work Act 1994* to be industrial magistrates. The Bill proposes to amend the *Summary Procedure Act 1921* to repeal the provisions referring to industrial magistrates and industrial offences. Instead, the members of SAET who are magistrates will hear criminal proceedings for summary or minor indictable offences in the South Australian Employment Court. The criminal matters that can be heard in the Court will be assigned to the Court by legislation. Under the changes proposed by the Bill, the Court will deal with a charge of a summary or minor indictable offence in the same way that the Magistrates Court currently deals with such a charge under the *Summary Procedure Act 1921*.

Dust Diseases

The Bill proposes to amend the *Dust Diseases Act 2005* so that SAET, in the part that is the South Australian Employment Court, will have jurisdiction to hear dust disease matters. This jurisdiction is currently conferred only on the District Court but matters are heard by judges of that Court who also hold commissions as judges of the Industrial Relations Court.

Industrial Relations Court and Industrial Relations Commission

The Industrial Relations Court is currently constituted under the *Fair Work Act 1994*. Its primary jurisdiction is derived from the *Fair Work Act 1994* and involves the interpretation of awards and enterprise agreements and jurisdiction to determine monetary claims, but the Industrial Relations Court can also hear civil proceedings under the *Work Health and Safety Act 2012*.

The Industrial Relations Commission is also constituted under the *Fair Work Act 1994*. The Commission has jurisdiction to approve enterprise agreements, to make awards regulating remuneration and other industrial matters, to resolve industrial disputes and, among other things, hear and determine industrial matters.

The Bill proposes to confer on SAET all of the jurisdictions of the Industrial Relations Court and Industrial Relations Commission and to dissolve the Industrial Relations Court and Industrial Relations Commission.

The Bill would amend the *Fair Work Act 1994* to remove the procedural provisions that will now appear in the SAET Act and to make consequential amendments necessary to ensure that SAET can exercise the jurisdictions of the Industrial Relations Court and Industrial Relations Commission.

The Bill proposes to remove the provisions of the *Fair Work Act 1994* relating to Commissioners. In SAET, the duties of the two current Industrial Relations Commissioners will be performed by SAET's members. Transitional provisions have been included to allow for the two Industrial Relations Commissioners to be appointed as Commissioners of SAET for a period of 5 years.

The Bill does not intend to affect any person's position or status for the purposes of continuing to hold an appointment as a member of an industrial authority under a law of the Commonwealth.

The Industrial Relations Court and/or the Industrial Relations Commission also exercise jurisdiction under the *Construction Industry Long Service Leave Act 1987* (reviews of decisions of the Construction Industry Long Service Leave Board), *Fire and Emergency Services Act 2005* (appeals of appointment nominations of the Chief Officer and reviews of disciplinary decisions of the Chief Officer and of the SAMFS Disciplinary Committee), *Industrial Referral Agreements Act 1986* (resolution of industrial disputes referred by agreement), *Long Service Leave Act 1987* (exemptions and reviews of decisions and other orders in respect of workers' entitlements to long service leave), *Public Sector Act 2009* (reviews of prescribed employment-related decisions made by public sector agencies), *Training and Skills Development Act 2008* (reviews of compliance notices issued against employers, suspension of apprentices and trainees for misconduct, resolution of disputes between parties to a training contract) and the *Work Health and Safety Act 2012* (disqualification of a health and safety representative, civil proceedings in relation to discriminatory or coercive conduct, external reviews of certain reviewable decisions). Consequential amendments are made to these Acts to enable SAET to exercise these jurisdictions.

Consequential amendments are also proposed to be made by the Bill to the *Courts Administration Act 1993*, *Judges Pensions Act 1971*, *Magistrates Court Act 1991* and the *Oaths Act 1936* to reflect the dissolution of the Industrial Relations Court and Industrial Relations Commission and the conferral of their jurisdictions on SAET.

Teachers Appeal Board

The Teachers Appeal Board has jurisdiction to determine appeals under the *Education Act 1972* in respect of a decision made in the public school system in relation to the employment or the disciplining of a teacher. The Board also has jurisdiction to hear appeals in respect of similar decisions made in respect of persons appointed under the *Technical and Further Education Act 1975*. Reviews of decisions of the Director-General regarding applications by teachers for reclassification are heard by classification review panels established under the *Education Act 1972*. The Bill proposes consequential amendments to the *Education Act 1972* and the *Technical and Further Education Act 1975* to confer on SAET the jurisdictions of the Teachers Appeal Board and of classification review panels.

Equal Opportunity Tribunal

The Equal Opportunity Tribunal has jurisdiction to hear and determine matters in respect of unresolved discrimination complaints referred from the Equal Opportunity Commissioner. This includes discrimination that occurs in an employment context. The Bill proposes consequential amendments to the *Equal Opportunity Act 1984* to confer the Tribunal's jurisdiction on SAET.

Police Review Tribunal

The *Police Act 1988* confers jurisdiction on the Police Review Tribunal to review certain decisions relating to the termination of appointment or transfer of a member of SAPOL and regarding selections for appointment to promotional positions. The Bill proposes consequential amendments to the *Police Act 1988* to confer partial jurisdiction of the Police Review Tribunal on SAET, i.e. jurisdiction over terminations and transfers. Jurisdiction covering promotion reviews will continue to be dealt with by the Police Review Tribunal.

Public Sector Grievance Review Commission

The *Public Sector Act 2009* provides public sector employees employed in the Public Service with a right to apply for review of certain employment decisions to the Public Sector Grievance Review Commission. The Bill proposes consequential amendments to the *Public Sector Act 2009* to confer the Commission's jurisdiction on SAET.

The *Statutes Amendment (SACAT) Act 2014* was passed by Parliament in December 2014 and includes provisions that would confer the Commission's jurisdiction on the South Australian Civil and Administrative Tribunal (SACAT). The disputes dealt with by the Commission concern the employment of Public Servants and therefore this jurisdiction is more appropriate for SAET than SACAT. It is proposed to repeal the relevant provisions of the *Statutes Amendment (SACAT) Act 2014* by way of a forthcoming SACAT-related Bill to be introduced into Parliament.

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 *South Australian Employment Tribunal Act 2014*

4—Amendment of section 3—Interpretation

This clause inserts or substitutes defined terms.

5—Amendment of section 5—Establishment of Tribunal

This clause amends section 5 of the principal Act to provide that the Tribunal will have a part that is the Tribunal in Court Session, which will be a court of record and will be called the *South Australian Employment Court*. The Tribunal will also have a part that is the Tribunal acting as an industrial relations commission.

6—Substitution of section 6

This clause inserts proposed sections 6, 6A and 6B into the principal Act to establish the jurisdiction of the Tribunal. SAET's jurisdiction will include matters conferred on it by another Act as well as jurisdiction to try a charge for an offence. Proposed section 6A sets out that the manner in which the South Australian Employment Court will deal with a charge of a summary or minor indictable offence.

6—Jurisdiction of Tribunal

6A—Conferral of jurisdiction—criminal matters

6B—Conferral of jurisdiction—related matters

7—Insertion of section 7A

This clause inserts proposed section 7A into the principal Act.

7A—Seals

Proposed section 7A states that the South Australian Employment Court must have a seal.

8—Amendment of section 9—The members

This clause amends section 9 of the principal Act. It provides for the inclusion of supplementary panel members as Tribunal members and substitutes conciliation officers for Commissioners.

9—Substitution of section 10

This clause substitutes section 10 of the principal Act and relates to the appointment of the President of the Tribunal.

10—Appointment of President

The provision sets out that the President will be a judge of the District Court. It also sets out various terms and conditions that apply to the appointment.

10—Amendment of section 12—Acting President

This clause amends section 12 of the principal Act to provide that the a person who is a Deputy President or a judge of the District Court may be appointed to act as the President.

11—Insertion of section 12A

This clause inserts new section 12A to establish that will be at least 2 Deputy Presidents of the Tribunal.

12A—Number of Deputy Presidents

12—Substitution of section 13

This clause substitutes section 13 of the principal Act and relates to the appointment of Deputy Presidents of the Tribunal.

13—Appointment of Deputy Presidents

The provision sets out the basis on which a Deputy President may be appointed and the various terms and conditions that apply to the appointment.

13—Substitution of heading to Part 2 Division 3 Subdivision 5

This clause substitutes the heading to Subdivision 5.

14—Amendment of section 16—Appointment of Commissioners

This clause substitutes references to conciliation officers with references to Commissioners.

15—Amendment of section 17—Commissioner ceasing to hold office and suspension

This clause is consequential and provides for references to Commissioner.

16—Amendment of section 18—Supplementary Commissioners

This clause is consequential and provides for references to Commissioner.

17—Insertion of Part 2 Division 3A

This clause inserts Part 2 Division 3A.

Division 3A—Supplementary panel members

18A—Supplementary panel members

Proposed section 18A provides the mechanism for establishing panel members as required. The provision establishes the various terms and conditions that apply to any appointment.

18—Amendment of section 19—Constitution of Tribunal and its decision-making processes

This clause amends section 19 of the principal Act to provide for the constitution of the South Australian Employment Court.

19—Amendment of section 20—Who presides at proceedings of the Tribunal

This amendment is consequential on the insertion of proposed section 18A relating to supplementary panel members and the substitution of references to conciliation officers with references to Commissioners.

20—Amendment of section 22—Determination of questions of law

This clause amends section 22 of the principal Act to substitute references to the Full Bench of the Tribunal with references to the Full Bench of the South Australian Employment Court.

21—Repeal of section 23

This clause deletes section 23 of the principal Act which provides for the establishment of streams or lists reflecting areas of jurisdiction of the Tribunal.

22—Insertion of Part 2 Division 6

This clause inserts Part 2 Division 6 which sets out additional provisions relating to the jurisdiction of the South Australian Employment Court.

Division 6—Additional provisions relating to jurisdiction

26A—Declaratory judgments

This section provides that the South Australian Employment Court may, on matters within its jurisdiction, make binding declarations of right.

26B—Other provisions relating to civil jurisdiction of Court

This section provides that the South Australian Employment Court may, in exercising civil jurisdiction, exercise any power under Part 6 of the *District Court Act 1991* subject to certain modifications.

26C—Binding nature of decisions

This section provides that any decision or determination of the South Australian Employment Court binds the parties to the relevant matter.

Division 7—Additional provisions relating to jurisdiction under *Return to Work Act 2014*

26D—Civil jurisdiction under *Return to Work Act 2014*

This section confers exclusive jurisdiction on the South Australian Employment Court to hear and determine an action for damages in respect of matters to which Part 5 of the *Return to Work Act 2014* applies.

26E—Rights of action and recovery against third parties

This section establishes that a reference in section 66 of the *Return to Work Act 2014* to the District Court will be taken to include a reference to the Tribunal and that the jurisdiction of the Tribunal and this section is assigned to the South Australian Employment Court.

26F—Review jurisdiction under *Return to Work Act 2014*

This section provides that a reference to Part 3 of the *South Australian Employment Tribunal Act 2014* in section 103 of the *Return to Work Act 2014* will be taken to be a reference to Part 3 Division 1.

26G—Injuries that develop gradually

This section establishes that a reference in section 188 of the *Return to Work Act 2014* to the Industrial Relations Court of South Australia will be taken to be a reference to the Tribunal and that the jurisdiction of the Tribunal under this section is assigned to the South Australian Employment Court.

26H—Criminal jurisdiction

The provision states that the South Australian Employment Court is conferred with jurisdiction to try a charge for an offence against the *Return to Work Act 2014*.

26I—Appeals

Proposed section 26I provides that an appeal from a decision of the Tribunal under the *Return to Work Act 2014* (other than in the exercise of its criminal jurisdiction) will be limited to a question of law.

23—Insertion of heading

This clause inserts a heading for Part 3 Division 1.

Division 1—Review jurisdiction

24—Insertion of section 26J

This clause inserts proposed section 26J.

26J—Application of Division

Proposed section 26J makes provision for the application of Part 3 Division 1 and sets out the Tribunal's review jurisdiction.

25—Amendment of section 27—General nature of proceedings

The amendments made by this clause are consequential on the structural changes made to Part 3.

26—Insertion of new Part 3 Division 2

This clause inserts new Part 3 Division 2.

Division 2—Application of Division

31A—Application of Division

Proposed section 31A makes provision for the application of Part 3 Division 1. It provides for the Tribunal acting as the original decision-maker.

27—Amendment of section 32—Principles governing hearings

This clause amends section 32 of the principal Act by inserting proposed subclause (1a) to provide that the South Australian Employment Court is a court of record and to provide that the Tribunal may give directions about any question of evidence.

28—Amendment of section 34—Entry and inspection

The clause amends section 34 to expand entry and inspection powers so that they extend to buildings, structures, ships or vessels.

29—Amendment of section 49—Joinder of parties etc

This clause amends section 49 to give the Tribunal power to order that a person be removed as a party to the proceedings.

30—Substitution of section 52

This clause substitutes section 52 of the principal Act.

52—Costs

The substituted costs provision provides that subject to this Act or a relevant Act, parties bear their own costs in any proceedings before the Tribunal (other than proceedings assigned to the South Australian Employment Court to which section 26B applies).

31—Amendment of section 53—Costs—related matters

This clause amends section 53 and is consequential on the amendment that substitutes section 52 of the principal Act.

32—Amendment of section 66—Internal review

This clause amends section 66 of the principal Act and sets out the manner in which a review of a decision of the Tribunal will be determined.

33—Substitution of section 67

67—Appeals

This clause substitutes section 67 of the principal Act to provide for appeals to the Full Bench of the South Australian Employment Court.

34—Amendment of section 68—Final appeal to Supreme Court

The amendments made by this clause are consequential.

35—Amendment of section 69—Effect of appeal on decision

This amendment is consequential.

36—Amendment of section 70—Reservation of questions of law

This clause amends section 70 to enable the South Australian Employment Court to reserve a question of law for determination by the Full Bench of the South Australian Employment Court.

37—Insertion of section 83A

This clause inserts proposed section 83A to facilitate the transfer of proceedings before the Tribunal to another tribunal or court.

83A—Transfer of proceedings

38—Amendment of section 86—Enforcement of decisions and orders of Tribunal

This clause amends section 86 of the principal Act to insert a definition of the term monetary order.

39—Insertion of section 88A

This clause inserts proposed section 88A to enable the Tribunal to issue a summons, notice or warrant to require the attendance of a person who is held in custody.

88A—Production of persons held in custody

40—Substitution of section 91

This clause substitutes section 91 with proposed sections 91 to 91B.

91—Disrupting proceedings of Tribunal

Proposed section 91 sets out the circumstances in which a person commits a contempt of the Tribunal.

91A—Punishment of contempts

Proposed section 91A establishes that a fine is payable for the offence of contempt of the Tribunal and that the jurisdiction to deal with the offence is vested in the South Australian Employment Court.

91B—Offences

Offences under the principal Act lie within the criminal jurisdiction of the South Australian Employment Court.

41—Transitional provisions

This clause provides for certain transitional arrangements.

Part 3—Amendment of *Dust Diseases Act 2005*

42—Amendment of section 3—Interpretation

This clause inserts a definition of SAET.

43—Insertion of section 4A

This clause inserts section 4A to provide that SAET is to have jurisdiction to hear and determine proceedings in relation to dust disease action. The provision assigns the jurisdiction to the South Australian Employment Court.

4A—Jurisdiction of SAET

44—Amendment of section 5—Expeditious hearing and determination of dust disease actions

This clause inserts a reference to SAET into section 5 of the principal Act.

45—Repeal of section 6

This clause repeals section 6.

46—Amendment of section 7—Costs

This clause amends section 7 to provide that costs of proceedings in dust disease actions before SAET will be allowed or awarded on the same basis as for actions in the District Court.

47—Amendment of section 8—Evidentiary presumptions and special rules of evidence and procedure

This clause amends section 8 to provide for references to SAET.

48—Amendment of section 9—Damages

This clause amends section 9 to insert references to the District Court or SAET.

49—Amendment of section 10—Procedure where several defendants or insurers involved

This clause amends section 10 to make reference to the District Court or SAET.

Part 4—Amendment of *Fair Work Act 1994*

50—Amendment of section 3—Objects of Act

These amendments are consequential and reflect changes made to the principal Act as a result of the substitution of Chapter 2 of the principal Act and the conferral of jurisdiction on SAET.

51—Amendment of section 4—Interpretation

This clause makes amendments to various definitions and makes provision for the definition of SAET as the South Australian Employment Tribunal established under the *South Australian Employment Tribunal Act 2014*.

52—Substitution of Chapter 2

This clause substitutes Chapter 2 of the principal Act to give SAET jurisdiction of matters that currently fall within the jurisdiction of the Industrial Relations Court or the Industrial Relations Commission.

Chapter 2—Jurisdiction of SAET—special provisions

Part 1—Interpretative and other jurisdiction, declarations and injunctions

7—Jurisdiction of SAET

The provision establishes the jurisdiction of SAET to adjudicate on rights and liabilities arising out of employment.

8—Jurisdiction to interpret awards and enterprise agreements

The provision provides that SAET has jurisdiction to interpret an award or enterprise agreement.

9—Jurisdiction to decide monetary claims under industrial laws or instruments

This clause gives SAET (constituted as the South Australian Employment Court) jurisdiction to hear and determine monetary claims of a kind specified by the provision.

10—Jurisdiction to hear and determine questions arising under contracts of employment

This clause gives SAET (constituted as the South Australian Employment Court) jurisdiction in relation to contracts of employment.

11—Declaratory jurisdiction

The provision ensures that SAET has jurisdiction to make declaratory judgments.

12—Orders to remedy or restrain contraventions

This provision gives SAET jurisdiction to make certain specified orders in the case of a contravention or failure to comply with a provision of the principal Act, an award or an enterprise agreement.

Part 2—Processes associated with industrial matters and disputes

13—Amendment or rectification of proceedings

The provision enables SAET to allow amendments or make corrections to notices, submissions and other documents associated with proceedings to correct errors and defects.

14—Power to re-open questions

The provision enables SAET to re-open questions previously decided and to amend or quash an earlier determination.

15—General power of waiver

The provision gives SAET power to waive the requirement to comply with a procedural requirement.

16—Applications to SAET

The provision concerns applications to SAET in relation to proceedings under the principal Act.

17—Advertisement of applications

The provision ensures that reasonable notice is given of the substance of an application before it is heard.

18—Provisions of award etc relevant to how SAET intervenes in dispute

The provision sets out that SAET must consider whether, when or how it will exercise its powers in relation to the industrial dispute having regard to certain specified matters.

19—Voluntary conferences

The provision enables SAET to call a voluntary conference of the parties.

20—Compulsory conference

The provision establishes that SAET may call a compulsory conference of parties involved in an industrial dispute.

21—Reference of questions for determination

The provision provides that the person presiding at a compulsory conference may refer the subject matter of the conference for determination by SAET.

22—Experience gained in settlement of dispute

The provision enables SAET to invite parties to the dispute to take part in discussions after the dispute has settled.

23—Costs generally

The provision ensures that SAET may only, in the exercise of jurisdiction under the principal Act, make an order for costs where specifically authorised to do so under the principal Act. This does not apply in relation to proceedings that constitute an appeal under the *South Australian Employment Tribunal Act 2014* in respect of the exercise of jurisdiction under the principal Act.

Part 3—Representation

24—Representation

The provision sets out the entitlement of parties to certain representation.

25—Registered agents

The provision sets out the requirement for a register of registered agents.

26—Inquiries into conduct of registered agents or other representative

The clause makes provision for inquiries and disciplinary action in relation to the conduct of registered agents.

Part 4—Concurrent appointments—other industrial authorities

27—Concurrent appointments

The proposed section provides for the appointment of SAET members as members of an industrial authority under the law of the Commonwealth or another State.

28—Powers of member holding concurrent appointments

The proposed section enables a member who holds a concurrent appointment to simultaneously exercise powers deriving from both or all appointments.

Part 5—Special provisions relating to monetary claims

29—Interpretation

The provision inserts a definition of monetary claim.

30—Limitation of action

The provision re-enacts current section 179 of the principal Act.

31—Who may make a claim

The provision re-enacts current section 180 of the principal Act.

32—Simultaneous proceedings not permitted

The provision re-enacts current section 181 of the principal Act with certain modifications to reflect the conferral of jurisdiction on the South Australian Employment Court.

33—Award to include interest

The provision re-enacts current section 183 of the principal Act with certain modifications to reflect the conferral of jurisdiction on the South Australian Employment Court.

34—Monetary judgment

The provision re-enacts current section 184 of the principal Act with certain modifications to reflect the conferral of jurisdiction on the South Australian Employment Court.

35—Costs

The provision re-enacts current section 185 of the principal Act with certain modifications to reflect the conferral of jurisdiction on South Australian Employment Court.

53—Amendment of Chapter 3—Employment

This clause makes amendments to Chapter 3 that are consequential on the dissolution of the Commission and the conferral of jurisdiction on SAET.

54—Amendment of section 99G—Recovery of amount of unpaid remuneration

This clause makes amendments that are consequential.

55—Amendment of Chapter 4—Associations

This clause makes amendments to Chapter 4 that are consequential on the dissolution of the Commission and the conferral of its jurisdiction on SAET.

56—Repeal of Chapter 5

This clause repeals Chapter 5 of the principal Act.

57—Amendment of section 219—Confidentiality

This amendment is consequential and substitutes a reference to the Court or the Commission with a reference to SAET.

58—Insertion of sections 219A to 219D

This clause inserts section 219A to 219D.

219A—Who are inspectors

The proposed section provides for the appointment of inspectors.

219B—General functions of inspectors

The provision sets out the functions of inspectors.

219C—Powers of inspectors

The provision sets out the powers of inspectors under the principal Act.

219D—Compliance notices

The provision allows an inspector to issue a compliance notice to an employer that has failed to comply with a provision of the principal Act.

59—Amendment of section 220—Notice of determinations of SAET

This amendment is consequential and substitutes references to Commission with references to SAET.

60—Repeal of section 221

This clause repeals section 221 of the principal Act.

61—Amendment of section 223—Discrimination against employee for taking part in industrial proceedings etc

This amendment is consequential and substitutes a reference to the Court or the Commission with a reference to SAET.

62—Amendment of section 230—Orders for payment of money

This amendment is consequential and substitutes references to the Court or the Commission with references to SAET.

63—Amendment of section 234—Proof of awards etc

This amendment is consequential and substitutes references to the Court or the Commission with references to SAET.

64—Amendment of section 235—Proceedings for offences

This amendment establishes that an offence against a provision of the principal Act lies within the criminal jurisdiction of SAET.

65—Amendment of Schedule 2

This amendment is consequential and substitutes references to the Commission with references to SAET.

66—Amendment of Schedule 2A

This amendment is consequential and substitutes references to the Commission with references to SAET.

67—Transitional provisions

This clause provides for certain transitional arrangements.

Part 5—Amendment of *Construction Industry Long Service Leave Act 1987*

68—Amendment of section 4—Interpretation

The following amendments in Part 5 of the Act to the *Construction Industry Long Service Leave Act 1987* replace the existing Appeals Tribunal with SAET as the review body under the Act.

69—Substitution of heading to Part 6

Part 6—Reviews

70—Repeal of section 33

71—Substitution of section 34

34—Review by SAET

72—Repeal of sections 35 and 36

73—Amendment of section 37—Effect of pending review by SAET

74—Transitional provisions

This clause provides for certain transitional arrangements.

Part 6—Amendment of *Courts Administration Act 1993*

75—Amendment of section 4—Interpretation

This clause amends the definition of participating courts to remove the reference to the Industrial Relations Court of South Australia.

Part 7—Amendment of *Criminal Law (Sentencing) Act 1988*

76—Amendment of section 19—Limitations on sentencing powers of Magistrates Court

This clause amends section 19 of the principal Act to remove a limitation that applies to the imposition of fines.

Part 8—Amendment of *Education Act 1972*

77—Amendment of section 5—Interpretation

The following amendments in Part 7 to the *Education Act 1972* replace the Teachers Appeal Board with SAET as the review body under the Act.

78—Amendment of section 16—Retrenchment of officers of the teaching service

79—Amendment of section 17—Incapacity of members of the teaching service

80—Amendment of section 26—Disciplinary action

81—Substitution of section 29

This clause inserts section 29 to provide for the appointment and selection of supplementary panel members for classification reviews.

29—Appointment and selection of supplementary panel members for classification reviews

82—Amendment of section 30—Review of Director-General's decision

83—Repeal of section 31

84—Substitution of Heading to Part 3 Division 8

Division 8—Promotional level positions—appointments and reviews

85—Repeal of sections 45 to 52 (inclusive)

86—Amendment of section 53—Promotional level positions—appointments and reviews

87—Substitution of section 54

54—Appointment and selection of supplementary panel members for reviews

88—Amendment of section 107—Regulations

89—Transitional provisions

This clause provides for certain transitional arrangements.

Part 9—Amendment of *Equal Opportunity Act 1984*

90—Amendment of section 5(1)—Interpretation

Part 10 amends the principal Act to replace the Equal Opportunity Tribunal with SAET.

91—Substitution of heading to Part 2

Part 2—Commissioner

92—Repeal of Part 2 Divisions 2 and 3

93—Substitution of heading to Part 8 Division 2

Division 2—Related matters

94—Repeal of section 98

95—Amendment of section 100—Proceedings under *Fair Work Act 1994*

This clause amends section 100 of the principal Act to provide that the Commissioner may, with leave of the Tribunal in proceedings before the Tribunal under the *Fair Work Act 1994*, make submissions and present evidence in those proceedings.

96—Insertion of Schedule 1

This clause inserts Schedule 1 to establish that there will be a panel of supplementary panel members for the purposes of section 18A of the *South Australian Employment Tribunal Act 2014*.

Schedule 1—Supplementary panel members for proceedings before Tribunal

97—Transitional provisions

This clause provides for certain transitional arrangements.

Part 10—Amendment of *Fire and Emergency Services Act 2005*

98—Amendment of section 3—Interpretation

Part 10 makes amendments to the *Fire and Emergency Services Act 2005* that are consequential on the dissolution of the Industrial Relations Commission of South Australia and the conferral of jurisdiction on SAET under the principal Act.

99—Amendment of section 29—Other officers and firefighters

100—Amendment of section 48—Suspension pending hearing of complaint

101—Substitution of section 49 and 50

49—Review by SAET

102—Amendment of section 51—Participation of supplementary panel members in reviews

103—Substitution of Schedule 1

This clause substitutes Schedule 1 of the principal Act and provides for the selection of supplementary panel members for the purposes of proceedings before SAET.

Schedule 1—Appointment and selection of supplementary panel members for reviews under Part 3

104—Transitional provisions

This clause provides for certain transitional arrangements.

Part 11—Amendment of *Industrial Referral Agreements Act 1986*

105—Amendment of section 3—Referral of matter to SAET by agreement

Amendments made by Part 11 to the *Industrial Referral Agreements Act 1986* replace the Industrial Relations Commission of South Australia with SAET as the body to which referrals of certain matters under the principal Act are considered.

106—Transitional provisions

This clause provides for certain transitional arrangements.

Part 12—Amendment of *Judges' Pensions Act 1971*

107—Amendment of section 4—Interpretation

This clause deletes a Judge of the Industrial Relations Court of South Australia and a Presidential member of the Industrial Relations Commission of South Australia from the definition of *Judge*.

Part 13—Amendment of *Long Service Leave Act 1987*

108—Amendment of section 3—Interpretation

Part 13 makes amendments to the *Long Service Leave Act 1987* that are consequential on the dissolution of the Industrial Relations Commission of South Australia and the conferral of jurisdiction on SAET under the principal Act.

109—Amendment of section 6—Continuity of service

110—Amendment of section 9—Exemptions

111—Amendment of section 12—Inspector may direct employer to grant leave or pay amount due

112—Amendment of section 13—Failure to grant leave

113—Transitional provisions

This clause provides for certain transitional arrangements.

Part 14—Amendment of *Magistrates Court Act 1991*

114—Amendment of section 42—Appeals

The amendments by Part 14 to the *Magistrates Court Act 1991* are consequential on the removal of industrial offences from the *Summary Procedure Act 1921*.

115—Amendment of section 43—Reservation of question of law

Part 15—Amendment of *Oaths Act 1936*

116—Amendment of section 28—Commissioners for taking affidavits

This clause amends section 28 of the principal Act to substitute a reference to the Industrial Relations Court with a reference to the South Australian Employment Tribunal.

Part 16—Amendment of *Police Act 1998*

117—Amendment of section 3—Interpretation

The following amendments made by Part 16 to the *Police Act 1998* substitute the Police Review Tribunal with SAET as the review body under the principal Act (other than in the case of a review of a selection decision).

118—Amendment of section 48—Right of review

119—Repeal of sections 49, 50 and 51

120—Amendment of section 52—Review of certain transfers

121—Amendment of Schedule 1—Police Review Tribunal

122—Transitional provisions

This clause provides for certain transitional arrangements.

Part 17—Amendment of *Public Sector Act 2009*

123—Amendment of section 3—Interpretation

The following amendments made by Part 17 of this Act to the *Public Sector Act 2009* operate to replace the Industrial Relations Commission and the Public Sector Grievance Review Commission as the review bodies under the principal Act with SAET.

124—Amendment of section 25—Public Service employees

125—Amendment of section 49—Remuneration

126—Amendment of section 58—Application of unfair dismissal provisions of Fair Work Act

127—Amendment of section 62—External review

128—Amendment of section 64—Application of *Fair Work Act 1994* and *South Australian Employment Tribunal Act 2014*

129—Substitution of Schedule 2

This clause substitutes Schedule 2 of the principal Act to establish panels of supplementary panel members for the purposes of section 18A of the *South Australian Employment Tribunal Act 2014*.

Schedule 2—Special provisions relating to Tribunal

130—Transitional provisions

This clause provides for certain transitional arrangements.

Part 18—Amendment of *Summary Procedure Act 1921*

131—Amendment of section 4—Interpretation

This clause amends section 4 of the principal Act to remove the definitions of *industrial magistrate* and *industrial offence*.

132—Repeal of section 8

This clause repeals section 8 of the principal Act which requires a charge of an industrial offence to be set down for hearing by an industrial magistrate.

Part 19—Amendment of *Technical and Further Education Act 1975*

133—Amendment of section 4—Interpretation

The following amendments made by Part 19 of this Act to the *Technical and Further Education Act 1975* operate to replace the Appeal Board as the review body under the principal Act with SAET.

134—Substitution of section 17A

18—Appointment and selection of supplementary panel members for reviews

18A—Review by SAET

135—Amendment of section 26—Disciplinary action

136—Amendment of section 43—Regulations

137—Transitional provisions

This clause provides for certain transitional arrangements.

Part 20—Amendment of *Training and Skills Development Act 2008*

138—Amendment of section 4—Interpretation

The amendments made by Part 20 of this Act to the *Training and Skills Development Act 2008* operate to replace the Industrial Relations Commission as the review body under the principal Act with SAET.

139—Amendment of section 49—Term of training contracts

140—Amendment of section 63—Compliance notices

141—Amendment of section 64—Employer may suspend apprentice/trainee for serious misconduct

142—Amendment of section 65—Other matters to be dealt with by SAET

143—Substitution of section 66

66—Holding of compulsory conciliation conferences

144—Amendment of section 67—Representation in proceedings before SAET

145—Transitional provisions

This clause provides for certain transitional arrangements.

Part 21—Amendment of *Work Health and Safety Act 2012*

146—Amendment of section 4—Definitions

The following amendments made by Part 21 of this Act to the *Work Health and Safety Act 2012* operate to replace the Industrial Relations Court under the principal Act with SAET.

147—Amendment of section 65—Disqualification of health and safety representatives

148—Amendment of section 112—Civil proceedings in relation to engaging in or inducing discriminatory or coercive conduct

149—Amendment of section 114—General provisions relating to orders

150—Amendment of section 215—Injunctions for noncompliance with notices

151—Amendment of section 220—Contravention of WHS undertaking

152—Amendment of section 229—Application for external review

153—Amendment of section 230—Prosecutions

This clause amends section 230 of the principal Act so that the existing jurisdiction of the Industrial Relations Court in relation to proceedings for offences under the principal Act is conferred on the South Australian Employment Court.

154—Amendment of section 255—Proceedings for contravention of WHS civil penalty provision

155—Amendment of section 258—Civil proceeding rules and procedure to apply

156—Amendment of section 259—Proceeding for a contravention of a WHS civil penalty provision

157—Amendment of section 262—Recovery of a monetary penalty

158—Amendment of section 263—Civil double jeopardy

159—Amendment of Schedule 3, clause 14

160—Substitution of Schedule 4

This clause establishes panels of supplementary panel members for the purposes of proceedings before SAET.

Schedule 4—Supplementary panel members

1—Supplementary panel members

161—Transitional provisions

This clause provides for certain transitional arrangements.

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

STATUTES AMENDMENT (SACAT) AMENDMENT BILL

Second Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (16:53): I move:

That this bill be now read a second time.

Again, I do not think you will find any Stephen Conroy things in this speech, and I seek leave to insert the second reading explanation and explanation of clauses in *Hansard* without my reading them.

Leave granted.

Today I am introducing the Statutes Amendment (SACAT) Amendment Bill 2016 (the Bill) for the purpose of repealing Part 12 of the *Statutes Amendment (SACAT) Act 2014*.

The *Statutes Amendment (SACAT) Act 2014* was given Royal Assent on 12 December 2014. It includes Part 12 which is uncommenced and is intended to confer the jurisdiction of the Public Sector Grievance Review Commission (PSGRC) on the South Australian Civil and Administrative Tribunal (SACAT). In accordance with section 7(5) of the *Acts Interpretation Act 1915*, unless Part 12 is brought into operation earlier by proclamation, Part 12 will commence operation automatically in December this year on the second anniversary of the date that Royal Assent was given to the *Statutes Amendment (SACAT) Act 2014*.

The Government has concurrently introduced a partner Bill to this Bill. The Statutes Amendment (South Australian Employment Tribunal) Bill 2016 proposes that the jurisdiction of the PSGRC is to be conferred on the South Australian Employment Tribunal (SAET) rather than on SACAT. It is the Government's intention at this time that the relevant provisions of the Statutes Amendment (South Australian Employment Tribunal) Bill 2016 will commence on 1 July 2017.

The Bill will repeal Part 12 of the *Statutes Amendment (SACAT) Act 2014* to avoid the PSGRC jurisdiction being conferred on SACAT automatically in December this year. It would be undesirable for the PSGRC jurisdiction to be conferred on SACAT in December of this year only to be conferred on SAET in July 2017.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Statutes Amendment (SACAT) Act 2014*

3—Repeal of Part 12

This clause deletes Part 12 of the *Statutes Amendment (SACAT) Act 2014*.

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

At 16:54 the council adjourned until Tuesday 27 September 2016 at 14:15.