LEGISLATIVE COUNCIL

Thursday 19 May 2011

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

HOUSING SA ACCESS PROJECT

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:18): I table a copy of a ministerial statement relating to the Housing SA Access project made earlier today in another place by my colleague the Hon. Jennifer Rankine.

The PRESIDENT: I now call on honourable ministers—

The Hon. D.W. RIDGWAY: Point of order, Mr President: there is only one minister.

The PRESIDENT: Well, you never know!

QUESTION TIME

POLICE MINISTER, ASSAULT

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

Leave granted.

The Hon. D.W. RIDGWAY: Yesterday afternoon the President of the Law Society, Mr Ralph Bonig, discussed the unprecedented disgrace which is occurring in another place. I am speaking, of course, about the former deputy premier and treasurer on his feet in the house, under parliamentary privilege, protesting his innocence in a court case involving assault and claims that the member for Port Adelaide behaved inappropriately towards two women. Mr Bonig asked, 'Why should a minister have a right to do that in respect of a personal matter?' Mr Bonig continued and stated:

> Then on top of that we have the situation that Mr Foley happens to be the Minister for Police and there's eyebrows being raised as to whether or not that's appropriate given the fact that he, up until last Friday, had two charges in which he was involved, and subject of a police investigation and police prosecution. So once again, eyebrows are being raised...the ordinary person in the street may think...why can he do that? I don't have that opportunity, I don't have that right but he seems to get away with it.

Members may also recall a former Liberal minister, Joan Hall, and the inquiry into the Hindmarsh Soccer Stadium. The auditor-general found that she did not have a direct conflict of interest but, because there was a perceived conflict of interest, then she had to stand down.

We also saw, to our embarrassment, another disgrace (also behind the privilege of parliament) with the Premier describing two outstanding members of Adelaide's legal fraternity, Craig Caldicott and David Edwardson, as 'bikie lawyers'. This is also a shameful misuse of parliamentary privilege. David Edwardson is an independent at the bar, which means he acts on instructions from solicitors. He represents a whole range of people who are charged with criminal offending. My questions are:

1. Does the minister fully support the police minister?

2. Does the minister agree with the Law Society president that there is a perceived conflict of interest in Mr Foley remaining as police minister?

3. Will the minister advise the Premier to apologise to the lawyers for being attacked under the cover of parliamentary privilege?

The PRESIDENT: I must remind people that in this house I am not going to tolerate people talking about or referring to things very close to court cases, whether it be the opposition or the government. The honourable minister.

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:22): Thank you, Mr President. I thank—

well, I don't thank the honourable member for his outrageous question at all. I think it is an insult to this place, to the Parliament of South Australia, that we have such a fundamental attack on people's human rights. It is absolutely outrageous.

I absolutely support the Premier in his comments when he said that anywhere in our city and everywhere in this state, no matter who you are or where you are, whether you are a member of parliament—a member of the opposition or a member of government—or whether you are a general citizen, it does not matter who you are or what position you have in life, you are entitled to walk our streets and be safe. You are entitled not to be assaulted in a public place, particularly, and we are all entitled to live peacefully.

The last I heard a person is considered innocent until proven guilty, and it is outrageous that a man who is out in a public place—that anyone out in a public place—who has been assaulted is then not entitled to defend themself or their reputation. Indeed, I do support the Premier when he said that this is indeed not a conflict of interest. Victims are entitled to defend themselves.

Members interjecting:

The PRESIDENT: Order! Has the honourable minister finished her answer?

The Hon. G.E. GAGO: Just to remind the house, people are innocent until proven guilty, and one is not required in this country, thank goodness, to be assumed guilty until their innocence is proven. As I said, people should be entitled to walk our streets, engage in public activity and enjoy the amenities of this city and state and do so in a peaceful way. They are entitled to do that in a way where they are not bashed or assaulted. It is a disgrace that the honourable member would bring such a despicable question to this place.

POLICE MINISTER, ASSAULT

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:26): I have a supplementary question. Does the minister fully support the police minister?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:26): I have already answered that.

The Hon. D.W. RIDGWAY: No, you haven't.

The PRESIDENT: The honourable minister can answer the question any way the honourable minister sees fit. The Hon. Ms Lensink.

APPRENTICESHIPS

The Hon. J.M.A. LENSINK (14:26): I seek leave to make an explanation before directing a question to the Minister for Consumer Affairs on the subject of early sign-off of apprenticeships.

Leave granted.

The Hon. J.M.A. LENSINK: It was brought to the opposition's attention last year that apprentices were receiving early sign-off, which was a concern particularly to industry and trade organisations. During estimates, the minister stated, in response to questions, that she had been advised 'not that we are aware' to apprentices being signed-off early without their employer's approval. She went on to say further that apprentices are required to 'demonstrate that they have reached a competence standard that is accepted not only for on-the-job training but also with respect to academic requirements to be able to be licensed'.

In the recent federal budget, the skills package which has been announced will allow apprentices to finish their training early, and this has again provoked trades groups to raise similar concerns. My questions are :

1. How does the announced skill package affect OCBA's operations, registration and so forth?

2. To date, what consultation has the government had with industry in relation to this specific initiative?

3. Is the minister now aware of any sign-off of apprentices without employer approval?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:28): I thank the member for her questions. I believe I have already answered the substance of this question in this place, because the federal initiative goes to the same sorts of issues. The new federal arrangements are underpinned by the current jurisdictional licensing systems that remain in place and will work, to the best of my knowledge, in exactly the same way that they currently do.

As people would know, the Office of Consumer and Business Affairs regulates prescribed occupations through the licensing and registration system, and it does that to protect consumers by assuring them of fair and transparent market behaviour in specific trades and occupations and also that the trades and occupations that are licensed by OCBA are, in fact, those that are deemed to fulfil certain standards required by the industry to ensure that their work is safe.

I have spoken in this place, I am sure, on a number of occasions and indicated that, to obtain a licence and/or registration, an applicant has to meet specific eligibility criteria that apply to their trade or profession, and these often include a range of business qualifications or experience and particular technical training and also character-type requirements, such as for some an absence of particular criminal records, etc.

I have put on the record in this place before that the issue to do with registration is around individuals being able to satisfy a set of competency standards. Those competency standards are set by the relevant industry, technical and professional bodies where they are relevant; once those competencies have been deemed to be successfully achieved, a person is deemed to be eligible to be registered or licensed. That system is in place currently.

There were issues about work experience and whether a person was required to finish particular work experience. I have answered in this place before that, where the competencies are demonstrated to be satisfactorily met, then that person is entitled to be registered or licensed. In some sectors, they prefer a certain length of work experience, but that is not necessarily required to fulfil competency standards. There is a different range of practices in place and, as I said, I have gone on the record and made that quite clear in the past.

I have been advised that, in terms of the federal initiatives, the same licensing structures remain in place, the same protections remain in place, and we continue to work with the appropriate industry and technical and training bodies to ensure that those competency standards are reviewed from time to time and remain contemporary to ensure that our tradespeople are of the highest possible standard and that we can be confident as consumers that the work they do in our homes, workplaces and buildings is of a standard that ensures safety and quality.

REAL ESTATE LICENSING

The Hon. S.G. WADE (14:32): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question relating to real estate agent standards.

Leave granted.

The Hon. S.G. WADE: Last sitting week, on 4 May I asked the minister a series of questions related to changes in educational standards for real estate sales representatives as a result of national licensing. The minister's response did not mention the national reforms, as she took the opportunity to outline the state's registration requirements for land real estate agent representatives, which have operated since July 2008. The minister outlined how the government considers that those reforms have 'lifted the bar'. To quote her specifically, she said:

> So I think that this government has certainly shown that it has a commitment to improving standards within the industry, whilst at the same time being very mindful not to put in place too much of an onerous system in terms of delivering too much red tape to the system that then is a disincentive to thriving business. I think that this government has got the balance right.

Yet, under the proposed regulatory scheme within the national occupational licensing scheme, real estate agents will no longer be required to undertake training to a diploma level. Similarly, sales representatives will be required to undertake only approximately one-third of the existing requirements. My questions are:

1. What is the government's position on the proposed national registration?

2. If, with the benefit of three years' experience, the minister can tell this council that the government got the balance right in its 2008 reforms, will the minister now oppose the reduction of nearly 60 per cent in educational requirements proposed under national registration?

3. If not, does she now consider that her 2008 changes were too onerous in terms of educational standards?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:34): I thank the honourable member for his important questions. Indeed, a great deal of work has been completed at a national level in relation to the National Occupational Licensing System (NOLS).

In July, right back in 2008, COAG agreed to establish a national licensing system for selected occupations, and that move to the national occupational licensing system was intended to try to remove inconsistencies across state/territory borders and to allow for a greater mobility of workforce, particularly in terms of trades and organisations that work across borders, which is an increasing trend.

The NOLS is due to commence in July 2012 and will involve electricians, plumbers, gasfitters, air conditioning and refrigeration mechanics and property agencies, excluding conveyancers and valuers, and from July 2013 for the building industry, conveyancers and valuers. The benefits of the national licensing system for these selected occupations are about helping to reduce costs for business, ensuring consistent behaviour, simplifying arrangements for licence holders and obviously maintaining public protection for consumers.

Following the establishment of the intergovernmental agreement in 2009, work has been progressing on the development of this system. Regulators, the industry and obviously key stakeholders are playing a key role in designing this new system. This ensures that the regulatory and industry expertise harnessed during the current process of improvements to mutual recognition and the views of stakeholders are used in the design of the NOLS system. It is about trying to reduce costs, streamline arrangements across borders and reduce burdens to businesses.

The National Occupational Licensing Authority will be established to set licensing policy, and it is planned to commence operation later this year, is my understanding. The national licensing legislation passed by the Victorian parliament was the host jurisdiction in September 2010, with select provisions coming into operation on 1 January. Western Australia, Northern Territory, South Australia and all other states and territories will pass legislation which then makes the Victorian legislation become law.

Members will obviously recall the Occupational Licensing National Law (South Australia) Bill, which sought to apply that national law in South Australia and which was passed here in November 2010 with, as members will recall, a couple of amendments. Although that system is in place, we work together with the industry and other key stakeholders. We work across jurisdictions to try to work out the best common standard to apply. I believe it is beneficial to go down this path of a national occupational licensing system.

There are some significant benefits in terms of cost, streamlining processes and making it easier for businesses that are positive steps forward. There are a wide range of different operational matters that occur in different jurisdictions, so each jurisdiction has had to sit down and work through its current arrangements and try to work out the best common system in terms of moving forward and in terms of attempting to ensure that we have the best standards in place—best consumer protections as well as quality standards—for these operators.

REAL ESTATE LICENSING

The Hon. S.G. WADE (14:40): A supplementary question: given the minister believes that we got the balance right in 2008, will the government be working within the consultation to ensure that education standards for real estate agents are not reduced under NOLS?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:40): Those discussions are continuing. As I said, the goal is streamlining the process, reducing costs to the industry—and, of course, if we reduce costs to the industry that helps to keep costs down to consumers, and we know that cost of living is a big issue of concern for all of us. So, I think that we should consider in a very positive way any measure that helps us achieve this. That is what the goal of this system is, and we need to

go to the table looking at the best way forward to ensure that we have a streamlined system, consumer protections and quality standards of operation.

PORT LINCOLN AIRPORT

The Hon. P. HOLLOWAY (14:41): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about Port Lincoln Airport.

Leave granted.

The Hon. P. HOLLOWAY: The minister has spoken in this place about the importance of regional development and of her role as a champion for the regions. South Australia has great prospects from some of the developments which have been recently mooted and are set to take place in the regional areas of our very diverse state.

Members interjecting:

The Hon. P. HOLLOWAY: Have you finished? You've had your comments? May I continue? Regional areas may be dependent on their transport links to metropolitan areas and regional centres. My question is: will the minister tell the council about a recent development to help improve regional air transport infrastructure?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:42): I thank the honourable member for his important question. This government has committed to investing in the growth of regions through its support for a range of capital spends in areas such as health, education and communities, as well as by supporting services.

One of the areas which is growing and seems to grow further and benefit through the growth of mining, for example, is Eyre Peninsula. We have seen the federal government recognise the importance of investing in this region to support the expected expansion of mining in South Australia. So, I am very pleased today to be able to announce that I have approved a grant from the Regional Development Infrastructure Fund of $1,022,530 for the transport and electricity infrastructure to support a major upgrade of the airport of the District Council of Lower Eyre Peninsula.

I understand that the airport, which services many Eyre Peninsula communities and industries, provides a very fast transport option and links the city of Port Lincoln and southern Eyre Peninsula to Adelaide. It is a gateway for tourists and business visitors to the very beautiful Eyre Peninsula. Port Lincoln itself is a very busy regional centre, as I know you are well aware, Mr President. I am advised in the 10 years between 1996 and 2006 the census data showed that population in that area grew by 17 per cent compared to South Australia as a whole which during that time only grew at 2.7 per cent, so we can see that it is a rapidly growing area.

It is a major service centre to the Eyre Peninsula with fishing, aquaculture activities, farming, and the list goes on. I am advised that both the District Council of Lower Eyre Peninsula and Regional Development Australia Whyalla and on Eyre Peninsula have recognised the airport's strategic importance for industry and the community generally. I am advised that the Port Lincoln Airport is South Australia's busiest regional airport, in particular in regard to regular passenger transport flights. It is also used by charter planes, medical retrieval services and general aviation operators.

The airport is owned and operated by the District Council of Lower Eyre Peninsula, and I am advised that, on current airline schedules, it provides up to eight return services per day to Adelaide with Regional Express (Rex), a SAAB 34-seat aircraft, and up to four return services per day with QantasLink, which has a 74-seat aircraft. This weekly flight schedule offers in excess of 7,000 seats, serving more than 4,000 passengers per week on the Adelaide-Port Lincoln route.

The Regional Development Infrastructure Fund is a competitive fund, with three rounds per year in March, July and November, and it provides support for infrastructure costs of projects which support sustainable economic development. Eligible applicants for the fund include local government, private sector, business or industry associations. They can apply for up to 50 per cent of the eligible infrastructure costs of a project.

Proponents are required to provide detailed financials, company business plans and project-specific information, and DTED undertakes comprehensive financial due diligence and assesses projects against published guidelines and assessment criteria. Applications are very

carefully assessed and scrutinised to ensure that funding is directed to worthy projects such as this one.

As part of the total estimated project cost, which is $13 million, this RDIF grant of over $1 million for the Port Lincoln Airport is directed to construct the new taxiway and an extension of the apron, as well as electrical mains connection to the proposed new terminal. I am advised that extending the airport taxiway and apron will help give Port Lincoln's facility maximum flexibility for different sized aircraft, which is important to its future.

Finally, I take this opportunity to encourage those who consider that they have a suitable project to contribute to sustainable economic development in the regions to seek the guidelines for the RDIF funding, which are on our website.

PORT LINCOLN AIRPORT

The Hon. R.L. BROKENSHIRE (14:47): I have a supplementary question. Given the minister's answer, is she aware of or has she consulted or considered providing similar funding to the Kangaroo Island community at Kingscote, which is desperate for airport upgrades?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:47): I thank the honourable member for his question. We have not received any application from the KI Council or any other body or association, that I am aware of, for any assistance to the airport in relation to accessing RDIF funding.

PORT LINCOLN AIRPORT

The Hon. J.S.L. DAWKINS (14:48): I have a supplementary question. Given the announcement of the funding upgrade, is the minister aware of whether there are any plans by QantasLink to return to its earlier scheduling of direct flights connecting Port Lincoln to Melbourne?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:48): No, I am not aware.

DISABILITY SA CLIENT TRUST ACCOUNT

The Hon. K.L. VINCENT (14:48): I seek leave to make a brief explanation before asking the Minister for Government Enterprises representing the Minister for Families and Communities a question regarding the Disability SA Trust Fund.

Leave granted.

The Hon. K.L. VINCENT: I, like the Hon. Mr Hood, believe that we should give credit to this government where credit is due, and as such I congratulate this government on its decision to defer its decision to abolish the Disability SA Client Trust Fund Account until July 2012.

Members interjecting:

The Hon. K.L. VINCENT: I haven't finished congratulating you yet. If you don't want to hear it you can—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.L. VINCENT: It seems that the minister now concedes that this was a rash decision, made without due consideration to the affected parties, and I for one appreciate the extra time that has been afforded to clients and their families. As I indicated in this place last night, while it was not the best outcome it was certainly a step in the right direction. The minister said on Radio 891 in January that the original decision to abolish the fund was made in response to complaints from families. However, the minister faced an even bigger backlash once this decision was announced. It appears that after the decision was made the minister conceded that there were problems and set up a steering committee to identify and resolve these issues.

The Hon. S.G. Wade: Consultation after the event.

The Hon. K.L. VINCENT: Exactly. My questions are:

1. Between 1 January 2010 and 1 September 2010, how many families complained about the department's ability to manage the fund?

2. From 20 September 2010 until 17 May 2010, how many families complained to the department about the decision to abolish the fund?

3. What issues associated with the transfer were identified by the steering committee, and how did the steering committee propose to address such issues?

4. Does the minister concede that the decision to transfer client funds to the Public Trustee by July 2011 was made without due consideration of the relevant issues?

5. Why has the government chosen to stick with the decision to abolish the trust fund?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:51): I thank the honourable member for her most important questions. I will refer them to the Minister for Families and Communities in another place and bring back a response.

SERVICE SA

The Hon. R.P. WORTLEY (14:51): I seek leave to make a brief explanation before asking the Minister for Government Enterprises a question about Service SA and the APY lands.

Leave granted.

The Hon. R.P. WORTLEY: Service SA provides the South Australian community with a range of convenient access options for obtaining a wide range of government services. It delivers quality and responsive customer service face-to-face and through a call centre and online network. Service SA is recognised both domestically and overseas as a leader in service delivery. My question is: will the minister advise the chamber about recent initiatives to promote Service SA in the APY lands?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:52): I thank the honourable member for his most important question and his ongoing interest in these important policy areas. As members are aware, the Rann Labor government is committed to Closing the Gap and addressing Indigenous disadvantage across urban, rural and remote areas throughout South Australia.

As a result of this commitment, last year Service SA commenced service delivery through the PY Ku rural transaction centres in the Mimili and Amata communities on the APY lands. This was an attempt to raise the standard and range of services delivered to families to be broadly consistent with those provided to other South Australians in communities of similar size, location and need.

Service SA also assisted the APY communities by installing telephones, EFTPOS machines and signage to enable delivery of services; a free call service, which includes a 1800 number; and free access to phones. A Service SA centre has also been established which enables Anangu to receive advice on state government services. Both locations are supported by the Port Augusta Customer Service Centre, and I am very pleased to advise that news regarding the service delivery in these two locations has spread to other communities, assisting Service SA's promotion of the services.

These communities already had access to a number of services, including driver's licensing, registration renewal, fine payments, birth, death and marriage certificates and other general information. I can inform members that recently Service SA staff members travelled to the APY lands to visit these operations in the communities of Amata, Mimili and Fregon. The trip provided an opportunity for staff to hold discussions and consultation with community elders on improving service delivery, supporting the service centre and providing stable and consistent employment for community members. Service SA staff have received a really positive response to these discussions.

Discussions were also held with the centre manager to strengthen relations with Service SA and to encourage ongoing support and training. In the Fregon community centre the new virtual call centre operator, Ms Geraldine Curley, is doing a great job and, in line with the

numerous advances Service SA has seen in recent times, a website has been set up which will allow VCC operators to make outbound survey calls and calls to the APY lands hotline as part of the new role.

I am very pleased to inform members that the particular trip I talked about provided staff with an excellent opportunity to promote Service SA and encourage the uptake of services. Another initiative involved providing a number of footballs with the Service SA logo on them. These have been distributed to the people of the PY Ku community to promote the rural registration campaign 'Renew your driver's licence and receive a free football'. Staff gave away 10 Service SA footballs to children within the communities, and I have to say the feedback was that it was a very big hit. Service SA will continue its support and work with the community leaders to help expand services and try to deliver real value to this important part of Australia.

SERVICE SA

The Hon. T.A. FRANKS (14:56): I have a supplementary question. How many calls were made on the free call number as provided by PY Ku that were not appropriate government enterprises, given that the free call number was not originally set up properly and was unable to differentiate between personal and business calls? What amount of money does the government have to pay for those calls?

The PRESIDENT: You might know that off the top of your head, minister.

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:56): No; I do not carry that detail around. I think this is just disgraceful, because it is so incredibly difficult setting up services in these communities, and an incredible amount of effort and trouble has gone into setting up these sorts of services. The challenges are enormous. I have to say that we have been working on some of these services for years, trying to form relationships and build confidence and for these local communities to come to an agreement about who does what and where.

It is incredibly difficult, Mr President. It is not simple. We might expect it to be very easy to introduce here in the city, sitting there as a city slicker; it would be really easy. Well, it is not easy in these communities. It is really, really difficult, and a number of people have done the most extraordinary amount of work and given the most extraordinary amount of personal commitment to try to roll out some semblance of a decent service to these communities.

And what do we get from the Greens? Nark, nark, nark and whinge, whinge, whinge about the possibility of someone—God forbid—making a personal phone call, instead of the Hon. Ms Franks getting up in this place and saying 'Good on you, government, for being able to achieve this.' I cannot believe it. It is no mean feat, as I said, Mr President; it is incredibly challenging. I want to congratulate Service SA, particularly those individuals involved in this project, for their unrelenting commitment and effort to roll out these services.

SERVICE SA

The Hon. T.A. FRANKS (14:58): I have another supplementary. Why did the minister outline only PY Ku services with the free call number at two centres, when this service is actually meant to be at six centres at the moment?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:59): The carping, whingeing and whining is a disgrace, Mr President.

Members interjecting:

The Hon. G.E. GAGO: It is a disgrace. As I said, these achievements are not easy. We do the very best we can, and we work very closely with local communities. We would like to see more services rolled out and we continue to work towards that, and I think it is disgraceful that the Hon. Ms Franks does not have the grace or goodwill to concede that or give one bit of recognition, not even one tiny, weeny little hint of recognition. No; it is just further whingeing and whining.

ELECTRICITY PRICES, COOBER PEDY

The Hon. J.A. DARLEY (15:00): I seek leave to make a brief explanation before asking the Leader of the Government, representing the Minister for Energy, a question regarding electricity tariffs in Coober Pedy.

Leave granted.

The Hon. J.A. DARLEY: As the minister would be aware, the residents of Coober Pedy have recently expressed their anger and concern over the increased cost of electricity to their town and others in the region, including Andamooka, Marree and Yunta. I understand that in previous years the Energy Division of the Department for Transport, Energy and Infrastructure would engage with the Coober Pedy council to discuss any proposed increases in the electricity tariff.

I have been informed that this process usually occurred with considerable advance notice (usually two to three months) prior to any proposed increase to allow the council's finance manager to prepare a number of tariff models to present to the Energy Division. I am told that, through this process, the Energy Division and the Coober Pedy council would work together to establish the rate of tariff increase. I understand that this process worked well for all parties involved. However, I am told that this process was not followed for the most recent tariff increases and that the council was merely notified via email of the tariff increases 17 days before the increase was to take effect. My questions are:

1. Can the minister advise why consultation with the council regarding the tariff increases did not occur as previously had been the case?

2. Given the lack of consultation, will the minister withdraw the increase until such time that the KPMG review is complete?

3. Can the minister advise how much will be spent on the KPMG review, and does the minister not agree that this money could be of better use if it was put towards the $1.3 million increase in electricity costs for Coober Pedy?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:02): I thank the honourable member for his most important questions. We will refer those detailed questions to the Minister for Energy in another place, and we will be happy to bring back a response.

However, just by way of some general comments, I have been advised that a revised Remote Area Energy Supplies tariff schedule was implemented from 7 March 2011. On 13 May this year, the government announced that the tariff increase will now be phased in over two years. I have been advised that the government has provided additional resources of $1.3 million to the Department for Transport, Energy and Infrastructure over two years to introduce this phase-in agreement.

General supply customers will still have a tariff increase from 7 March 2011, although significantly reduced from the increase announced on 18 February, followed by further increases in the following two years. Tariffs for domestic customers will remain consistent with those announced, I am advised, in March 2011. I am advised that small to medium domestic customers will pay on average 4 per cent higher than equivalent on-grid customers, and I am advised that this is well within the scheme's principle of small to medium domestic customers paying no more than the equivalent of on-grid price plus 10 per cent.

The tariffs, I have been advised, have not kept pace with the recent increases in on-grid prices. Small to medium domestic customers were paying less than equivalent on-grid customers. An average domestic customer consuming about 5,000 kilowatts per annum will therefore see an increase of about 18 per cent compared with their pre-March bill, so I am advised, and larger domestic customers, I am advised, will see an increase of somewhere between 15 to 35 per cent compared with their pre-March bill as they move towards these reflective tariffs.

Under the revised tariffs, I am advised that all general supply customers outside Coober Pedy will see between 5 to 15 per cent compared with their pre-March bills. In Coober Pedy about 90 per cent, I am advised, of general supply customers consuming up to 70,000 kilowatts per annum will face increases of 10 per cent or less. A small number of customers consuming between 70,000 and 400,000 kilowatts per annum will see increases of up to 40 per cent. One or two very large customers, I am advised, may see a 50 to 60 per cent increase.

I am further advised that the state government is undertaking a review of the scheme to determine what opportunities there are for connecting towns to the national electricity grid, with consequent lower tariffs, while also considering incentives to try to reduce energy use, and the potential for alternative and renewable energy options. Businesses consuming more than 30 megawatts per annum have been offered energy audits and subsidies for changes to their infrastructure to improve energy efficiency and thus reduce their energy consumption.

The Australian government funded Renewable Remote Power Generation Program is administered by DTEI, and a number of customers in Coober Pedy have already taken up this offer, so I am advised, and expect to see a very significant improvement in the energy efficiency of their business. As I said, in relation to the specific questions asked, I will refer those to the relevant minister and bring back a response.

SUICIDE PREVENTION

The Hon. J.S.L. DAWKINS (15:06): I seek leave to make a brief explanation before asking the Leader of the Government a question about suicide prevention training opportunities for medical students.

Leave granted.

The Hon. J.S.L. DAWKINS: For over four years I have advocated for the Community Response to Eliminating Suicide initiative. This chamber has also recently recognised the importance of community based responses to suicide prevention, including groups such as CORES. CORES is having a one-day suicide intervention course in Adelaide on 23 May this year, and I would encourage the minister, and indeed all members of this chamber, to consider doing the training if they are available. It is similar to a course that I organised here in Parliament House some years ago. I am pleased to say that at least one member of the other place has booked in to do the training next week. It is also similar to training that I must say that a number of people with a nursing background across South Australia and other parts of the country have shown great interest in doing.

Recently I travelled to Tasmania to check the progress and evolution of the CORES program. I was suitably impressed at the lengths that CORES has come in the few years between my visits. One of the most telling improvements has been the addition of the CORES course in the rural communities program of the University of Tasmania. This results in all medical and paramedical students being required to undertake this community-based training in a rural setting, including places like Ulverstone, Penguin and Sheffield.

In addition, I understand that consideration is being given to including pharmacy students in this training in the future. I think many of us here would realise that, in a lot of cases, people who are under some stress can actually get to a pharmacist much more quickly than they can get to a doctor, so I think that would be an important consideration. My question to the leader is: will she ask the Minister for Health and the Minister for Employment, Training and Further Education to investigate with their respective agencies and South Australian universities the opportunities for medical students and those studying in associated professions having community-based suicide prevention training included in their studies?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:09): I thank the honourable member for his most important questions and take this opportunity to commend the honourable member for his ongoing interest in this very important area. He has been a long-time campaigner and advocate, so that should be acknowledged and he needs to be commended for that.

Suicide prevention is an extremely important area of concern. I am sure that everyone in this chamber would agree that one suicide is one too many and that we should be looking at ways for us to move forward and reduce the number of suicides in Australia and South Australia. For the healthcare professionals, particularly our primary healthcare professionals—the front-liners, so to speak—it is especially important that they understand this problem well and are aware of early warning signs and understand and are aware of the appropriate action to take and the appropriate referrals to make.

I am very aware that healthcare professionals have an extremely broad-ranging set of responsibilities. The requirements for them to understand a great deal of highly specific and technical information, as well as to come to grips with a broad range of health and welfare

knowledge, is enormous. There is a wide-ranging number of priorities and demands on their training and education time, both in terms of not just knowledge acquisition but also work experience.

As a former healthcare professional, I understand some of the challenges around those competing demands. With those few comments, I can say to the honourable member that I will pass on the information he shared in this chamber today to the Minister for Health in another place for his consideration.

NATIONAL PLAN TO REDUCE VIOLENCE AGAINST WOMEN AND THEIR CHILDREN

The Hon. CARMEL ZOLLO (15:12): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question regarding the National Plan to Reduce Violence against Women and their Children community action grants.

Leave granted.

The Hon. CARMEL ZOLLO: Members are no doubt aware of the National Plan to Reduce Violence against Women and their Children. On 15 February this year, the Minister for the Status of Women, the Hon. Kate Ellis MP, and the Attorney-General, the Hon. Robert McClelland MP, announced that the National Plan to Reduce Violence against Women and their Children 2010-2022 had been endorsed by the Council for Australian Governments. The plan is a 12-year strategy endorsed by the commonwealth and all states and territories. Can the minister inform the chamber of grants related to the national plan?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:13): I thank the honourable member for her most important question. As part of the National Plan to Reduce Violence against Women and their Children, which South Australia has endorsed, minister Kate Ellis has announced $3.75 million in grants for Australian community groups and sports clubs to take action to reduce violence against women and to promote respectful relationships, with $3 million of funding having been provided specifically for community groups.

I certainly encourage South Australian community groups to apply for funding of up to $250,000 over three years, from July 2011 to June 2014, to fund these projects. In addition, funding of up to $750,000 has been committed for sporting clubs, and invited applicants can apply for up to $250,000 over three years, from July 2011 to June 2014, to fund these types of projects. I understand that these grants are being offered to national sporting organisations and national sporting organisations for people with disability and recognised by the Australian Sports Commission.

These grants are intended to fund innovative primary prevention projects aimed at local communities to prevent violence against women and to encourage and promote respectful relationships. The other Community Action Grants are open to community groups, not-for-profit organisations and local government organisations with innovative primary prevention projects aimed at engaging their community to prevent violence against women and to encourage and promote respectful relationships.

These grants are intended to increase community awareness of the issue and also to change attitudes and behaviours so that violence against women is not tolerated. We know that here in Australia research shows us that there is still a great deal of work to be done on changing people's attitudes and, in some sections of our society, there are still levels of acceptance that are way above what this community should expect.

Applications for specific locations or community groups will be considered, but I understand the priority will be given to projects which support older women, women with disabilities, culturally and linguistically diverse communities, and gay and lesbian communities. These grants complement the Don't Cross the Line Community Education Grants, which have provided $200,000 to South Australian organisations to promote respectful relationships since 2009. Successful organisations have included YWCA of Adelaide for the Changing the Face of Consent project; Port Augusta Youth Centre for It's Never Ok, It Never Will Be project; Carclew Youth Arts for the APY Mentoring and Leadership Program; and Legal Services Commission SA for the Expect Respect! project.

The Hon. S.G. Wade: A very good project.

The Hon. G.E. GAGO: Yes, it is a very good project. I absolutely concur with the Hon. Stephen Wade. We both went to a performance of Expect Respect! conducted by the Legal Services Commission, and it was a really amazing program for young people. It was wonderful to see how they did engage with young people in these typical scenarios to help them cultivate their skills, understand the issues and also understand the legal requirements. Since then, we have extended grants to the Legal Services Commission so that they can continue that project further.

I announced the most recent recipients of these grants focused on young people with disabilities in this place this year. The national plan and associated grants are, I believe, a wonderful initiative by the commonwealth government, and it is heartening to see the issue of violence against women on the national agenda with real funding initiatives being introduced. I have spoken before in this place about the importance of the national plan and my belief in the decision of the Gillard government to work in partnership with all the states and territories on the plan, because these are goals and programs that I believe we should—and I hope we do—all support.

I would like to end with a quote which illustrates the goal of this government's Don't Cross the Line program which the Gillard government shares. It is also published with the grant statement. It states:

> The Australian Government is committed to supporting community action that seeks to prevent the problem of violence before it occurs. These grants are intended to increase community awareness of the issue and change attitudes and behaviours so that violence against women is not tolerated.

NANOPARTICLES

The Hon. T.A. FRANKS (15:19): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about nanoparticles.

Leave granted.

The Hon. T.A. FRANKS: Zinc oxide and titanium dioxide are common sunscreen ingredients that reflect UV light. Most larger particles of zinc oxide and titanium dioxide are white and opaque, meaning that the products they are used in can leave a white film on the skin (although some companies have developed a method to make these larger particles transparent). Particles can also be ground down to an extremely small nano size, where they become clear or transparent. In 2006, the Therapeutic Goods Administration stated that 70 per cent of titanium dioxide sunscreens and 30 per cent of zinc sunscreens sold in Australia contained manufactured nanoparticles.

If nanoparticles are accidentally inhaled, eaten or absorbed through the skin they could pose health problems. Scientific studies have shown that nanoparticles can produce free radicals and damage DNA, especially when exposed to UV light. These studies suggest that, rather than offering us sun protection, if nano sunscreens are absorbed into our skin they could result in serious damage, particularly so for children where the potential for toxicity has led the Australian Education Union in Victoria moving to use only sunscreens which are nanoparticle free in the SunSmart program in their state. My questions to the minister are:

1. Is the minister aware that size does matter? That is to say, that nanoparticles (particles less than 1,000th the width of a human hair) are increasingly being included in a range of cosmetics and sunscreens and they may, far from benefitting human health, actually be having a negative impact?

2. Is the minister aware of research which indicates that sunscreens, cosmetics, moisturisers and mineral foundations could be harmful if accidentally inhaled or ingested?

3. Is the minister aware that EU laws will soon require cosmetics and sunscreens to be specifically tested for safety and that the EU will also introduce mandatory labelling for products containing nanoparticles?

4. Will the minister commit to raising this issue with her interstate and federal counterparts, given that the federal government does not currently require cosmetics companies or sunscreen companies to test the safety of these nano ingredients, nor to label them?

5. Will the minister pressure the federal government to make the Therapeutic Goods Administration publicly release the information about those sunscreen brands that indeed do contain manufactured nano products?

6. Will the minister investigate introducing a moratorium on the use of nanoparticle containing products in sunscreens in our schools through the SunSmart program, as the AEU has done in Victoria?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:22): I thank the honourable member for her questions. They are really covered by the Therapeutic Goods Act, which is the responsibility of the Minister for Health. In terms of many of the questions that she asks, yes, I am aware of many of those issues but, given that these are matters that, as I said, are matters under the Therapeutic Goods Act, I will pass on the comments made by the honourable member in this place to the Minister for Health in another place.

SUMMARY OFFENCES (PRESCRIBED MOTOR VEHICLES) AMENDMENT BILL

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

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

That the council do not insist on its amendments.

The government opposed these amendments when they were first considered in this place. The government continues to oppose the amendments for the reasons set out in the committee stages. As noted, the amendments made in this place undermine the bill's effectiveness by making it more difficult for SAPOL to seize noisy and dangerous monkey bikes that are driven or left standing on public roads. Further, those amendments introduce provisions taken from the clamping and impounding scheme that are unsuited to the types of unregistrable vehicles that are the subject of this legislation. If the council is to continue to insist on the amendments I expect that it will be necessary for the appropriate measures to be taken to establish a conference.

The Hon. S.G. WADE: I rise to oppose the motion because I would urge the council to insist on the amendments. Again, we find ourselves debating this legislation. It is another case where the government is demonstrating that for the sake of tough media talk it is happy to enact bad laws. In this case, the government seems to think that being tough on offenders means being indifferent to the legitimate interests of third parties.

The opposition and the vast majority of the crossbench MPs, who supported both the Hon. Ann Bressington's amendments and the opposition's amendments in this place, are taking a broader view. We want to ensure that those who commit crimes face the full force of the law but not those who happen to find themselves or their property in the wrong place at the wrong time. The Labor Party's crusade against monkey bikes has shown that it is willing to spin the facts for the sake of a media grab.

Both the former and current attorneys-general have been putting information into the public domain about monkey bikes which is just simply not true. They have called for these 'tough' laws on the basis that—to quote a press release from the Hon. Michael Atkinson—'people had already lost their lives'. The current Attorney-General reiterated this on 22 July 2010 when he said, 'I am advised that there have been cases where the riders of these monkey bikes have been killed or seriously injured.'

Through debate in this place it has been shown that that is not true. The government has advised that it is not aware of any fatalities that have occurred from these bikes. Monkey bikes are clearly a serious risk to community safety, but the credibility of the government and the personal credibility of the Attorney-General is undermined when the government tries to assert claims which cannot be substantiated.

At this point I should remind the council that this bill is about any kind of vehicle the minister wishes to prescribe. The government continues to focus it on the first cab off the rank—monkey bikes—but this bill envisages that vehicles other than monkey bikes might be covered, and that is why it is called 'prescribed motor vehicles'; it is not called the monkey bikes bill.

During consideration by the council a new section 55(3)(a) was inserted on the initiative of the Hon. Ann Bressington. The amendment provides a defence against confiscation of the vehicle if the owner did not consent to the vehicle being used and the vehicle had not been driven or left standing on a road by them. The Attorney-General in the other place objects that under the Legislative Council amendments there will not be any parents prosecuted under section 55(2) for their child's actions.

The opposition says, 'Well, that depends on the circumstances of the case.' The Attorney-General thinks that parents should be strictly and criminally liable for their child's actions. This liability would be carried even if the child acted directly against their parents' wishes and the parent had not consented and the parent had taken reasonable steps to ensure that the vehicle had not been used by those lawfully entitled to use it in a manner which contravenes sections 55(1) and (2). In his House of Assembly statements on 3 May 2011, the Attorney-General stated that he believed involving the court in matters that relate to an expiable offence was inappropriate and that the opposition amendments were inconsistent with the nature of the offence.

The amendments proposed by the opposition would mean that offences for which expiation notices were issued would not find owners of vehicles fighting for their vehicle in court. As the Attorney-General later acknowledged, a charge would need to be laid before a confiscation took place, meaning that a hearing in a court would occur anyway. For the Attorney-General to say that a court process is inappropriate is in itself inconsistent. The original bill's offences anticipate them going to court but did not allow the most offensive elements of the bill—that is, the confiscation of assets—to be reviewed in that forum.

The opposition thinks it is wholly appropriate for a review of a vehicle's confiscation to be considered by a court; after all, the government considers it is appropriate for such a court review in relation to the vehicles related to hoons. We ask: why are the owners of prescribed motor vehicles, whatever that might mean from time to time, not entitled to equal justice?

The Attorney-General also complained that his further defence, which was proposed to be inserted at section 55(7), for third parties who had their bikes used by others, was taken out of the bill. The Attorney-General acknowledged that his bill was flawed but did an ad hoc job addressing those provisions that were clearly unjust. Instead, the opposition has incorporated equivalent provisions for consideration by the court in proposed section 45(6)(e)(b). In this way it allows the court to consider all the circumstances in which a person's vehicle has been confiscated and whether it is in the interests of justice to confiscate it.

Instead, the Attorney-General would have this house believe that it is more appropriate to have police confiscate vehicles without appeal, without review, without consideration as to who else may be impacted by the confiscation of assets. This would occur even following a simple expiation notice. That is what the government's bill allowed. It is concerning to see the Attorney flying so loose with justice and being so keen to circumvent the courts. One would have thought that the government would have learnt from the costly court battle in the Totani case last year that courts have a role in justice. It is also in the interests of justice to allow the whole circumstances of an offence to be taken into account.

The opposition's amendments were based on the government's own provisions from the Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007. The government claims that these provisions were some of the toughest in the nation, yet this was not tough enough for the government, and its 'tough on crime' rhetoric led to this bill being even tougher. Instead, the government has tried to introduce penalties to confiscate assets which, if given proper consideration by the court, may not proceed.

There was a strong and thorough debate on these provisions when the bill was last before the council. Those amendments were supported by all but two of the crossbenchers. There has been an overwhelming consensus that these amendments are both sensible and right. The government is clearly not willing to admit that good ideas can come from the crossbenchers or the opposition. We urge the council to insist on the amendments previously agreed to.

The Hon. M. PARNELL: Since the passage of this bill through the Legislative Council some time ago, the Greens have received no new information that suggests that the conclusion the council reached on that occasion was the wrong one. Therefore, if this bill were to go to a deadlock conference I think that provides the best opportunity for any finetuning of the bill. The Greens will not support the motion.

The Hon. A. BRESSINGTON: I also indicate that I will not support the motion for the reasons given by the Hon. Mark Parnell and the Hon. Stephen Wade. I will repeat what I say here quite often: there is only one thing worse than no legislation, and that is bad legislation. I consider that this legislation, without these amendments, is bad legislation.

Motion negatived.

CORPORATIONS (COMMONWEALTH POWERS) (TERMINATION DAY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 May 2011.)

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:36): I understand that there are no further second reading contributions in relation to this bill. There was one second reading contribution by the Hon. Stephen Wade, and I thank him for his comprehensive contribution to the second reading debate. I look forward to this bill being dealt with expeditiously through the committee stage.

Bill read a second time.

In committee.

Bill taken through committee without amendment.

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:38): I move:

That this bill be now read a third time.

Bill read a third time and passed.

MOTOR VEHICLES (THIRD PARTY INSURANCE) AMENDMENT BILL

In committee.

Clause 1.

The Hon. R.I. LUCAS: I think it would be useful if I try to at least clarify for the members of the committee the Liberal Party's position as it stands today, Thursday, in relation to the complicated series of amendments the committee is going to be asked to consider. I advisedly say 'Thursday' because in one key respect the party's position has changed, and I will outline it to the committee.

For the benefit of the smooth working of the committee, I advise that on behalf of the party I will be withdrawing the set of amendments entitled 'Amendments to be moved by the Hon. R. Lucas MLC [1]' and will be proceeding with the two sets of amendments entitled 'Amendments to be moved by the Hon. R. Lucas MLC [2]' and 'Amendments to be moved by the Hon. R. Lucas MLC [3].' I advised the table staff of that prior to the committee and formally advise the members of the committee at the moment.

In brief outline, the situation is this: the Liberal Party's first set of amendments was tabled on Tuesday; I think the government had a set of amendments that had been tabled in readiness for Tuesday; the government tabled some further amendments yesterday; the Hon. John Darley tabled a brief amendment yesterday; and, just to top it all off, we have now tabled further amendments today. So, it has been a moving feast, and I guess it is really an issue for the Independent and minor party members; I am simply trying to keep up with my shadow minister, the member for Davenport, in relation to this issue, but at least I understand now where our party's position is and will seek to outline our concluded position.

The amendments in the set of amendments [2] all relate to one issue so, thankfully, my suggestion to the committee will be that there be a test on the first amendment, amendment No. 1, clause 4, page 3; if that is successful, the remaining amendments are consequential and should not require any debate. If it is unsuccessful, I will withdraw and not proceed with the remaining amendments on that whole page, which all relate to the one issue, and I will explain them in detail when we get to it. Essentially, they relate to the driver issue in relation to the heavy vehicle fatigue scheme. All those amendments relate to that particular issue.

The amendments to be moved by myself, entitled [3], cover three or four broad issues. The first one, amendment No. 1, was in our original set of amendments, so it has stayed consistent, and it relates to an issue the Motor Trade Association has pursued with us in relation to the examples that it wants removed from the bill that is before us.

If I move quickly to amendment No. 4, that is exactly the same as the amendment No. 8 I had listed in the original set of amendments. It relates simply to the retrospectivity issue. It is our

endeavour to absolutely lock up or rule out retrospectivity in any way; that is, the legislation will operate in a prospective fashion and it is just a tightening up of the retrospectivity provision.

From the set of amendments numbered [1], the amendments numbered 2 through to 7, I am advised by parliamentary counsel all relate broadly to the party's position, which it had outlined in the assembly and I outlined when I spoke on Tuesday, in relation to the blood alcohol content issue. In layperson's terms, our position essentially had been that we would support the reduction in the blood alcohol content from 0.15 to 0.1, but only on the condition that we would be able to write what has been called a cause and effect set of clauses into the legislation.

When we get to the detail of this, I will explain the advice the party has received, but the Liberal Party's position in this set of amendments is now different from that. Having received the advice from the Motor Accident Commission, the Law Society, the Australian Lawyers Alliance, government advisers and others, the member for Davenport has advised me that the party's position as we stand here today on Thursday is that we will not proceed with those amendments and that we will, in essence, be supporting the status quo.

In essence, we will support the blood alcohol content staying at 0.15 and we will not support the government's attempt to reduce it to 0.1, and we will not be introducing what has turned ought to be a complicated set of cause and effect amendments, as I have been advised. A number of the amendments in [Lucas-3] cover that particular issue. Finally, there are some amendments to schedule 1, part 1.

The government's latest set of amendments from last night indicates that they will move to delete subclauses (1) and (2) of part 1 of schedule 1, and the Liberal Party will support the removal of those subclauses, but we will be moving to delete the remaining subclause, subclause (3), which has included in it the example. In essence, we will remove part 1 of schedule 1 and the hard working parliamentary counsel, who has now made 6,000 amendments to our amendments and the government's, tells me that there is a consequential amendment to the long title, should that be successful; if it is not, we will not need to move that amendment.

I hope that brings in particular Independent and minor party members of the chamber up to speed with what my party's position will be. I also flag that at this stage we will be seeking a division in certain circumstances, or dividing and opposing certain clauses, in particular, clause 12. I alert the minor parties and Independents to that issue, that it is our intention to seek a view and defeat that provision with or without the amendments that have been flagged. Similarly, we will be moving to oppose clause 7 as well. With that, I indicate that certainly from our viewpoint we are now happy to proceed with endeavouring to make the best of a complicated situation.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

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

Page 3, lines 3 to 8 [clause 4(1)]—Delete subclause (1)

As outlined to me—I need to put that in front of all of the contributions I make to this bill—in summary, the government's position is that as a result of the debate and the argument (again, I congratulate my colleague the member for Davenport) the government has accepted the problems in its original drafting in relation to what we term the 'chain of responsibility provisions' of the bill. I, therefore, do not propose to repeat the arguments in relation to that; we are going to come to that. The government is going to remove that.

Essentially, as it is outlined to me, the government's position is going to be that, having removed the chain of responsibility, the driver of the vehicle in certain circumstances will still be subject to the provisions of the bill. Again, as outlined to me, this means that the driver will be exposed if they commit offences relating to (1) driving whilst fatigued, (2) exceeding the allowable work time for a driver and (3) failing to have the required rest time for a driver.

I am advised that South Australian Road Transport Association, the Law Society committee looking at this issue and the Australian Lawyers Alliance are still strongly opposed to the retention of this particular provision within the legislation. I am also advised that, evidently, we will be the only state that has moved in this particular direction in relation to its equivalent to the Motor Accident Commission arrangements. That is, we are going to lead Australia in terms of including these particular provisions in the legislation.

The view from those stakeholders or groups—and shared by the Liberal Party—is that the considerable penalties that exist for a driver who commits those sorts of offences already should be a sufficient deterrent to prevent those drivers, in essence, from committing those offences. If they do commit the offences, then the penalties are there for those particular offences.

The issue really then rests on whether or not this additional penalty should be imposed on drivers in those circumstances. As outlined to me, the government's view is that, yes, there should be this additional penalty over and above the existing significant penalties. My party's position is that we do not support that and, therefore, we oppose it.

Those reasons—the double penalty reason, the fact that we will be the only state to move down this path, and the fact that all the constituent groups that have been following this issue and lobbying us have strongly lobbied against it—lead us to move this series of amendments. I suggest to the committee that we treat this as a test for all of my 10 amendments in [Lucas-2] and, if this is successful, that the remaining ones be treated as consequential. If it is unsuccessful, my intention will be to withdraw the amendments and not proceed with them.

The Hon. G.E. GAGO: The government will be opposing the amendments that apply to the right of recovery in sections 116 and 124A of the Motor Vehicles Act in relation to claims against the nominal defendant. These amendments remove the right of recovery by the nominal defendant (Motor Accident Commission) against a heavy vehicle driver who has committed a relevant offence against the Heavy Vehicle Driver Fatigue Scheme: the relevant officers are driving whilst fatigued or exceeding the allowable work for a driver or failing to have the required rest time for a driver.

There are a couple of issues that the member addressed, and I will deal with those when the relevant amendments come up, but in terms of the member saying that we are the first state to go down this path, indeed we are and really that is no reason that we would not continue in this way.

An honourable member interjecting:

The Hon. G.E. GAGO: Well, we might just set the pace, mightn't we? This chamber should be considering that particular matter based on the merits of the argument, that is, what is in our best interests (South Australian best interests), or not, rather than looking over our shoulder and to only proceed where others have been before us.

The Hon. M. PARNELL: I want to pose a question to the mover of the amendment, if that does not put him under too much difficulty. As members have said, we are struggling with the complexity of this. I want to explain it as I understand it, in simple terms, and then I will pose a question to the mover.

It seems to me that what we are looking at in this bill, and in this amendment in particular, are a range of behaviours where we are saying to people who do these things, 'You are so culpable that not only will you be subjected to a criminal penalty, but you won't be protected by third party insurance from having to personally pay if someone is hurt.' So, the question then is: what are the range of reprehensible behaviours that we want to put in that list? We are talking now about driver fatigue and we are talking about alcohol, for example.

My question is: is there any substantial difference between someone not getting the protection of insurance because they are drunk and someone not getting the protection of insurance because they are tired and breach the driver fatigue laws? Is what the Liberal amendment is proposing consistent with the way that this act and this bill will deal with, say, people who are drunk?

The Hon. R.I. LUCAS: I cannot help the member in relation to that. If the minister's adviser is in a position to answer that question that would be very useful. The only advice I have relates to what I have indicated, and that is that the particular offences that they would be exposed to are: driving while fatigued, exceeding allowable work time for a driver and failing to have the required rest time, which I think the member has described as, in essence, driving whilst tired offences. In relation to the issue of alcohol, or drugs for that matter, let us hope that the minister and the minister's adviser might be able to throw some legal advice before the committee on that particular issue.

The Hon. G.E. GAGO: I have been advised that indeed we do agree with your concerns that there is a double penalty, not just for drivers of heavy vehicles but also for most of the people who face a recovery because their conduct is such that it can amount to a criminal offence.

The Hon. M. PARNELL: I thank the minister for that answer. What I am trying to work out is: what is the range of offences that are so serious that we are prepared to impose a double penalty? Double penalty means there will be a criminal penalty because you are caught drink-driving or you are caught breaching the driver fatigue and, in some of these, you are also going to run the risk of having to personally pay for the cost of the injuries that you have caused.

Whilst the victim will be covered and get compensation out of the compulsory scheme, the scheme (as I understand the arrangement) will then be able to chase the guilty party. What I am trying to work out is whether a person causing an accident by drink-driving, compared with a person causing an accident by tired driving—are those levels of culpability equivalent so that a double penalty should apply in both circumstances? If I want to take it further, what about someone who is guilty of dangerous driving—driving on the wrong side of the road, for example, or some other form of dangerous driving? Do double penalties apply to those situations as well?

The Hon. R.I. LUCAS: It is good that we are tag-teaming here because it gave me time to seek learned advice from parliamentary counsel and MAC. I am advised that, should my amendment be successful, the capacity of MAC to recover against a drunk driver or a drug driver is unchanged. In relation to the Hon. Mr Parnell's amendment relating someone who is a driver, a truck driver, who is drunk or (although he did not raise this) under the influence of drugs, if my amendment is successful there will be no reduction in the capacity of MAC to recover against that driver. If my amendment is successful, it is only in relation to the heavy driver vehicle fatigue type offences that that is going to be changed. There is a difference in relation to the treatment of the heavy driver vehicle offences if my amendment gets up and a drunk driver or a drug-affected driver—so I am advised.

The Hon. G.E. GAGO: I am advised, in relation to the further clarification of your question, that a double penalty does apply to serious conduct, and examples are drink-driving and dangerous driving.

The Hon. M. PARNELL: I appreciate the answers I am getting. I guess the Hon. Rob Lucas's answer has confirmed what I thought was the case—that the effect of his amendment is to say that, whilst I am sure the member in no way condones tired driving (for want of a better word), the Liberal amendment does not see that as being as serious as drunk-driving and, therefore, it is not prepared to accept that those tired drivers should also face that double penalty of having to personally compensate for injuries; whereas a drunk driver they see is culpable enough to warrant a double penalty.

I see that as a double standard. We are looking at two serious sets of offences with very different consequences. After all that, my inclination on behalf of the Greens is that we do support the inclusion of driver fatigue offences into that list of various behaviours that can ultimately result in additional civil liability as well as criminal liability. That means we will not support the Liberal amendment.

The Hon. G.E. GAGO: Just to clarify it—and sorry that this is a bit laborious—the government does agree with the Hon. Mark Parnell that the Liberal amendment will, in fact, create a double standard.

The Hon. M. Parnell: Double standard or double jeopardy?

The Hon. G.E. GAGO: Not double jeopardy: a double standard, in terms of not addressing issues around fatigue.

The Hon. M. Parnell: The same as it would around drink driving?

The Hon. G.E. GAGO: Yes.

The Hon. A. BRESSINGTON: I indicate that I am not inclined to support that amendment either. I think we have seen ample carnage on the road from heavy vehicle drivers who are suffering from fatigue but believe that they can push for another mile. That has cost lives on the road, and I think this amendment would, as the minister said, create a double standard for what is culpable behaviour, so I am inclined not to support this.

The Hon. J.A. DARLEY: I will support the opposition's amendment.

The Hon. R.L. BROKENSHIRE: Family First will support the Liberal Party's amendment.

The Hon. K.L. VINCENT: I will support the amendment.

The Hon. M. PARNELL: I know that the numbers are now sorted, but I would like to make one other brief observation. As I understood the Hon. Rob Lucas' comments, the original intention was that the people behind the driver—for example, their employers, the ones who are pushing them with unrealistic schedules that result in them driving tired—are no longer to be subject to this double jeopardy. The Greens are disappointed that has been taken out, because we see those people as being as culpable as the actual driver; however, if that is no longer in the bill then it is no longer in the bill.

The Hon. R.I. Lucas: The government is going to take it out.

The Hon. M. PARNELL: I understand that both Liberal and Labor both agreed that should come out; I am just saying that the Greens are disappointed it has been taken out. We think the people behind the drivers are as culpable, and facing potential civil liability for serious injury and death would be a great reminder to them about why they should not push their drivers so hard. It is not just about the criminal penalties; civil liability can be a timely reminder as well.

The committee divided on the amendment:

AYES (11)

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

NOES (9)

Bressington, A.	Franks, T.A.	Gago, G.E. (teller)
Gazzola, J.M.	Holloway, P.	Hunter, I.K.
Parnell, M.	Wortley, R.P.	Zollo, C.

Majority of 2 for the ayes.

Amendment thus carried.

The Hon. J.A. DARLEY: I move:

Page 3, lines 23 and 24 [clause 4(5)]—Delete subclause (5)

Section 99(3) of the Motor Vehicles Act provides that, for the purposes of part 4 and schedule 4 of that act:

> ...death or bodily injury will be regarded as being caused by or as arising out of the use of a motor vehicle only if it is a consequence of—
>
> (a) the driving of the vehicle; or
>
> (b) the vehicle running out of control; or
>
> (c) a person travelling on a road colliding with the vehicle when the vehicle is stationary, or action taken to avoid such a collision.

The government bill amends this section by inserting the word 'direct' before 'consequence'. It provides that 'death or bodily injury' be regarded as being caused by or arising out of the use of a motor vehicle only where it is a direct consequence of one of the actions mentioned. Members would no doubt be aware that the Australian Lawyers Alliance has serious concerns over this particular government amendment.

My amendment seeks to address these concerns by deleting the word 'direct'. The government's proposed amendment has the potential of narrowing the ambit of areas of liability and thereby denying individuals the right to claim compensation. There is also some concern that courts could endeavour to give the insertion of the word 'direct' some purpose which will again unnecessarily alter the operation of the relevant section.

The ALA in particular is concerned that the Motor Accident Commission is attempting to divest itself of its responsibility by narrowing the scope of liability. To suggest that the government amendment is necessary on the basis that individuals may receive compensation through the CTP

scheme where it is not justified is not only unconvincing but also unacceptable. It is for these reasons that the ALA is vehemently opposed to the government's proposal.

The government has referred to some examples that it says ought to be dealt with either through alternative schemes such as the WorkCover scheme or through public liability schemes. WorkCover examples are, I think, easier to establish than public liability claims, which I am advised are subject to many exclusions. Simply shifting the responsibility from one scheme to another is not desirable. Ultimately it should be left to the courts to determine what constitutes the use of a motor vehicle. I urge all honourable members to support this amendment.

The ACTING CHAIR (Hon. R.P. Wortley): Thank you, Mr Darley. We do actually have an amendment before yours, from the minister, so we will look at that one first. Then there is one from the Hon. Mr Lucas, which is consequential. Then we will get back to yours.

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

Page 3, lines 9 to 13 [clause 4(2)]—Delete subclause (2)

This amendment relates to section 99(1), the definition section of part 4 of the Motor Vehicles Act, which deals with third party insurance. The amendment deletes the definition of parties in the chain of responsibility contained in section 99(1) of the act. The original bill created a right of recovery against parties in the chain of responsibility, where the driver of a regulated heavy vehicle had committed a relevant offence under a heavy vehicle driver fatigue scheme which resulted in a CTP liability. These rights of recovery as contained in sections 116(7ac) to (7ae) and sections 124A(4) to (6) of the original bill are to be deleted. Therefore, this definition is no longer required in section 99(1).

The Hon. R.I. LUCAS: I indicate, as I flagged earlier in the debate, that the Liberal Party is supporting this amendment.

The Hon. M. PARNELL: For the reasons I gave earlier, we do not support it, but we can see that it clearly has majority support.

Amendment carried.

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

Page 3, lines 14 to 20 [clause 4(3)]—Delete subclause (3)

This amendment is consequential.

Amendment carried.

The ACTING CHAIR: Back to the Hon. Mr Darley's amendment No. 1, clause 4, page 5, lines 23 and 24.

The Hon. G.E. GAGO: The amendment deletes the word 'direct' from the definition in subsection 3A of 'caused by or arising out of the use of a motor vehicle'. The amendment is sought on the advice of the Australian Lawyers Alliance (ALA) that the use of the word 'direct' will limit the circumstances in which the MAC will indemnify someone under the policy of insurance.

The use of the word 'direct' is proposed to strengthen the concept of consequence in the definition of 'caused by or arising out of the use of a motor vehicle'. It is MAC's position that the CTP fund should only meet those claims that properly fall within the definition of section 99(3), rather than indemnify for a range of claims that may involve a vehicle but do not fall within the policy. It is considered that there have been a number of cases where the courts in South Australia have adopted a more expansive interpretation of the definition than was intended, and the use of the word 'direct' will assist MAC in ensuring that the CTP fund meets only those claims it was intended to.

The Hon. M. PARNELL: I can understand why courts often interpret legislation in a way to maximise the likelihood of someone getting at least some compensation where they are clearly not at fault themselves and there is no other way to do it. I can understand that, when there is a bucket of money available, judges will interpret the law as liberally as they can. I understand that by adding the word 'direct' it would actually limit the scope of circumstances where a person might be able to claim.

It is difficult to imagine the whole range of circumstances. If a motor vehicle hits a Stobie pole and a part of that motor vehicle flew off and hit a pedestrian walking down the footpath, clearly that is a direct result of the accident. If the bumper bar flew off the car as it hit the Stobie pole and

landed on the footpath, and someone 10 minutes later, one hour later, the next morning, walking down the footpath tripped over the bumper bar and injured themselves, is it directly related? You can envisage a range of circumstances where, but for the accident, this person would not have been hurt.

We want to ensure that people have the capacity to obtain compensation. In the absence of a universal accident compensation scheme—we do not have such a scheme in this country—we often have to rely on the compulsory schemes. There is a compulsory scheme if you are hurt at work and a compulsory scheme in relation to the road, but there is not in relation to a whole range of other situations where people can be hurt. In those circumstances, the Greens will support the Hon. John Darley's amendment. We think that removing the word 'direct' will keep the ability for the courts to widely interpret those situations where a person who is injured is deserving of compensation under a motor accident compensation scheme.

The Hon. R.I. LUCAS: The opposition does not often disagree with the Hon. Mr Darley's amendments, but on this occasion we do. The opposition puts the viewpoint that ultimately the costs of the compulsory third-party insurance scheme are visited upon all of us. The Hon. Mr Parnell, with his legal background, has given us an indication as to how courts interpret anything that is a loophole or a slight flexibility in the drafting and will interpret, as he says, in the most liberal way to ensure that people get access to the bucket of funds. The corollary of that legal behaviour by judges, courts and systems is that the rest of us inevitably have to continue to pay higher and higher costs to meet those provisions.

It is a perfectly acceptable view to say, 'Well, so be it: in the interests of providing that compensation, wherever it comes from, the bulk of rest of us should pay for it and be happy about paying for it.' However, cost of living issues will be important issues I believe at the moment and over the coming years, as inevitably—with water, electricity, carbon taxes, flood levies and a variety of other things—people will increasingly find that they are being financially squeezed by governments, government actions and parliaments. This is just another way.

If we continue to add into the scheme increased flexibilities and increased access—and, to be fair, I do not believe that some of the examples that have been raised by the Law Society, the Australian Lawyers Alliance and others were ever originally intended to be covered by a driver motor vehicle accident insurance scheme. In essence, that was the original intention. The drafting may have opened up the possibilities over the years, but that was certainly the intention of the scheme in terms of who would be insured from car accidents or motor vehicle accidents. Some of the examples are narrowly related, if I can use a non-legal term, to driving a motor vehicle because in essence the motor vehicle is stationary. If in these cases there is access to the funds available under this particular scheme, then, as I said, it just increases the costs for the rest of us. For those reasons, and I am sure others as well, the Liberal Party is not prepared to support the amendment.

The Hon. R.L. BROKENSHIRE: I advise the committee that, as the Hon. Rob Lucas said, on many occasions we enjoy supporting an amendment of the Hon. John Darley, but on this occasion I was going to say something very similar to the Hon. Rob Lucas on costs of living and consequences having further impact on MAC. You only have to have a look right now at a basic motor vehicle, not a luxury Mercedes or anything but a basic motor vehicle, and how expensive it is. A Toyota Aurion you get on the road for 600 and something dollars.

I know what the Australian Lawyers Alliance is about but, on the other side of it, there are other unintended consequences that would occur, and I thought this was primarily focused on vehicle accidents that were on public roads like the Hon. Mark Parnell's example of hitting a stobie pole. My understanding here is that it opens up an opportunity for someone who drives into an industrial site where they may even enter at their own risk, someone is unloading a vehicle off of a truck, they hit that, something happens and then they have an opportunity to claim through MAC, whereas they really should be claiming through public liability or some other civil claim. So, we will be supporting the government.

Amendment negatived.

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

Page 3, lines 25 to 33 [clause 4(6)]—Delete subclause (6)

In doing so, it is partially related to the discussion of the one that we have just dealt with. We have had a long debate about this issue. Mainly, the member for Davenport has had a long debate about

this issue with the respective interested stakeholders and parties and also with our own party room, in particular the views of the Motor Trade Association.

The view on balance from the party was that we were prepared to accept the argument that ultimately let's leave whatever it is that we finally draft here to the judgement of the courts. It was felt—and it was the member for Davenport's view and that of the Motor Trade Association—that the more you seek to indicate examples of what might or might not be included, that may or may not in the end be accurate.

The lawyer in the chamber can perhaps argue the legal significance of examples in bills. Non-lawyers like us are told that the examples are not meant to count for much, they are only meant to be examples, but then others say to us that they give some indication to the courts of the way the parliament was thinking at the time when it passed the particular bill.

So, as I have said, we, on balance, have accepted the view of the Motor Trade Association, and others, who have put to us the view that the safest and most sensible course would be to simply remove the examples from the legislation.

The Hon. R.L. BROKENSHIRE: We will be supporting the Hon. Rob Lucas's amendment.

The Hon. M. PARNELL: This is a difficult one. I do not propose to provide a comprehensive legal answer to the Hon. Rob Lucas's question because it involves an explanation of the ejusdem generis rule about when you list things in legislation how that colours the general definition.

It seems that the situations that are described in these examples, you would hope in most situations, would result in an injured person being able to recover compensation through a scheme other than the motor accident scheme. As to the example that is given about someone who is injured because of a displacement of goods, generally those people at risk of being hurt from boxes falling off the back of trucks are probably workers and they are probably covered by a scheme of workers compensation insurance.

Similarly, for those people who are in motor vehicle display premises or workshops, chances are that if a vehicle slides off the ramp, unintentionally, and injures someone, in most cases they are likely to be a worker and covered by workers compensation. In the showroom example, it could be an intending purchaser: the handbrake goes off, the car rolls and crushes them against a wall. The question then is: where would they look to for compensation?

Chances are that most businesses, but not all, would have public liability insurance. I do not know what proportion of businesses do or do not. My assumption would be that in rental premises it would nearly always be a condition of a commercial lease that you have some sort of public liability insurance. If you own your own premises chances are that you have a fire policy or some other policy, and often they are packaged with public liability as well.

So, I would imagine that in these circumstances there is the possibility for people to be covered by some other scheme. The question then is: if they are going to be compensated anyway and we do not need to compensate them under the motor accident scheme, that is the justification for putting the examples in here.

On balance, and we have found this a difficult one, the Greens do not see the inclusion of these examples as causing any great potential for injustice in terms of injured persons. We think that most of them will still be able to be compensated one way or another, so therefore we are prepared to see them remain in the legislation and that means that we are opposing the Liberal motion to remove them.

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

The Hon. G.E. GAGO: The government will be supporting this amendment.

Amendment carried; clause as amended passed.

Clause 5.

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

Page 4, lines 3 and 4 [clause 5(1)]—

Delete subclause (1)

As outlined in the general discussion we had on clause 1 in the committee, this is the first in a number of amendments that relate to the blood alcohol content issue, and it will be sensible to treat this one, as I understand it, as a test for two or three others of my amendments which are consequential to this. This is, as outlined in the discussion on clause 1, where we indicate clearly the Liberal Party's position, based on exhaustive and recent consultation with the Motor Accident Commission, the Law Society Committee, the ALA and one or two other interested parties. The member for Davenport has outlined to me that the Liberal Party's position this afternoon is a different one to the one put by the party in the House of Assembly and outlined by me on Tuesday. So, for those 32 avid readers of the *Hansard*, if they see some inconsistency in the amendments I am moving this afternoon with what I said 48 hours ago and what the member for Davenport said some couple of weeks ago, those 32 readers of *Hansard* are entirely accurate: this is a new position.

The minister, based on her advice, may well be in a better position than me to give some definitive legal advice. I am not sure, but I will leave that to her. In broad terms, as outlined by the member for Davenport and myself, the Liberal Party position originally had been that we were going to support the reduction from 0.15 to 0.1 so long as we could introduce what was described to me as a cause and effect amendment. The example that had been given to us to use was of a person who had a blood alcohol content above the limit but who was, nevertheless, sitting quietly in a parked car and not endeavouring to drive. That is, as one of my colleagues described to me, the drunk sleeping behind the wheel but not driving anywhere else.

If that particular person was to be crashed into by somebody else then the provisions of the legislation were going to apply, we argued, to that particular circumstance. The argument that the Liberal Party had accepted was that we believed it was unfair and there should be a cause and effect. If you were, in essence, drunk and then you drove then you were partially or wholly responsible for an accident then you should be in some way held responsible and further penalised. However, if you were just sitting there drunk behind the wheel and having a sleep, then it did not seem fair.

As a result of discussions over the last 24 hours, the member for Davenport has outlined to me that the advice from the Motor Accident Commission is that, in essence, what we had put was not accurate. It is far too complicated for me to be able to repeat, so I will leave that to the minister and her adviser, but the bottom line was that, in practice, the Motor Accident Commission was advising that, in the sort of circumstances that we were talking about of a person sitting in a car, they were in a position to be protected; I guess that is the layperson's term.

That is, the provisions of the legislation would not come down on them in terms of an onerous additional penalty in those circumstances. The courts and the practices of the Motor Accident Commission were such that the person sitting behind the wheel would not be penalised and had not been penalised in the way that we had outlined that they were likely to be.

For that reason, and a range of others—the difficulty of trying to draft a complicated amendment to cover this cause and effect provision—the view of the member for Davenport and the Liberal Party is that essentially it became too complicated and complex to resolve the sorts of issues being raised. So the Liberal Party's position has changed, and it will support the status quo, that is, the blood alcohol content of 0.15 as opposed to 0.1. In itself, that is a challenging issue for us as members, as well as for others, because the view would be that the lower it is the better it would be in terms of road safety issues. However, I guess the issue we are talking about here is the size and extent of the penalty.

Clearly, there are existing significant penalties for someone caught with a blood alcohol content of 0.1 or 0.15. Let us look at the example of a young person who makes his or her first mistake behind the wheel. They are just above 0.1, and they are involved in an accident which is expensive but which, in the end, might not cause death. One can imagine any number of circumstances where a young person of 19 or 20 for the first time makes a mistake and drinks a little too much. They are at a stage where they are not blind drunk but are at 0.1—certainly not as blind drunk as they would be if they were at 0.15, my colleagues advise me. Nevertheless, they make that mistake and they are involved in an accident.

Essentially, the issue really is: how big a penalty do we impose on that young person that may or may not impact on them for the rest of their life? Clearly, their actions might impact on others, and I accept that issue as well, but there are also significant penalties in relation to being caught with a blood alcohol content of above 0.1 or 0.15. In part because of that, our view is that to impose that significant and potentially crippling additional financial penalty on a young person who

has made his or her first mistake behind the wheel is too big a penalty to impose on that person in those circumstances.

That does not in any way condone the behaviour of the young person behind the wheel, but the existing penalties are already significant and indicate that the parliament disapproves of the young person hopping behind the wheel with a blood alcohol content above that level. However, the issue is whether we think we should add to that penalty in a significant way. On balance, the Liberal Party's position is that we believe we should stick with the status quo. If we are going to impose a significant additional penalty, the appropriate cut-off point for that is the one we have had, that is, 0.15. As I said, I rely on the advice of some of my colleagues who are more versed in these issues and who tell me that if you are 0.15 you are certainly much closer to being blind drunk than you are at 0.1.

The Hon. T.J. Stephens interjecting:

The Hon. R.I. LUCAS: Impaired, one of my colleagues says; some might say blind drunk. Wherever you are on the continuum, clearly 0.15 is the existing level. It is significantly higher than the 0.1 level, so we are looking at a significant change if the government's proposal is introduced and would be opening up a lot of young people who might make their first mistake to potentially crippling financial circumstances. It is a judgement call for members as to whether or not they believe that is appropriate. In our view, we will support the status quo, which is at 0.15.

The Hon. G.E. GAGO: On behalf of the government, I rise to oppose this amendment. The amendment deletes the reduction in BAC level for the recovery of the nominal defendant from 0.15 to 0.1 per cent. Pursuant to section 116 of the act, the nominal defendant has some rights to recover against an uninsured driver, including where their blood alcohol content level is greater than 0.15 per cent. So, that is the status quo. This bill is seeking to drop that down to 0.1 per cent, a lower level.

The original bill amended this provision to reduce the blood alcohol content, or the back BAC level, for such recoveries to 0.1 per cent. We think that 0.1 per cent is a fair, reasonable and responsible level to be setting it at. A level of 0.1 per cent is two times the legal limit, and I understand that a person is four times more likely to be involved in an accident when they are 0.1 or more per cent, so I think the Hon. Robert Lucas's comments are outrageous.

It is obvious, too, that the Liberal Party are at complete odds with this. They are all over the shop. They have no idea where they really want to set this level. We have a media release from the shadow opposition treasurer, Iain Evans, dated 13 June 2010, and it is headed 'Drunk drivers will have to pay'. In that media release, he slams the proposal to drop the limit, claiming that dropping it to 0.1 per cent did not go far enough; he wanted it lower than that.

So, we now have the opposition spokesperson at odds with the comments of the Hon. Robert Lucas. They clearly do not have a policy position. They are all over the shop. They do not know what level to set it at. As I said, we believe that 0.1 per cent is a fair, reasonable and responsible level to set it at, and that is where that BAC level should be retained.

The Hon. M. PARNELL: I actually do not share in the minister's criticism of the opposition for flip-flopping, if that is the word, provided they have had a thorough debate. So, I have no criticism of the change of position. What I am interested in is getting the best outcome out of this legislation. I just want to reflect on the example that the Hon. Rob Lucas made, which is of a young person who, under his scenario, is just under three times the legal limit and they cause a serious accident.

They therefore may be personally responsible for the injuries and the death they have caused and how that might destroy their life. Well, yes, but it is only money. The person who is injured or maimed or been killed—money is not going to properly compensate them. The other young person: they might go bankrupt; they will get on with their life, and they will be fine. The person injured, not so. So, I do not share in supporting that example.

What we are looking at, I guess, is similar to other clauses in this bill. What level of behaviour is so serious that we want both civil and criminal consequences to apply? The government says that, if you are twice the legal limit, you will be personally liable for the damages. The opposition says that you have to be three times the legal limit in order to be personally responsible for the losses. The Greens' position on this bill is that we think the reduction in the threshold to 0.1 makes sense. It is yet another disincentive to people to drink and drive. Not only will you be subject to serious criminal penalties, but at the end of the day you may well be held

personally accountable for the mayhem, the maiming, the injuries and the deaths that you cause. That is not a bad thing.

I know that some people will say that this is all about preserving the pool of money in the Motor Accident Commission and making sure that other people are made to share some of the cost. I am not worried so much about the revenue side of it or about preserving the fund. I think that people should be responsible for their behaviour and that when you get behind the wheel of a motor vehicle and you cause death or injury, and you do it in a way that you have shown disregard for our traffic laws—in this case, in relation to blood alcohol level—you may potentially be up for all the consequences of your action. It is one of the things we teach our children from a very young age: consequences.

This is in some ways the ultimate consequence. If some young people get drunk and injure and maim people and then find themselves in the bankruptcy courts at the age of 23, bad luck. At the end of the day, I think people need to be responsible, so I do not support keeping the blood alcohol level at three times the legal limit, and the Greens will be supporting the government on this.

The Hon. R.I. LUCAS: I do not think the minister needs to go back to June. I indicated in my contributions that the Liberal Party has changed its position in the last 48 hours, so I do not really think she needs to go back to June 2010 to find a conflicting statement. I indicated to the committee that the Liberal Party's position on this had changed in the last 48 hours. The only other point, with the greatest respect to the minister, is in relation to her endeavours to indicate that there is a difference of view between myself and the member for Davenport. If she had listened, she would have indicated the member for Davenport has handled the carriage of this bill and advised the Liberal Party's position.

I have not seen the June 2010, but she may well have a view that the member for Davenport has changed his position from June 2010 to this week. That may or may not be so, but it is certainly not the case that there is a difference of view between the member for Davenport and myself. I am here but as a humble servant for my party, putting the party's position, which has been negotiated by the member for Davenport. The minister might like to impose, inflict, insert an element of partisan politics, but I am not going to take the bite.

The committee divided on the amendment:

AYES (9)

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

NOES (11)

Bressington, A.	Brokenshire, R.L.	Franks, T.A.
Gago, G.E. (teller)	Gazzola, J.M.	Holloway, P.
Hood, D.G.E.	Hunter, I.K.	Parnell, M.
Wortley, R.P.	Zollo, C.	

Majority of 2 for the noes.

Amendment thus negatived.

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

Page 4—

Lines 16 to 18 [clause 5(2), inserted subsection (7aa)(c)(ii)]—Delete subparagraph (ii)

Lines 29 and 30 [clause 5(3), inserted paragraph (c)(ii)]-Delete subparagraph (ii)

Lines 38 and 39 [clause 5(5), inserted subsection (7ab)(b)]-Delete paragraph (b)

These three amendments are consequential.

Amendments carried.

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

Page 5, lines 1 to 31 [clause 5(5), inserted subsections (7ac) to (7ae)]—Delete inserted subsections (7ac) to (7ae) (inclusive)

This amendment relates to section 116 of the Motor Vehicles Act, which deals with claims against nominal defendant where a vehicle is uninsured. The original bill proposed the inclusion of an additional right of recovery by the MAC against all parties in the chain of responsibility where a relevant offence had been committed by the driver of a regulated heavy vehicle pursuant to the heavy vehicle driver fatigue scheme by inserting sections 16(7ac) to (7ae). Following extensive consultation and debate in committee in the lower house it is now proposed that this amendment be deleted from the bill. Therefore sections 16(7ac) to (7ae) (inclusive) are to be deleted.

The Hon. R.I. LUCAS: The Liberal Party supports the amendment.

Amendment carried.

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

Page 5, lines 36 and 37 [clause 5(6), inserted paragraph (d)]—Delete paragraph (d)

Amendment carried; clause as amended passed.

Clause 6 passed.

Clause 7.

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

Page 6, after line 20—

After subclause (1) insert;

(1a) Section 124(3)—after paragraph (b) insert:

or

(c) if the defendant has not given notice of a particular detail as required by subsection (1)—that the defendant, having made reasonable inquiries, complied with the requirements of subsection (1) to the best of the defendant's knowledge, information and belief.

This amendment relates to section 124 of the act, which requires the cooperation of a person where a motor vehicle accident has resulted in a death or bodily injury. The original bill inserts section 124(1)(c) which requires a person to inform MAC who the driver of the vehicle was. Consultation with industry groups, particularly the Law Society and the ALA, raised issues with there being no defence to section 124(1) if the owner did not know who the driver was. As a result, further amendments are proposed to insert a defence in section 124(3) where the defendant has made reasonable inquiries and complied with the obligation to provide written notice to the insurer to the best of their knowledge, information and belief.

The Hon. R.I. LUCAS: The member for Davenport has advised me that the party's position is that we will support the government's amendment in that the Liberal Party accepts that that is some marginal improvement on the clause as it is drafted. The advice from the stakeholders consulted by the member for Davenport indicates very strong opposition nevertheless to even the amended clause 7. So we will support the amendment, but I indicate that the Liberal Party will be voting against clause 7.

Amendment carried.

The committee divided on the clause as amended:

AYES (11)

Brokenshire, R.L.	Franks, T.A.	Gago, G.E. (teller)
Gazzola, J.M.	Holloway, P.	Hood, D.G.E.
Hunter, I.K.	Parnell, M.	Vincent, K.L.
Wortley, R.P.	Zollo, C.	

NOES (9)

Bressington, A.	Darley, J.A.	Dawkins, J.S.L.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I. (teller)

NOES (9)

Ridgway, D.W.	Stephens, T.J.	Wade, S.G.

Majority of 2 for the ayes.

Clause as amended thus passed.

Clause 8 passed.

Clause 9.

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

Page 7, lines 36 and 37 [clause 9(2), inserted paragraph (c)(ii)]—Delete subparagraph (ii)

The amendment is consequential and it was successful earlier.

Amendment carried.

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

Page 8—

Lines 8 and 9 [clause 9(5), inserted paragraph (aa)(ii)]—Delete subparagraph (ii)

Lines 17 and 18 [clause 9(7), inserted subsection (2b)(b)]—Delete paragraph (b)

The amendments are consequential.

Amendments carried.

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

Page 8, lines 21 to 40 and page 9, lines 1 to 13 [clause 9(8), inserted subsections (4) to (6)]—

Delete inserted subsections (4) to (6) (inclusive)

I am advised that the amendment is consequential.

Amendment carried; clause as amended passed.

Clauses 10 and 11 passed.

Clause 12.

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

Page 10, lines 33 to 35 [clause 12, inserted section 127AB(3)]—Delete subsection (3)

This amendment relates to section 127AB of the original bill. The original bill inserted section 127AB, which requires a claimant to provide sufficient information, including specified documents to the insurer, to allow the early assessment of liability and then an offer of settlement to be made. Penalties are imposed if the claimant fails to comply with a reasonable request by the insurer. The ALA and the Law Society have strenuously objected to the requirements imposed by this provision. The opposition has indicated that it wants this provision removed in its entirety or it will not support the bill.

The Hon. R.I. LUCAS: Could I clarify? I thought the government was not proceeding with amendment Nos 5 and 6 and it had replaced them with the new amendment minister (2). Am I ill-advised?

The CHAIR: I have them here in front of me, but I do not know whether they are proceeding with them or not.

The Hon. R.I. LUCAS: You have called on amendment No. 5 from the original amendments. The minister has moved it and spoken to it. It is not for me to advise the government but my understanding is that last night the government had changed its position and was not proceeding with amendment Nos 5 and 6 and had replaced them with this big long amendment in Minister for Regional Development (2), as opposed to Minister for Industrial Relations (1). That is not what you have moved; you have moved amendment No. 5 in the original—

The CHAIR: Do you want to withdraw No. 5?

The Hon. G.E. GAGO: Thank you for that. The honourable member is quite right. What I had meant to do was withdraw amendment Nos 5 and 6. That then is to be replaced with the amendment that I have just moved.

The CHAIR: Does the minister seek leave to withdraw amendment No. 5?

The Hon. G.E. GAGO: I seek leave to withdraw amendment No. 5 standing in my name.

Leave granted; amendment withdrawn.

The CHAIR: I think you need to formally move the amendment.

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

Page 10, lines 18 to 40 and page 11 lines 1 to 7 [clause 12, inserted section 127AB]—

Delete inserted section 127AB and substitute:

127AB—Certain requirements in respect of claims

(1) A person claiming damages or other compensation in respect of death or bodily injury caused by or arising out of the use of a motor vehicle must cooperate fully in respect of his or her claim with the insurer for the purpose of giving the insurer sufficient information—

(a) to be satisfied as to the validity of the claim and, in particular, to assess whether the claim or any part of the claim may be fraudulent; and

(b) to be able to make an early and informed assessment of liability; and

(c) to be able to make an informed offer of settlement (if appropriate).

(2) In particular, the claimant must comply with any reasonable request by the insurer to furnish information or to produce specified documents or records.

(3) The reasonableness of a request may be assessed having regard to criteria including the following:

(a) the amount of time the claimant needs to comply with the request;

(b) whether the information sought is relevant to a determination of liability or quantum of loss, having regard to the nature of the claim;

(c) the amount of information which has already been supplied to or is available to an insurer to enable liability and quantum of loss to be assessed and an offer of settlement made;

(d) how onerous it will be for the claimant to comply with the request;

(e) whether the information sought is sufficiently specified;

(f) the time of the request and whether the claimant will be delayed in commencing proceedings by complying with the request.

(4) If a claimant fails, without reasonable excuse, to comply with this section—

(a) the claimant is not entitled, until he or she complies with this section, to commence proceedings or to continue proceedings that have been commenced in respect of the injury or death; and

(b) the claimant is not entitled to damages, compensation, interest or costs for any period during which the failure continues.

(5) Nothing in this section requires a person to produce a document or record that would disclose information, or otherwise provide information, that is the subject of legal professional privilege.

(6) This section does not apply to a claimant in respect of a claim made in connection with a cause of action that arose before the commencement of this section.

The Hon. R.I. LUCAS: Sorely tempted as I am, I will not engage in partisan politics during the committee stages about the minister's performance in handling the bill in the committee; I will leave that for later on. The minister, in outlining the Liberal Party's position earlier, has not unfairly reflected the Liberal Party's position; that is, the Law Society committee, which has looked at this particular provision, and the Australian Lawyers Alliance in particular, are trenchantly opposed to the provisions of the bill and, I am advised by the member for Davenport, remain so even with this lengthy new and late amendment from the government last evening.

During the second reading, I took the opportunity to read at length the Law Society committee's explanation of the reasons it saw problems with the government bill and its drafting. To

give the committee credit, it also outlined an alternative course modelled on the Queensland experience (the Personal Injuries Proceedings Act 2002, in particular) and other advice in terms of what might be seen to be a more plausible and reasonable alternative to that being suggested by the government in its bill. I do not propose to repeat the advice of the Law Society committee during the committee stage, but I draw the attention of those 32 avid readers of *Hansard* to the reasons why ultimately we will be voting against this clause.

The Liberal Party's position is that this is a marginal improvement on the original drafting, but the position remains from the Law Society and others that this clause (clause 12 in its totality) even amended if left in there will potentially cause confusion and that it is overly cumbersome, so they have argued, and that is the position the Liberal Party has accepted. I would have thought even more so when one looks at the complex and complicated nature of the amendment that has been moved by the government this afternoon to this provision. We will support the amendment, but I advise the committee that we will be opposing clause 12 in the bill.

The Hon. M. PARNELL: I would just like to make an observation in relation to the position that the Hon. Rob Lucas just put. It seems to me that the minister's revised new section 271AB is effectively the entirety of amendment No. 12, so I would have thought that if the Hon. Rob Lucas supports the amendment he effectively supports the new clause. I am just not quite sure, procedurally, how that works, but he can work that out.

We have had this amendment from the government for a only very short time. Can the honourable member clarify that he has had communication from the Law Society and the Australian Lawyers Alliance that they continue to be unhappy with even this revised draft? I do not have any of that correspondence to hand.

The Hon. R.I. LUCAS: The Hon. Mr Parnell is correct; the Liberal Party's position is that it will oppose clause 12 and the government's amendment. That will clarify the understandable confusion for the Hon. Mr Parnell, and I apologise for the earlier misstatement of our position on this amendment. Yes; we oppose the clause in its totality and we also oppose this particular amendment. The Liberal Party was going to support the original amendments of the minister, which she has now withdrawn.

In relation to the member's question, I have not had contact, but the member for Davenport, who has been handling the negotiations, has advised me that he has had contact with representatives of the ALA and the Law Society committee or subcommittee that has been handling this. By that, and given the lateness of the hour, it would have been the nominated representative of the Law Society subcommittee who has been handling it (whose name has been mentioned to me, but it escapes me at the moment) and the nominated representative from the ALA who has been handling all the negotiations. Yes; they remain opposed to clause 12, even if amended.

The Hon. R.L. BROKENSHIRE: I have a question for the minister. At this point Family First is inclined to support the government—and we do it regularly—but can the minister put on the public record what the intent of MAC and SAPOL would be with respect to disclosure from their side of the equation?

The Hon. G.E. GAGO: Can I seek clarification? You want SAPOL's view on—

The Hon. R.L. BROKENSHIRE: With respect to the evidence around reports and things like that at an accident, do MAC and SAPOL have a policy position on how difficult it is to get the defending lawyer or the client information regarding reporting and processes around MAC and SAPOL, without them having to go through the courts or the lawyers to subpoena them? What is the situation there?

The Hon. G.E. GAGO: I have been advised that MAC and SAPOL have an agreement that MAC is not able to release police reports provided by SAPOL to the claimant or the solicitors until court proceedings are issued, and this in order to protect the integrity of the police investigation and also things like witness safety. I am informed that the claimant always has the right to access SAPOL reports through FOI.

The Hon. M. PARNELL: The Greens' position in relation to this amendment and to clause 12 of the bill is that we will be opposing them both. One of the reasons for that—and I expressed earlier than we have not had the firsthand communication from key stakeholders—is that, if we oppose these now and it turns out that the Hon. Rob Lucas' information was incorrect, it can come back between the houses; we can fix it up.

Along with other members, I have the earlier correspondence. Certainly, the Australian Lawyers Alliance was vehemently opposed to this clause, and the Law Society had serious concerns about the justice elements of the disclosure requirements. So, whilst I appreciate that the government has made some attempt to make the clause fairer and to fix it up, if there is still serious opposition out there the Greens will be opposing it at this stage and, if it turns out that we were misinformed, we can revisit it later on.

The Hon. A. BRESSINGTON: I will also be opposing the amendment and the clause as well.

The ACTING CHAIR (Hon. R.P. WORTLEY): We will not be voting right this minute. The Hon. Mr Lucas is on the phone with colleagues.

The Hon. R.L. BROKENSHIRE: While we are waiting for the Hon. Robert Lucas, because the chamber is happy to hold proceedings for such a learned and experienced MP, can I ask the minister: why would it not be possible to mask a report from a witness so that there were no fear of what the minister just mentioned regarding someone going around and intimidating or threatening? It would at least give the claimant's lawyer some opportunity of being able to start assessing where possible litigation, etc. may be.

The minister said that you could FOI from SAPOL. My understanding is that SAPOL will use the refusal excuse that they are in the middle of a proceeding and therefore it is not in their interest to disclose any of that information. However, if it was at least masked, that would then mean that the lawyer defending would not have to issue subpoenas and incur all those sorts of costs. They would not know the name of the witness who had given the statement, but it would at least help them to start to prepare their case, and there would still be a situation where you are getting the material you need for MAC and the other side of the debate.

The Hon. G.E. GAGO: I want to put this issue to rest. I have been advised that MAC is not able to tamper with or make any changes or alterations to the documents it receives from SAPOL.

The Hon. R.I. LUCAS: I thank the committee. I have taken urgent advice from the member for Davenport in relation to the party's position, and I have also taken the opportunity to consult informally with the minor parties and Independents. It would appear that it is going to be largely academic in relation to the government's amendment and that there is majority support in the chamber, on my quick discussion, that clause 12 will be opposed. I guess we could end up having two divisions. For whatever it is worth, that is my understanding of the position. So, on that basis, I repeat our position that, on the understanding that we are going to vote against it and that clause 12 ultimately will be defeated, we will oppose the government amendment and oppose clause 12 as well.

Amendment negatived.

The Hon. R.I. LUCAS: I understand the government is supporting this, so I will not speak at length. I move:

Page 11, after line 7 [clause 12, inserted section 127AB]—After subsection (5) insert:

(6) This section does not apply to a claimant in respect of a claim made in connection with a cause of action that arose before the commencement of this section.

This amendment specifically deals with the issue of retrospectivity. It was going to be a debating point, obviously, if clause 12 was going to stay in the bill but, as I said, on my understanding clause 12 is going to go out. Nevertheless, for form I will move it. It locks up the issue of retrospectivity. The minister has just quietly indicated the government was going to support it, so I will move the amendment. We will put it in there, but the whole clause is potentially going to be removed anyway.

Amendment carried.

The committee divided on the clause as amended:

AYES (6)

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

NOES (14)

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

Majority of 8 for the noes.

Clause as amended thus negatived.

Clause 13.

The Hon. R.I. LUCAS: My amendment No. 5 [Lucas-3] is consequential and I withdraw it. However, I move:

Page 11, lines 18 and 19 [clause 13(3), inserted paragraph (h)]—Delete paragraph (h)

This amendment is consequential.

The Hon. G.E. GAGO: I am happy with that.

Amendment carried; clause as amended passed.

Schedule 1.

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

Page 11, lines 23 to 29 [Schedule 1, clause 1(1) and (2)]—Delete subclauses (1) and (2)

This amendment relates to section 52 of the Civil Liability Act in relation to the assessment of damages for non-economic loss. The opposition have indicated they want all amendments to section 52 of the Civil Liability Act deleted. The amendment deletes the proposed changes to section 52 and leaves only the insertion of an example which explains how the 0 to 60 scale should be applied (schedule 1 clause 1(3)). MAC considers the example should be retained, as it will provide assistance to the application of the 0 to 60 scale and should not have an adverse effect on any award of damages or non-economic loss.

The Hon. R.I. LUCAS: The Liberal Party will support the government's amendment to deletes subclauses (1) and (2) of part 1 of schedule 1 but, in doing so, we indicate that we will be strongly supporting our own amendment which follows, which is to delete subclause (3). We have received very strong views from the Law Society and the Australian Lawyers Alliance in relation to this particular issue, and the very strong representations we have received are that certainly the whole lot should go.

Certainly, if the argument from the government is to delete subclause (1) and (2), a significant part of the argument has been now agreed with the government. It really is now just the remaining example, which is in subclause (3), which touches on part of the argument we had earlier. The Hon. Mr Parnell can use that Latin phrase again if he wants to for the benefit of Hansard. We will be supporting the deletion in this amendment from the government but then we will move our amendment to delete subclause (3) as well.

Amendment carried.

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

Page 11, lines 30 to 35 [Schedule 1, clause 1(3)]—Delete subclause (3)

I have given the explanation. Again, we have received a strong lobby on this that the package of amendments in subclauses (1), (2) and (3) should be deleted. The government has agreed with the deletion of subclauses (1) and (2) and, therefore, in our view, has significantly conceded on the whole argument in relation to this provision. It now makes much more sense to concede all of the argument and delete subclause (3) as well.

The Hon. G.E. GAGO: I rise to oppose this amendment. This amendment relates to section 52 of the Civil Liability Act. The amendment deletes the example that we have just inserted after section 52, and MAC does not support this amendment.

The Hon. M. PARNELL: The Greens are supporting the government on this amendment, so we will not be supporting the Hon. Rob Lucas's amendment.

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

The Hon. R.L. BROKENSHIRE: I will be supporting the opposition on this occasion.

The Hon. A. BRESSINGTON: I am supporting the opposition on this one.

The Hon. K.L. VINCENT: If it ain't broke, don't fix it. I am supporting the government and, therefore, opposing the amendment.

Amendment carried; schedule as amended passed.

Long title.

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

Delete '; and to make related amendments to the *Civil Liability Act 1936*'

The amendment is consequential.

Amendment carried; long title as amended passed.

Bill reported with amendments.

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (17:41): I move:

That this bill be now read a third time.

The Hon. R.I. LUCAS (17:41): I will speak briefly at the third reading. The opposition indicated that there were a number of significant amendments that unless they were successful it intended to vote against the third reading. We are pleased to see the progress of the bill out of the committee, in that some of the significant amendments moved by the party have been supported and on that basis we are prepared to support the third reading of the bill.

The Hon. M. PARNELL (17:42): It has just occurred to me, and I do not know whether this is proper or not but I am going to do it, and that is to declare a possible interest in this legislation. It has only just occurred to me that my wife was involved in a motor vehicle accident about a year ago where she was knocked off her bicycle by a vehicle, and she would have a current pending claim for compensation which is unresolved.

I would like to inform the council that it had not occurred to me until just now that we had that interest, and that none of those circumstances have in any way influenced any of the decisions or votes that I have made on behalf of the Greens, but I thought I would put it on the record now just in case someone in the future wants to suggest that there may have been some improper motive. So, I would like *Hansard* to record that possible interest.

Bill read a third time and passed.

SOUTH AUSTRALIAN PUBLIC HEALTH BILL

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

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

That amendment No. 4 be insisted on, with the amendments relevant to those to which the House of Assembly has disagreed.

The government has held extensive discussions with the opposition with the aim of achieving some common ground on this issue. In the spirit of compromise and to achieve the aim of passing this significant and important piece of legislation the government is now putting forward this amendment to amendment No. 6, and I have to say that we do so with continuing concerns regarding the impact of appeal provisions against orders during a public health emergency. Obviously, I do not wish to recount all of those concerns; I think they have all well and truly been put on the record.

Suffice to say that I note the minister's comments in another place where he indicated that whoever is the minister at the time when there is a significant public health crisis may need to call an emergency session of parliament to deal with problems which could arise from these provisions. However, that will be for another day and, in any event, I am certain that these provisions, should

the circumstances warrant, will be one of the matters raised during the review of the legislation which is to be undertaken within five years of its passage.

This amendment introduces four qualifications to appeal rights which will ensure that court proceedings, as far as possible, do not cut across, distract or hamper the work of public officials during an emergency, and it provides the courts with guidance regarding how to treat appeals in ways which are as expeditious as possible. In brief, those qualifications are:

1. that the making of an application does not suspend the operation of a public health order, and that the court must not suspend the operation of the order pending the outcome of proceedings;

2. that, wherever practicable, where the court is dealing with two or more applications of sufficient commonality, they be joined or heard together;

3. that the person subject to the direction is not entitled to attend the court during proceedings but is entitled to be represented by a person nominated by them; and

4. that the court must take into account the need to ensure that its proceedings do not unduly hamper the work of public officials in dealing with an emergency.

These amendments will reduce the risk that public health is compromised by appeals against orders made for isolation or segregation during a public health emergency. I would like to acknowledge that, even though this has been a point of difference between the government and other honourable members, I am very pleased that, with their cooperation and goodwill, we have been able to reach a position of agreement.

The Hon. S.G. WADE: I indicate that the opposition will be supporting this amendment, as we have undertaken to the government. Like the minister I would like to make some reflections on this process. The minister referred to the spirit of compromise as though the government had displayed some virtue. The reality is that I have been amazed at the intransigence of the government on this matter. We have had briefing after briefing, email after email, phone call after phone call and, if there was a spirit of compromise being evidenced, it was evidenced at the 11th hour and not through the process.

In terms of the comments of the Minister for Health in the other place about the possible need for an emergency session of parliament, it is just not credible. The reality is that in an emergency context the steps that would be needed to resume a session of parliament would not be practicable. The reality is that the government knows that these provisions are workable or at least, shall we say, worth trying. I admit that we are not convinced that these are perfect, but then what bill on the statute books is? But we do believe that it was important to maintain the balance between individual rights and the responsibility to protect the community in times of emergency.

If, to a certain extent, the bill does prove to be unworkable during an emergency, I would remind the house that the government always has available to it the Emergency Management Act, which does not have appeal provisions. We are used to the government putting things on the record for the sake of media and future self-protection, but I thought the Minister for Health's comments in the other place were quite disingenuous.

I would express, on behalf of the opposition, our pleasure that in this health bill we have been able to maintain a balance of interests. The parliament is a place where a range of perspectives come in, they are tossed around and we try to find a balance. There were certainly very serious issues here with balancing the interests of the community to effectively deal with health emergencies while at the same time minimising the impact on personal freedoms.

Freedoms are also related to health. The contributions of the Hon. Ann Bressington in relation to issues relating to medical self-determination are not unrelated to health. So, for a portfolio which is extremely respectful of personal rights in areas such as mental health and control of notifiable diseases, what was apparent to me through this debate was that the public health wing of that profession needs to do some good hard thinking about how its responsibilities can be implemented in the context of a health emergency.

I notice that there is a Centre for Public Health Law at Flinders University, so it is good to see that the sub-profession or profession—I am not sure how it is described—is giving thought to these matters, but there did not seem to be any conviction of the need to balance rights, which we see all the time in things like mental health and other areas of health, so I would encourage the health profession to do some more work there. I also think it highlighted problems with the process.

We found that we were continually engaging the Minister for Health's health officials, and the officials who were responsible for other interests—for example, the Attorney-General's department—were not present. I think, in terms of the way the government manages legislation, where conflicts of interest or, if you like, a balancing of interests become necessary, I would suggest that the government might think of a way to better bring in the range of expertise that government has available to us.

In conclusion, I would like to thank particularly the crossbench MLCs. The reality is that we would not have achieved one jot nor tittle of improvement on this bill unless a significant bloc of MLCs in this chamber—

An honourable member: Jot nor tittle—can you spell it?

The Hon. S.G. WADE: Yes, I can, but I shan't. We would not have achieved any changes to this legislation without MLCs who were willing to support not progressing the bill. I appreciate that many of them were reserving their position. They were not necessarily saying that a balancing of interests was possible, but they gave the opposition the opportunity to explore what was possible with the government, and that was not without some workload. The consultations that have gone on in relation to this matter have been extensive. They have been long and complex, and I greatly appreciated the engagement of the crossbench MLCs who provided that support.

It is just so easy for governments to say, 'It can't be done.' If they keep saying it often enough, they think that the MLCs will go away. Well, I think it is extremely important, and I would say this to our opposition team as well. We did it last night with the CCRC bill. We do not think it is perfect, but we think it is an idea worth keeping alive, so we are committed to that. Likewise, MLCs who supported us on these amendments said, 'Okay. We don't know if these amendments are workable, but we think these are values worth looking at and worth pursuing.'

As I said in my earlier comments, these amendments may not be perfect, but what they do is put on the record that in South Australia the South Australian parliament is not willing to put in isolation, segregation and detention powers in legislation without review provisions. We have not done it in any other legislation; why would we do it here? We have said that we are committed to maintaining a balance. That balance might need to be tweaked. The government may need to use the Emergency Management Act from time to time because of unforeseen circumstances, but we encourage the government, and the people who serve us so well in the public health area, to continue to think about these issues and how they are implemented within the South Australian community.

Motion carried.

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

That the Legislative Council does not insist on its amendment No. 6.

Amendment No. 6 would have inserted the appeal rights now included in clause 90 into the Emergency Management Act 2004 should a declared public health emergency proceed so far out of control that the government needs to activate broader powers under the Emergency Management Act 2004. The government's position all along has been that the circumstances which would give rise to this situation would be so dire to the health and functioning of the community that there must be no impediment to responding to the real and critical threat that such an emergency would pose.

I understand that, after discussions, the opposition is willing not to press this point and I thank them for their careful consideration of not only the government's views but also the views of SAPOL and the Local Government Association on this very serious matter. I sincerely hope that we are never in a public health crisis where we have to call up the Emergency Management Act powers but, should we be in that situation, the government of the day must be able to muster its entire powers and resources and apply them completely to the task of protecting us all.

The Hon. S.G. WADE: The minister is correct to the extent that she says the opposition will be supporting the motion not to insist on amendment No. 6, but I think in response to the comments of the minister I should clarify the opposition's position. I would not want the minister's comments in terms of restating the SAPOL and health position in relation to the Emergency Management Act to lead people to believe that we believe that a review power is not possible in the Emergency Management Act.

Just as we have considered the opportunities to balance interests in terms of emergency management and personal freedoms in the context of the health bill, when the Emergency Management Act is next opened, I would indicate to the government that I would like to explore review provisions there as well. Just as the government told us that it cannot be done in relation to public health, I do not accept the government's assertions it cannot be done in relation to emergency management. I appreciate that these things are difficult, but we believe that perseverance and continuous improvement to such provisions can ensure that all the rights of South Australians are balanced, both health and other rights.

Motion carried.

STATUTES AMENDMENT (LAND HOLDING ENTITIES AND TAX AVOIDANCE SCHEMES) BILL

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

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (18:03): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill replaces the land rich provisions contained in Part 4 of the *Stamp Duties Act 1923* with landholder provisions as announced in the 2010 State Budget. The amendments will operate from 1 July 2011. Transitional provisions provide that agreements entered into prior to 1 July 2011 but completed on or after that date will be dealt with under the existing land rich provisions.

Both the land rich and landholder provisions are intended to ensure that conveyance duty is paid on the transfer of significant South Australian land assets when control of a company or unit trust changes. The introduction of a landholder model does not change conveyance duty arrangements for individuals or businesses buying land assets directly.

All jurisdictions have either land rich or landholder provisions in their stamp duty legislation. The provisions are intended to protect the conveyance duty revenue base from leakage caused by taxpayers purchasing land indirectly through companies and unit trust schemes, rather than directly.

A number of jurisdictions have either replaced land rich provisions with a landholder model or have announced their intention to do so. Landholder provisions currently operate in New South Wales, Western Australia, the Northern Territory and the Australian Capital Territory while Queensland has also announced its intention to move to a landholder model.

As opposed to land rich provisions landholder provisions treat all significant land transfers over the land threshold value—in South Australia's case $1 million—consistently and protect the conveyance duty base from being eroded through the manipulation of the land rich test.

Currently for land rich provisions of Part 4 to apply, a person or group of associates must acquire 50 per cent or more of the shares or units in a private company or unit trust where the private company or unit trust owns South Australian land valued at $1 million or more and where 60 per cent or more of the value of the total assets of the entity are land.

The asset test is currently 80 per cent or more for primary production entities.

The adoption of a landholder model removes the 60 per cent and 80 per cent tests so that the provisions will apply when a person or group of associates acquires 50 per cent or more of the shares or units in the private company or unit trust and the private company or unit trust owns land valued at $1 million or more in South Australia.

Land holder duty will also apply where 90 per cent or more of the shares or units of a listed 'landholder' company or trust are acquired. Duty for listed companies and trusts will be charged at a concessional rate of 10 per cent of the amount of duty otherwise payable.

Widely held unit trusts which have 300 or more unit holders where none of the unit holders individually or together with an associated person is entitled to 20 per cent of the units in the trust will be treated under Part 4 as listed trusts in recognition of the large number of unit holders.

The removal of the land to asset test and the inclusion of listed entities does result in the landholder model having a broader application than the land rich provisions. The 2010-11 Budget estimated that adoption of the landholder model would have a budget impact of $10 million in 2011-12 and $20 million per annum over the forward estimates.

Where applicable, the current land rich provisions charge duty on the percentage of the entity's underlying local land assets acquired.

Under the proposed landholder provisions stamp duty will apply to the underlying local land assets acquired by an entity as well as particular goods of the landholder entity which are used solely or predominantly in South Australia. The application of landholder duty to goods is subject to a number of exemptions, including stock in trade, livestock and materials used for manufacturing.

This approach will provide consistency with the general conveyance base where chattels that are transferred with land are subject to duty. The approach is broadly consistent with the landholder provisions in other jurisdictions.

Whilst the Bill replaces the whole of Part 4 with new provisions, the land holder model has adopted much of the existing machinery of the land rich provisions as the provisions are generally understood within relevant industries and work well in practice.

Changes have been made to existing provisions in order to enhance the workings and application of those provisions where issues have been identified in the past. Some of the more substantial changes are described below.

The definition of land has been extended to include interests that have a close connection to land as it is considered they should be dutiable because they are, in substance, closely comparable to ownership interests considered to be land in the *Real Property Act 1886*.

The interests covered by the Bill, include mining and petroleum related leases/licences, aquaculture leases and forestry property agreements, reflect the interests intended to remain in the stamp duty base when duty is removed on non-real non-residential conveyances on 1 July 2012.

The new provisions make it clear that an entity's interest in land will be taken to include an interest in anything fixed to the land but notionally severed or considered to be legally separate to the land by operation of another Act or law. This ensures that other legislation, which addresses 'land' definitional issues for other purposes, does not have unintended impacts on the manner in which stamp duty is charged. These provisions promote the equitable treatment of all property considered to be fixtures to land under the landholder arrangements.

The Bill also operates to amend the circumstances under Part 4 in which duty paid in relation to prior acquisitions can be rebated against duty payable in relation to a current transaction. In principle, the rebate provisions in the Bill are intended to ensure that duty is only payable once in relation to the effective acquisition of land assets. Where a person or a group of associates' interest in a landholding entity increases over time, duty payable under Part 4 only relates to the notional increase in the ownership of the land asset.

The Bill also contains provisions which set out in detail how the value of a relevant asset is to be determined under Part 4. These provisions are consistent with the general conveyance provisions of the Act and will allow the Commissioner of State Taxation to cause a valuation of an asset or interest to be made in circumstances where there is no evidence or there is unsatisfactory evidence provided as to the value of the asset or interest.

In addition a further provision has been included to clarify that when determining the value of an asset or interest, it is to be assumed that a hypothetical purchaser would, when negotiating the price for the asset or interest, have knowledge of all existing information relating to the asset or interest; and no account is to be taken of any amount that a hypothetical purchaser would have to expend to reproduce, or otherwise acquire a permanent right of access to and use of, existing information relating to the asset or information. This provision has been included to ensure the appropriate market value of land can be ascertained by the Commissioner for the purposes of Part 4.

The Bill also makes amendments relating to the Commissioner of State Taxation's ability to recover stamp duty under Part 4 of the Act. Currently Part 4 allows land owned by a land rich entity to be sold to recover any outstanding land rich duty due in relation to that entity. Legal advice has been received that the current provision is deficient in that the charge ranks after first charges, mortgages and any other charges that have been registered prior to the RevenueSA charge and can only last 6 months. The Bill therefore provides the Commissioner with the power to register a charge against any land of an entity and that charge will rank as a first charge over the relevant land. This provision will provide consistency with the Commissioner's powers in relation to Land Tax, the Emergency Services Levy and the First Home Owner Grant.

A concession is also being introduced in relation to the statutory funds of life insurance companies to provide that the funds are not considered to be associated persons for the purpose of Part 4. Life insurance business must be conducted through statutory funds and to protect the interests of policy holders, the operation of such funds is regulated under the *Life Insurance Act 1995* (Cth.). Given the unique regulatory circumstances of statutory funds, which must be accounted for separately from the business and assets of the life insurance company, it is appropriate to treat such funds as separate and independent for the purposes of the landholder provisions.

The Bill introduces a new Part 6A of the *Taxation Administration Act 1996* in relation to tax avoidance schemes. These provisions target artificial, blatant or contrived schemes that are entered into for the sole or dominant purpose of avoiding or reducing taxation payable. While RevenueSA has provisions in existing legislation that are intended to prevent tax avoidance, the provisions may not be effective in counteracting some potential schemes identified. The anti-avoidance provisions in the Bill provide a broad and consistent approach to tax avoidance across State taxes. The provisions are based on anti-avoidance provisions in the New South Wales duties legislation.

Overall it is considered that the Bill provides fairer and more robust tax outcomes which aim to strike a balance between protecting the revenue base and allowing taxpayers to structure their commercial affairs appropriately.

Finally, an unrelated amendment is also being made to provide an exemption from stamp duty to the vesting of property held by a security trustee to the trustee of a self managed superannuation fund under an instalment warrant arrangement. This exemption will essentially prevent double duty consequences arising from trust structures required in accordance with Commonwealth superannuation legislation where self managed superannuation funds borrow funds to pay for property purchases. The use of instalment warrant arrangements for property purchases by self managed superannuation funds has emerged following recent amendments to the *Superannuation Industry (Supervision) Act 1993* which now permit self managed superannuation funds to borrow funds in order to invest in property in limited circumstances.

I would also like to take this opportunity to thank industry bodies for their participation in the consultation process, in particular the Law Council of Australia, the Property Council of Australia and the South Australian Farmers Federation.

I commend this Bill to Honourable Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will come into operation on 1 July 2011.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Stamp Duties Act 1923*

4—Amendment of section 2—Interpretation

It is necessary to define the term *quoted* in relation to any shares, units in a unit trust scheme or interests in such shares or units.

5—Amendment of section 71—Instruments chargeable as conveyances

These amendments will allow an exemption from stamp duty in relation to the vesting of property held by a security trustee to a self managed superannuation fund.

6—Amendment of section 85—Exempt transactions

This is a consequential amendment.

7—Substitution of Part 4

This clause provides for the repeal and re-enactment of Part 4 of the Act relating to land holding entities.

8—Transitional provision

This clause sets out the transitional provisions that are to apply in relation to new Part 4 that is to be inserted into the *Stamp Duties Act 1923*.

Part 3—Amendment of *Taxation Administration Act 1996*

9—Insertion of Part 6A

This clause provides for the enactment of a new Part of the *Taxation Administration Act 1996* in relation to tax avoidance schemes.

10—Transitional provision

This clause sets out the transitional provisions that are to apply in relation to new Part 6A that is to be inserted into the *Taxation Administration Act 1996*.

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

ELECTRICITY (MISCELLANEOUS) AMENDMENT BILL

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

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (18:04): I move:

That this bill be now read a second time.

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

Leave granted.

The Bill I am introducing today improves South Australia's Feed-in Scheme by providing greater reward to the owners of solar generators, and makes changes to ensure the benefit can be adopted by as many South Australians as possible while balancing the cost of the scheme.

This Government has ensured that South Australia is at the forefront of renewable energy and climate change policy action. In 2008, this State was the first in Australia to implement a premium feed-in scheme for small-scale grid-connected solar photovoltaic systems owned by small customers. Nearly every other State and Territory has announced or introduced a feed-in scheme after South Australia.

Honourable Members would be aware that South Australia's Feed-in Scheme works by rewarding eligible small customers a bonus of 44 cents for every kilowatt-hour of excess electricity fed back into the grid from eligible solar photovoltaic systems. This amount is funded through distribution charges levied by ETSA Utilities on all of its grid-connected customers. The scheme extends to 2028.

The South Australian Feed-in Scheme has been overwhelmingly successful. I advise the Honourable Members that there are now around 32,000 grid-connected solar photovoltaic customers, representing nearly 50 MW of installed generation capacity.

The South Australian Government announced that once installed capacity had reached 10 MW the scheme would be reviewed. This threshold was reached in May 2009. The review was tasked with looking at several specific elements of the Scheme, including other possible technologies, retailer payments and the issue of large systems.

I am pleased to say that the review's final report found that the South Australian Feed-in Scheme has been successful and well implemented as measured against a number of criteria including installed capacity, exported energy, ease of implementation and operation and customer complaints.

The review's final report identified opportunities for further improvement, while cognisant of not changing the fundamental parameters of the scheme or adding additional layers of complexity which raise administrative costs. The recommendations also recognised the importance of educating and informing customers.

Specifically, the review's final report recommended the Government explicitly refer to the Scheme as a net scheme in legislation, make a provision to include other technologies in the Scheme, consider implementing a scheme cap, and reduce eligible capacity size for each unit from 30 kVA to 10 kVA.

It recommended that the Essential Services Commission of South Australia (ESCOSA) conducts analysis into the value of small scale renewable exports and provide a determination to the Minister of a 'minimum benchmark' rate for small electricity customers, and that the Government and retailers publish the minimum benchmark rate for small customers while also obliging retailers to publish their rates for comparison purposes.

The review's final report also recommended that the Government provide a website for customers to acquire accurate information on connecting small scale renewables, place scheme parameters in regulation, have a second review in 2012 and make a series of transitional arrangements for existing participants in the Feed-in Scheme.

The South Australian Government considered the final report and its recommendations. The Premier announced the Government's response on 31 August 2010 in his keynote address on South Australia's Leadership Within a Carbon Constrained Economy at the Committee for Economic Development of Australia's Leaders Series.

The Premier announced that the Government has resolved to accept the review final report recommendations in relation to referring to the Feed-in Scheme as a net scheme in order to make it clearer, and to implement a scheme capacity cap. To strike the right balance between the availability of the scheme and the overall cost to all electricity customers the Government proposed to close the scheme to new entrants when an installed capacity of 60 MW is reached.

I advise the Honourable Members that customer uptake of the Feed-in Scheme has been strong since the Premier's announcement. In order to provide an adequate implementation period the Government proposes to close the scheme to new entrants from 1 October 2011.

In order to ensure that as many customers as possible can access the scheme prior to its closure, the Government accepts the recommendation to reduce eligible capacity size. The proposed mechanism differs from the final report recommendation because it would be very difficult to enforce an individual unit capacity limit of 10 kVA.

Instead, the Government proposes more practical means by limiting the eligibility for the feed-in tariff to the first 45 kWh/day exported to the grid for customers that have received permission to connect from ETSA Utilities after 31 August 2010. I am advised that a 10 kW solar unit exporting 75 per cent of its power to the grid at maximum generation in summer would remain unaffected by this change. 10 kW is much larger than that in place in the vast majority of residential installations.

The Government also proposes limiting eligibility to one generator per customer and specifically excluding generators operated primarily for the purpose of generating a profit from the scheme.

I advise the Honourable Members that the Government proposes to go further than the review final report recommendation in relation to retailer payments. The Government's proposal will oblige retailers who choose to contract with solar customers to pay at least a minimum retailer rate, which would be determined by ESCOSA, for the power received from solar panels. The retailer payment will apply to power exported by all small-scale solar photovoltaic generators, regardless of whether the power exported is also eligible for the premium feed-in tariff or not. The mandated minimum retailer payment will continue to apply beyond the Feed-in Scheme's expiry in 2028 to ensure that retailers pay customers for the value they receive from power exported to the grid. This minimum rate

will not be subject to the new eligibility criteria of the daily cap and the exclusion of multiple and dedicated generators.

The Government has decided not to include wind generation or any other technology in the Feed-in Scheme. This is consistent with the intent of the scheme that was specifically designed to support consumers that had installed small scale solar photovoltaic systems. Wind generation is a mature renewable technology which can already be deployed efficiently on a large scale with the support of the Commonwealth Government's Renewable Energy Target. South Australia has more than 1,000 MW of installed wind generation capacity.

A fair system of transitional arrangements is also proposed by the Government. The proposed arrangements will not result in any diminished benefit for existing solar customers, however, all customers that received permission to connect for their solar system from ETSA Utilities after 31 August 2010 (the date of the announcement) will be subject to the new eligibility criteria.

The Bill also clarifies the issue of payment of a customer's entitlement by a retailer. This typically applies where a customer is permanently in a credit balance with their retailer. At a minimum, it is proposed that retailers must make a payment of any outstanding credit balances to their qualifying customers at least once in every 12 months. This clarifies and preserves the initial intent of the Feed-in Scheme. Retailers are able to make payments on a more frequent basis if they wish.

I am pleased to advise Members that the Government has also resolved to enhance the reward for owners of small-scale solar photovoltaic panels, by proposing to increase the feed-in tariff from 44 cents to 54 cents per kWh. This will apply to all eligible solar customers, both existing and new, and will further reduce the payback period of solar photovoltaic systems. This change, combined with the mandated minimum retailer payment, is expected to make South Australia's scheme more generous than those operating in Victoria, New South Wales, Queensland and Western Australia when considering the various lengths of each scheme.

I also make a comment in passing about the New South Wales scheme. The New South Wales Feed-in Scheme is a gross scheme which contrasts with the net scheme created originally in South Australia and all other states. From inception, we have resisted the call to apply the Scheme on a gross basis as we considered the reward excessive. The New South Wales Government has now pared its benefit back so that its value is now less than our new scheme.

The Feed-in Scheme remains an important mechanism to encourage the contribution of small scale photovoltaic generation to South Australia's Strategic Plan Target of 20 per cent of renewable energy produced and consumed by 2014. This Government has also set a longer term renewable energy target of 33 per cent of the State's energy production by 2020.

The Bill also contains additional amendments to the *Electricity Act 1996* to provide for the Technical Regulator's information gathering powers to apply to his electricity emergency management functions under the *National Electricity Act 1996*. These amendments ensure that the Technical Regulator can adequately prepare for an electricity emergency event and has sufficient information gathering powers during such an event to minimise potential impact on South Australian customers.

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 *Electricity Act 1996*

4—Amendment of section 10—Technical Regulator's power to require information

This clause amends section 10 of the Act to clarify the extent of the Technical Regulator's power to require information.

5—Amendment of section 11—Obligation to preserve confidentiality

This clause amends section 11 of the Act to clarify the extent of the Technical Regulator's obligation to preserve the confidentiality of information gained by the Technical Regulator under the Act.

6—Amendment of section 35A—Price regulation by Commission

This clause amends section 35A of the Act to allow for the Commission to make a price determination relating to the feeding-in of electricity into a distribution network under Part 3 Division 3AB, and provides for the Commission, in doing so, to have regard to the fair and reasonable value to a retailer of electricity fed into the network by qualifying customers within the meaning of Part 3 Division 3AB.

7—Substitution of Part 3 Division 3AB

This clause substitutes proposed Part 3 Division 3AB. The principal changes effected by the substitution of proposed Division 3AB are:

- providing for a retailer to pay a credit to a qualifying customer for electricity fed into the network;
- providing that the Commission is to determine the amount of the credit;
- providing for an increase in the existing credit payable by the holder of a licence authorising the operation of a distribution network (a 'distributor') from $0.44 to $0.54;
- clarifying that a credit is only payable under proposed Division 3AB for electricity fed into the network in excess of the electricity used by the qualifying customer;
- providing for the exclusion of certain generators from eligibility for the payment of credits;
- providing that a distributor is only required to credit a qualifying customer under proposed section 36AE(1) for the first 45kWh of electricity fed into the network each day (to be averaged across a billing period);
- providing that if a qualifying customer receives a credit under proposed section 36AE(1) in respect of 1 qualifying generator, the qualifying customer is not entitled to a credit under that section for any electricity generated by a second or subsequent qualifying generator of the qualifying customer;
- providing that a credit under proposed section 36AE(1) is not payable to a qualifying generator installed on or after 1 October 2011 (the 'designated day'), unless the person seeking to install the generator has received, before 1 October 2011, permission to connect the generator to a distribution network from a distributor and has within 120 days after that date made arrangements with the distributor for a new meter to be installed on account of that connection;
- providing that the payment of credits to a qualifying customer in respect of electricity fed into a distribution network in a particular billing period that have not been set-off against the charges payable by the qualifying customer for the supply of electricity at the end of that billing period may be paid at the end of the billing period, or not later than 1 year after the end of the billing period (but in such an event the retailer must pay all outstanding balances at that time).

8—Insertion of section 91A

This clause provides for protection from liability for a person who furnishes information to the Commission, AEMO or the Technical Regulator in accordance with a requirement under the Act.

Schedule 1—Transitional provisions

This Schedule sets out transitional provisions associated with the enactment of the measure.

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

SUMMARY OFFENCES (PRESCRIBED MOTOR VEHICLES) AMENDMENT BILL

The House of Assembly requested that a conference be granted to it in respect of certain amendments to the bill. In the event of a conference being agreed to, the House of Assembly would be represented by five managers.

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (18:05): I move:

That a message be sent to the House of Assembly granting a conference, as requested by that house; and that the time and place for holding the same be the Plaza Room, on the first floor of the Legislative Council, at the hour of 11am, Tuesday 7 June 2011, and that the Hon. P. Holloway, the Hon. S.G. Wade, the Hon. J.S. Lee, the Hon. A. Bressington and the mover be the managers on the part of this council.

Motion carried.

CONTROLLED SUBSTANCES (OFFENCES RELATING TO INSTRUCTIONS) AMENDMENT BILL

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

At 18:07 the council adjourned until Tuesday, 7 June 2011 at 11:00.